

LAWS OF DOMINICA

PORT AUTHORITY ACT

CHAPTER 50:01

Act  
18 of 1972  
Amended by  
20 of 1972  
6 of 1975  
6 of 1977  
29 of 1983  
25 of 1987\*  
12 of 1990

\* See note on page 2.

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**Note  
on  
Subsidiary Legislation**

See Section 102 of the Act.

**Note  
on  
Act No. 25 of 1987**

Notwithstanding the repeal of the Public Piers and Wharves Ordinance (Cap. 176 of the 1961 Ed.), Act No. 25 of 1987 preserved the Schedule to that Ordinance.

**Note  
on  
Commencement**

The Act (except Part VII and section 102) came into operation on 14th August 1972 (the date of its publication in the *Gazette*).

Part VII (but not section 102) was brought into operation on 1st October 1976 by S.R.O. 52/1976. Section 102 was however brought into operation by the Law Revision (Miscellaneous Amendments) Act 1990. (Act No.12 of 1990).

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CHAPTER 50:01

PORT AUTHORITY ACT

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**CHAPTER 50:01  
PORT AUTHORITY ACT**

18 of 1972. **AN ACT to establish an Authority to be known as the Dominica Port Authority, to provide a co-ordinated and integrated system of port facilities and services connected therewith and for ancillary purposes.**

\* Commence-  
ment. [14th September 1972]

**PART I**

Short title. **1. This Act may be cited as the –**

**PORT AUTHORITY ACT.**

Interpretation.  
[12 of 1990]. **2. In this Act –**

“animal” means any animate thing of any kind except a human being;

“Authority” means the Dominica Port Authority established by section 3;

“Authority pilot” means a pilot employed by the Authority pursuant to section 56;

“authorised officer” means a person authorised by the Port Manager to exercise the powers or perform the duties in respect of which the expression is used;

“beacon” means any light, mark or sign used as an aid to navigation, other than a lighthouse or buoy;

“buoy” includes any floating light, mark or sign used as an aid to navigation, other than a lighthouse;

“charges” means any charges or rates levied by the Authority under this Act and includes any rent, but does not include dues;

“Chairman” means the Chairman of the Authority;

“constable” means a constable appointed by the Authority pursuant to section 95;

“Council” means the Council of the Authority appointed pursuant to section 4;

“dues” includes pilotage dues, port dues, tonnage dues levied under this Act but does not include rates;

\* (See Note on page 2)



“ferry” means any vessel plying from one side of a waterway to the other for the purpose of the carriage of goods or passengers;

“financial year” means such period of twelve months as the Authority with the approval of the Minister may determine to be its financial year; but the first financial year shall be the period commencing with the commencement of this Act and ending with such day as shall be fixed by the Authority;

“General Manager” means the general manager of the Authority appointed under section 12;

“goods” means all kinds of movable property including animals;

“local authority” means –

(a) in relation to the City of Roseau and the town of Portsmouth, the Roseau City Council and the Portsmouth Town Council; and

(b) in relation to any other village or place except Canefield, the village council established for that village or place; and

(c) in relation to Canefield the Canefield Urban Council;

“master” in relation to a ship means any person (other than an authority pilot) having charge for the time being of that ship;

“member” when used in relation to the constitution of the Authority includes Chairman;

“Minister” means in relation to –

(a) any matter concerning finance, the Minister responsible for Finance;

(b) any other matter the Minister responsible for Communications and Works;

“owner” when used in relation –

(a) to goods, includes any consignor, consignee, shipper or agent of the owner for sale, custody, loading, handling, discharge or delivery of such goods;

(b) to any ship, includes any part owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of such person;

“perishable goods” means goods liable to rapid deterioration, and in particular includes fish, fruit, vegetables, meat, poultry, game, butter, eggs, milk, cheese, plants, small animals or any other thing which the Authority may by Notification declare to be perishable goods;

“Permanent Secretary” includes a nominee appointed by the Minister;

“Pilotage Committee” means the Pilotage Committee appointed under section 56;

First Schedule.

“Ports” mean the Port of Roseau and the Port of Portsmouth described respectively in Part I and Part II of the First Schedule or as described in the said Schedule as altered from time to time by the Minister;

“Port Manager” means a Port Manager appointed under section 12;

“premises” includes any immovable property whether open or enclosed, whether built on or not, whether public or private and whether maintained or not under statutory authority;

“Regulations” means the Regulations made under this Act;

“ship” includes any ship, vessel, tug or boat of any kind whatsoever whether the same is propelled by steam or otherwise or is towed;

“Tariff Book” means the tariff book prepared and published under section 53;

“vehicle” means any vehicle towed or propelled by any means whatsoever for the portage of goods or persons otherwise than by sea.

## PART II

### ESTABLISHMENT, CONSTITUTION, MANAGEMENT AND STAFF

Establishment of  
Authority.

3. (1) There is hereby established for the purposes of this Act a body to be called the Dominica Port Authority.

(2) The Authority shall be a body corporate.

Constitution of  
the Authority.  
{6 of 1975  
6 of 1977  
29 of 1983}.

4. (1) The Authority shall be administered by a Council consisting of not less than seven members appointed by the Minister.

(2) The members of the Council shall hold office for a period not exceeding three years, but are eligible for re-appointment.

(3) The Minister shall appoint the Chairman and Deputy Chairman of the Council from among the members of the Council.

(4) A member may resign his office at anytime by giving written notice to the Minister and in like manner the Minister may terminate the appointment of a member.

(5) Where a member ceases to be a member for any reason the Minister may appoint another person in his place for the remainder of the time for which the former member would have served if he did not cease to be a member.

(6) The Secretary of the Council shall be the General Manager.

5. (1) The seal of the Authority shall be kept in the custody of the Chairman or of the General Manager and may be affixed to instruments pursuant to a resolution of the Authority and in the presence of the Chairman and of one other member and the General Manager. Seal of the Authority.

(2) The seal of the Authority shall be authenticated by the signature of the Chairman or Deputy Chairman and the General Manager, and the seal shall be officially and judicially noticed.

(3) All deeds, instruments, contracts and other documents other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Chairman or Deputy Chairman or General Manager.

6. (1) Service of any notice, order or other document required or authorised under this Act or any Regulations, to be served on any person by the General Manager or by any authorised officer or officers may be served – Service of notice.

(a) by delivering it to the person;

(b) by leaving it at the usual or last known place of abode of the person; or

(c) by sending it by registered post addressed to the person at his usual or last known address.

(2) Service of any notice, order or other document required or authorised, under this Act or any Regulations, to be served on the General Manager, or on any authorised officer or officers may be served –

(a) by delivering the notice, order or other document to the General Manager or to the authorised officer;

(b) by leaving it at the office of the General Manager; or

(c) by sending it by registered post addressed to the General Manager at the office of the Authority.

Procedure and meetings of the Authority.

7. (1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Authority may determine.

(2) The Chairman may at any time call a special meeting of the Authority and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any time three members to consider the matters contained in the requisition.

(3) The Chairman shall call a special meeting of the Authority if directed by the Minister to do so.

(4) Where any member is disqualified from taking part in any deliberation or decision of the Authority with respect to any matter, he shall be disregarded for the purpose of constituting a quorum for deliberating on or deciding that matter.

(5) The decision of the Authority with regard to any question shall be determined by vote of the majority of the members present at the meeting of the Authority, and in any case when the votes of the members present in regard to any question are equally divided, the Chairman presiding at the meeting shall have a casting vote in addition to his own vote.

(6) Minutes of the proceedings of each meeting of the Authority shall be kept in such manner as the Authority may determine and shall be confirmed by the Chairman as soon as practicable thereafter at a subsequent meeting.

(7) The Authority may co-opt any one or more persons to attend any particular meeting of the Authority for the purpose of assisting or advising the Authority, but no such co-opted person shall have any right to vote.

(8) Subject to this section, the Authority has power to regulate its own proceedings.

(9) At all meetings of the Authority four members shall form a quorum.

