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Part IV — Section 2 Tamil Nadu Acts and Ordinances.

THE TAMIL NADU MARITIME BOARD ACT, 1995.

ARRANGEMENT OF SECTIONS.

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Central
1962.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 11th February 1996 and is hereby published for general information:—

ACT No. 4 OF 1996.

An Act to provide for the Constitution of a Maritime Board for minor ports in the State of Tamil Nadu and to vest the Administration, Control and Management of such ports in that Board and for matters connected therewith.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-sixth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent
commencement
and application.

1. (1) This Act may be called the Tamil Nadu Maritime Board Act, 1995.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date, as the Government may, by notification, appoint.

(4) It applies to all the minor ports in the State to which the Indian Ports Act applies on the date of the commencement of this Act and the Government may, by notification, apply the provisions of this Act with effect from such date, as may be specified in the notification, to any other minor ports in the State to which the Indian Ports Act is extended by the Government under section 4 of that Act.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" in relation to any minor port means the day on which this Act is made applicable to that port ;

(b) "Board" means the Tamil Nadu Maritime Board established under section 3;

(c) "Board security" means debentures, bonds or dock certificates issued by the Board in respect of any loan contracted by it under the provisions of this Act ;

(d) "Chairman" means the Chairman of the Board and includes the person appointed to act in his place under section 9 ;

(e) "Collector of Customs" means the Collector of Customs specified in the Customs Act, 1962 ;

(f) "dock" includes all basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slipways, gridirons, moorings, transit sheds, warehouses, godowns, open plots and other works and things appertaining to any dock and also the portion of the sea enclosed or protected by the arms or groynes of a harbour ;

(g) "foreshore" in relation to a port means the area between the high water mark and the low water mark relating to that port ;

(h) "goods" includes live stock and every kind of movable property ;

(i) "Government" means the State Government ;

(j) "high water mark" in relation to a port means a line drawn through the highest points reached by ordinary spring tides at any season of the year at that port ;

(k) "immovable property" includes wharfrage rights and all other rights exercisable on, over or in respect of, any land, wharf, dock or pier ;

(l) "Indian Ports Act" means the Indian Ports Act, 1908;

Central Act XV
1908.

(m) "Land" includes the bed of sea or river below high water mark and also things attached to the earth or permanently fastened to anything attached to the earth;

(n) "Low water mark" in relation to a port means a line drawn through the lowest points reached by ordinary spring tides at any season of the year at that port;

(o) "master" in relation to any vessel or craft making use of any minor port means, any person having, for the time being, the charge or control of such vessel or craft, as the case may be, except a pilot, harbour master, dock master, or berthing master of the port;

(p) "member" means a member of the Board;

(q) "minor port" means a port other than a major port declared as such by the Central Government under any law;

(r) "owner"—

(i) in relation to goods includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods, and

(ii) in relation to any vessel or craft making use of any port, includes any port owner, charterer, consignee or mortgagee in possession thereof;

(s) "pier" includes any stage, stairs, landing place, hard jetty, floating barge or pontoon and any bridges or other works connected therewith;

(t) "port" means any minor port to which this Act applies within such limits as may, from time to time, be defined by the Government under the Indian Ports Act;

(u) "port approaches" in relation to a port means those parts of the navigable rivers and channels leading to the port in which the Indian Ports Act is in force;

(v) "Prescribed" means prescribed by rules or regulations made under this Act;

(w) "public securities" means—

(i) promissory notes, debentures, stock or other securities of the Central Government or of any State Government;

Provided that securities both the principal and the interest whereof have been fully and unconditionally guaranteed by any such Government shall be deemed, for the purposes of this clause, to be securities of such Government;

(ii) debentures or other securities for money issued by or on behalf of any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in the State (including the Board securities);

(x) "rate" includes any toll, due, rent, fee or charge leviable under this Act;

(y) "regulations" means regulations made under this Act;

(z) "rules" means rules made under this Act;

(aa) "vessel" includes anything made for the conveyance, mainly by water, of human being or of goods;

(ab) "Wharf" includes any wall or stage and any part of the land or foreshore that may be used for loading or unloading goods or for the embarkation or disembarkation of passengers and any wall enclosing or adjoining the same.

CHAPTER II.

ESTABLISHMENT OF MARITIME BOARD.

3. (1) As soon as may be after the commencement of this Act, the Government may, by notification, establish a Board to be called the Tamil Nadu Maritime Board.

Establishment
of Tamil Nadu
Maritime Board.

(2) The Board shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and may, by the said name, sue and be sued.

(3) The head office of the Board shall be at such place as the Government may, by notification, direct.

(4) The Board shall consist of ten members, who shall be appointed by the Government, as follows, namely:—

(a) the State Port Officer, *ex-officio*;

(b) the Secretary to Government, Finance department or his nominee not below the rank of a Deputy Secretary to Government of that department, dealing with the subject port, *ex-officio*;

(c) one member who has experience of, and shows capacity in, matters relating to ports, shipping, maritime affairs or commerce or in the administration of such matters;

(d) one member who possesses academic qualification in the subject of engineering and has wide experience of matters relating to harbour works;

(e) one member who is Chartered Accountant or who possesses high academic qualification in Accountancy and who has sufficient experience in accounts pertaining to industry, commerce, ports or shipping;

(f) one member who possesses academic qualification in navigation such as extra first class Ministry of Transport Ticket Holder (diesel or steam) and has experience in marine plants, particularly with reference to dredging or the persons who are experienced nautical officers;

(g) one member representing the interests of trade, commerce and industry;

(h) one member representing the interest of shipping;

(i) one member representing the interests of workers of minor ports;

(j) the Chief Executive Officer appointed under section 17, *ex-officio*.

(5) The Government shall appoint one of the members appointed under sub-section (4) other than the Chief Executive Officer to be the Chairman of the Board and the Chief Executive Officer shall be the Vice-Chairman of the Board.

4. A person shall be disqualified for being appointed, or for continuing as a member of the Board, if he—

Disqualification
of members.

(a) has been removed or dismissed from the service of the Central Government or of any State Government or of any local authority or of a Corporation owned or controlled by the Central Government or by any State Government;

(b) has been convicted and sentenced to imprisonment for an offence involving moral turpitude; or

(c) is an undischarged insolvent; or

(d) has directly or indirectly any share or interest in any work done by order of the Board or in any contract or employment with, by or on behalf of the Board :

Provided that no person shall be deemed to have a share or interest in such work, contract or employment by reason only of his—

(i) having a share in any company or firm which may contract with or be employed by or on behalf of the Board ; or

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted ; or

(iii) being interested in any loan of money to the Board ; or

(iv) having a share or interest in any lease, sale, exchange or purchase of immovable property or any agreement for the same ; or

(v) having a share or interest in any licence issued by the Board or right by agreement or otherwise with the Board to the sole or preferential use of any premises or property belonging to the Board ; or

(vi) having a share or interest in the occasional sale to the Board to a value not exceeding ten thousand rupees in any one financial year, of any article in which he trades.

Term of office
of Chairman and
members.

5. Every member other than an official appointed as Chairman and every non-official member shall hold office for a period of two years.

Vacation of
office of member.

6. (1) The Government may remove a member including the Chairman, who is not an official of the Board, if he—

(a) becomes subject to any of the disqualifications mentioned in section 4 or

(b) refuses to act or becomes incapable of acting ; or

(c) has, in the opinion of the Government, become incapable of representing the interests by virtue of which he was appointed ; or

(d) absents, without the permission of the Board, from six consecutive meetings of the Board ; or

(e) acts in contravention of the provisions of section 13.

(2) The Chairman who is not an *ex-officio* member may resign from his office by tendering his resignation in writing to the Government, but the resignation shall not take effect until it is accepted by the Government.

(3) A member of the Board, other than the *ex-officio* member, may resign from his office by tendering his resignation in writing to the Chairman who shall forward the same to the Government, but the resignation shall not take effect until it is accepted by the Government.

Eligibility for
re-appointment.

7. Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.

Filling up of
casual vacancies.

8. (1) Any casual vacancy in the office of the Chairman shall be filled, as soon as may be, in the same manner as provided in sub-section (5) of section 3.

(2) Any casual vacancy in the office of a member of the Board shall be filled, as early as possible, after the occurrence of such vacancy :

Provided that where any casual vacancy occurs in the office of any such member within three months preceding the date on which the term of the office of such member expires under section 5, it shall not be filled.

(3) A member appointed under sub-section (2) shall hold office so long only as the member in whose place he has been appointed would have held office if the vacancy had not occurred.

9. If the Chairman is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent on leave or otherwise, the Vice-Chairman, and in the absence of both the Chairman and the Vice-Chairman, such member, as the Government may appoint, shall act as the Chairman.

10. (1) The Board shall meet at such times and places, and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided in the regulations :

Provided that the Board shall meet at least once in every month.

(2) The Chairman, or in his absence the Vice-Chairman, and in the absence of both the Chairman and the Vice-Chairman, any person chosen by the members present from amongst themselves, shall preside at a meeting of the Board.

(3) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and, in the case of any equality of votes, the person presiding shall have a second or casting vote.

(4) The proceedings of the meetings of the Board shall be forwarded to the Government in the Department in charge of the minor-ports within seven days of every meeting.

11. (1) The Board may, from time to time, constitute from amongst its members, one or more committees, each consisting of such number as the Board may consider necessary, for the purpose of discharging such of its duties and functions as may be delegated to such committee or committees by the Board.

(2) A committee constituted under sub-section (1) shall meet at such time and at such place and shall follow such procedure in regard to the transaction of business at its meetings (including the quorum) as may be provided in the regulations.

12. The members including the Chairman shall be paid by the Board such fees and allowances for attending meetings of the Board or of any of its committees and for attending any work of the Board as may be provided in the rules.

Fees and allowances payable to members.

13. A member of the Board or of a committee who—

(a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in section 4, in respect of any matter, or

Members of Board or committee not to vote in certain cases.

(b) has acted professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take part in any proceeding of the Board or any committee relating to such matter.

14. No act done or proceeding taken under this Act by the Board or by any committee shall be invalidated merely on the ground of—

Acts of Board not to be invalidated by infirmity, vacancy, etc.

