

Major Port Trusts Act, 1963

Chapter VI - Imposition and Recovery of Rates at Ports

1["The Authority shall from time to time, by notification in the Official Gazette, frame a scale of rates at which, and a statement of conditions under which, any of the services specified hereunder shall be performed by a Board or any other person authorized under section 42 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) 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 portrage of goods on any such place;
- (d) wharfage, storage or demurrage of goods on any such place;
- (e) any other service in respect of vessels, passengers or goods,2[xxx]

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

1. Substituted by Port laws (Amendment) Act, 1997 w.e.f. 09-01-1997. Prior to substitution it read as under

"Every 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 authorized under section 42 at or in relation to the port or port approaches."

2. Words "excepting the services in respect of vessels for which chargeable under the Indian Ports Act" By Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997.

Section 49 - Scale of rates and statement of conditions for use of property belonging to Board

(1) Every 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 the port approaches may be used for the purposes specified hereunder:--

(a) approaching or plying 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 on any wharf, quay, pier, dock, land, building, road, bridge 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 agents;

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

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

1[(3) Notwithstanding anything contained in sub-section (1), the Board may, by auction or by inviting tenders, lease any land or shed belonging to it or in its possession or occupation at a rate higher than that provided under sub-section (1).]

1. Inserted by the Major Port Trusts (Amendment) Act (17 of 1982), Section 13 (31-5-1982).

Section 49A - Fees for pilotage and certain other services

1'49A. Fees for pilotage and certain other services.

(1) Within any port, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Authority may fix.

(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).

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

1. Inserted by Port laws (Amendment) Act, 1997 w.e.f. 09-01-1997.

Section 49B - Fixation of port-dues

(1) The Authority shall from time to time, by notification in the Official Gazette, fix port-dues on vessels entering the port.

(2) An order increasing or altering the fees for pilotage and certain other services or port-dues at every port shall not take effect until the expiration of thirty days from the day on which the order was published in the Official Gazette.".]

Section 50 - Consolidated rates for combination of services

1'50. Consolidated rates for combination of services.

The Authority may, from time to time, by notification in the Official Gazette, frame a consolidated scale of rates for any combination of service specified in section 48 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 49 or the fees to be charged for pilotage, hauling,

mooring, re-mooring, hooking, measuring and other services rendered to vessels as specified in section 49A or the port dues to be fixed on vessels entering the port and for the duration of such dues as specified in section 49B.

1. Substituted by Port Laws (Amdt) Act, 1997 w.e.f. 09-01-1997. Prior to Substitution it read as under.

"Consolidated rates for combination of services. A Board may, from time to time, frame a consolidated scale of rates for any combination of the services specified in section 48 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 49."

Section 50A - Port-due on vessels in ballast

A vessel entering any port in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Authority and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

Section 50B - Port-due on vessels not discharging or taking in cargo

When a vessel enters a port but does not discharge or taken 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 Authority and not exceeding half the rate with which she would otherwise be chargeable.

Section 50C - Publication of orders of Authority

Every notification, declaration, order and regulation of the Authority made in pursuance of this Act shall be published in the Official Gazette and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee."]

Section 51 - Power to levy concessional rates in certain cases

In framing scales under any of the foregoing provisions of this Chapter, the 1[Authority] 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 vessel from one Indian port to another Indian port:

Provided that the 1[Authority] shall not make any discrimination between one Indian Port and another such port in prescribing a lower rate under this section;

(b) other goods, in special cases.

1. Substituted for "Board" by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997.

Section 52 - [*]**

1. Section 52 omitted by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997. Prior to omission it read as under

"Prior sanction of Central Government to rates and conditions. Every scale of rates and every statement of conditions framed by a Board under the foregoing provision of this Chapter shall be submitted to the Central Government for sanction and shall have effect when so sanctioned and published by the Board in the Official Gazette."

Section 53 - Exemption from, and remission of rates or charges

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

Section 54 - Power of Central Government to require modification or cancellation of rates

(1) Whenever the Central Government considers it necessary in the public interest so to do, it may, by order in writing together with a statement of reasons therefor 1[direct the Authority] to cancel any of the scales in force or modify the same, within such period as that Government may specify in the order.

(2) 2[If the Authority fails or neglects to comply with the direction under sub-section (1)] within the specified period, the Central Government may cancel any of such scales or make such modifications therein as it may think fit:

Provided that before so cancelling or modifying any scale the Central Government shall consider any objection or suggestion which may be made by 3[the Authority] 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 Central Government in the Official Gazette and shall thereupon have effect accordingly.