8. (1) A member who is in any way, whether directly or indirectly, interested in an application to the Authority for a contract or proposed contract with the Authority, shall declare the nature of his interest at the first meeting of the Authority at which it is practicable for him to do so.

Disclosure of interest and abstaining from voting.

(2) A member shall not vote in respect of any contract or proposed contract with the Authority in which he is in any way interested, whether directly or indirectly.

9. (1) The Authority may appoint a committee of the Authority to examine and report to it on any matter whatsoever arising out of or connected with any of its functions under this Act.

Appointment of committees.

(2) Any such committee shall consist of at least one member together with such other persons, whether members or not, whose assistance or service the Authority may desire.

(3) Where persons, other than members, are members of a committee appointed under this section, or where any person is co-opted under section 7(6), the Authority may, with the approval of the Minister, by resolution, declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Authority.

(4) The Authority may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Authority may think fit.

10. Subject to the provisions of this Act, the Authority may delegate to any member or committee of the Authority the power and authority to carry out on its behalf such duties as the Authority may determine.

Power to delegate.

11. There shall be paid from the funds of the Authority to the Chairman and other members, such, if any, remuneration, fees or allowances as the Minister may determine.

Remuneration of members.

12. (1) The Authority shall, at such salary and upon such terms and conditions as it may determine, appoint –

Appointment of General Manager and Port Manager.

(a) a General Manager;

(b) such number of Port Managers as it thinks fit;

but such appointments shall be subject to the approval of the Minister.

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(2) The General Manager shall be the chief executive officer of the Authority and shall exercise all the functions entrusted to him by this Act and any Regulations and (whether or not he is a member) shall be present at all meetings of the Authority unless he has obtained leave of absence from the Chairman or is incapacitated by illness or other cause from attending such meetings.

(3) In the event of the absence of the General Manager, the Authority may, by instrument in writing and with the approval of the Minister, appoint any person to act as General Manager during the period of such absence upon such terms and conditions as it may determine. The person so appointed may exercise all the powers and all the duties by this Act exercisable or to be performed by the General Manager or as many of such powers and duties as may be specified in such instrument.

Appointment of officers and servants.

13. (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers and servants as it thinks necessary for the proper carrying out of its functions under this Act.

(2) The persons so engaged shall perform such duties as may be assigned to them by the General Manager.

Establishment and maintenance of Superannuation Schemes. Ch. 31:01.

14. (1) Subject to the provisions of the Social Security Act, the Authority may, with the approval of and subject to such terms and conditions as may be imposed by the Minister, provide for the establishment and maintenance of a Pension Scheme or a Provident Fund Scheme for the benefit of the officers and employees of the Authority.

(2) Without prejudice to the generality of subsection (1), the Pension Scheme or Provident Fund Scheme may enable the Authority to --

- (a) grant gratuities, pensions or superannuation allowances to, or to the widows, families or dependants of its employees;
- (b) establish contributory and superannuation schemes and establish and contribute to superannuation funds for the benefit of its employees;
- (c) enter into and carry into effect agreements with any insurance company or other association or company for securing to any such employee, widow, family or

dependants such gratuities, pensions or allowances as are by this section authorised to be granted.

15. The validity of any act done or proceedings taken under this Act shall not be questioned on the ground of – Protection of Authority.

- (a) the existence of any vacancy in the membership of, or any defect in the constitution of the Authority;
- (b) the contravention by a member of section 8; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

16. No personal liability shall attach to any member in respect of anything done or suffered in good faith under the provisions of this Act, and any sums of money, damages or costs which may be recovered against any such member in respect of any act or thing done *bona fide* for the purpose of carrying this Act into effect shall be paid out of the funds and resources of the Authority. Protection of members.

17. (1) The Minister may, after consultation with the Chairman, give to the Authority directions of a general character as to the policy to be followed in the performance of its functions in relation to matters appearing to him to concern the public interest. Policy.

(2) The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to the property and activities of the Authority, and shall afford to him facilities for verifying the information in such manner and at such times as he may reasonably require.

18. (1) The Minister may make Regulations providing for the establishment of a consultative body – Consultative Body.

- (a) to represent the interests of persons using facilities under the control of the Authority;
- (b) for holding of consultations between the body and the Authority;
- (c) enabling the body to make representations to the Authority, or to any particular member or officer of the Authority with a view to safeguarding those interests.

(2) The Regulations may contain such incidental and supplementary provisions (excluding provisions for the making of payments)

to persons serving on that body as the Minister considers expedient for the purposes of the Regulations.

### PART III

#### DUTIES AND GENERAL POWERS, PROVISIONS RELATING TO LAND, PROPERTY AND UNDERTAKINGS OF THE AUTHORITY

Powers and duties.

**19.** (1) Subject to this Act, the Authority is hereby empowered to provide in accordance with this Act and any Regulations, a co-ordinated and integrated system of ports, lighthouses and port services.

(2) Subject to this Act, the Authority may for the purpose of performing any of its functions under this Act, do anything and enter into any transaction which in the opinion of the Authority is necessary to ensure the proper performance of its functions.

(3) In particular and without prejudice to the generality of subsections (1) and (2), the Authority shall –

- (a) operate the ports as appears to it best calculated to serve the public interest;
- (b) regulate and control navigation within the limits of such ports and their approaches;
- (c) maintain, improve and regulate the use of such ports and the services and facilities therein as it considers necessary or desirable;
- (d) provide for such ports and the approaches thereto such pilotage services, beacons, buoys and other navigational services and aids as it considers necessary or desirable;
- (e) exercise the duties and functions in any enactment relating to shipping and navigation formerly exercisable by the Port Department.

Compulsory acquisition of land.  
Ch. 53:02.

**20.** (1) The President, when and as often as land is required for the purposes of this Act, may acquire either by private treaty or compulsorily under the Land Acquisition Act any lands, and may exercise all powers under the Act in relation to any acquisition or intended acquisition of such lands.



(2) The Minister may upon such terms and conditions as he may determine, vest any lands acquired in the Authority by Order declaring that such lands shall vest in the Authority as from the date thereof. Any such Order shall vest the lands absolutely in the Authority as from the date thereof, free from any encumbrances of any nature whatsoever.

(3) Nothing herein contained shall prejudice the right of any person having any interest in any lands acquired within the provisions of the Land Acquisition Act; and compensation for any lands acquired under this section shall be determined in accordance with section 19 of the Land Acquisition Act save that the date at which the compensation is to be assessed is the date from which the declaration pursuant to section 3 of the said Act was published.

21. (1) Any wharf, dock or other public work constructed by the Government along, across or extending out from the foreshore within the limits of the port and the land on which the same is constructed, any land reclaimed from the sea, and any part of the foreshore situated within the limits mentioned above, may be vested in the Authority upon such terms and conditions as the Minister may determine.

Power to vest reclamations in Authority.

(2) Nothing in this section shall be taken to derogate from or interfere with the use of private rights and the payment of adequate compensation under any written law providing for compensation.

22. When any apparatus, fixture or fitting is placed in or upon any premises not being in the possession of the Authority for the purposes of carrying out the functions of the Authority, such apparatus, fixture or fitting shall not be subject to distress or be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same is.

Apparatus, etc., not subject to distress, etc.

#### PART IV FINANCIAL

23. (1) The revenue of the Authority shall consist of --
- (a) the sums received by the Authority in respect of dues and charges levied and payable in pursuance of this Act and any Regulations;
  - (b) such sums as the Authority may borrow for meeting any of its obligations or discharging its functions;

Revenue of Authority.

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(c) all other sums that may become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.

(2) All sums referred to in subsection (1) shall be paid into and placed to the credit of an account at a bank approved by the Minister.

Application of  
revenue of Au-  
thority.