(a) any vacancy or any defect in the constitution of the Board or the committee; or

(b) any defect or irregularity in the appointment of a person acting as a member thereof; or

(c) any member having acted or taken part in any proceedings in contravention of section 13; or

(d) any defect or irregularity in such act of proceeding not affecting the merits of the case.

Delegation of
powers,

15. The Board may, with the approval of the Government, direct that—

(a) such of the powers and duties conferred or imposed upon the Board by or under this Act as may be specified in such direction, may also be exercised or performed by the Chairman;

(b) such of the powers and duties conferred or imposed on the Chairman by or under this Act as may be specified in such direction, may also be exercised or performed by the Chief Executive Officer, subject to such conditions and restrictions as may be specified in such direction:

Provided that the Chief Executive Officer shall exercise the powers and perform the duties specified in the direction, subject to the supervision and the control of the Chairman.

Duties of
Chairman.

16. (1) It shall be the duty of the Chairman and the Vice-Chairman to attend every meeting of the Board unless prevented by sickness or other reasonable cause.

(2) The Chairman shall exercise supervision and control over the acts of all employees of the Board in the matters of executive administration and in matters concerning the accounts and records of the Board.

CHAPTER III.

STAFF OF THE BOARD.

Chief Executive
Officer and other
officers and
servants of
Board.

17. (1) (a) The Government shall appoint a person, having experience in civil works, operation and administration of ports, to be the Chief Executive Officer of the Board.

(b) The conditions of service of the Chief Executive Officer shall be such as may be prescribed in the rules.

(2) The Board may create posts and appoint such other officers and servants as it considers necessary, in accordance with the regulation made in this behalf, for the efficient performance of its functions.

(3) Notwithstanding anything contained in sub-section (2), the Board may, with the previous approval of the Government, sanction the creation of, or appoint any person to, any post the maximum monthly salary of which exceeds two thousand rupees.

(4) The remuneration and other conditions of service of the officers and servants of the Board shall be such as may be prescribed by regulations.

Power to make
appointments.

18. (1) Subject to the provisions of section 17, the power of appointing any person to any post, whether temporary or permanent, shall,—

(a) in the case of a post, the incumbent of which is to be regarded as the head of a department; or the maximum of the pay-scale for which (exclusive of allowance) exceeds two thousand rupees, be exercisable by the Government in consultation with the Chairman;

(b) in the case of any other post, be exercisable by the Chairman or by such authority as may be prescribed by regulations:

Provided that no person shall be appointed as a pilot at any port who is not, for the time being authorised by the Government under the Indian Ports Act, to pilot vessels at that Port.

(2) The Government may, by order, specify any post, the incumbent of which shall, for the purpose of this Act, be regarded as head of a department.

CHAPTER IV.

PROPERTY AND CONTRACTS.

19. (1) As from the appointed day, in relation to any port,-

(a) all property, assets and funds and all rights to levy rates vested in the Government for the purposes of the port immediately before such day, shall vest in the Board ;

(b) all debts, obligations and liabilities incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Government immediately before such day, for or in connection with the purposes of the port, shall be deemed to have been incurred, entered into and engaged, to be done by, with, or for the Board ;

(c) all non-recurring expenditure incurred by the Government for or in connection with the purposes of the port upto such day and declared to be capital expenditure by the Government shall be treated as the capital provided by the Government to the Board ;

(d) all rates, fees, rents and othersums of money due to the Government in relation to the port immediately before such day, shall be deemed to be due to the Board ;

(e) all suits and other legal proceedings instituted by or against the Government immediately before such day for any matter in relation to the port, may be continued by or against the Board.

Transfer of assets and liabilities and employees, etc., of Government to Board.

20. (1) (a) As soon as may be after the appointed day, the Government may, after consulting the Board, direct, by general or special order, that such of the employees of the Government who immediately before the appointed day were serving under the Government solely or mainly for or in connection with the affairs of the port shall stand allotted to serve in connection with the affairs of the Board with effect on and from such date as may be specified in such order :

transfer of service of certain employees.

Provided that no such order shall be issued in respect of any such employee without his consent.

(b) With effect on and from the date specified in the order under clause (a), the persons specified in such order shall become employees of the Board and shall cease to be employees of the Government.

(2) Every person referred to in sub-section (1) shall hold office under the Board by the same tenure, at the same remuneration and upon the same rights and privileges as to pension or gratuity, if any, and other matters as he would have held the same on the date specified in the order under clause (a) of sub-section (1), as if this Act had not been passed.

(3) The liability to pay pension and gratuity to the persons referred to in sub-section (1) shall be the liability of the Board.

(4) The sums at the credit of the provident fund accounts of the persons referred to in sub-section (1) as on the appointed day shall be transferred to the Board and the liability in respect of the said provident fund accounts shall be the liability of the Board.

(5) There shall be paid to the Board out of the accumulations in the superannuation fund and other like funds, if any, of the Government, such amounts as have been credited to the superannuation fund or other like funds, if any, on behalf of the persons referred to in sub-section (1). The amounts so paid shall form part of the superannuation fund or other like funds, if any, that may be established by the Board for the benefit of its employees.

21. As from the appointed day, all rates, fees, and other charges in relation to any port shall, unless and until they are varied by the competent authority in accordance with the provisions of this Act, continue to be levied and collected at the same rate at which they were being levied and collected by the Government before such day.

Existing rates, etc. to continue until altered by Board.

22. The Board shall repay, at such intervals and on such terms and conditions as the Government may determine, the amount which is treated under clause (c) of sub-section (1) of section 19 as capital provided by the Government, with interest at such rate as may be fixed by the Government and such repayment of capital or payment of interest shall be deemed to be a part of the expenditure of the Board.

Repayment of capital with interest.

23. Any land or any interest therein required by the Board for the purpose of this Act, may be acquired under the provision of the Land Acquisition Act, 1894.

Procedure when immovable property cannot be acquired by agreement.

24. (1) The contracts or agreements shall be made or executed in accordance with such rules as may be prescribed.

Execution of contracts and agreements.

(2) A contract or agreement made or executed in contravention of the provisions of this Act or the rules or regulations made thereunder shall not be binding on the Board.

CHAPTER V.

WORKS AND SERVICES TO BE PROVIDED AT
PORTS BY THE BOARD.

Power of
Board to
execute works
and provide
appliances.

25. (1) The Board may, subject to any other law for the time being in force, execute such works within or outside the limits of the port and provide such appliances as it may deem necessary or expedient.

(2) Such works and appliances may include—

(a) Wharves, quays, docks, stages, jetties, piers, places of anchorage and other works within the port or port approaches or on the foreshore of the port or port approaches, with all such convenient arches, drains, landing places, stairs, fences, roads, bridges, tunnels and approaches, and buildings required for the residence of the employees of the board as the Board may consider necessary ;

(b) buses, locomotives, rolling stock sheds, hotels, warehouses and other accommodation for passengers and goods and other appliances for carrying passengers and for conveying, receiving and storing goods landed or to be shipped or otherwise ;

(c) mooring and cranes, scales and all other necessary means and appliances for loading and un-loading of vessels ;

(d) reclaiming, excavating, enclosing and raising any part of the foreshore of the port or port approaches which may be necessary for the execution of the works authorised by this Act or otherwise for the purposes of this Act ;

(e) such break waters and other works as may be expedient for the protection of the port ;

(f) dredgers and other machines for cleaning, widening, deepening and improving any portion of the port or port approaches or of the foreshore of the port or port approaches ;

(g) light-houses, light-ships, beacons, buoys, pilot boats and other appliances necessary for the safe navigation of the port and the port approaches in so far as it relates to State functions ;

(h) vessels, tugs, boats, barges and launches and lighters for the use within the limits of the port or beyond those limits, whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere and for the purpose of saving or protecting life or property and for the purpose of landing, shipping or transshipping passengers or goods under section 32 ;

(i) sinking of tubewells and equipments, maintenance and use of boats, barges and other appliances for the purpose of the supply of water at the port ;

(j) engines and other appliances necessary for the extinguishing of fires ;

(k) lands abutting the sea coast including creeks ;

(l) ferry boats and other works and equipment appertaining to the running ferry service at or between the ports ;

(m) construction of models and plans for carrying out hydraulic studies : and

(n) dry docks, slipways, boat basins and workshops to carry out repairs or overhauling of vessels, tugs, boats, machinery or other appliances.

Power of Board
to undertake
certain works.

26. (1) The board may undertake to carry out on behalf of any person any works or services or any class of works or services, on such terms and conditions as may be agreed upon between the Board and the persons concerned.

(2) The Board may, if it considers it necessary or expedient in the public interest so to do, lend any of its vessels or appliances or the services of any of its employees to any person for such period not exceeding three months and on such terms and conditions as may be agreed upon between the Board and the persons concerned.

27. (1) When any dock, berth, wharf, quay, stage, jetty, pier or place of anchorage erected at any port or port approaches under the provisions of this Act has been completed with sufficient warehouses, sheds and appliances for receiving, landing or shipping goods or passengers from and upon sea going vessels, the Board may, after obtaining the approval of the Collector of Customs and by notification published in three consecutive issues of the *Tamil Nadu Government Gazette*, declare that such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage is ready for receiving, landing and shipping or for landing or for shipping goods or passengers from and upon sea going vessels.

Power of Board to order sea going vessels to use docks, wharves, etc.

(2) As from the date of the publication of such notification for the third time, it shall be lawful for the Board from time to time, when there is room at such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage to order to come along side of such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage, for the purpose of landing and shipping goods or passengers or for landing or for shipping the same, any sea going vessel within the port or port approaches which has not commenced to discharge goods or passengers or which being about to take in goods or passengers, has not commenced to do so :

Provided that before making such order, the Board shall have regard, as far as possible, to the convenience of such vessel and of the shippers, in respect of the use of any particular dock, berth, wharf, quay, stage, jetty, pier or place of anchorage :

Provided further that if the Board is not the conservator of the port, the Board shall not itself make the order as aforesaid, but shall require the conservator of the port, or other person exercising the rights, powers and authorities of the conservator of the port to make such order.

28. When a sufficient number of docks, berths, wharves, quays, stages, jetties or piers have been provided at any port or port approaches, the Board may, after obtaining the approval of the Collector of Customs and by notification published in three consecutive issues of the *Tamil Nadu Government Gazette*, direct that no goods or passengers shall be landed or shipped from or upon any sea going vessel within the port or port approaches otherwise than at such docks, berths, wharves, quays, stages, jetties or piers, except with the sanction of the Board and in accordance with such conditions as the Board may specify.

