

INDIAN PORTS ACT 1908

THE INDIAN PORTS ACT, 1908

ACT NO. 15 OF 1908 1*

[18th December, 1908]

An Act to consolidate the enactments relating to Ports and Port- charges.

CHAPTER I PRELIMINARY

Title and extent.

1. Title and extent. (1) This Act may be called the Indian Ports Act, 1908.

(2) It shall extend, save as otherwise appears from its subject or context,-- (a) to the ports mentioned in the First Schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (for the regulation of Ports and Port-dues) or to the Indian Ports Act, 1875, (12 of 1875.) or to the Indian Ports Act, 1889; (10 of 1889.) (b) to the other ports or parts of navigable rivers or channels to which the 2*[Government], in exercise of the power hereinafter conferred, extends this Act.

(3) But nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the 2*[Government].

Savings.

2. Savings. Nothing in this Act shall-- (i) apply to any vessel belonging to, or in the service of 3*[the Central Government or a State Government] 4*, or to any vessel of war belonging to any Foreign Prince or State, or Amended in Andhra Pradesh by A. P. Act 18 of 1968. Amended in Pondicherry by Pondy. Act 10 of 1969. Amended in Tamil Nadu by T. N. Act 19 of 1975. Extended to Goa, Daman and Diu with modifications, by Reg. 12 of 1962, s. 3 and Sch. The Act comes into force in Pondicherry on 1.10.1963 vide Reg. 7 of 1963, s. 3 and Sch. I.

1. This Act has been amended in its application to the port of Cochin by the Cochin Port Act, 1936 (6 of 1936), s. 2 and Sch. 2. Subs. by the A. O. 1937 for "L. G.". 3. Subs. by the A. O. 1950 for "His Majesty". 4. The words "or the G. of I." omitted by the A. O. 1937. 64 (ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or (iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto.

Definitions.

3. Definitions. In this Act, unless there is anything repugnant in the subject or context,--

(1) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1898, (5 of 1898.) not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate:

(2) "master", when used in relation to any vessel 1*[or any aircraft making use of any port], means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master 1*[of the port]) having for the time being the charge or control of the vessel 1*[or the aircraft, as the case may be]:

(3) "pilot" means a person for the time being authorized by the 2*[Government] to pilot vessels:

(4) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(5) "port-officer" is synonymous with master-attendant:

(6) "ton" means a ton as determined or determinable by the rules made under section 74 of the Merchant Shipping Act, 1958, for regulating the measurement of the gross tonnage of ships:]

(7) "vessel" includes anything made for the conveyance 1*[mainly] by water of human beings or of property:

3*[(8) "major port" means any port which the Central Government may by notification in the Official Gazette declare, or may under any law for the time being in force have declared, to be a major port: [and] 4*

1. Ins. by Act 35 of 1951, s. 188. 2. Subs. by the A. O. 1937 for "L. G.". 3. Added by the A. O. 1937. 4. Subs. and ins. by Act 23 of 1992, s. 2 (w.e.f. 23.1.1994). 65

(9) "Government", as respects major ports, for all purposes, and, as respects other ports, for the purposes of making rules under clause (p) of section 6 (1) and of the appointment and control of port health-officers under section 17, means the Central Government, and save as aforesaid, means the State Government.]

CHAPTER II POWERS OF THE 2*[GOVERNMENT]

Power to extend or withdraw the Act or certain portions thereof.

4. Power to extend or withdraw the Act or certain portions thereof. (1) 3* The 2*[Government] may, by notification in the Official Gazette,-- (a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force; (b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended; (c) withdraw this Act or section 31 or section 32 from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement,

maintenance or good government of the port and its approaches, whether within or without high-water mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

1. Cl. (10) defining "State", which was ins. by the A. O. 1950, omitted by Act 3 of 1951, s. 3, and Sch. 2. Subs. by the A. O. 1937 for "L. G.". 3. The words "With the previous sanction of the G. G. in C." omitted by Act 6 of 1916, s. 2. 66

Alteration of limits of ports.

5. Alteration of limits of ports. (1) The 1*[Government] may, 2* subject to any rights of private property, alter the limits of any port in which this Act is in force. 5*[Explanation.--For the removal of doubts, it is hereby declared that the power conferred on the Government by this sub-section includes the power to alter the limits of any port by uniting with that port any other port or any part of any other port.]