24. The revenue of the Authority in any financial year shall be applied in the payment of the following charges:

- (a) the interest and sinking fund contributions on any loan payable by the Authority;
- (b) the sums required to be paid to the Government towards the repayment of any loan made by the Government to the Authority;
- (c) the remuneration and allowances of members and of any committee of the Authority;
- (d) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and servants employed in or in connection with the activities carried on by the Authority;
- (e) the working and establishment expenses of, and the expenditure on, or provision for the maintenance of the property and installations of the Authority, and the discharge of the functions of the Authority properly chargeable to revenue accounts;
- (f) such sums as the Authority thinks appropriate to set aside in respect of obsolescence and depreciation or renewal of the property or installations of the Authority, having regard to the amount set aside out of revenue under paragraphs (a) and (b);
- (g) the cost, or any portion thereof, of any new works, plant, or appliances not being a renewal of property of the Authority, which the Authority may determine to charge to revenue;
- (h) sums to be appropriated to the Reserve Fund;
- (i) any other expenditure authorised by the Authority and properly chargeable to revenue.

25. (1) The Authority may from time to time temporarily invest with the approval and in such manner as the Minister may direct any of its funds not required to be expended in the meeting of its obligations or in the discharge of its functions. Temporary investment of funds.

(2) All interests from such investment shall be paid to the credit of the Authority's account as provided in section 23(2).

26. (1) Subject to this Act the Authority may from time to time for the purposes of this Act raise loans – Power to borrow.

(a) from the Government; or

(b) with the consent of the Minister from any other source.

(2) The power to borrow under this section may be exercised –

(a) to borrow and reborrow moneys by the issue and sale of debentures or debenture stock or other security for the purpose of raising the funds of the Authority for the effectual exercise by it of the powers conferred by this Act;

(b) to create and issue debentures or debenture stock or other security for any debentures or debenture stock or other security respectively issued in respect of moneys previously borrowed by the Authority, and not repaid;

(c) to create, issue and sell debentures or debenture stock or other security for the purpose of borrowing money for redeeming any loans owing by the Authority and for paying the expenses incurred in the issue and creation of the debentures or debenture stock or other security and otherwise carrying out the provisions of this Act;

(d) to effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or debenture stock or other security, or by the purchase of the debentures or debenture stock or other security out of moneys raised by the sale of the debentures or debenture stock or other security, or partly in the one way or partly in the other.

(3) Without prejudice to section 27, the power of the Authority to borrow under this section shall not be exercised unless a proposal in writing showing –

(a) the amount and particulars of the proposed loan;

- (b) the rate of interest to be paid on the loan;
- (c) the source or sources from which the loan is to be obtained;
- (d) the purposes to which the money proposed to be borrowed is to be applied; and
- (e) the manner in which the loan is to be repaid,

is first submitted for the approval of the Minister.

Temporary borrowing.

27. The Authority may with the consent of the Minister from time to time borrow by way of a temporary loan or overdraft from a bank or otherwise, any sum which it may temporarily require –

- (a) for the purpose of defraying expenses pending the receipt of revenues recoverable by it in respect of the period of account in which those expenses are chargeable; or
- (b) for the purpose of defraying, pending the receipt of money due in respect of any loan authorised to be raised under section 26(1), expenses intended to be defrayed by any such loan.

Guarantee of borrowing of Authority.

28. (1) With the approval of the House of Assembly the Minister may guarantee, in such manner and on such conditions as he thinks fit, the payments of the principal and interest of any authorised borrowing of the Authority.

(2) Where the Minister is satisfied that there has been default in the payment of any principal moneys or interest guaranteed under this section, he shall direct the repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

(3) The Authority shall make to the Accountant General at such times and in such manner as the Minister may direct payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct and different rates of interest may be directed as regards different sums and as regards interests for different periods.

Reserve Fund.

29. The Authority shall establish a Reserve Fund which shall be dealt with and applied in accordance with any direction which may from time to time be given to the Authority by the Minister.

30. Any balance at the end of the financial year resulting from the activities carried on by the Authority under this Act which is available after making full allowance for the matters enumerated in section 24 shall be paid to the credit of the Consolidated Fund. Application of surplus.

31. (1) The Authority shall cause to be prepared every year estimates of expenditure and revenue in respect of the ensuing financial year and shall adopt such estimates in respect of that year. Estimates in respect of financial year.

(2) Supplementary estimates may be adopted at any meeting of the Authority.

(3) A copy of all estimates of revenue and expenditure in respect of the financial year and supplementary estimates in respect of that year shall upon adoption by the Authority be sent to the Minister.

32. (1) The Authority shall keep proper accounts of all its transactions to the satisfaction of the Minister and a statement of accounts shall be kept and made up in respect of each financial year. Accounts.

(2) The statement of accounts in respect of each financial year shall present a true and fair view of the financial position of the Authority and of the results for the financial year to which it relates of the operations of the Authority.

33. (1) The accounts of the Authority shall be audited in each financial year by qualified accountants appointed by the Authority. Audit.

(2) The Council, officers and servants of the Authority shall grant to the accountants appointed to audit the accounts under subsection (1), all books, deeds, contracts, accounts, vouchers or other documents which they think necessary to call for, and may require any person holding or accountable for any such document to appear before them and make a signed statement in relation thereto and may require from such person such information as they think necessary.

(3) Any person who fails without reasonable excuse to comply with a request to produce a document or to enter an appearance and make and sign a statement or furnish information is liable on summary conviction to a fine of fifteen hundred dollars or to imprisonment for three months.

34. The accountants, shall as soon as practicable and not later than three months after the accounts have been submitted for audit, send an Accountants' report.

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audited statement of accounts and their report in respect of their audit for the financial year to the Authority.

Report.

35. (1) The Authority shall, as soon as practicable and not later than one month from the receipt of the accounts and report mentioned in section 34, submit a report to the Minister containing –

- (a) a statement of the accounts of the Authority;
- (b) an account of the activities of the Authority during the preceding financial year in such form as the Minister may direct.

(2) The Minister shall cause a copy of the report together with a copy of the audited statement of the accounts and the auditors' report thereon to be laid on the table of the House of Assembly within one month of receipt thereof, or as soon as the Minister can practicably do so.

#### PART V

#### RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSEMAN

Liability for loss,  
etc., of goods.  
{12 of 1990}.

36. (1) Subject to this Act or any Regulations or any contract, the Authority is not liable for the loss, misdelivery or detention of, or damage to goods –

- (a) delivered to or in the possession of the Authority otherwise than for the purposes of carriage and warehousing, except where such loss, misdelivery, detention or damage is caused by want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority;
- (b) accepted by the Authority for carriage or warehousing, where such loss, misdelivery, detention or damage occurs otherwise than while the goods are in transit or being warehoused, and is not caused by the want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority;

and the Authority is in no case liable for such loss, misdelivery, detention or damage arising from –

- (i) act of God;

- (ii) act of war or of the enemies of the State;
- (iii) arrest or restraint of Heads of State and Heads of Government or seizure under legal process;
- (iv) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person;
- (v) fire, flood, tempest, riots, civil commotion, strikes, lock outs, stoppage or restraint of labour from whatever cause, whether partial or general;
- (vi) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (vii) deficiency in the contents of unbroken packages;
- (viii) insufficiency or improper packing or leakage from defective drums, containers or packages,

and where such loss, misdelivery, detention or damage occurs in relation to goods accepted by the Authority for carriage or for warehousing the limitation contained in section 37 shall apply.

**37.** The liability of the Authority in respect of any goods accepted by the Authority for carriage or warehousing and in relation to which an account false in any material particular has been given under section 49, shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

*Limitation of liability for loss, etc., where false account is given.*

**38.** In any proceedings brought under section 36 against the Authority, it is necessary for the person claiming damages or compensation to prove how the loss, misdelivery, detention or damage to goods was caused.

*Burden of proof in proceedings under section 37.*

## PART VI

### DUES, CHARGES AND TARIFF BOOK

**39.** All dues and charges payable under this Part shall be paid at the time specified in the Regulations in relation thereto, and where no such time is specified any dues and charges shall be paid on demand; all dues and charges shall be deemed to have been demanded when they fall due in accordance with the Regulations.