Sea going vessels to use docks, wharves, etc.

29. Any officer appointed by the Board in this behalf, may, in case of emergency or for any reason which appears to him sufficient, by notice in writing, order the master or owner or agent of any sea going vessel not to bring such vessel alongside of, or to remove such vessel from any dock, berth, wharf, quay, stage, jetty, pier or place of anchorage belonging to or under the control of the Board and if, such notice is not complied with, the Board may charge in respect of such vessel such sum as it thinks fit, not exceeding one thousand rupees for each day or portion of such day, during which such vessel remains at such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage :

Power to order vessels not to come alongside of, or to be removed from docks, wharves, etc.

Provided that in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of twelve hours from the service of such notice on the master or owner or agent of the vessel.

30. Notwithstanding anything contained in section 27 or 28, the Government may, if in their opinion, it is necessary in the public interest so to do by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or

Power of Government to exempt vessels from obligation to use wharves, etc.

classes of goods at such place in a port or within the port approaches, in such manner, during such period and subject to such payments to the Board and on such conditions as the Government may think fit.

Board to declare when vessels other than sea going vessels compelled to use dock, wharves, etc.

31. (1) When any dock, berth, wharf, quay, stage, jetty, pier or place of anchorage for receiving, landing or shipment of goods or passengers from or upon vessels, not being sea going vessels, has been made and completed with all proper appliances in that behalf, the Board may, after obtaining the approval of the Collector of Customs, by order published in the *Tamil Nadu Government Gazette*,—

(a) declare that such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage is ready for receiving, landing or shipment of goods or passengers from or upon vessels not being sea going vessels, and

(b) direct that, within certain limits to be specified therein, it shall not be lawful without the express sanction of the Board, to land or ship any goods or passengers, out of or into, any vessel, not being sea going vessels of any class specified in such order, except at such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage.

(2) As from the date of the publication of the order mentioned in sub-section (1), it shall not be lawful, without the consent of the Board, for any vessel specified in sub-section (1)—

(a) to land or ship any goods or passengers at any place within the limits so specified except at such dock, berth, wharf, quay, stage, jetty, pier or place of anchorage, and

(b) while within such limits, to anchor, fasten or lie within fifty yards of the ordinary low-water mark.

(3) If, after the publication of such order, any such vessel, anchors, fastens or lies, within the limits so specified, it shall be lawful for the Board to cause the same to be removed out of the said limits at the expense of the master or owner or agent of the vessel.

Services by Board or other person.

32. (1) The Board shall have power to undertake the following services, namely :—

(a) stevedoring, landing, shipping or transshipping passengers and goods between vessels in port and the wharves, piers, quays or docks belonging to or in the possession of the Board ;

(b) receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises ;

(c) carrying passengers within the limits of the port or port approaches, by such means and subject to such restrictions and conditions as the Government may think fit to impose ; and

(d) piloting, hauling, mooring, remooring, hooking or measuring of vessels or any other service in respect of vessels.

(2) The Board may, if so requested by the owner, take charge of the goods for the purpose of performing the service and shall give a receipt in such form as the Board may specify.

(3) Notwithstanding anything contained in this section, the Board may authorise any person to perform any of the services mentioned in sub-section (1) on such terms and conditions as may be agreed upon.

(4) No person authorised under sub-section (3) shall charge or recover for such service any sum in excess of the amount leviable according to the scale framed under sections 37, 38, or 40.

(5) Any such person shall, if so required by the owner, perform in respect of the goods any of the services and for that purpose take charge of the goods and give a receipt in such form as the Board may specify.

(6) The responsibility of any such person for the loss, destruction or deterioration of goods of which he has taken charge shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

Central Act IX of 1872.

(7) After any goods has been taken charge of and a receipt given for them under this section, any liability for any loss or damage which may occur to them shall attach to the person to whom a receipt has been given or to the master or owner of the vessel from which the goods have been landed or transhipped.

33. (1) Subject to the provisions of this Act, the responsibility of the Board for the loss, destruction or deterioration of goods of which it has taken charge shall,—

Responsibility of Board for loss, etc. of goods.

(a) in the case of goods received for carriage by railway, be governed by the provisions of the Railways Act, 1989; and

Central Act 2 of 1989.

(b) in other cases, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, as if the words "in the absence of any special contract" in section 152 of that Act had been omitted :

Central Act IX of 1872.

Provided that no responsibility under this section shall attach to the Board —

(i) until a receipt mentioned in sub-section (2) of section 32 is given by the Board ; and

(ii) after the expiry of such period as may be prescribed by regulations from the date of taking charge of such goods by the Board.

(2) The Board shall not be in any way responsible for the loss, destruction or deterioration of, or damage to, the goods of which it has taken charge, unless notice of such loss, destruction or deterioration of or damage has been given within such period as may be prescribed by regulations made in this behalf from the date of taking charge of such goods by the Board under sub-section (2) of section 32.

34. (1) Where the Collector of Customs has, under the provisions of any Act for the levy of duties of customs, appointed any dock, berth, wharf, quay, stage, jetty, pier, place of anchorage, warehouse or shed or a portion of any warehouse or shed provided at any port under the provisions of this Act for the use of sea-going vessels to be an approved place for the landing or shipping of goods or a warehouse for the storing of dutiable goods on the first importation thereof without payment of duty, within the meaning of the first mentioned Act, the Board shall set apart and maintain such place on or adjoining such dock, wharf, quay, stage, jetty, pier or a place of anchorage or in such warehouse or shed or portion thereof, for the use of officers of Customs as may be necessary.

Accomodatio

(2) Notwithstanding that any dock, berth, wharf, quay, stage, jetty, pier, place of anchorage, warehouse or shed or portion thereof at any port has, under the provisions of sub-section (1), been set apart for the use of the officers of Customs at the port, all rates and other charges payable under this Act in respect thereof, or for the storage of goods therein, shall be payable to the Board, or to such person or persons as may be appointed by the Board to receive the same

35. (1) No person shall make, erect or fix, within the limits of the port or port approaches, any wharf, dock, quay, stage, jetty, pier, place of anchorage, erection or mooring or undertake any reclamation of foreshore within the said limits except with the previous permission in writing of the Board and subject to

Power to per erection of Private whar

(2) If any person makes, erects or fixes any wharf, dock, quay, stage, jetty, pier, place of anchorage, erection or mooring or undertakes reclamation of foreshore in contravention of sub-section (1), the Board may, by notice, require such person to remove it within such time as may be specified in the notice and if the person fails to remove it, the Board may cause it to be removed at the expense of that person.

Central /
of 1908.

Compensation.

36. (1) Where, as a result of an order published under section 28, or section 31, the use of any wharf, dock, berth, quay, stage, jetty, pier or place of anchorage, made, fixed or erected by any person is rendered unlawful, the Board may, after hearing the person concerned by order, close, remove, fill up or destroy such wharf, dock, berth, quay, stage, jetty, pier or place of anchorage or permit the use thereof to such person on payment of such rates and charges as the Board may, with the previous sanction of the Government, determine.

(2) Save as otherwise provided under sub-section (3), no person shall be entitled to claim compensation for any injury, damage or loss caused or alleged to have been caused by an order made under sub-section (1).

(3) If it is proved to the satisfaction of the Board that any such wharf, dock, berth, quay, stage, jetty, pier or place of anchorage was made, fixed or erected by any person with the previous permission of the authority competent to grant such permission, he shall be paid by the Board compensation of the amount which shall be determined in the manner and in accordance with the principles hereafter set out, that is to say—

(a) in computing the compensation, there shall not be taken into account any rates or other charges which such person shall be liable to pay for using any wharf, dock, berth, quay, stage, jetty, pier or place of anchorage, provided by the Board ;

(b) the amount of compensation shall be calculated with reference to the cost of construction of such wharf, dock, berth, quay, stage, jetty, pier or place of anchorage ;

(c) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(d) where no such agreement can be reached, the Government shall appoint as arbitrator, a person who is, or has been, or is, qualified for appointment as a Judge of a High Court ;

(e) the Government may, in any particular case, nominate a person possessing special knowledge of any matter relating to any case under inquiry to assist the arbitrator in determining any question which has to be decided by him under this section, and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose ;

(f) at the commencement of the proceeding before the arbitrator, the Board and the person to be compensated shall state what in their respective opinion is a fair amount of compensation ;

(g) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid ;

(h) where there is a dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof among such persons ;

(i) nothing in the Arbitration Act, 1940 shall apply to arbitrations under this section ;

Central Act X
of 1940.

A G

Act V
1908.

(j) the arbitrator appointed under this section, while holding arbitration proceedings under this Act, shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

(i) summoning and enforcing the attendance of any person and examining him on oath ;

(ii) requiring the discovery and production of documents;

(iii) receiving evidence on affidavits ;

(iv) issuing commissions for examination of witnesses or documents.

(4) Every award shall also state the amount of costs incurred in the arbitration proceedings under this section and by what persons and in what proportions they are to be paid.

(5) Any person aggrieved by an award of the arbitrator made under this section may, within thirty days from the date of the award, prefer an appeal to the High Court within whose jurisdiction the port is situated :

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

CHAPTER VI.

IMPOSITION AND RECOVERY OF RATES AT PORTS.

Scale of rates.

37. (1) The Board shall, from time to time, frame a scale of rates at which and a statement of the conditions under which any of the services specified hereunder shall be performed by itself or any person authorised under section 32 at or in relation to the port or port approaches—

(a) transshipping of passengers or goods between vessels in the port or port approaches ;

(b) stevedoring, landing and shipping of passengers or goods from or to such vessels, to or from any wharf, quay, jetty, pier, dock, berth, mooring stage, or erection, land or building in the possession or occupation of the Board or at any place within the limits of the port or port approaches ;

(c) crantage or portorage of goods on any such place ;

(d) whartage, storage or demurrage of goods on any such place ;

(e) any other service in respect of vessels, passengers or goods excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act.

(2) Different scale of rates and conditions may be framed for different classes of goods and vessels and for different ports.

Scales of rates and condition for use of property of Board.

