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Indian Ports Act, 1908

Chapter V - Port-dues, Fees and Other Charges

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(1)[1][Subject to the provisions of sub-section (2)], in each of the ports mentioned in the First Schedule[2][other than major port], such port-dues, not exceeding the amount specified for the port in the third column of the schedule as the[3][Government] directs, shall be levied on vessels entering the port and described in the second column of the Schedule, but not oftener than the time fixed for the port in the fourth column of the Schedule.

[4][(2) The[3][Government] may, by notification in the[3][Official Gazette], after or add to any entry in the First Schedule relating to ports[5][in[6][any State] or as the case may be, in the State], and this power shall include the power to regroup any such ports.

[7][* * * * *]]

[8][(3)] Whenever the[3][Government][9][* * *] declares any other port[2][other than a major port] to be subject to this Act, it may[10][* * *], by the same or any subsequent declaration, further declare,--

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

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

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

[11][* * * * *]

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

[10][(5)] An order increasing or imposing port-dues under this section shall not take effect till the expiration of[12][thirty days] from the day on which the order was published in the[3][Official Gazette].

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1. Inserted by the Indian Ports (Amendment) Act, 1916 (6 of 1916), S. 6(i).

2. Inserted by the Port Laws (Am endment) Act, 1997 w.e.f. 09-01-1997.

3. Substituted for the words 'Local Government' and for the words 'Gazette of India', by A.O., 1937 (1-4-1937).

4. Inserted by the Indian Ports (Amendment) Act, 1916 (6 of 1916), S. 6(ii).

5. The words 'within its own province' were successively substituted to read as above by A.O., 1937 (1-4-1937) and A.L.O., 1950 (26-1-1950).

6. Substituted for the words 'any Province' by A.L.O., 1950 (26-1-1950).

7. The Proviso was omitted by A.O., 1937 (1-4-1937).

8. The original sub-section (2), (3) and (4) were renumbered as sub-sections (3), (4) and (5), respectively by the Indian Ports (Amendment) Act, 1916 (6 of 1916), S. 6(iv).

9. The words 'with the previous sanction of the Governor-General in Council' were omitted by the Indian Ports (Amendment) Act, 1916 (6 of 1916), S. 6(iv) S. 6(iii).

10. The words 'with like sanction' were omitted by the Indian Ports (Amendment) Act, 1916 (6 of 1916), S. 6(iv).

11. The Proviso, inserted by the Indian Ports (Amendment) Act, 1916 (6 of 1916), was omitted by A.O., 1937 (1-4-1937).

12. Substituted for the words "sixty days" by Indian Ports (Amendment) Act (23 of 1992), S. 5 (12-8-1992).

Section 34 - Variation of port-dues by Government

"34.[1][Variation of port-dues by Government

The Government may after consulting,--

(a) in case of ports other than major ports, the authority appointed under section 36;

(b) in case of major ports, the Authority constituted under section 47A of the Major Port Trusts Act, 1963, 38 of 1963.

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

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.".]

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1. Substituted by the Port Laws (Amdt) Act, 1997. Prior to substitution it reads as under

"34. Variation of port-dues by Government -

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

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act."

Section 35 - Fees for pilotage and certain other services

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(1) Within any port subject to this Act[1][not being a major port] fees may be charged for pilotage, hauling, mooring, remooring, hooking, measuring and other services rendered to vessels, at such rates as the[2][Government] may direct.

[3][* * * *]

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

[4][(3) The Government may, in special cases, remit the whole or any portion of the fees chargeable under sub-section (1) or sub-section (2).]

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1. Inserted by the Port Laws (Amdt) Act, 1997 w.e.f. 09-01-1997.

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

3 . The original Proviso was omitted 'by the Indian Ports (Amendment) Act, 1916 (6 of 1916), Section 8, and the Proviso, inserted by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), Section 3, was omitted by A.O., 1937 (1-4-1937).