(2) When the 1*[Government] alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the Official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

Power to make port-rules.

6. Power to make port-rules. (1) The 1*[Government] may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:-- (a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this Act; (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port; (c) for striking the yards and top masts, and for rigging-in the booms and yards, of

vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels; (d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port; (e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged; 3*[(ee) for regulating the manner in which oil or water mixed with oil shall be discharged in any such port and for the disposal of the same;] 4*[(eee) for regulating the bunkering of vessels with liquid fuel in any such port and the description of barges, pipe lines or tank vehicles to be employed in such bunkering;]

1. Subs. by the A. O. 1937 for "L. G.". 2. The words "with the previous sanction of the G. G. in C. and" omitted by Act 6 of 1916, s. 3. 3. Ins. by Act 39 of 1923, s. 2. 4. Added by Act 9 of 1925, s. 2. 5. Ins. by Act 17 of 1978, s. 2. 67 (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free; (g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port; (h) for regulating the moving and warping of all vessels within any such port and the use of warps therein; (i) for regulating the use of the mooring buoys, chains and other moorings in any such port; (j) for fixing the rates to be paid for the use of such moorings when belonging to the 1*[Government] or of any boat, hawser or other thing belonging to the Government; 2*[(jj) for regulating the use of piers, jetties, landing places, wharves, quays, warehouses and sheds when belonging to the 1*[Government] and for fixing the rates to be paid for the use of the same;] (k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not, and whether regularly or only occasionally, in or partly within and partly without any such port, 3*[and for licensing and regulating the crews of any such vessels;] and for determining the quantity of cargo or number of passengers 3*[or of the crew] to be carried by any such vessels 3*[and may by such rules provide for the fees payable in respect of any such license, and in the case of 4*[vessels] plying for

hire, for the rates of hire to be charged and the conditions under which such vessels shall be compelled to ply for hire, and further for the conditions under which any license may be revoked]; (l) for regulating the use of fires and lights within any such port; (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;

1. Subs. by the A. O. 1950 for "Crown" which had been subs. by the A. O. 1937 for "Govt.". 2. Ins. by Act 6 of 1916, s. 4. 3. Ins. by s. 4, *ibid.* 4. Subs. by Act 35 of 1951, s. 189, for "passenger vessels". 68 (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port; (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels in any such port; 1*[(p) 2* for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and in particular and without prejudice to the generality of this provision, for-- (i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease; (ii) the medical inspection of such vessels and of persons on board such vessels; (iii) the questions to be answered and the information to be supplied by masters, pilots and other persons on board such vessels; (iv) the detention of such vessels and of persons on board such vessels; (v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels; (vi) the removal to hospital or other place approved by the health-officer and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease; (vii) the cleansing, ventilation and disinfection of such vessels or any part thereof and of any articles

1. Subs. by Act 4 of 1911, s. 2, for the original clause. 2. The words "subject to the control of the G. G. in C." omitted by the A. O. 1937. 69 therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels; and (viii) the disposal of the dead on such vessels; and] (q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel-- (i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew; (ii) to erect windsails so far as the existing portholes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew; (iii) when the deck is made of iron and not woodsheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew; (iv) when the quarters used by the crew and the galley are separated by an iron bulk-head only, to furnish a temporary screen of some suitable nonconducting material between such quarters and the galley. 1* * * * *

(2) The power to make rules under sub-section (1) 2* is subject to the condition of the rules being made after previous publication: Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of the Indian Ports Act, 1889 (10 of 1889), and continued by section 2, sub-section (2), of that Act. 3*[(2A) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature. (2B) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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].

(3) If any person disobeys any rule made under clause (p) of sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

(4) If a master fails wholly or in part to do any act prescribed by any rule made under clause (p) of sub-section (1), the health-officer shall cause such act to be done, and the reasonable expenses

1. Sub-section (1A), ins. by Act 15 of 1922, s. 2, and amended by Act 11 of 1931, s. 2 and the A. O. 1937, omitted by Act 26 of 1938, s. 8. 2. The words "and sub-section (1A)", ins. by Act 15 of 1922, s. 2, omitted by Act 26 of 1938, s. 8. 3. Ins. by Act 20 of 1983, s. 2 & Sch. (w.e.f. 15.3.1984) 70 incurred in doing such act shall be recoverable by him from such master.

CHAPTER III PORT-OFFICIALS AND THEIR POWERS AND DUTIES

Appointment of conservator.