38. (1) The Board shall, from time to time, also frame a scale of rates on payment of which, and a statement of conditions under which, any property belonging to, or in the possession or occupation of, the Board or any place within the limits of the port or port approaches may be used for the purposes specified hereunder :—

(a) approaching or lying at or alongside any buoy, mooring, wharf, quay, pier, dock, land, building or place as aforesaid by vessels ;

(b) entering upon or plying for hire at or any wharf, quay, pier, dock, land, building, road, bridge, approach or place as aforesaid by animals or vehicles carrying passengers or goods ;

(c) leasing of land or sheds by owners of goods imported or intended for export or by steamer agent ;

(d) any other use of any land, building, works, vessels or appliances belonging to or provided by the Board.

(2) Different scale of rates and conditions may be framed for different classes of goods and vessels and for different ports.

Rates for combination of services.

39. The Board may, from time to time, frame a consolidated scale of rates for any combination of the services specified in section 37 or for any combination of such service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in section 38.

Concessional rates.

40. In framing scales of rates under any of the foregoing provisions of this Chapter, the Board may prescribe a lower rate in respect of—

(a) coastal goods, that is to say, goods other than imported goods as defined in the Customs Act, 1962, carried in a vessel from one Indian Port to another Indian Port :

Central Act 52 of 1962.

Provided that the Board shall not make any discrimination between one Indian Port and one another such port in prescribing a lower rate under this section ;

(b) other goods in special cases.

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41. Every scale of rates and every statement of conditions framed by the Board under the foregoing provisions of this Chapter shall be submitted to the Government for sanction and shall have effect when so sanctioned and published by the Board in the *Tamil Nadu Government Gazette*. Prior sanc-
of Govern-
to rates an-
conditions.

42. (1) Whenever the Government consider it necessary in the public interest so to do, they may, by order in writing together with a statement of reasons therefor, direct the Board to cancel any of the scales in force or modify the same within such period as the Government may specify in the order. Power of
Government
require
modification
cancellation
of rates.

(2) If the Board to whom a direction is given under sub-section (1) fails or neglects to comply with such direction within the specified period, the Government may cancel any of such scales or make such modifications therein as they may think fit :

Provided that before so cancelling or modifying any scale, the Government shall consider any objection or suggestion which may be made by the Board during the specified period.

(3) When, in pursuance of this section, any of the scales has been cancelled or modified, such cancellation or modification shall be published by the Government in the *Tamil Nadu Government Gazette*, and shall, thereupon, have effect accordingly.

43. The Board may, in special cases, and for reasons to be recorded in writing, exempt, either wholly or partly, any goods, vehicles, or vessels or class of goods, vehicles, or vessels from the payment of any rate or of any charge leviable in respect thereof according to any scale of rates in force under this Act or remit the whole or any portion of such rate or charge so levied. Remission of
rates or
charges.

44. No person shall be entitled to refund of an overcharge made by the Board unless his claim to the refund has been preferred, in writing, by him or on his behalf to the Board within six months from the date of payment duly supported by all original relevant documents : Refund of ov-
charges.

Provided that the Board may, of its own motion, remit overcharges made in its bills at any time.

45. (1) When the Board is satisfied that any charge leviable under this Chapter has been short levied or erroneously refunded, it may issue a notice to the person who is liable to pay such charge or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice: Notice of
payment of
charges short
levied or
erroneously
refunded.

Provided that no such notice shall be issued after the expiry of three years—

(a) when the charge is short levied, from the date of the payment of the charge,

(b) where a charge has been erroneously refunded, from the date of the refund.

(2) The Board may after considering the representation, if any, made by the person to whom notice is issued under sub-section (1), determine the amount due from such person and thereupon such person shall pay the amount so determined.

46. Rates in respect of goods to be landed shall be payable immediately on the landing of the goods and rates in respect of goods to be removed from the premises of the Board or to be shipped for export or to be transhipped shall be payable before the goods are removed, shipped or transhipped. Time for
payment of
rates on
goods.

47. (1) For the amount of all rates leviable by the Board under this Act in respect of any goods and for the rent due to the Board for any building, plinths, stacking areas or other premises on or in which any goods may have been placed, the Board shall have a lien on such goods and may seize and detain the same until such rates and rents are fully paid. Board's lien
for rates.

(2) Such lien shall have priority over all other liens and claims, except for general average and for the ship owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner provided

in sub-section (1) of section 43 and for money payable to the Central Government under any law for the time being in force, relating to customs other than by way of penalty or fine and to the Government under any law for the time being in force.

Ship owner's
lien for
freight and
other charges.

48. (1) If the master or owner of any vessel or its agent at or before the time of landing from such vessels and goods at any dock, wharf, quay, stage, jetty, berth, mooring or pier belonging to or in occupation of the Board gives to the Board a notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship owner, to an amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

(2) The goods shall be retained in the custody of the Board at the risk and expense of the owners of the goods until such lien is discharged as hereinafter mentioned and godown and storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

(3) Upon the production before any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or release from, the amount of such lien, executed by the person by whom or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien, provided that the Board shall have used reasonable care in respect of the authenticity of such document.

Sale of goods
after two
months if rates
or rent are not
paid or lien for
freight is not
discharged.

49. (1) The Board may, after the expiry of two months from the time when any goods have passed into its custody, or in the case of animals and perishable or hazardous goods after the expiry of such shorter period not being less than twenty four hours, after the landing of the animals or goods as the Board may think fit, sell by public auction or in such cases as the Board considers it necessary so to do, for reasons to be recorded in writing, sell by tender, private agreement or in any other manner such goods or so much thereof as in the opinion of the Board may be necessary—

(a) if any rates payable to the Board in respect of such goods have not been paid, or

(b) if any rent payable to the Board in respect of any place in or in which such goods have been stored has not been paid, or

(c) if any lien of any ship owner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charges has made to the Board an application for such sale.

(2) Before making such sale, the Board shall give ten days notice of the same by publication thereof in the *Tamil Nadu Government Gazette* and also in at least one of the principal local daily news papers :

Provided that in the case of animals and perishable or hazardous goods, the Board may give such shorter notice and in such manner as, in the opinion of the Board, the urgency of the case admits of.

(3) If the address of the owner of the goods has been stated in the manifest of the goods or in any of the documents which have come into the possession of the Board or is otherwise known, notice shall also be given to him by letter delivered at such address or sent by post but the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to inquire whether such notice has been sent.

(4) Notwithstanding anything contained in this section, controlled goods may be sold at such time and in such manner as the Government may direct.

Explanation.—In this section and section 50, “controlled goods” means goods the price or disposal of which is regulated under any law for the time being in force.

Disposal of
goods not
removed from
premises of
Board within
time limit.

50. (1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Board upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Board within one month from the date on which such goods were placed in their custody, the Board may, if the address of such owner or person is known, cause a notice to be served upon him

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by letter delivered at such address or sent by post, or if the notice cannot be so served upon him or his address is not known, cause a notice to be published in the *Tamil Nadu Government Gazette*, and also in at least one of the principal local daily newspapers, requiring him to remove the goods forthwith and stating that in default of compliance therewith, the goods are liable to be sold by public auction or by tender, private agreement or in any other manner:

Provided that where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be so served or published under this sub-section unless two months have expired from the date on which the goods were placed in the custody of the Board.

(2) The notice referred to in sub-section (1) may also be served on the agents of the vessel by which such goods were landed.

(3) If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Board may, at any time after the expiration of two months from the date of which such goods were placed in its custody, sell the goods by public auction, or, in such cases as the Board considers it necessary so to do, for reasons to be recorded in writing sell by tender, private agreement or in any other manner such goods or so much thereof in the opinion of the Board may be necessary after giving notice of the sale in the manner specified in sub-sections (2) and (3) of section 49.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (3),—

(a) the Board may in the case of animals and perishable or hazardous goods give notice of removal of such goods although the period of one month or as the case may be, of two months specified in sub-section (1) has not expired or give such shorter notice of sale in such manner as in the opinion of the Board the urgency of the case requires;

(b) controlled goods may be sold in accordance with the provisions of sub-section (4) of section 49.

(5) The Government may, if they deem necessary so to do in the public interest, by notification, exempt any goods or classes of goods from the operation of this section.

51. (1) The proceeds of every sale under section 49 or section 50 shall be applied in the following order, namely:—

Application of
sale proceeds.

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims exempted in sub-section (2) of section 47 from the priority of the lien of the Board;

(c) in payment of the rates and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof including demurrage (other than the penal demurrage) payable in respect of such goods for a period of four months from the date of landing;

(d) in payment of any penalty or fine due to the Central Government under any law for the time being in force relating to customs;

(e) in payment of any other sum due to the Board.

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods or to his agent, on an application made by him in this behalf within six months from the date of the sale of the goods.

(3) Where no application has been made under sub-section (2), the surplus shall be applied by the Board for purposes of this Act.

52. (1) If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any regulations or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the

Recovery of
rates and
charges by
distrain of
vessels.

Board may, distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto or any part thereof and detain the same until the amount so due to the Board together with such further amount, as may accrue for any period during which the vessel is under distraint or arrest, is paid.

(2) In case any part of the said rates or penalties or of the cost of the distraint or arrest or the keeping of the same, remains unpaid for a period of five days next after any such distraint or arrest has been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold and with the proceeds of such sale, shall satisfy such rates or penalties and costs, including the cost of sale remaining unpaid, rendering the surplus (if any), to the master of such vessel, on demand.

Grant of port
clearance after
payment of
rates,
realisation of
damages, etc,

53. If the Board gives to the officer of the Central Government whose duty is to grant the port clearance to any vessel at the port, a notice stating—

(a) that an amount specified therein is due in respect of rates, fines, penalties or expenses chargeable under this Act or under any regulations or orders made in pursuance thereof, against such vessel or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel; or

(b) that an amount specified therein is due in respect of any damage referred to in section 100 and such amount together with the cost of the proceedings, for the recovery thereof before a Magistrate under that section has not been realised, such officer shall not grant such port clearance until the amount so chargeable or due has been paid, or, as the case may be, the damage and cost have been realised.

Central
1872.

Central
1956.
Tamil
of 1983

Central
of 188

Central
of 188

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CHAPTER VII.

BORROWING POWERS OF BOARD.

