

THE PORTS BY-LAWS

(Section 35)

LN 19/1974

[1st December 1973]

**PART I
PRELIMINARY**

Citation and application

1.—(1) *These By-laws may be cited as the Ports By-laws.*

(2) *These By-laws shall apply to all ports under the control of the Authority.*

Interpretation

2. *In these By-laws, unless the context otherwise requires—*

"authorised person" means the Chairman, member, manager, deputy manager, harbour master, general superintendent or chief stevedore of the Authority or such employee of the Authority so designated by the Chairman or the manager (or the person acting in the stead of the manager when the manager is absent) either at the time of the event or subsequently and either in writing or orally;

"Authority" includes its duly authorised agent;

"cost" means direct and indirect expenses;

"export cargo" means goods, wares, merchandise, produce and articles of every description under the control or in the custody of the Authority prior to and awaiting export but does not include livestock or petroleum;

"import cargo" means goods, wares, merchandise, produce and articles of every description imported from beyond Solomon Islands whilst under the control or in the custody of the Authority prior to delivery to the owner or any other person but does not include livestock or petroleum;

"livestock" means any living animal and includes birds and fowls;

"local cargo" means all goods, wares, merchandise, produce and articles of every description other than import cargo or export cargo and does not include livestock or petroleum;

"owner", when used in relation to a ship, includes the master; and, when used in relation to goods, includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of, or beneficially interested in, or having control of or

power of disposition over, such goods, and includes the duly authorised agent of the owner of any ship or goods as the case may be;

"shed" means any building, shelter or storage area and includes any wharf, land or sea under the control of the Authority within the limits of any port used for the storage or conveyance of goods.

PART II STORAGE AND WAREHOUSES

Cargo clearance

3.—(1) Cargo may only be cleared from the Customs Area upon production of properly completed customs documents releasing the cargo from the charge, ship's agent's clearance and the Authority's cargo clearance.

(2) No person shall take goods from the Customs Area without first surrendering a valid cargo release note and any discrepancy between the goods physically being taken and the cargo release note shall be the responsibility of the person taking the goods.

Export cargo documentation required

4. All exporters or consignors are responsible for ensuring that goods being delivered to the Customs Area for shipment are accompanied by properly completed customs entry and the Authority's Outward Shipment Clearance. Failure to comply with this by-law shall entitle the Authority, at its discretion, to refuse to allow the goods to be brought into the Customs Area.

Instructions of authorised persons to be observed

5. Any person delivering or clearing cargo will at all times comply with the instructions of authorised persons of the Authority both at the gate to and within the Customs Area.

Vehicles and persons in warehouses

6. No person other than an employee of the Authority shall cause any vehicle to enter any cargo shed or warehouse without the prior permission of the Authority and no person other than the employees of the Authority shall enter any cargo shed or warehouse within the port without the permission of the Warehouse Superintendent or his duly authorised representative except for presentation of cargo clearance or delivery papers.

Loading vehicles in warehouses

7. No person shall cause or permit any vehicle to be loaded within the limits of the port or in any cargo shed or warehouse therein except under the direction of the Authority.

Interference with cargo

8. *No person other than an authorised person shall tamper, interfere, mishandle, or otherwise deal with cargo in any warehouse outside the Customs Area without the permission of the Authority.*

Storage of goods and responsibility for loss or damage

9.—(1) *The Authority may store cargo in the open or in sheds and shall not be responsible for the loss of or damage to or deterioration of any goods so stored, except when such loss, damage or deterioration is caused by want of reasonable foresight and care on the part of the Authority or any servant of the Authority.*

(2) *The Authority may provide cooler/freezer storage facilities for such time at such rates as it deems fit but shall not incur any liability by—*

(a) not providing such storage;

(b) fluctuations in electric current;

(c) mechanical or electrical failure of such facilities;

(d) natural deterioration of the cargo stored;

(e) fluctuations in temperature not due to any neglect or want of care by the Authority or its servants;

(f) closure of facilities for repairs and maintenance;

(g) failure of the consignee or consignor to remove the cargo within the time specified by the Authority and any action of the Authority to deal with or dispose of such cargo consequent upon such failure to remove.

Vehicles for clearance

10. *Any person who enters the Customs Area or any warehouse in the port for the purpose of clearing cargo and with the permission of the Authority uses any vehicle, forklift or other mechanical aid which is not owned by the Authority shall exercise care and control over the aids and be subject to any instructions issued by any authorised person and shall also be liable for any damage caused to any property by such mechanical aid whether the property belongs to him or any third party including the Authority and whether the damage arises directly or indirectly from the use of the mechanical aid and no liability or responsibility shall be borne by the Authority.*

Hiring Authority's mechanical aids

11. Mechanical aids for use in the clearance of cargo may be hired from the Authority if the Authority agrees. Such hire shall be under the supervision of the hirer who shall be responsible and liable for any damage to any property both his and that of any third party including the Authority and its mechanical aid which arises from the use of the hired mechanical aid.

Right of search and inspection

12. Any authorised person may at any time stop, inspect and search any vehicle within the port area whether it be entering, leaving, parked or moving and any reasonable instructions he may give shall be obeyed, and any person who without lawful excuse fails to obey such instructions shall be guilty of an offence.