1. Substituted for 'direct any Board' by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997.

2. Substituted for "If any Board against whom a direction is made under sub-section (1) fails or neglects to comply with such direction" by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997

3. Substituted for "Board" by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997.

Section 55 - Refund of overcharges

No person shall be entitled to a refund of an overcharge made by a 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 relevant documents:

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

Section 56 - Notice of payment of charges short-levied or erroneously refunded

(1) When any, 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 :

Provided that no such notice shall be issued after the expiry of two 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.

Section 57 - Board not to lease rates without sanction

1[The Authority shall not lease]. Farm, sell or alienate any power vested in it under this Act of levying rates without the prior sanction of the Central Government,

1. Substituted for "A Board shall not lease" by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997

Section 58 - Time for payment of rates on goods

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 a Board, or to be shipped for export, or to be transhipped, shall be payable before the goods are so removed or shipped or transhipped.

Section 59 - Board's lien for rates

(1) For the amount of all rates 1[leviable 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.

(2) Such lien shall have priority over all other lines and claims, except for general average and for the ship-owner's lien upon the said goods for freight and other charges where such .Hen exists and has been preserved in the manner provided in sub-section (I) of section 60, and for money payable to the Central Government 2 [under any law for the time being in force relating to customs, other than by way of penalty or fine].

1. Substituted for "leviable by a Board under this Act" by Port Laws (Amendment) Act, 1997 w.e.f. 09-01-1997.

2. Substituted for the words "under any law for the time being in force" by the Major Port Trusts (Amendment) Act (29 of 1974), Section 21 (1-2-1975).

Section 60 - Ship-owner's lien for freight and other charges

(1) If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any dock, wharf, quay, stage, jetty, berth, mooring or pier belonging to or in the occupation of a 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 or 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 to the authenticity of such document.

Section 61 - Sale of goods after two months if rates or rent are not paid or lien for freight is not discharged

(1) A 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 auction¹[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 on 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 thereof² [the Port Gazette, or where there is no Port Gazette, in the Official Gazette] and also in at least one of the principal local daily newspapers:

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 on the manifest of the goods or in any of the documents which have come into the hands 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 a 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, arms and ammunition and controlled goods may be sold at such time and in such manner as the Central Government may direct.

Explanation.--In this section and section 62--

(a) "arms and ammunition" have the meanings respectively assigned to them in the Arms Act, 1959;

(b) "controlled goods" means goods the price or disposal of which is regulated under any law for the time being in force.

1. Inserted by the Major Port Trusts (Amendment) Act (29 of 1974), Section 22 (1-2-1975).

2. Substituted for the words "the Official Gazette" by the Major Port Trusts (Amendment) Act (29 of 1974), Section 22 (1-2-1975).

Section 62 - Disposal of goods not removed from premises of Board within time limit

(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 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 ¹[the Port Gazette or where there is no Port Gazette, in the Official 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 ²[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 on which such goods were placed in its custody, sell the goods by public auction after giving notice of the sale in the manner specified in sub-sections (2) and (3) of section 61.

(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 and in such manner as, in the opinion of the Board, the urgency of the case requires;

(b) arms and ammunition and, controlled goods may be sold in accordance with the provisions of sub-section (4) of section 61.

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

1. Substituted for the words "the Official Gazette" by the Major Port Trusts (Amendment) Act (29 of 1974) 5.23 (1-2-1975).

2. Inserted by the Major Port Trusts (Amendment) Act (29 of 1974) 5.23 (1-2-1975).

Section 63 - Application of sale proceeds

(1) The proceeds of every sale under section 61 or section 62 shall be applied in the following order--

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

(b) in payment, according to their respective priorities, of the lines and claims excepted in sub-section (2) of section 59 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 thereof¹[, including demurrage (other than penal demurrage) payable in respect of such goods for a period of four months from the date of landing];

¹[(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[(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 the purposes of this Act.]

1. Inserted by the Major Port Trusts (Amendment) Act (29 of 1974), Section 24 (1-2-1975).

2. Substituted by the Major Port Trusts (Amendment) Act (29 of 1974), Section 24 (1-2-1975).

Section 64 - Recovery of rates and charges by distraint of vessel

(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 Board may distraint 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 distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress 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.

Section 65 - Grant of post-clearance after payment of rates and realisation of damages, etc

¹65. Grant of post-clearance after payment of rates and realisation of damages, etc

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

(i) 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

(ii) that an amount specified therein is due in respect of any damage referred to in section 116 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 to be chargeable or due has been paid or, as the case may be, the damage and cost have been realised.]

1. Substituted by the Major Port Trusts (Amendment) Act (29 of 1974), Section 25 (1-2-1975).

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