54. (1) The Board may raise loans with the previous sanction of the Government on such terms and conditions as may be prescribed by the Government for the purposes of this Act. Power to raise loans.

(2) Loans may be raised by the Board in the open market on Board securities issued by it or may be obtained from the Government or any Bank or any financial institutions like All India Financial Corporations and State Finance Corporations approved by the Government.

(3) The terms of all loans shall be subject to the approval of the Government.

55. (1) The Board may, with the sanction of the Government, prescribe the form in which the securities of the Board shall be issued by the Board and the mode in which, and the conditions subject to which, they may be transferred. Board securities.

(2) The holder of any Board security in any form may obtain in exchange therefor, upon such terms as the Board may, from time to time, determine a Board security in other form prescribed by regulations.

(3) The right to sue in respect of money secured by the Board securities shall be exercisable by the holders thereof for the time being without preference in respect of priority of date.

Central Act IX of 1872.

56. (1) Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872—

Right of joint or several payees of securities.

(a) when the Board security is payable to two or more persons jointly and either or any of them dies, the Board security shall be payable to the survivors of those persons, and

(b) when any such security is payable to two or more persons severally and all or any of them dies, the security shall be payable to the survivor or survivors of those persons or to the representatives of the deceased or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the appointed day.

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which sub-section (1) applies.

Central Act I of 1956.
Tamil Nadu Act 30 of 1983.

(4) For the purposes of this section, a body incorporated or deemed to be incorporated under the Companies Act, 1956 or the Tamil Nadu Co-operative Societies Act, 1983 or any other enactment for the time being in force, whether within or outside India, shall be deemed to die when it is dissolved.

57. Where two or more persons are joint holders of any Board security, any one of those persons may give an effectual receipt for any interest payable in respect of such security unless notice to the contrary has been given to the Board by any other holder.

Power of one or two or more joint holders to grant receipts.

Central Act XXVI of 1881.

58. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, no endorsement of a Board security which is transferable by endorsement shall be valid unless made by signature of the holder inscribed on the back of the security itself.

Endorsements to be made on a security itself.

Central Act XXVI of 1881.

59. Notwithstanding anything in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having endorsed any Board security be liable to pay any money due either as principal or as interest thereunder.

Endorsement of security not liable for amount thereof.

60. (1) The signature of the person authorised to sign Board securities on behalf of the Board may be printed, engraved or lithographed or impressed by such other mechanical process as the Board may direct on such securities.

Impression of signature on securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper hand writing of the person so authorised.

Issue of
duplicate
securities.

61. (1) When any Board security is alleged to have been lost or stolen or destroyed, either wholly or in part, and a person claims to be the person to whom but for the loss or theft or destruction it would be payable, he may, on application to the Board and on producing proof to its satisfaction of the loss or theft or destruction and of the genuineness of the claim and on payment of such fee, if any, as may be prescribed by regulations, obtain from the Board an order for—

(a) the payment of interest in respect of the security said to be lost or stolen or destroyed, pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue by the Board of the notification of the loss or theft or destruction in the manner prescribed by regulations.

(3) A list of securities in respect of which an order is passed under sub-section (1) shall be published in such manner as the Board may prescribe by regulations.

(4) If, at any time before the Board becomes discharged under the provisions of this Act from liability in respect of any security, the whole of which is alleged to have been lost or stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled.

Issue of
converted, etc.,
securities.

62. (1) The Board may, subject to such conditions as it may prescribe, on the application of a person claiming to be entitled to a Board security or securities issued by it, on being satisfied of the genuineness of the claim and on delivery of the security or securities receipted in such manner and on payment of such fee, if any, as it may prescribe, convert, consolidate or sub-divide the security or securities, and issue to the applicant a new security or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into security or securities of the same or different classes or of the same or different loans.

Discharges in
certain cases.

63. Notwithstanding anything contained in the Indian Limitation Act, 1963—

Central Act 36 of
1963.

(i) on payment of the amount due on a Board security on or after the date on which payment becomes due to, or

(ii) when a duplicate security has been issued under section 61, or

(iii) when a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 62,

the Board shall be discharged from all liabilities in respect of the security or securities so paid or in place of which a duplicate or new security or securities has or have been issued—

(a) in the case of payment, after the lapse of six years from the date on which payment was due;

(b) in the case of duplicate security after the lapse of six years from the date of the publication under sub-section (3) of section 61 of the list in which the security is first mentioned or from the date of the last payment of interest on the original security, whichever date is later;

(c) in the case of a new security issued upon conversion, consolidation or sub-division, after a lapse of six years from the date of the issue thereof.

Security for
loans taken
by Board.

64. All loans raised by the Board under this Act shall be a first charge on—

(1) the property vested or which may, hereafter during the currency of the loans, become vested in the Board other than—

(a) any sum set apart by the Board—

(i) the sinking fund for the purpose of paying off any loan; or

- (ii) for the payment of pension to its employees; or
 (b) the provident or pension fund established by the Board; and
 (2) the rates leviable by the Board under this Act.

65. The Government shall have in respect of loans made by it to the Board the same remedies as holders of Board securities issued by the Board; and the Government shall not be deemed to possess any prior or greater rights in respect of such loans than holders of such Board securities:

Remedies of Government in respect of loans made to Board

Provided that when the terms of any such loan made before the appointed day expressly provide that the loan shall have priority over all other loans in the matter of repayment by the Board, such loan shall have priority.

66. The Board may, with the previous sanction of the Government, apply any sums out of moneys which may come into its hands under the provisions of this Act and which can be so applied without prejudicing the security of the other holders of the Board securities, in repaying to the Government any sum which may remain due to them in respect of the principal of any loan although the time fixed for the repayment of the same may not have arrived:

Power of Board to repay loans before due date.

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that if such repayment is made, the amount of interest in each succeeding instalment shall be so adjusted as to represent exactly the interest due on the outstanding principal.

67. (1) If, in respect of a loan raised by the Board under this Act which is not repayable before the expiration of one year from the date of the loan, the Government by an order so direct, the Board shall set apart half yearly out of its income as a sinking fund, a sum sufficient to liquidate the loan within a period which shall not in any case, unless the previous consent of the Government has been obtained, exceed twenty five years; but the maximum period shall not in any case exceed forty years:

Establishment of sinking fund.

Provided that a sinking fund need not, in the absence of any stipulation to that effect, be established in the case of loans taken by the Board from the Central Government or any State Government.

(2) Where any sinking fund has before the appointed day, been established by any authority in respect of a loan raised by it, for which loan, the Board is liable under this Act, the sinking fund so established by that authority shall be deemed to have been established by the Board under this section.

68. (1) The sums so set apart by the Board under sub-section (1) of section 67 and the sums forming part of any sinking fund referred to in sub-section (2) of that section shall be invested in public securities or in such other securities as the Government may approve in this behalf and shall be held by the Board in trust for the purposes of this Act.

Investment and application of sinking fund.

(2) The Board may apply the whole or any part of the sums accumulated in any sinking fund in or towards the discharge of the moneys for the repayment of which the fund has been established:

Provided that it pays into the fund in each year and accumulates until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

69. (1) A sinking fund established for the liquidation of any loan shall be subject to annual examination by such person as may be appointed by the Government in this behalf and the person so appointed shall ascertain whether the cash and the current market value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated if investment had been regularly made and the rate of interest as originally estimated had been obtained thereon.

Examination of sinking fund.

(2) The Board shall pay forthwith into the sinking fund any amount which is ascertained under sub-section (1) to be due for the annual examination of the fund and which is to be deducted unless the Government specially directs otherwise.

(3) If the cash and current market value of the securities at the credit of a sinking fund are in excess of the amount which should be at its credit, the person appointed under sub-section (1) shall certify the amount of the excess and the Board may, with the previous sanction of the Government, reduce or discontinue the half yearly contributions to the sinking fund required under section 67.

Power of
Board to raise
loans on short
terms bills.

70. Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914.

Central Act No. 12 of 1914.

Powers of
Board to take
temporary loans
or overdrafts.

71. Notwithstanding anything contained in this Act, the Board may—

(i) borrow moneys by means of temporary overdraft or otherwise by placing the securities held by the Board in its reserve funds or on security of the fixed deposits of the Board in its banks ;

(ii) obtain advances from such banks on pledge or hypothecation of its current assets without the previous sanction of the Government ;

Provided that such temporary overdrafts or other loans—

(a) shall not at any time have a longer currency than six months ; and

(b) shall not be taken, without the previous sanction of the Government, if at any time in any year the amount of such overdrafts, or other loans exceeds such amount not exceeding ten lakhs of rupees, as the Government may fix in this behalf :

Provided further that all moneys so borrowed by overdrafts or otherwise shall be expended for the purposes of this Act.

Power of
Board to
borrow money
from
International
Bank for
Reconstruction
and
Development
or other Foreign
institutions.

72. Notwithstanding anything contained in this Act but subject to any other law for the time being in force, the Board may, with the previous sanction of the Government and on such terms and conditions as may be approved by the Government, raise, for the purposes of this Act, loans in any currency or currencies from the International Bank for Reconstruction and Development or from any other Bank or Institution in any country outside India, and no other provision of this Chapter shall apply to or in relation to any such loan unless the terms and conditions of the loan or the approval thereof by the Government otherwise provide.

CHAPTER VIII.

REVENUE AND EXPENDITURE.

73. All moneys received by or on behalf of the Board under the provisions of this Act and all moneys received by it as the conservators of the ports and of their approaches or as the body appointed under section 36 of the Indian Ports Act, shall be credited to a fund called the General Account of the Ports.

General Account
of Port.

74. (1) The moneys credited to the General Account under section 73 shall be applied by the Board in payment of the following charges, namely :—

Application of
moneys in
General
Account.