*Dues and charges when due.*

**40.** Subject to this Act and the Regulations, every ship which –

*Dues and charges in respect of ship.*

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(a) all dues and charges in respect of the ship and all penalties and expenses to which the ship and her master are liable under this act or Regulations have been paid or secured to the satisfaction of the authorised officer;

(b) he has complied with this Act and the Regulations.

45. Notwithstanding anything enacted in the Customs Import and Export Tariffs Ordinance or in any Act replacing that Ordinance or in any other enactment all goods shall on importation and exportation by sea be deemed to be in the custody of the Authority.

All goods deemed to be in custody of Authority. [12 of 1990]. Cap. 265. (1961 Ed.).

46. The Authority may, subject to this Act and any Regulations –

Power to determine conditions, and rates of carriage or warehousing.

(a) determine the conditions upon which goods shall be carried or warehoused and different conditions may be determined in different cases;

(b) determine the charges for the carriage or warehousing of goods by the Authority and for any other service or facility performed or provided by the Authority.

47. (1) Where the agent of a ship from which any goods have been landed at a port and accepted by the Authority for carriage or warehousing or for delivery to the consignee, notifies the Port Manager in writing that the freight or other charges payable to the agent of the ship to the amount specified in the notice remain unpaid in respect of the goods, the Port Manager shall retain the goods and refuse delivery of them to the consignee or any other person until –

Port Manager may retain goods until freight is paid.

(a) the payment of any dues and charges in respect of such ship and the goods and customs duties thereon;

(b) the production of receipt for, or a release from the payment of such amount signed, or purporting to be signed by or on behalf of the agent; or

(c) the payment of such amount by the person entitled to take delivery thereof.

(2) Where the Port Manager causes to be delivered any goods in respect of which a notice has been given under subsection (1) to a person producing such receipt or release, or making such payment as is referred to in paragraph (b) or (c), the Authority shall be free from all liability to any person in respect of the goods.

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(3) Nothing in this section shall be construed as requiring any person to take into custody of the Authority any goods which would not otherwise be receivable by the Authority under this Act or any Regulations or as requiring the Port Manager to inquire into the validity of any claim made for freight or any other sums made in any notice given by an agent under subsection (1).

Consignor or consignee liable for payment of carriage or warehousing.

48. The consignor of, or the person tendering any goods for carriage or warehousing by the Authority, or the consignee of, or person receiving any goods which have been carried or warehoused by the Authority is liable in accordance with the Regulations under this Part for the charges of the carriage or warehousing and any other services performed or facility provided in respect of the goods by the Authority.

Duty to deliver description of goods.

49. (1) The consignor of, or the person tendering any goods for carriage or warehousing by the Authority and, on request by an authorised officer, the consignee of, or person receiving any goods which have been carried or warehoused by the Authority, shall deliver to the authorised officer the documents as prescribed in the Regulations under this Part to enable such officer to determine the charges payable in respect of the carriage or warehousing or any other service performed or facility provided in respect of the goods.

(2) An authorised officer may, for the purpose of verifying the documents delivered under subsection (1), require the consignor, person or consignee, as the case may be, to permit him to examine the goods.

(3) If the consignor, person or consignee fails to deliver the documents referred to in subsection (1) or to permit the goods to be examined as required in subsection (2), an authorised officer may, in respect of the goods which are tendered for carriage or warehousing by the Authority, refuse to accept the goods for such carriage or warehousing unless in respect thereof a charge not exceeding the highest payable for any class of goods is paid.

(4) If in respect of goods which have been carried or warehoused by the Authority, any document delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, an authorised officer may refuse to deliver the goods unless in respect of warehousing or carriage of the goods a charge not exceeding double the highest charge payable for any class of goods is paid.

(a) enters a port for the purpose of loading or discharging cargo or embarking or disembarking passengers; or

(b) occupies an anchorage or berth within the port,

shall pay to the Authority the dues and charges in respect of such ship and for any service performed or facility provided in respect of such ship in accordance with the Regulations under this Part.

Appointment of agent.

41. Every ship shall appoint an agent who shall be responsible for the payment of the dues and charges without prejudice to the recovery by the agent from the master or owner of the ship of such sums paid on behalf of any such ship.

Security for charges.

42. An agent who intends to incur a liability in respect of any of the sums mentioned in section 40 may deposit with the Authority or guarantee such sums as are in the opinion of the Authority reasonable, having regard to the amount or probable amount of the sums which the agent is liable to pay to the Authority.

Detention by authorised officer.

43. (1) Where any sums mentioned in section 39 are owing in respect of any ship, any authorised officer may with such assistance as he thinks necessary enter the ship and may arrest the ship and the tackle, apparel and furniture thereof, and may detain it until the said sums are paid.

(2) Where, after the arrest, such sums remain unpaid for a period of seven days, the authorised officer may cause the ship and the tackle, apparel and furniture thereof arrested to be sold, and out of the proceeds of the sale he shall retain the amount necessary to meet the expenses of the detention and sale thereof and shall after paying the amount of any sums which are owing to the Authority deliver the balance to the agent.

(3) Where any ship, in respect of which the sums mentioned in section 39 are owing and have not been secured as provided in section 42, leaves the port and enters or is in any other port, then such ship may be dealt with as if the sums so owing and not secured as mentioned above were sums owing in respect of such other port.

Master required to obtain certificate of authorised officer before requesting clearance.

44. Before the master of any ship in port has obtained outward clearance from that port he shall first obtain from an authorised officer a certificate stating that –

50. In respect of all goods in custody of the Authority in pursuance of section 45, an authorised officer shall be entitled to levy such charges as may be determined in accordance with the Regulations made under this Part, and he may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Authority shall have a lien on the goods for such charges and any other expenses and shall be entitled to seize and detain the goods until such charges are fully paid.

Authorised officer's power to levy charges, etc.

51. (1) Subject to this section, and without prejudice to section 50, where any goods except perishable goods are in the custody of the Authority and are on any premises of the Authority and are not removed therefrom within a period of fifteen days from the time when the goods were placed in or on such premises, the Port Manager shall cause a notice to be served on the owner or any other person appearing to the Port Manager to be entitled thereto requiring him to remove the goods.

Effect of non-removal of goods.

(2) Where –

- (a) the owner of any goods in the possession of the Authority is not known and no person appears to be entitled thereto; or
- (b) the notice referred to in subsection (1) cannot for any reason be served; or
- (c) there has been a non-compliance with any notice served under subsection (1),

the Port Manager may, within a reasonable time not being less than six weeks and by a suitable notice seven days before sale in the *Gazette*, sell the goods by public auction.

(3) Where the goods under this section are perishable goods the Port Manager may direct their removal within such shorter period, not being less than twenty-four hours after the landing thereof, as the Port Manager thinks fit, and he may sell the goods without giving the said notice but shall as soon as practicable inform the owner or such other person appearing to be entitled thereto of the action that has been taken.

52. The proceeds of any sale under section 51 shall be applied by the Authority as follows, and in the following order:

Application of the proceeds of sale.

- (a) in the payment of any duty payable in respect of the goods;
- (b) in the payment of the expenses of sale;

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(c) in payment of the sums due to the Authority in respect of the carriage of warehousing and other service performed or facility provided in respect of the goods;

(d) in payment of freight and other claims of which notice under this Act has been given,

and by rendering the surplus, if any, to the owner or the person entitled thereto on demand, and if no such demand is made within one year from the date of the sale of the goods, by paying the surplus into the funds of the Authority, whereupon all rights of such person to the surplus shall be extinguished.

Compilation of  
dues, charges and  
Tariff Book.

53. (1) Subject to this Act, the dues, conditions and charges for the carriage or warehousing of goods and for any other service or facility performed or provided by the Authority when determined, shall be in the form of Regulations, and shall be first submitted to the Minister for approval.

(2) The Regulations shall have effect from the date of publication or from such later date as may be specified therein.