4. Added by the Port Trusts and Ports (Amendment) Act, 1951 (35 of 1951), S. 190 (16-7-1951).

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

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

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the [1] [Government] prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as [2] [the Government] prescribes, of the account for the past financial year;

[3] [Provided that the port fund account for any port may, if so authorized under the provisions of any Act relating to such port, be merged with the general account of that port, and in such a case, the provisions of sub-section (6) shall not apply and the provisions of sub-sections (4) and (5) shall have effect as if for the words "the port fund account of the port" therein, the words "the general account of the port" had been substituted.]

[4] [* * * * *]

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

[5] [(a) fines other than those creditable to the pilotage account of the port under sub-section (5a)],

(b) proceeds of waifs, and

(c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the port fund account of the port.

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

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

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

(c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the [1] [Government] may be rule determine.

(d) with the previous sanction of the [1] [Government], contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provisions of sanitary superintendence and medical aid for the shipping in the port and for seamen whether ashore or afloat belonging to vessels in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors, shall be charged to the port fund account of the port.

[4] [(5a) All fees charged for pilotage at any port subject to this Act [6] [(other than a major port)] and all fines and penalties levied under the Act or under any other Act relating to the port from pilots or other persons employed in the pilot service other than fines and penalties imposed by a Court shall be credited to a distinct account to be called the pilotage account of the port.

(5b) All sums so credited to the pilotage account may be applied, in such proportions as the Government may from time to time 'direct, to the following purposes, namely:--

(a) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the officer or body appointed under sub-section (1) may deem it necessary to purchase, maintain or supply for the efficiency of the pilot service;

(b) the payment of the salaries, wages and allowances of pilots and other persons employed in the pilot service or in the supervision thereof;

(c) the payment of pensions, retiring gratuities, compassionate allowances or bonuses to pilots and other persons engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any provident fund or welfare fund;

(d) the payment of pensions, gratuities and compassionate allowances granted by the officer of body appointment under sub-section (1) to pilots and other persons engaged in the pilot service who have been injured in the execution of their duty and to the surviving relatives of pilots and other persons so engaged who have been killed in the execution of their duty or who may die while still in the service of such officer or body;

(e) the provision of educational, recreational and other amenities for pilots and other persons employed in the pilot service;

(f) the payment of contributions or appropriations to any special fund or funds established under the provisions of any

other Act relating to the port to which the officer or body appointed under sub-section (1) considers contributions or appropriations should be made from the pilotage account;

(g) any other expenditure which may, with the previous sanction of the Government, be incurred in respect of the pilot service.

(5c) If the officer or body appointed under sub-section (1) at any port is also the authority responsible for maintaining the general account of the port then notwithstanding the absence of any provision in that behalf in the Act under which such general account is maintained, such officer or body may, with the previous sanction of the Government, apply any sum out of the moneys credited to such general account towards meeting deficits, if any, in the pilotage account of the port or transfer the whole or any part of any surplus funds, in the pilotage account to the general account of the port.]

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account [4] [or of a pilotage account], any such balance may be temporarily invested in such manner as the [1] [Government] may direct.

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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).

3. Inserted by the Port Trusts and Ports (Amendment) Act, 1951 (35 of 1951), section 191 (16-7-1951).

4. Sub-section (3) was omitted by the Indian Ports (Amendment) Act, 1916 (6 of 1916), section 9.

5. Substituted for the original clause (a), by Act 35 of 1951, section 191, section 191 (16-7-1951).

6. Inserted by Indian Ports (Amendment) Act (23 of 1992), S. 6 (12-8-1992).

Section 37 - Grouping of ports

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(1) The[1][State Government] may direct that for the purposes of the last foregoing section any number of ports[2][in the State not being major ports] shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports.

[3][* * * * *]

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

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

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

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1. Substituted for the words "Provincial Government" by A.L.O., 1950.