(a) the interest and instalments of principal due in respect of any loan that may have been raised or obtained by the Board or for the repayment of which the Board may be liable and payments to the sinking fund established for such loan ;

(b) the salaries, fees, remunerations, allowances, pensions, gratuities, compassionate allowances or other moneys due to—

(i) the Chairman, and other members of the Board,

(ii) the employees of the Board, and

(iii) the surviving relatives, if any, of such employees ;

(c) the contribution, if any, payable to the Central Government or any State Government on account of the pension and leave allowance of any officer lent to the Board by such Government ;

(d) the cost and expenses, if any, incurred by the Board in the conduct and administration of any provident or welfare fund or loan or special fund established by the Board ;

(e) the contributions, if any, duly authorised to be made by regulations made under this Act to any such fund as is referred to in clause (d) ;

(f) such sums as may, from time to time, be agreed upon by the Board and the Government or the Central Government or any other authority, as a reasonable contribution payable by the Board towards the expenses in connection with the watch and ward functions of the Police Force or the Central Industrial Security Force or any other Force which the Government or the Central Government or any other authority as the case may be, may establish and maintain for the protection of the port and the docks, warehouses and other property of the Board ;

(g) the cost of repairs and maintenance of the property belonging to or vested in the Board and all charges upon the same and all working expenses ;

(h) the cost of the execution and provision of any new work or appliance specified in section 25 which the Board may determine to charge to renew ;

(i) any expenditure incurred under section 26 ;

(j) any other expenditure which may be incurred by the Board generally for the purposes of this Act ;

(k) any other charge which may, on the application of the Board or otherwise, be specifically sanctioned by the Government or for which the Board may be legally liable.

(2) All moneys standing at the credit of the Board which cannot immediately be applied in the manner or for the purposes specified in sub-section (1) shall—

(a) be deposited in the State Bank of India or in any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and transfer of Undertakings) Act, 1970 as the Board may decide, or

(b) be invested in such public securities as may be determined by the Board and the said securities shall be held in trust by the Board for the purposes of this Act, or

(c) be invested in such public securities as may be determined by the Board

Power to transfer moneys from general account to specified particular account and vice-versa.

Establishment of reserve funds.

Power to reserve Board securities for Board's own investments.

Prior sanction of Government to charge expenditure to capital.

Works requiring sanction of Board or Government.

Power of Chairman as to execution of works.

75. The Board may, with the previous sanction of the Government, apply any sum out of the moneys credited to the General Account of the Port towards meeting deficits, if any, in the particular or specified account such as pilotage account, if so maintained or transfer the whole or part of any surplus funds in such particular account to the General Account of the Port.

76. The Board may, from time to time, set apart such sums out of its surplus income as it thinks fit as a reserve fund or funds for the purpose of expending existing facilities or creating new facilities at the ports or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement or for meeting expenditure arising from loss or damage from fire, cyclone, ship wrecks or other accident or for any other emergency arising in the ordinary conduct of its works under this Act:

Provided that the sums set apart annually in respect of, and the aggregate at any time of any such reserve fund or funds shall not exceed such amount as may, from time to time, be fixed in that behalf by the Government.

77. (1) For the purposes of any investment which the Board is authorised to make under this Act, it shall be lawful for the Board to reserve and set apart any securities to be issued by it on account of any loan to which the consent of the Government has been given, provided that the intention to so reserve and set apart such securities has been notified as a condition to the issue of the loan.

(2) The issue by the Board of such securities direct to and in the name of the Board shall not operate to extinguish or cancel such securities, but every security so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by the Board or the transfer, assignment or endorsement to the Board of any security issued by the Board, shall not operate to extinguish or cancel any such security but the same shall be valid and negotiable in the same manner and to the same extent as if held by or transferred or assigned or endorsed to any other person.

78. (1) No expenditure shall be charged by the Board to capital without the previous sanction of the Government:

Provided that the Board may without such sanction charge to capital expenditure not exceeding such limit as may be specified and subject to such conditions as may be imposed by the Government.

(2) Nothing in sub-section (1) shall be deemed to require the further sanction of the Government in any case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Government unless the excess is more than ten per cent of the expenditure so sanctioned.

79. (1) No new work or appliance the estimated cost of which exceeds such amount as may be fixed by the Government in this behalf, shall be commenced or provided by the Board, nor shall any contract be entered into by the Board in respect of any such new work or appliance until a plan of an estimate for such work or appliance has been submitted to and approved by the Board, and in each the estimated cost of any such new work or appliance exceeds such amount, as may from time to time, be fixed by the Government in this behalf, sanction of the Government to the plan and estimates shall be obtained before such work is commenced or appliance provided.

(2) Nothing in sub-section (1) shall be deemed to require the further sanction of the Government in any case where the actual expenditure incurred does not exceed by more than ten per cent of the estimated cost so sanctioned.

80. Notwithstanding anything contained in section 79, the Chairman may direct the execution of any work the cost of which does not exceed such maximum limit as may be fixed by the Government in that department behalf and may enter into contracts for the execution of such works, but in every such case the Chairman shall, as soon as possible, make a report to the Board of any such directions given or contracts entered into by him.

81. (1) The Board may compound or compromise any claim or demand or any action or suit instituted by or against it for such sum of money or other compensation as it deems sufficient :

Power of Board to compound or compromise claims.

Provided that no settlement shall be made under this section without the previous sanction of the Government if such settlement involves the payment by the Board of a sum exceeding such amount as may be specified by the Government in this behalf.

82. (1) Subject to such conditions as may be specified by the Government where the Board is of opinion that any amount due to or any loss, whether of money or of property incurred by the Board is irrecoverable, the Board may, with the previous approval of the Government, sanction the writing off finally of the said amount or loss :

Writing off losses.

Provided that no such approval of the Government shall be necessary where such irrecoverable amount or loss does not exceed, in any individual case, five thousand rupees or in the aggregate in any year, one lakh rupees.

(2) Notwithstanding anything contained in sub-section (1), where the Chairman is of opinion that any amount due to or any loss, whether of money or of property, incurred by the Board is irrecoverable, the Chairman may sanction the writing off finally of such amount or loss, provided that such amount or loss does not exceed, in an individual case, one thousand rupees or in the aggregate in any one year, twenty thousand rupees and in every such case, the Chairman shall make a report to the Board giving reasons for such sanction.

83. All the powers, authorities and restrictions contained in this Act in respect of the work by this Act authorized, shall apply to the works which may be executed by the Board as the Conservator of the Port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act and also to the sanction of such works, the estimate thereof and the expenditure thereunder.

Powers, etc. of Board as Conservator.

84. (1) The Board shall, on or before the thirty first day of January in each year, hold a special meeting at which the Chairman shall submit an estimate of the income and expenditure of the Board for the next financial year, in such form as the Government may specify.

Budget Estimate.

(2) A copy of such estimate shall be sent to each member of the Board so as to reach him not less than ten clear days prior to the date appointed for the special meeting referred to in sub-section (1).

(3) The Board shall consider the estimate at such meeting and may provisionally approve of it with or without modification.

(4) The Board shall, on or before the tenth day of February, cause a copy of such estimate as provisionally approved by it, to be sent to the Government.

(5) The Government may sanction the estimate or may return it with remarks and may call for such additional information as they may deem necessary.

(6) When an estimate is returned under sub-section (5), the Board shall proceed to reconsider the estimate with reference to such remarks and shall furnish such additional information as the Government may call for and shall, if necessary, modify or alter the estimate and resubmit it to the Government.

(7) The Government shall sanction the estimate with or without modifications.

(8) Where any such estimate is not sanctioned by the Government before the commencement of the financial year to which it relates, the Government may authorise the Board to incur such expenditure as may be necessary in the opinion of the Government until such time as the approval of the estimate by the Government is communicated to the Board.

85. The Board may in the course of any year for which an estimate has been sanctioned by the Government cause one or more supplemental estimates for the residue of such year to be prepared and the provisions of section 84 shall, so far as may be apply to such estimate as if it were an annual estimate.

Preparation of Supplemental estimates.

Re-appropriation of
amounts in
estimate.

86. Subject to any directions which the Government may give in this behalf, any sum of money or part thereof of which the expenditure has been authorised in an estimate for the time being in force sanctioned by the Government and which has not been so spent, may at any time be reappropriated by the Board to meet any excess in any other expenditure authorised in the said estimate.

Adherence to
estimate except in
emergency.

87. (1) Subject to the provisions of section 86, no sum exceeding such amount as the Government may fix in this behalf shall, save in cases of emergency, be expended by, or on behalf of, the Board unless such sum is included in some estimate of the Board at the time in force which has been finally sanctioned by the Government.

(2) If any sum exceeding such limit as may have been fixed in this behalf under sub-section (1) is so expended by the Board on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Accounts and
audit.

88. (1) The Board shall maintain proper accounts and other relevant records and prepare the annual statement of account including the balance sheet in such form as may be approved by the Government.

(2) The accounts of the Board shall be audited once in every year and if so required by the Government concurrently with the compilation of such accounts by an auditor appointed by the Government in consultation with the Comptroller and Auditor-General of India (hereinafter referred to as "the Auditor") and any amount payable to such Auditor by the Board in respect of such audit shall be debitable to the general account of the Board.

(3) The Auditor shall have the same rights, privileges and authority in connection with the audit of the accounts of the Board as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and in particular shall have the right to demand production of books of accounts, connected vouchers and other documents of the Board.

Publication of
audit report.

89. (1) Within fourteen days after the audit and examination of the accounts of the Board have been completed, the auditor shall forward copies of the audit report to the Government and to the Board.

(2) The Government shall cause every audit report to be laid for not less than thirty days before the Legislative Assembly as soon as may be after such report is received by the Government.

Board to remedy
defects and irregu-
larities pointed out
in audit report

90. The Board shall forthwith take into consideration any defects or irregularities that may be pointed out by the Auditor, in the audit report on the income and expenditure of the Board and shall take such action thereon as the Board may think fit and shall also send a report of the action so taken to the Government.

Government to
decide difference
between Board
and Auditors.

91. If there is a difference of opinion between the Board and the Auditor on any point included in the audit report, and the Board is unable to accept and implement the recommendations, if any, made by him on such point, the matter shall forthwith be referred to the Government which shall pass final orders thereon and the Board shall be bound to give effect to such orders.

CHAPTER IX.

SUPERVISION AND CONTROL OF GOVERNMENT.

92. As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Government, the Board shall submit to the Government a detailed report of the administration of the ports during the preceeding year ending on the thirty first day of March, in such form as the Government may direct.

Administration report.

93. (1) The Board shall annually or often or if directed by the Government so to do, submit statements of its income and expenditure in such form and at such time as the Government may direct.

Submission of statements of income and expenditure to Government.

(2) A copy of all such statements shall be open to inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may, from time to time, be fixed by the Board.