(3) Subject to the approval of the Minister, and without prejudice to subsections (1) and (2), the Regulations shall be deemed to have been made and be embodied in the Tariff Book as provided in accordance with subsection (4).

(4) The Authority shall cause to be prepared and published, in such manner as it thinks fit, a "Tariff Book" containing all matters which under this Act or any Regulations are required to be contained therein, together with such other matters as the Authority may determine.

## PART VII PILOTAGE

Compulsory pilotage.

54. (1) The ports in this Act shall be compulsory pilotage ports and all ships other than excepted ships, navigating whether by entering, leaving or moving within the limits thereof shall be under the pilotage of a licensed pilot.

(2) For the purposes of this section the following ships are excepted ships:

(a) ships belonging to the State;

- (b) ships owned or operated by the Authority;
- (c) pleasure yachts or fishing vessels;
- (d) ferrying boats plying as such exclusively within the limits of a port;
- (e) ships of less than 100 tons gross register;
- (f) ships trading exclusively between ports and other parts of State;
- (g) tugs, dredges, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the State.

(3) The Port Manager may exempt from compulsory pilotage any ship in any particular case.

55. (1) Subject to this Act, the Authority may employ such number of pilots as it thinks necessary or expedient for the purpose of providing an adequate and efficient pilotage service. Authority to employ pilots.

(2) No person shall be employed as an Authority pilot unless he is in possession of a valid licence to act as a pilot issued under section 57.

56. The Authority shall appoint a Pilotage Committee for the purpose of – Appointment of functions of the Pilotage Committee.

- (a) holding examinations and issuing, on behalf of the Authority, licences to act as an Authority pilot;
- (b) holding inquiries concerning the conduct of Authority pilots in the discharge of their duties;
- (c) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service of the Authority;
- (d) investigating and advising on such matters as may be referred to the Committee by the Authority; and
- (e) carrying out such other functions as are conferred on the Pilotage Committee by this Act.

57. (1) The Pilotage Committee shall consist of –

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(a) the General Manager who shall be the Chairman of the Committee; and

(b) four other persons who by reason of their knowledge of or experience in nautical matters are, in the opinion of the Authority, fit and proper persons to be members of the Committee.

(2) The appointment of a member of the Pilotage Committee may be for any period not exceeding three years but such member shall be eligible for re-appointment on completion of every such period.

(3) Three members of the Pilotage Committee shall form a quorum at any meeting of the Committee.

(4) The Chairman of the Pilotage Committee shall preside at all meetings thereof; but if the Chairman is absent from a meeting or any part thereof, such member as the members of the Pilotage Committee present choose, shall preside in his place.

(5) The Chairman or member presiding at any meeting of the Pilotage Committee shall have a vote and, in the case of an equality of votes, a second or casting vote.

(6) Members of the pilotage Committee who are not employees of the Government, or of the Authority may be paid out of the funds of the Authority such fees and allowances as the Authority may from time to time determine.

Rules.

58. Subject to this Act, the Authority may from time to time make, vary or revoke rules for the purpose of regulating the meetings and proceedings of the Pilotage Committee.

Examination for licence.

59. (1) The Pilotage Committee shall examine candidates for employment by the Authority as pilots and on being satisfied as to a candidate's general fitness and competency, including physical fitness to act as an Authority pilot may, on behalf of the Authority, issue to him a licence to act as such, and the licence may contain such conditions as the Pilotage Committee thinks fit.

(2) Subject to this Part, every pilot performing the duties of a pilot immediately prior to the coming into operation of this Part, shall be deemed to be qualified for employment by the Authority as a pilot, and the Pilotage Committee shall, on behalf of the Authority, issue to every such pilot as may be employed by the Authority a licence to act

as an Authority pilot subject to such conditions as the Pilotage Committee may impose.

(3) Every Authority pilot shall, whenever the Pilotage Committee considers that owing to changed conditions or for any other sufficient reason, the further testing of the knowledge, efficiency or physical fitness of any such pilot is necessary, present himself for further examination, and shall in every such case first deposit with the Pilotage Committee his licence issued by the Committee on behalf of the Authority to be returned or cancelled by the Committee on behalf of the Authority as the result of such test or examination determines.

(4) The Authority shall not continue to employ as a pilot any pilot whose licence to act as such is cancelled as the result of any test or examination carried out or held under subsection (3).

(5) Any licence issued under this section shall cease to be valid upon the termination of any Authority pilot's employment with the Authority.

60. (1) The Pilotage Committee may, and when directed by the Authority shall, hold an inquiry into the conduct of an Authority pilot where it appears that he is guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot. Enquiries by Pilotage Committee.

(2) For the purposes of such inquiry, the Pilotage Committee may summon any person in the State to attend any meeting of the Committee to give evidence on oath or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession relative to the matters which are the subject matter of the inquiry.

(3) Any person who –

- (a) being summoned to attend any such inquiry, fails to do so;
- (b) offers any act of disrespect or any insult or threat to the Pilotage Committee or any member thereof during an inquiry; or
- (c) being required by the Pilotage Committee to give evidence on oath to produce a document or other thing, refuses to do so,

is guilty of an offence and liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for three months.

Submission of Pilotage Committee's findings and recommendations to Authority.

**61.** (1) Where the Pilotage Committee, after due inquiry in accordance with this Part and after hearing any statement that may be offered in defence, finds that an Authority pilot is guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot, it shall submit to the Authority a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

(2) The Authority may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of the Authority pilot or impose such other punishment as the Authority may think fit.

(3) Any Authority pilot who is aggrieved by any decision of the Authority made under subsection (2) may, within fourteen days from the date of the decision, appeal to the Minister whose decision shall be final.

Liability of the master or owner in the case of a ship under pilotage.

**62.** The master or owner of a ship navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as it would if pilotage were not compulsory.

Limitations of pilot's liability when bond is given.

**63.** (1) An Authority pilot who has given a bond in accordance with subsection (2) is not liable for neglect, want of skill or incapacity in office beyond the penalty of the bond and the amount payable to the Authority on account of pilotage in respect of the voyage in which he was engaged when he became so liable.

(2) Every Authority pilot shall give a bond in the sum of three thousand dollars in favour of the Authority for the proper performance of his duties under this Part and of any Regulations.

(3) Any bond by an Authority pilot in accordance with this section is not liable to stamp duty.

(4) Where any proceedings are taken against an Authority pilot for any neglect, want of skill or incapacity in office in respect of which his liability is limited as provided by this section, and other claims are made in respect of the same neglect, want of skill or incapacity in office, the Court in which the proceedings are taken may –



- (a) determine the amount of the pilot's liability and, upon payment by him of the amount into Court, distribute the amount rateably among the several claimants;
- (b) stay any proceedings pending in any other Court in relation to the same matter; and
- (c) proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who have not submitted their claims within a certain time, and as to requiring security from the pilot, and as to payment of any costs as the Court thinks fit.

64. (1) The issue of a licence to a pilot by the Pilotage Committee on behalf of the Authority under section 59 shall not impose any liability to the Pilotage Committee for any loss or damage occasioned by any act, omission or default of the pilot.

Pilotage Committee and Authority not liable for loss or damage occasioned by pilots.

(2) Any Authority pilot whilst engaged in any pilotage act shall, notwithstanding that he may be employed at a salary by the Authority, be deemed to be the servant only of the master or owner of the vessel under pilotage and the Authority is not liable for any loss or damage occasioned by any act, omission or default of such pilot.

65. (1) Any proceedings affecting Authority pilots under this Act or any Regulations shall be determined by a Judge of the High Court and the Judge shall call upon two persons with nautical experience to sit with him as assessors in any such proceedings.

Proceedings in respect of pilots.

(2) The High Court shall have power to regulate any proceedings which have been referred to it under this section.

## PART VIII

### SPECIAL PROVISIONS IN RELATION TO PORTS

66. The master of any ship arriving in a port shall produce to an authorised officer –

Master to supply information.

