

Indian Ports Act, 1908

Chapter III - Port-officials and their Powers and Duties

- (1) The 1[Government] shall appoint some officer or body of persons to be conservator of every port subject to this Act.
- (2) Subject to any direction by the 1[Government] to the contrary.--
- (a) in ports where there is a port officer, the port-officer shall be the conservator;
- (b) in ports where there is no port-officer, but where there is a harbour-master the harbour-master shall be the conservator.
- (3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.
- (4) The conservator shall be subject to the control of the 1[Government], or of any intermediate authority which 2[the Government] may appoint.
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1. Substituted for the words "Local Government" by A.O., 1937 (1-4-1937).
2. Substituted for the words "that Government" by A.O., 1937 (1-4-1937).

Section 8 - Power of conservator to give and enforce directions for certain specified purposes

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

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

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

Section 9 - Power to cut warps and ropes

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

Section 10 - Removal of obstructions within limits of port

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

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

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

Section 11 - Recovery of expenses of removal

If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the Official Gazette or in such other manner as the¹[Government] by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

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

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the [1](#) [Government] directs;

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

1. Substituted for the words "Local Government" by A.O., 1937 (1-4-1937).

Section 12 - Removal of lawful obstructions

(1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the [1](#) [Government], and shall, with the sanction of [2](#) [the Government], cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

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

1. Substituted for the words "Local Government" by A.O., 1937 (1-4-1937).

2. Substituted for the words "that Government" by A.O., 1937 (1-4-1937).

Section 13 - Fouling of Government moorings

(1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the 1 [Government] in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator:

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

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

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

1. Substituted for the words "Local Government" by A.O., 1937 (1-4-1937).

Section 14 - Raising or removal of wreck impeding navigation within limits of port

1[(1) If any vessel is wrecked, stranded or sunk in any port in such a manner as to impede or likely to impede any navigation thereof, the conservator shall give notice to the owner of the vessel to raise, remove or destroy the vessel within such period as may be specified in the notice and to furnish such adequate security to the satisfaction of the conservator to ensure that the vessel shall be raised, removed or destroyed within the said period.]

Provided that the conservator may extend such period to such further period as he may consider necessary having regard to the circumstances of such case and the extent of its impediment to navigation.

(1A) Where the owner of any vessel to whom a notice has been issued under Sub-section (1) fails to raise, remove or destroy such vessel within the period specified in the notice or the extended period or fails to furnish the security required of him, the conservator may cause the vessel to be raised, removed or destroyed.

(1B) Notwithstanding anything contained in the foregoing sub-section, if the conservator is of the opinion that any vessel which is wrecked, standard or sunk in any port is required to be immediately raised, removed or destroyed for the purpose of uninterrupted navigation in such port, he may, without giving any notice under Sub-section (1), cause the vessel to be raised, removed or destroyed.]

(2) If any property recovered by a conservator acting2[under Sub-section (1A) or Sub-section (1B)] is unclaimed or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent, of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not a perishable nature, at any time not less than3[thirty days] after the recovery thereof.

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

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

1[(4) Where the sale proceeds of the property are not sufficient to meet the expenses and further sum aforesaid, the owner of the vessel at the time the vessel was wrecked, stranded or sunk shall be liable to pay the deficiency to the conservator on demand, and if the deficiency be not paid within one month of such demand the conservator may recover the deficiency from such owner in the manner laid down in Sub-section (2) of Section 57 for recovery of expenses and damages or in any other manner according a the deficiency does not or does exceed one thousand rupees.]

1. Inserted by Indian Ports (Amendment) Act (23 of 1992), Section 3 (12-8-1992). (55 of 1952).
2. Substituted for "under Sub-section (1)" by Act (23 of 1992), Section 3 (12-8-1992).
3. Substituted for the words "six months" by the Indian Ports (Amendment) Act 1952 (55 of 1952). Section 2 (9-8-1952). Words "two months" as substituted have now been substituted by words "thirty days" by Indian Ports (Amendment) Act (23 of 1992), Section 3 (12-8-1992).

Section 15 - Power to board vessels and enter buildings

(1) The Conservator or any of his assistants may, whenever he suspects that any offence against this Act has been or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act.

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

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuse to allow any such person as is mentioned in Sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable with fine which may extend to two hundred rupees.

Section 16 - Power to require crews to prevent or extinguish fire

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

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

Section 17 - Appointment and powers of health-officer

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

(2) A health-officer shall, subject to the control of the [1](#)[Government], have the following powers, within the limits of the port for which he is appointed, namely:--

(a) with respect to any vessel, the powers conferred on a shipping-master by the [2](#)[Indian Merchant Shipping Act], 1859, Section 7];

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

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

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

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

1.Substituted for the words "Local Government" by A.O., 1937 (1-4-1937).

2.Now the Merchant Shipping Act, 1958 (44 of 1958), Section 176.

Section 18 - Indemnity of Government against act or default of post official or pilot

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

Provided that nothing in this section shall protect the¹[Government] from a suit in respect of any act done by or under the express order or sanction of the Government.

1.Substituted for the words 'the Crown' by A.L.O., 1950.