94. (1) If, at any time, the Government are of opinion—

Power of Government to supersede Board.

(a) that on account of a grave emergency, the Board is unable to perform the duties imposed on it by or under the provisions of this Act or of any other law, or

(b) that the Board has persistently made default in the performance of the duties imposed upon it by or under the provisions of this Act or of any other law and as a result of such default, the financial position of the Board or the administration of the ports has greatly deteriorated,

the Government may, by notification, supersede the Board for such period, not exceeding six months at a time, as may be specified in the notification :

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Government shall give a reasonable opportunity to the Board to show-cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of the notification under sub-section (1) superseding the Board,—

(a) all the members of the Board shall, as from the date of supersession, vacate their offices as such members of the Board ;

(b) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall, until the Board is reconstituted under clause (b) or clause (c) of sub-section (3), be exercised and performed by such person or persons as the Government may direct ;

(c) all property vested in the Board shall, until the Board is reconstituted under Clause (b) or clause (c) of sub-section (3), vest in the Government.

(3) On expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—

(a) extend the period of supersession for such further term not exceeding six months, as they may consider necessary, or

(b) reconstitute the Board by fresh appointment and in such case, any persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment, or

(c) reconstitute the Board by appointment only for such period as they may consider necessary and in such a case, the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for such appointment merely because they were members of the Board when the Board was superseded :

Provided that the Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) or clause (c) of this sub-section

(4) The Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before the Legislative Assembly at the earliest possible opportunity.

Power of Government to give directions to Board.

95. (1) Without prejudice to the foregoing provisions of this Chapter, the Board shall, in the discharge of its functions under this Act, be bound by such directions on question of policy, as the Government may give in writing to it from time to time.

(2) The decision of the Government, whether a question is one of policy or not, shall be final.

CHAPTER X.

PENALTIES.

Central Act XLV
of 1966.

96. All members, officers and other servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and other servants to be public servants.

97. (1) Whoever contravenes any order made under section 27 or section 28 or section 29, or fails to comply with any condition imposed under section 30, shall be punishable with fine which may extend to one thousand rupees.

Penalty for contravention of sections 27, 28, 29 and 30.

(2) Whoever after having been convicted of an offence under sub-section (1) continues to contravene the said order or neglect to comply with the said condition, shall, on conviction, be punishable, for each day after the previous date of conviction during which he continues so to offend, with fine which shall not be less than one hundred rupees and not more than two hundred rupees.

98. (1) Any person who contravenes the provisions of section 35 shall be punishable with fine which may extend to one thousand rupees.

Penalty for setting up wharves, quays etc., without permission.

(2) Whoever after having been convicted of an offence under sub-section (1) continues to contravene the said provisions in section 35, shall, on conviction be punishable, for each day after the previous date of conviction during which he continues so to offend, with fine which shall not be less than one hundred rupees and not more than two hundred rupees.

99. Any person, who with the intention of evading payment of the rates lawfully due under this Act in respect of any goods or vessels carrying any goods,—

Penalty for evading rates, etc.

(a) understates or incorrectly gives the weight, quantity, value or description of such goods, or the tonnage of such vessel in any document presented to any employee of the Board for the purpose of enabling him to determine such rates, or

(b) removes or attempts to remove or abets the removal of such goods or such vessel,

shall be punishable with fine which may extend to twice the amount of rates so due subject to a minimum of fifty rupees.

100. If, through the negligence of any person having the guidance or command of any vessel, or of any of mariners or persons employed on such vessel, any damage is caused to any dock, wharf, quay, mooring, stage, jetty, pier or other work in the possession of the Board or any movable property belonging to the Board the amount of such damage shall, on the application of the Board, be recoverable together with the cost of such recovery, by distress and sale under a Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel :

Recovery of value of damage to property of Board.

Provided that no Magistrate shall issue such a warrant until the master of the vessel has been given a reasonable opportunity of being heard :

Provided further that no such warrant shall issue if the vessel was at the time under the orders of a duly authorised employee of the Board and the damage caused was attributable to the order, act or improper omission of such employee.

101. Any person who, being a member or an employee of the Board, acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board, shall be deemed to have committed an offence under section 168 of the Indian Penal Code :

Person interested in contracts, etc., who Board to be deemed to have committed an offence under section 168 of Indian Penal Code.

Central Act XLV
of 1966.

Provided that nothing in this section shall apply to a person who is deemed not to have a share or interest in any contract or employment under the proviso to clause (d) of section 4.

Other offences.

102. Save as otherwise provided in sections 97, 98, 99 and 100 any person who contravenes any of the provisions of this Act or of any rule, regulation or order made thereunder for the contravention of which no penalty is expressly provided thereunder, shall be punishable with fine which may extend to two hundred rupees.

Cognizance of offences.

103. No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try any offence punishable under this Act or any rule or regulation made thereunder.

Offences by companies.

104. (1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any such offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means a body corporate and includes a trust, a firm, a society or other association of individuals ; and

(b) "director" in relation to—

(i) a firm means a partner in the firm ;

(ii) a society, a trust or other association of individuals, means the person who is entrusted under the rules of the society, trust or other association with the management of the affairs of the society, trust or other association, as the case may be.

CHAPTER XI

MISCELLANEOUS.

105. (1) The Government may, by notification, constitute a State Ports Consultative Committee (hereafter in this section called the "Consultative Committee") consisting of members of the Board and such other persons, being not less than ten and not more than twenty as the Government may appoint from amongst persons who are in the opinion of the Government, representing the interests of the Chamber of Commerce, Shipping, Sailing Vessels, Customs, Railways, Road Transport, Labour, Communications, Fisheries and Industries, so however that, there shall be at least one member from each of the aforesaid interests.

Constitution of
State Ports Consultative Committee.

(2) The Chairman of the Board shall be the *ex-officio* Chairman of the Consultative Committee.

(3) Such officer of the Board as the Government may appoint in this behalf shall act as Secretary to the Consultative Committee.

(4) The functions of the Consultative Committee shall be as follows :—

(a) to advise the Board on all general questions pertaining to the ports ;

(b) to advise the Board in respect of any scheme pertaining to development of any port ;

(c) to review the administration of ports and to suggest ways and means of improving their work ;

(d) to suggest ways and means to remove any difficulty experienced by the Board in the administration of ports ;

(e) to make *suo-moto* recommendation to the Board in regard to any matter relating to administration of the ports ;

(f) to report to the Government, or as the case may be to the Board, on such matters as may be referred to it either by the Government or by the Board for its opinion.

(5) The Government may, by general or special order, provide for—

(a) the calling of the meetings of the Consultative Committee and the procedure of meetings ;

(b) the duties of the Secretary of the Consultative Committee ;

(c) the term of the office of persons appointed to be members of the Consultative Committee to represent any of the aforesaid interests, travelling allowance and daily allowance to the members of the Consultative Committee and rate thereof.

(6) Any person appointed to the Consultative Committee to represent any of the aforesaid interest may resign from the membership by tendering his resignation in writing to the Chairman and the resignation shall take effect from the date on which it is received by the Chairman, who shall give intimation of the vacancy to the Government.

106. (1) The Government may, from time to time, constitute a Local Advisory Committee for any port, consisting of such number of members as they may think fit in each case and on such terms and conditions as may be prescribed, by regulations.

Local Advisory
Committee.

(2) The Board may, if it thinks fit, consult the Local Advisory Committee concerned on any business coming before it, and shall do so in respect of such business as the Government may, by general or special order in this behalf, specify or when required by the regulations so to do.

(3) The Port Officer concerned shall be the *ex-officio* Chairman of the Local Advisory Committee.

(4) The Local Advisory Committee shall meet at such intervals as may be prescribed and for the transaction of urgent business on such other occasions as the Chairman of the Board may require.

(5) The number of members necessary to constitute a quorum at a meeting of a Local Advisory Committee shall, as the Government may specify.

Limitation of proceedings in respect of things done.

107. No suit, prosecution or other proceeding shall be instituted against the Board or any member or employee thereof for any act done, or purporting to be done in pursuance of this Act unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Protection of Act done in good faith.

108. No suit or prosecution or other proceeding shall lie against the Board or Committee or Chairman, Member, Chief Executive Officer or other officers and servants of the Board, anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder, or for any damage sustained by any vessel in consequence of any defect in any of the mooring, hawsers or other things belonging to or under the control of the Board.

Power to make rules.

109. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) fees and allowances payable to the members of the Board or any of its committees for attending meetings of the Board or its committee or for attending any work of the Board, under section 12 ;

(b) the mode of executing contracts under section 24 ;

(c) factors to be taken into consideration for determining fair and reasonable compensation under sub-section (3) of section 36 ;

(d) the terms and conditions of appointment of persons as members of a Local Advisory Committee under sub-section (1) of section 106 ; and

(e) any other matter which is to be or may be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after the previous publication.

(4) Every rule or order made or notification issued by the Government under this Act shall, as soon as possible after it is made or issued be placed on the table of the Legislative Assembly, and if before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule or order or notification, or the Legislative Assembly decides that the rule or order or notification should not be made or issued, the rule or order or notification shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order or notification.