- (a) the ship's register and the ship's papers;
- (b) a list of the passengers, if any, showing particulars of their sex and occupation;
- (c) a list showing the deaths, if any, which have occurred during the voyage;

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(d) a list showing the stowaways, if any, on the ship,

and also supply such other information in relation to the ship, passengers and cargo thereof, as such officer may reasonably require.

Power of Port  
Manager in rela-  
tion to ships.

**67.** (1) Notwithstanding any Regulations made under section 73 the Port Manager may –

- (a) direct where any ship shall be berthed, moored or anchored and the method of anchoring within the port and the approaches to the port;
- (b) direct the removal of any ship from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected within the port and the approaches to the port; and
- (c) regulate the moving of ships within the port and the approaches to the port.

(2) In case of any refusal or neglect or of any failure to comply with any direction given under subsection (1), the Authority may, without prejudice to any proceedings being instituted against any person, cause to be done all such acts as are in its opinion reasonable or necessary for the purpose of carrying out such direction and may hire and employ such persons as it considers proper and necessary for such purpose.

(3) All expenses incurred in doing such acts shall be paid and borne by the person or persons so offending.

Power with  
respect to  
wrecks, etc.

**68.** (1) The Port Manager may –

- (a) remove any wreck in or other obstruction to a port or its approaches, or any timber, raft or other thing floating in a port which endangers or obstructs, or is likely to endanger or obstruct the free navigation of the port or the use of any dock or wharf therein;
- (b) in the case of the urgent necessity, take any action in a port which in his opinion may be necessary to prevent any danger to life or limb;
- (c) enter upon any ship or into any building in a port if it is necessary for him to do so in the performance of any duty under this act or any Regulations or if he has reasonable grounds for believing that an offence against

this Act or any Regulations has been, or is about to be committed.

(2) The owner of any wreck or other thing removed by the Port Manager under subsection (1)(a) is, without prejudice to any other action which may be taken against him, liable to pay the reasonable expenses of the removal; and the wreck or other thing shall be detained by the Port Manager until the expenses and customs duties, dues or charges payable in respect thereof are paid.

(3) Where any wreck or thing is removed under subsection (1)(a) and the expenses of removal have not been paid within seven days of the removal, the Port Manager may cause the wreck or thing to be sold by public auction and shall out of the proceeds of sale retain the amount necessary to meet the expenses of the removal, detention and sale and any customs duties, dues or charges payable in respect thereof and shall return the balance, if any, to the person appearing to him to be entitled.

69. (1) In the event of fire breaking out on board any ship in the port, the Port Manager may proceed on board the ship with such assistance and persons as to him seems fit, and may give such orders as to him seems necessary for scuttling the ship or for removing the ship or any other ship to such place as to him seems proper, to prevent in either case, danger to other ships and for the taking of any other measures that appear to him expedient for the protection of life or property.

Fire on board ship.

(2) If such orders are not forthwith carried out by the master of the ship the Port Manager may himself proceed to carry them into effect.

(3) Any expenses incurred in the exercise of the powers conferred by subsections (1) and (2) shall be recoverable from the master or owner of the ship concerned as a civil debt.

70. (1) Where any accident occurs in any port, then if that accident –

Accidents.

- (a) is attended or is of a kind usually attended with loss of human life or with serious injury to person or property;
- (b) involves any collision between ships;
- (c) is of such other kind as the Minister may specify,

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the Port Manager shall, as soon as practicable, give notice of the occurrence of the accident to the Minister.

(2) The Port Manager may order such inquiry into any accident which occurs in any port as he thinks fit, and shall order such inquiry as the Minister thinks fit into any such accident when so required by the Minister.

(3) The Port Manager shall submit a report on any accident inquired into setting out, *inter alia*, the probable cause of the accident and the steps, if any, which have been taken or he has directed to be taken with a view to avoiding a repetition thereof.

(4) The Port Manager shall make to the Minister a return, in such form and at such intervals as the Minister directs, of all accidents occurring in any port, whether or not the accidents are attended with injury to any person.

Liability for demurrage.

71. The Authority is not liable for any demurrage which may occur or be due on any ship, howsoever the demurrage may have been caused.

Execution of orders.

72. (1) All acts, orders or directions under this Part or Regulations thereunder authorised to be done or given by a particular officer of the Authority may be done or given by any other officer of the Authority authorised in writing on that behalf.

(2) Any person authorised to do any such act may call to his aid such assistance as is necessary.

Regulations.

73. (1) The Authority may, with the approval of the Minister, make Regulations generally with respect to the maintenance, control and management of the port and the approaches thereto, the services performed, the light-houses and other facilities provided by the Authority, and for the maintenance of order on any premises used by or for the purposes of the Authority, or in any ship or vehicle used by or for the purposes of the Authority, and for the carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make Regulations with respect to –

(a) the proper control and management of the foreshores of any port and the entrances thereof, the prevention and removal of obstructions therein and the regulation of any work, service or facility performed or provided thereat;

- (b) the control of all persons and vehicles on any such premises, the maintenance of order thereon and the admission or exclusion of persons therefrom and the charges, if any, to be made for such admission;
- (c) regulating, controlling and prohibiting the doing or omission of any thing or class of thing within the boundaries of the port or any specified part or parts of the port either at all times and on all occasions or at any time or times or on any occasion or occasions;
- (d) the regulation, restriction and control (without prejudice to the conduct of navigation) of the depositing of any substance, solid matter, article or thing polluting or likely to cause pollution of the waters of any port;
- (e) the regulation of traffic and navigation of ships within the limits and approaches to a port and all matters relating to the protection of life and property;
- (f) the regulation of the mode and place of mooring, anchoring and berthing of ships and their removal from a mooring, anchorage or berth to another mooring, anchorage or berth, and the time within which the removal shall be effected;
- (g) the protection of ships and cargoes, and the removal, destruction, sale or abandonment of stranded ships and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway of any port, the payment of expenses including salvage incurred in connection therewith and the levy and recovery of a rent for the right of a hulk or wreck or wreckage to lie in any port;
- (h) the examination, licensing, duties and obligations, and the conduct and discipline of pilots and the charges to be paid for pilotage;
- (i) the regulating of the times, places, order and mode of shipping, unshipping, loading, warehousing, storing and the depositing of goods;
- (j) the fixing of dues and charges payable in respect of any ship, with different charges being applicable in respect of different ships or classes of ships, the exemption or the remission thereof or part thereof;

- (k) the fixing of the charges payable in connection with the carriage or warehousing of goods and for any service or facility performed or provided by the Authority, the exemption from payment, refund or remission thereof;
- (l) the fixing of the scale of charges payable in respect of any other service or facility performed or provided by the Authority;
- (m) the licensing of shipping agents, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualling, and other persons concerned in or engaged in or performing any service or work in connection with the port.

(2) The Authority shall, with the approval of the Minister, make Regulations generally for the conveyance, loading, discharging and storage of dangerous goods within the limits of the port and without prejudice to the generality of the foregoing may make Regulations with respect to –

- (a) the classification of goods as dangerous goods;
- (b) the regulation of the navigation and place of berthing of ships carrying dangerous goods;
- (c) the regulating and control of landing, loading and discharging dangerous goods;
- (d) the prohibition or subjection to conditions and restrictions of the conveyance of any kind of dangerous goods with any other kind of goods, articles or substances;
- (e) the prohibition of the loading or discharging of dangerous goods at places within the control of the Authority in cases where the loading or discharging appears specially dangerous to the public;
- (f) the fixing of places and times at which dangerous goods are to be loaded and the quantity to be loaded or discharged at any one time;
- (g) the regulation of the mode and the precautions to be observed in conveying or keeping dangerous goods and in the loading or discharging of the same;

(h) the protection, whether by means similar to those above-mentioned or not, of persons and property from danger generally.