2. Inserted by A.O., 1937 (1-4-1937).

3. The proviso was omitted by A.O., 1937 (1-4-1937).

4. The words "subject to the control of the Governor-General-in-Council" were omitted by A.O., 1937 (1-4-1937).

5. The words "and shall cause effect to be given to any directions which the Governor-General-in-Council may deem it necessary to issue with respect to such expenditure" were omitted by A.O., 1937 (1-4-1937).

Section 38 - Receipts for port-charges

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

Section 39 - Master to report arrival

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

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

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river steamers plying to and form any of the ports subject to this Act[1][* * *].

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1. The words "or to ballam boats plying to and from the port of Chittagong" were omitted by the A.C.A.O., 1948 (23-3-1948).

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

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

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

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

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

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

(2) If the vessel is not a British registered vessel or a vessel registered under the Indian Registration of Ships Act, 1841, or the Indian Registration of Ships Act (1841) Amendment Act 1850, or under any other law for the time being in force for the registration of vessels in a[India] and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

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

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1. Substituted for the words "the States", by the Part B States (Laws) Act, 1951 (3 of 1951), Section 3 and Schedule (1-4-1951).

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

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

and in case any part of the port-dues, fees or other charges or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may

satisfy the port-dues, fees or other charges and the costs including the costs of sale remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

[1][Provided that where such vessel or other thing is already arrested under the order of a court or other authority, the authority appointed to receive port-dues, fees or other charges, may sell the vessel or other thing only with the prior permission of such court or other authority and satisfy the port-dues, fees or other charges and the costs including costs of sale remaining unpaid, and disburse the surplus,if any, in accordance with the orders or directions of such court or other authority:

Provided further that the person to whom the vessel or other thing is sold under this section, shall be deemed to be the owner thereof and registered as such under the Merchant Shipping Act. 1958.]

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1. Inserted by Indian Ports (Amendment) Act (23 of 1992), Section 7 (12-8-1992).

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

The officer of the[1][Government] whose duty it is to grant a port-clearance for any vessel shall not grant such clearance--

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

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

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1. Substituted for the word "Crown" by A.L.O., 1950.

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

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

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

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1. Substituted for the words "the States" by the Part B States (Laws) Act, 1951 (3 of 1951), Section 3 and Schedule (1-4-1951).

Section 45 - Penalty for evading payment of port-charges

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

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient prima facie proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

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

Section 46 - Port-due on vessel in ballast

A vessel entering any port[1][not being a major port] subject to this Act[2][* * *] in ballast and not carrying passengers shall

be charged with a port-due at a rate to be determined by the[3][Government] and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

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1. Inserted by the Port Laws (Amdt) Act, 1997 w.e.f. 09-01-1997.

2. The words and brackets "(other than a port in Burma)", were omitted by A.O., 1937 (1-4-1937).

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

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

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When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the[1]Government] and not exceeding half the rate with which she would otherwise be chargeable.

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

Section 48 - Port-due not to be chargeable in certain case

No port-due shall be chargeable in respect of--

(a) any pleasure-yacht, or

(b) any vessel which, having left any prot, is compelled to re-enterer it by stress of whether or in consequence of having sustained any damage, or

(c) any vessel which, having entered[1][any port[2][in the territories which, immediately before the 1st November, 1956, were comprised in the States of Madras and Andhra] or the port of Gopalpur in the State of Orissa], leaves it within forty-eight hours without discharging or taking in any passengers or cargo,

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1.Substituted for the words "any port within the territories administered by the Government of Forest Saint George in Council", by the Repealing and Amending Act, 1950 (35 of 1950), Setion 3 and Schedule II (19-4-1950).

2.Substituted the words for "in the State of Madras or in the State of Andhra" by A.L.O., 1956 (1-11-1956). The words "or in the State of Andhra" were inserted by the Andhra (Adaptation of Laws on Union Subject) Order, 1954 (1-10-1953).

Section 49 - Power to impose hospital port-dues

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

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

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

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

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

Section 50 - Application and account of hospital port-dues

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

(2) The [1] [Central Government] shall publish annually in the Official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

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

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