Power to make regulations

110. (1) The Board may make regulations not inconsistent with the provisions of this Act and the rules made thereunder with respect to all or any of the following matters, namely :—

(a) the times and places of the meetings of the Board or its committees, the procedure to be followed for the transaction of business at such meetings and the number of members necessary to constitute a quorum at such meetings ;

(b) the appointment, promotion, suspension, removal and dismissal of its employees ;

(c) leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances of the employees and the establishment and maintenance of a provident fund or any other fund for their welfare ;

(d) the time within which and the manner in which review and appeal may be preferred under sub-section (2) of section 19 and the procedure for deciding such review and appeal ;

(e) the terms and conditions of service of persons who become employees of the Board under clause (b) of sub-section (1) of section 20 ;

(f) any other matter which is incidental to, or necessary for, the purpose of regulating the appointment and conditions of service of its employees ;

(g) the form of receipt to be given under sub-section (2) of section 32 ;

(h) the period within which notice may be given under sub-section (2) of section 33 ;

(i) the factors to be taken into consideration in respect of payment of fair and reasonable compensation under sub-section (3) of section 36 ;

(j) the guidance of persons employed by the Board under this Act ;

(k) the safe, efficient and convenient use, management and control of the docks, wharves, quays, jetties, buildings and other works constructed or acquired by, or vested in, the Board, or of any land or foreshore acquired by, or vested in the Board under this Act ;

(l) the reception, portorage, storage and removal of goods brought within the premises of the Board, for the exclusive conduct of these operation by the Board or persons employed by the Board, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to have been so damaged ;

(m) keeping clean the port, river or basins or the bank of the river and the works of the Board, and for preventing filth and rubbish being thrown therein or thereon ;

(n) the mode of payment of rates leviable by the Board under this Act ;

(o) regulating, declaring and defining the docks, wharves, quays, jetties, stages and piers vested in the Board on which goods shall be landed from vessels and shipped on Board vessels ;

(p) regulating the manner in which and the conditions under which, the loading and unloading of all vessels within the port or port approaches shall be carried out ;

(q) regulating the lighterage of cargo between ships or between ships and shore or between shore and ships ;

(r) the exclusion from the premises of the Board of disorderly or other undesirable persons and of trespassers ;

(s) ensuring the safety of the port ;

(t) generally for the efficient and proper administration of the ports ;

(u) the person, if any, authorised to sign and the mode of affixing the corporate seal and of attestation of documents relating to Board securities issued or to be issued by the Board ;

(v) the manner in which payment of interest in respect of such Board securities is to be made, recorded and acknowledged ;

(w) the circumstances and the manner in which Board securities may be renewed ;

(x) the circumstances in which such securities may be renewed before further payment of interest thereon can be claimed ;

(y) the form in which such securities delivered for renewal, conversion, consolidation or sub-division are to be receipted ;

(z) the proof which is to be produced by a person applying for duplicate securities ;

(aa) the form and manner of publication of the notification mentioned in sub-section (2) of section 61 and the manner of publication of the list mentioned in sub-section (3) of that section.

(ab) the nature and amount of indemnity to be given by a person applying for the payment of interest in the Board securities alleged to have been wholly or partly lost, stolen or destroyed, or for the issue of duplicate Board securities ;

(ac) the conditions subject to which Board securities may be converted, consolidated or sub-divided ;

(ad) the amounts for which stock certificate may be issued ;

(ae) generally all matters connected with a grant of duplicate, renewed, converted, consolidated and sub-divided securities ;

(af) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Board securities ;

(ag) the fees to be levied in respect of the issue of stock certificate ;

(ah) any other matter which is to be or may be prescribed by regulations.

(2) Any regulation made under this section may provide that a breach thereof shall be punishable with fine which may extend to two hundred rupees and where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first day, during which such breach continues.

Provisions with respect to regulations.

111. (1) No regulation made by the Board under this Act shall have effect until the same has been approved by the Government and published by the Board in the *Tamil Nadu Government Gazette*.

(2) The Government may, by notification, rescind any regulation made under section 110, and thereupon the regulation shall cease to have effect.

Power of Government to direct regulation to be made.

112. (1) Whenever the Government consider necessary, in the public interest so to do, it may, by order in writing together with a statement of reasons therefor, direct the Board to make regulation for all or any of the matters specified in section 110 or to amend any regulation, within such period as the Government may specify in this behalf :

Provided that the Government may extend the period specified by them to make such regulation by such period or periods as they may consider necessary.

(2) If the Board fails or neglects to comply with such directions within the period allowed under sub-section (1), the Government may, notwithstanding anything contained in section 110, make the regulations or amend the regulations, as the case may be, either in the form specified in the direction or with such modification thereof as the Government may think fit :

Provided that before making or amending the regulation, the Government shall consider any objection or suggestion, if any, made by the Board within the said period.

(3) Where in pursuance of sub-section (2) any regulation has been made or amended, the regulation so made or amended shall be published by the Government in the *Tamil Nadu Government Gazette* and shall thereupon have effect accordingly.

113. Notwithstanding anything contained in this Act, the first regulations under this Act shall be made by the Government and shall have effect on being published in the *Tamil Nadu Government Gazette*. Power of Government to make first regulations.

114. The text of the regulations made under clauses (10) to (19) of section 110 and the scale of rates together with a statement of conditions framed by the Board under Chapter VI shall be prominently posted by the Board in English and Tamil on special boards to be maintained for the purposes at the wharves, docks, piers and other convenient places on the premises of the Board. Posting of certain regulations, etc.

115. Nothing in this Act shall affect,—

(1) the right of the Central Government to collect customs, duties or of any municipality to collect any duties at any dock, berth, wharf, quay, stage, jetty or pier in the possession of the Board, or

Saving of right of Central Government and municipalities to use wharves, etc. for collection of duties and power of Customs authorities.

(2) any power of authority vested in the Customs authorities under any law for the time being in force.

116. The provisions of this Act shall also apply to all air crafts making use of any port while on water in the same manner as they apply in relation to vessels.

Application of provisions of Act to air craft.

117. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order, not inconsistent with the provisions of this Act, do anything which appears to them to be necessary or expedient for the purpose of removing the difficulty :

Power to remove difficulties.

Provided that no such order shall be made in respect of a port after the expiry of a period of two years from the appointed day.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before the Legislative Assembly.

Tamil Nadu Act,
III of 1885.

118. On the application of this Act to any port, the Tamil Nadu Ports Landing and Shipping Fees Act, 1885 shall stand repealed in relation to that port:

Repeal and savings.

Provided that such repeal shall not affect—

(a) the previous operation of the Act so repealed, or anything duly done or suffered thereunder ;

(b) any right, privilege, obligation or liability acquired, accrued and incurred under the Act so repealed ;

(c) any penalty, forfeiture, or punishment incurred in respect of any offence committed under the Act so repealed ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if this Act had not been passed :

Provided further that subject to the preceding proviso, anything done or any action taken under the repealed Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

(By order of the Governor)

Date :

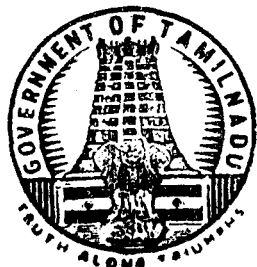
M. MUNI RAMAN,
Secretary to Government, Law Department.

GOVERNMENT



No. 159

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 146)

CHENNAI, TUESDAY, MARCH 18, 1997

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Part IV—Section 2

Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 20th February 1997 and is hereby published for general information :—

AN ACT TO AMEND THE TAMIL NADU MARITIME BOARD ACT, 1995.

ACT No. 15 OF 1997.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-eighth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Tamil Nadu Maritime Board (Amendment) Act, 1997.

Short title and commencement.

(2) It shall come into force at once.

Tamil Nadu Act 4 of 1996.

2. In section 3 of the Tamil Nadu Maritime Board Act, 1995 (hereinafter referred to as the principal Act), for sub-sections (4) and (5), the following sub-sections shall be substituted, namely :—

Amendment of section 3,

“(4) The Board shall consist of such number of members, as may be appointed by the Government, as below :—

(a) the Minister in-charge of Transport, ex-officio ;

(b) the Secretary to Government, Transport Department, ex-officio ;

(c) the State Port Officer, ex-officio ;

(d) the Secretary to Government, Finance Department or his nominee not below the rank of a Deputy Secretary to Government of that Department dealing with the subject part, ex-officio ;

(e) the Secretary to Government, Public Works Department or his nominee not below the rank of a Deputy Secretary to Government of that Department, ex-officio ;

(f) the Secretary to Government, Industries Department or his nominee not below the rank of a Deputy Secretary to Government of that Department, ex-officio ;

(g) the Chairman, the Tamil Nadu Electricity Board, ex-officio ;

(h) the Managing Director, Poompuhar Shipping Corporation, ex-officio ;

(i) the Managing Director, State Industries Promotion Corporation of Tamil Nadu Limited, ex-officio ;

(j) the Managing Director, Corporation for Industrial Infrastructure Development Limited, ex-officio ;

(k) one member who has experience of, and shows capacity in, matters relating to ports, shipping, maritime affairs or commerce or in the administration of such matters ;

(l) one member who possesses academic qualification in the subject of engineering and has wide experience of matters relating to harbour works ;

(m) one member who is Chartered Accountant or who possesses high academic qualification in Accountancy and who has sufficient experience in accounts pertaining to industry, commerce, ports or shipping ;

(n) one member who possesses academic qualification in navigation (such as extra first class Ministry of Transport Ticket Holder (diesel or steam) and has experience in Marine plants, particularly with reference to dredging or who is an experienced nautical officer ;

(o) one member representing the interests of trade, commerce and industry ;

(p) one member representing the interest of shipping ;

(q) one member representing the interests of workers of minor ports ;

(r) such other members, not exceeding four, as may be appointed by the Government.

(5) The Minister in-charge of Transport shall also be the Chairman, ex-officio, and the Secretary to Government, Transport Department shall also be the Vice-Chairman ex-officio, of the Board."

Amendment of
section 5.

3. For section 5 of the principal Act, the following section shall be substituted, namely ;—

"5. Term of office of non-official members.—Every non-official member shall hold office for a period of two years."

Amendment of
section 6.

4. In section 6 of the principal Act,—

(1) in sub-section (1), for the expression, "The Government may remove a member including the Chairman, who is not an official of the Board," the expression "The Government may remove a non-official member." shall be substituted.

(2) sub-section (2) shall be omitted.

Amendment of
section 8.

5. In section 8 of the principal Act, sub-section (1) shall be omitted.

6. In section 15 of the principal Act, in clause (b) and in the proviso thereto, for the expression "Chief Executive Officer", the expression "Vice-Chairman" shall be substituted. Amendment of section 15.

7. In section 17 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 17.

"(1) The State Port Officer shall be the Chief Executive Officer, ex-officio of the Board."

8. In section 19 of the principal Act, the figure "(1)" shall be omitted. Amendment of section 19.

9. In section 109 of the principal Act, sub-section (3) shall be omitted. Amendment of section 109.

10. In section 110 of the principal Act, in sub-section (1), clause (d) shall be omitted. Amendment of section 110.

11. In section 114 of the principal Act, for the expression "clauses (10) to (19)", the expression "clauses (j) to (s)" shall be substituted. Amendment of section 114.

(By order of the Governor)

A. K. RAJAN,
Secretary to Government, Law Department.