(3) Subject to the provisions of any enactment relating to merchant shipping, the Authority may, with the approval of the Minister, make Regulations with respect to –

(a) the taking of measures for the prevention of ships from leaving any port if overloaded, improperly loaded, or found insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety, or if otherwise unseaworthy;

(b) the examination, certification and licensing of masters, mates and engineers of tugs, conducting ships in and out of ports, dredges and light craft, and the licence fees payable in respect thereof;

(c) the inspection, licensing, registration or certification of ships, ferries, tugs, launches, hulks, ferry boats, or other craft, the charges to be paid therefor and the number of passengers to be carried therein.

(4) The power of the Authority to make Regulations under this section in relation to any matter shall not be construed to be in conflict with or as derogatory from any other powers conferred upon any other person under this Act or any Regulations to make provisions in relation to any such matter in any different manner.

(5) Notwithstanding anything enacted in the Interpretation and General Clauses Act, Regulations may provide that any breach or contravention of any such Regulations shall be punishable on summary conviction by a fine of one thousand five hundred dollars and to imprisonment for three months. Ch. 3:01.

(6) All Regulations made under this Act shall be subject to negative resolution of the House of Assembly within six weeks.

#### PART IX PROVISIONS RELATING TO OFFENCES

74. Any person who unlawfully damages or in anyway interferes with any lighthouse, buoy, beacon or other property of the Authority in Damaging property likely to endanger life.

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such manner as to endanger or as might endanger the life of any person, is guilty of an offence and liable on conviction to imprisonment for ten years.

Persons endangering safety of operations.

**75.** Any person who, while on duty or lawfully employed on any premises of the Authority or upon any ship or vehicle of the Authority, endangers the safety of any other person –

(a) by contravening any of the provisions of this Act or of any Regulations; or

(b) by contravening any lawful order, direction or rule given to such person, or made in respect of his service; or

(c) by being under the influence of alcohol; or

(d) by any rash or negligent act,

is liable on summary conviction to a fine of three thousand dollars and to imprisonment for six months.

Failure to comply under directions of section 67, etc.

**76.** Any person who, without lawful excuse refuses or neglects to obey any direction lawfully given under section 67 or under any Regulations made under Part VIII is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months.

Failure to employ licensed pilot.

**77.** If any ship is navigated in circumstances in which pilotage is compulsory and the ship is not under the control of a licensed pilot, the master is liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for three months.

Master's failure to give information or giving false information.

**78.** Any master who fails to comply with section 66 or gives any information which is false in any material particular, is liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for three months.

Master refusing entry to authorised officer.

**79.** Any master who without lawful excuse refuses to allow the authorised officer to enter his ship in contravention of section 68(1)(c) is guilty of an offence and liable on summary conviction to a fine of seven hundred and fifty dollars or to imprisonment for three months.

False returns.

**80.** Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim



or other document which is required or authorised to be made under this Act or any Regulations, is guilty of an offence and liable on conviction to a fine of nine thousand dollars and to imprisonment for two years

81. Any person who by any means whatsoever eludes or evades any dues or charges leviable under this Act or Regulations is liable on summary conviction to a fine of three thousand dollars and to imprisonment for six months.

Evasion of dues and charges.

82. Any person who with intent to defraud, demands or receives from any person delivering goods for carriage or warehousing by the Authority, or from any other person making use of the facilities provided by the Authority, any greater or lesser amount than he should demand or receive is on summary conviction liable to a fine of one thousand five hundred dollars and to imprisonment for three months.

Demanding improper account.

83. Any person who –

Miscellaneous offences.

(a) being on any premises, ship or vehicle of the Authority –

(i) refuses when called upon by an authorised officer, police officer, or constable to give his name and address, or gives a false name and address, for the purpose of avoiding prosecution;

(ii) without lawful excuse the proof whereof lies on him, discharges any firearm or does anything which may cause injury to any person on such premises, or upon such ship or vehicle; or

(iii) without lawful excuse contravenes any lawful direction given by any authorised officer; or

(b) defaces the writing on any board or notice authorised to be maintained upon any premises of the Authority or upon any ship or vehicle used by the Authority; or

(c) damages or without lawful excuse interferes with any property of the Authority; or

(d) wilfully obstructs or impedes any other person in the discharge of his duties arising out of his employment with the Authority; or

(e) gives or offers to any other person money or money's worth for the purpose of avoiding payment of any sum due to the Authority,

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is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months.

**Powers of arrest.** 84. (1) Any person who commits any offence mentioned in sections 74, 75 and 83 may be arrested without warrant by any authorised officer, police officer or constable.

(2) Any person who commits any offence against this Act or Regulations other than an offence mentioned in subsection (1) may be arrested by any authorised officer, police officer or constable if –

(a) there is reason to believe that such person will abscond;  
or

(b) he refuses on demand to give his name and address; or

(c) there is reason to believe that the name and address given by him is incorrect,

but where there is reason to believe that such person will not abscond, he shall, if his true name and address are ascertained, be released on his executing a bond without sureties for his appearance before a Magistrate when required.

**Place of trial.** 85. Any person charged with any offence against this Act other than an offence mentioned in section 74 or 80, may be proceeded against, tried and punished in any place in which he may be in custody for that offence as if the offence had been committed in such place; and the offence shall, for the purposes incidental to or consequent upon the prosecution, trial or punishment thereof, be deemed to be committed in that place; and nothing herein contained shall preclude the prosecution, trial and punishment of that person in any place in which, but for this section, that person might have been prosecuted, tried and punished.

**Port Manager may confer power on officers.** 86. The Port Manager may by notice in writing authorise any officer of the Authority to maintain order upon any premises used by the Authority or any place in the port, or on any ship or vehicle used by or for the purposes of the Authority, and any officer so authorised shall, in the performance of such duty, have all the powers, rights, privileges and protection of a police officer.

## PART X

### LEGAL PROVISION

**Notice claims.** 87. (1) Notwithstanding anything contained in any written law –

(a) no person shall be entitled to compensation or damages for non-delivery of the whole of a consignment of goods, or of any separate package forming part of such consignment accepted by the Authority for carriage or warehousing unless a claim in writing giving such particulars as may reasonably be necessary is given to the Port Manager within six months of the date upon which the goods were accepted by the Authority;

(b) no person shall be entitled to compensation or damages for any goods missing from a packed or unpacked consignment or for mis-delivery of, damage or delay to, or detention of, any goods accepted by the Authority for carriage or warehousing unless –

(i) the Port Manager is notified of such fact in writing within four days of the date upon which the goods were delivered to the consignee or person entitled to take delivery thereof; and

(ii) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Port Manager within one month of such date.

(2) Where the person claiming compensation or damages proves that it was impracticable for him to notify the Port Manager or to give the Port Manager his claim as set out in subsection (1) within the times specified therein and that the notification or claim was made or given in a reasonable time, nothing in that subsection shall prejudice the right of such person to obtain compensation or damages.

**88.** Where, after the commencement of this Act, any action or other legal proceedings is commenced against the Authority for any act done in pursuance or execution or intended execution of this Act or Regulations, or of any public duty or authority imposed or conferred by this Act or any Regulations, or in respect of any alleged neglect or default in the execution of this Act, such Regulations, or of any such duty or authority, the following provisions shall have effect notwithstanding anything contained in any written law: Limitation.

(a) the action or legal proceeding shall not be commenced until at least one month after written notice containing the particulars of the claim, and of intention to commence the action or legal proceeding, has been served upon the Port Manager by the plaintiff or his agent;

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- (b) the action or legal proceeding shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default or damage complained of, or in the case of a continuing injury or damage within six months next after the cessation thereof.

Restriction or execution against property of the Authority.

89. Notwithstanding anything to the contrary in this Act or any Regulations or in any other written law or in Regulations made under any other written law, where any judgment or order of any Court or any award of an arbitration tribunal has been obtained against the Authority for or in respect of anything done or omitted to be done under this Act and any Regulations, any contract or otherwise for or in respect of the Authority or its purposes –

- (a) no execution or attachment or process in the nature thereof shall be issued against the Authority, but such amounts as may by the judgment or order be awarded against the Authority shall be paid by the Authority from its funds to the person entitled thereto;
- (b) no property of the Authority shall be seized or taken by any person having by law power to attach or distrain property.