PART III VEHICULAR TRAFFIC WITHIN PORT AREA

Parking within port limits

13.—(1) No vehicle shall be parked or left within the limits of any port in any position so as to obstruct or impede or be likely to obstruct or impede in any manner the operations or movements of the officers and servants of the Authority or other lawful users of such port.

Failure to comply with this provision shall be at the risk and expense of the owner.

(2) Any authorised person may order the driver or other person in charge of any vehicle situated anywhere in the port to move it forthwith either from the port or to a suitable place within the port.

(3) In the event of any non-compliance with any order lawfully made under paragraph (2) of this by-law or in the event of any vehicle being left or parked unattended, any authorised person may move or cause to be moved such vehicle at the risk and expense of the owner.

Speed limit

14. No vehicle shall be driven or propelled at any speed exceeding fifteen miles per hour in any area within the limits of a port and all notices concerning speed limits shall be complied with.

General

15.—(1) All vehicles using the port area other than those belonging to the Authority shall be currently registered if the licensing regulations are in force in the area where the port is situated.

(2) All drivers of vehicles shall hold a current licence for the class of vehicle driven if the licensing regulations are in force in the area where the port is situated.

(3) All vehicles shall be mechanically safe and roadworthy.

(4) All vehicles shall have silencers and exhaust systems in good working repair.

(5) The Authority may at any time stop any vehicle within the port and request that it be immediately removed from the port if—

(a) by-law 14 is not complied with;

(b) any parts of this by-law are not complied with;

(c) such vehicle is driven in a manner considered by the Authority to be hazardous, dangerous, negligent, careless, incompetent, drunken or otherwise prejudicial to safety and good order, and may request the owner to correct any mechanical deficiencies or to caution any offending driver or not send such offending driver to the port in charge of a vehicle:

Provided that nothing in this by-law shall prevent the Authority from making a complaint to the police if it thinks fit.

Passenger ships alongside wharf

16.—(1) Any vehicle not belonging to the Authority shall not be parked or driven on the wharf, its entrance or immediate approaches when an overseas passenger ship is alongside any wharf or jetty except with the written permission of the Authority and such permission shall be produced on the demand of an authorised person and failure to produce the permission upon demand shall be an offence.

(2) Any accident to persons or property arising from a vehicle being on the wharf, its entrance or immediate approaches when a passenger ship is alongside whether or not written permission has been given shall be the responsibility of the driver of the vehicle.

Accidents

17. Any accident occurring in the port shall be reported immediately to the Authority together with the account of any witnesses and the Authority may recover any costs it incurs howsoever arising from the accident.

PART IV BEHAVIOUR OF PEOPLE IN THE PORT

Fishing

18. Fishing with lines may be permitted from the Authority's wharves, jetties, and dolphins: Provided that—

(a) the Authority shall in no way be liable for any injury or damage either to the party fishing or any third party which arises directly or indirectly from such fishing;

(b) the Authority may recover the cost of rectifying any damage to its property which arises directly or indirectly from such fishing;

(c) the lawful instructions of an authorised person shall be observed;

(d) the Authority may ban fishing for any period of time either by displaying a board or notice or by making an announcement over the Solomon Islands Broadcasting Service or by such other method as the Authority thinks suitable and such ban shall have immediate effect.

Movement in the port area

19. Any person other than an employee of the Authority who enters the port area at any time does so at his or her own risk and the Authority shall not be liable except in the case of its own negligence for any injury or damage sustained by that person or their property or by any third party or property as a result of the presence or actions of any person other than an employee of the Authority.

Instructions by authorised persons

20. All lawful notices erected by the Authority and all lawful instructions given verbally by the harbour master, security guard, or other authorised person with regard to entry to or behaviour in the port area shall be observed. Failure to observe such notices or instructions shall not only constitute an offence but shall be entirely at the offender's risk.

No person to expectorate, etc

21. Any person who expectorates, urinates or defecates within the limits of a port except in places provided for such purposes shall be guilty of an offence.

No person to remove land

22. No person shall remove or excavate any land above or below high water mark which is within the limits of a port without first obtaining the permission of the Authority in writing. For the purposes of this by-law, land shall include but not be limited to stones, gravel, coral, earth, clay, sand, boulders, trees and rocks. Contravention of this by-law shall be an offence and the contravention shall be made good to the satisfaction of the Authority and any costs incurred by the Authority in relation to both contravention and the making good shall be recoverable as a civil debt.

No temporary trade without permission

23. No temporary trade shall be carried on within the limits of a port without the written permission of the Authority. The Authority may charge such rate and prescribe such conditions

as it considers appropriate in giving permission and failure either to obtain the permission or to pay the rate or to observe the prescribed conditions shall be an offence:

Provided that the imposition of a fine shall in no way restrict the right of the Authority to recover any costs it incurs in rectifying the consequences of the offence.

PART V
MISCELLANEOUS

Penalties

24. Any person who contravenes or fails to comply with the provisions of by-laws 3, 5, 6, 7, 8, 12, 14, 16, 18, 20, 22, and 23 shall be guilty of an offence and liable to a fine of one hundred dollars and to a further fine of ten dollars for every day after the first day during which the offence continues.

Power of waiver

25. The Authority may waive or vary any provision of these By-laws where in the opinion of the Authority the circumstances require such waiver or variation.