Overpayment or underpayment of dues and charges.

90. Where the amount paid in respect of any dues and charges is found to be incorrect then if the amount is –

- (a) overpaid, the person who overpaid any such amount is entitled to a refund of the amount so overpaid;
- (b) underpaid, the amount of the underpayment may be collected from the person who made the payment;

but notwithstanding anything contained in any written law the overpayment or underpayment shall not be refunded or collected, as the case may be, unless notice in writing containing such particulars as may reasonably be given –

- (i) by the person claiming the overpayment to the Port Manager; or
- (ii) by the Port Manager to the person against whom the underpayment is claimed,

within six months after the goods were accepted or the services rendered, as the case may be, by the Port Authority; and where the underpayment is caused by information or description subsequently

found to be incorrect, the period of six months shall commence from the date of the discovery by the Port Manager of the correct information or description.

PART XI  
TRANSITIONAL

*Transfer of Assets, Liabilities, Functions, etc.*

91. (1) Upon the commencement of this Act --

Transfer of  
assets.

- (a) all State lands within the boundaries of the ports in this Act including the bed and shores vested immediately before the commencement of this Act in the Government are hereby vested in the Authority;
- (b) all lights, buoys, beacons within the boundaries of the said ports are hereby transferred to the Authority;
- (c) all warehouses, buildings, machinery, plant, tools and other property which immediately before the commencement of this Act were the property of the Government are transferred to the Authority.

(2) All rights, privileges and advantages and all the obligations to which, immediately before the commencement of this Act the Government was entitled to, or subject to, as the case may be, are hereby transferred and conferred or imposed on the Authority for the purposes of this Act.

(3) A reference in any deed, contract, bond or security or other document subsisting immediately before the commencement of this Act against or in favour of the Government shall have full force and effect against or in favour of the Authority and be enforceable as fully and effectually as if, instead of the Government or any person acting on behalf thereof, the Authority had been named therein and had been a party thereto.

92. All lands vested in the Authority at and after the commencement of this Act is exempt from any rate, tax or imposition which any local authority is empowered but for this section to lawfully levy or impose, but nothing contained herein shall preclude a local authority from levying and collecting rates, taxes and other lawful charges in respect of land, houses and buildings of the Authority leased and occupied for private purposes.

Land vested in  
Authority to be  
free from municipi-  
pal rates and  
taxes.

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Transfer of  
public servants.

93. (1) The Public Service Commission may approve the transfer and appointment of an officer from the Public Service to the service of the Authority or from the service of the Authority to the Public Service.

(2) Where a transfer and appointment has been approved under subsection (1), arrangements shall be made by the Government or the Authority to pay to the Government or the Authority, as the case may be, such contribution as may be provided for in Rules made by the Minister in respect of pensions and gratuities, and any such Rules may make provision in different classes of cases.

Exemption from  
income tax.  
Ch. 67:01.

94. Notwithstanding anything contained in the Income Tax Act the income of the Authority shall not be liable to income tax.

## PART XII

### MISCELLANEOUS AND GENERAL POWERS

Authority may  
appoint  
constables.

95. (1) The Authority may, subject to standing orders made by the Authority and approved by the Minister, appoint persons to be constables.

(2) The constables so appointed shall be a supplemental body of police styled "Port Constabulary".

(3) The standing orders shall provide for the terms and conditions of appointment, with provision for the duties of a constable with special regard to the maintenance of order within the port and the protection and safety of goods and property, and the suspension and termination of appointment of any person appointed as a constable under this section.

(4) The Commissioner of Police shall have the general command and superintendence of the Port Constabulary.

(5) Every member of the Port Constabulary shall in the performance of his duties have and exercise all the powers, rights, privileges and protection and is liable to the same responsibilities and discipline of a police officer.

Bonded  
warehouse.

96. (1) If any warehouse of the Authority is approved and appointed under any written law relating to customs for the time being in force, the Authority may give general security by bond or otherwise for the payment of the customs duties payable in respect of goods stored in such bonded warehouse or for the due exportation of such goods.

(2) When such security has been given by the Authority, no further security shall be required by the Comptroller of Customs from any other person to the same effect.

(3) Nothing in this section shall be taken however to absolve any person who would have been liable to pay duties from paying any such duty as he would be compelled to pay in respect of any such goods.

97. Proceedings for offences arising out of this Act shall be instituted in writing by the Port Manager or by any officer duly authorised by him in writing. Port Manager's fiat.

98. In any proceedings for any offence, the averment that the offence was committed within the limits of the port shall be sufficient without proof of the limits unless the contrary is proved. Proof.

99. In addition to any other remedy given under this Act, all dues, charges, compensation, damages, costs, expenses or other sums due to the Authority under this Act may be recovered by the Authority as a civil debt. Recovery of sums.

100. All fines, compensation, damages, costs or other sums directed to be paid in respect of any offence, proceeding or matter arising out of the performance of the duties, powers and functions of this Act or any Regulations shall be paid into the account of the Authority. Moneys recovered to be paid into account of the Authority.

101. Nothing in this Act or the Regulations shall prejudice the operation of any Customs Act or any other Act dealing with customs, and in all cases of conflict the Customs Act shall prevail. Operation of Customs Act.

102. The Public Piers and Wharves Ordinance, the Harbour Dues Ordinance and the Tonnage Dues Ordinance, are hereby repealed; but any Rules, Orders, Regulations or By-Laws made under any of these repealed Ordinances shall continue in effect until specifically altered or varied or revoked by Regulations made under this Act. Repeal of Caps. 176, 268 and 280, (1961 Ed.), [20 of 1972].

103. This Act shall come into operation and shall have effect on the date of the publication in the *Gazette* provided that Part VII and section 102 shall come into force on such day as the President may appoint by Proclamation published in the *Gazette*. Commencement. [20 of 1972].

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\*See Note on page 2.

## SCHEDULE

### PART I

The limits of the Port of Roseau are defined as follows:

From Old Port point Latitude 15 degrees 19 minutes 00 seconds North, Longitude 61 degrees 24 minutes 14 seconds West thence in the direction of 270 degrees true for 0.25 miles, thence in the direction of 180 degrees true for 2.0 miles, thence in the direction of 090 degrees true for 1.3 miles to Latitude 15 degrees 17 minutes 00 seconds North, Longitude 61 degrees 23 minutes 09 seconds West, thence along the foreshore at the average High Water Mark of the Roseau Roads and Woodbridge Bay to Latitude 15 degrees 19 minutes 00 seconds North, Longitude 61 degrees 24 minutes 14 seconds West, being the area that includes all Waters and Ocean bed of the Roseau Roads and Woodbridge Bay lying within the defined limits so described.

### PART II

The limits of the Port of Portsmouth are defined as follows:

From Latitude 15 degrees 34 minutes 52 seconds North, Longitude 61 degrees 29 minutes 00 seconds West, thence in a direction of 180 degrees true for 2.2 miles to Latitude 15 degrees 32 minutes 45 seconds North, Longitude 61 degrees 29 minutes 00 seconds West, thence along the foreshore at the average High Water Mark or Prince Rupert Bay to Latitude 15 degrees 34 minutes 52 seconds North, Longitude 61 degrees 29 minutes 00 seconds West, being the area that includes all Waters and Ocean bed lying within the defined limits so described.

### PART III

The limits of the Port of Anse de Mai are defined as follows:

From Latitude 15 degrees 35 minutes 51 seconds North, Longitude 61 degrees 23 minutes 29 seconds West, thence in a direction of 270 degrees true to Latitude 15 degrees 35 minutes 51 seconds North, Longitude 61 degrees 23 minutes 29 seconds West, thence along the foreshore at the average High Water Mark in Anse de Mai to Latitude 15 degrees 35 minutes 51 seconds, Longitude 61 degrees 23 minutes 29 seconds, being the area that includes all Waters and Ocean bed lying within the defined limits so described.

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