7. Appointment of conservator. (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.

Power of conservator to give and enforce directions for certain specified purposes.

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 wilfully and without lawful excuse refuses or neglects to obey any 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 as aforesaid, he is proved to have wilfully 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

1. Subs. by the A. O. 1937 for "L. G.". 2. Subs. by the A. O. 1937 for "that Govt.". 71 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.

Power to cut warps and ropes.

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.

Removal of obstructions within limits of port.

10. Removal of obstructions within limits of port. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating 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 timber, 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 public 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.

Recovery of expenses of removal.

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 the 1*[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;

1. Subs. by the A. O. 1937 for "L. G.". 72 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.

Removal of lawful obstructions.

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.

Fouling of Government moorings.

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.

Raising or removal of wreck impeding navigation within limits of port.

14. Raising or removal of wreck impeding navigation within limits of port. 3*[(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- sections, if the conservator is of the opinion that any vessel which is wrecked, stranded 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 acting 3*[under sub-section(1A) or sub-section (1B)] is unclaimed or the person claiming it fails to pay the

1. Subs. by the A. O. 1937 for "L. G.". 2. Subs. by the A. O. 1937 for "that Govt.". 3. Subs. by Act 23 of 1992, s. 3 (w.e.f. 12.8.1992). 73 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 of a perishable nature, at any time not less than 1*[thirty days] 3* 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.

2*[(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 as the deficiency does not or does exceed one thousand rupees.]

Power to board vessels and enter buildings.

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, refuses

1. Subs. by Act 55 of 1952, s. 2, for "six months". 2. Ins. by s. 2, *ibid.* 3. Subs. by Act 23 of 1992, s. 3 (w.e.f. 12.8.1992). 74 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.

Power to require crews to prevent or extinguish fire.

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.

Appointment and powers of health-officer.

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, (1 of 1859.) section 71; (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. Subs. by the A. O. 1937 for "L. G.". 2. See now the Indian Merchant Shipping Act, 1923 (21 of 1923), s. 75

Indemnity of Government against act or default of port official or pilot.

18. Indemnity of Government against act or default of port official or pilot. The Government shall not be responsible for any act or default of any conservator, port-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 1*[the Government] from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS

General Rules

Injuring buoys, beacons and moorings.

19. Injuring buoys, beacons and moorings. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the 2*[Government] in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

Wilfully loosening vessel from moorings. 20. Wilfully loosening vessel from moorings. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Improperly discharging ballast.

21. Improperly discharging ballast. (1) No ballast or rubbish and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port or into or upon any place on shore from which the same is liable to be washed into any such

1. The words "the Secretary of State for India in Council" successively subs. by the A. O. 1937 and the A. O. 1950 to read as above. 2. Subs. by the A. O. 1937 for "L. G.". 76 port, either by ordinary or high tides, or by storms or land-floods 1*[and no oil or water mixed with oil shall be discharged in or into any such port, to which any rules made under clause (ee) of sub- section (1) of section 6 apply, otherwise than in accordance with such rules].

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing 1*[or so discharges any oil or water mixed with oil], and the master of any vessel from which the same is so cast, 2*[thrown or discharged], shall be punishable with fine which may extend to 3*[five lakh rupees] and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing 1*[or from so discharging any oil or water mixed with oil], any master continues so to cast 4*[throw or discharge the same], he shall also be liable to simple imprisonment for a term which may extend to 5*[oneyear and to fine which may extend to five lakh rupees] *5.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into, 1*[or the oil or water mixed with oil is discharged in or into], any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the 4*[Government].

Graving vessel within prohibited limits.

22. Graving vessel within prohibited limits. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the 4*[Government], he and the master of the vessel shall for

every such offence be punishable with fine which may extend to five hundred rupees each.

Boiling pitch on board vessel within prohibited limits. 23. Boiling pitch on board vessel within prohibited limits. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the 6*[Government], or contrary to the directions of the conservator, he and the master of the vessel shall for every such

1. Ins. by Act 39 of 1923, s. 3. 2. Subs. by s. 3, *ibid.*, for "or thrown". 3. Subs. by Act 23 of 1992, s. 4, for "five hundred rupees" (w.e.f. 12.8.1992). 4. Subs. by s. 3, *ibid.*, for "or throw it". 5. Subs. by Act 23 of 1992, s. 4, for "two hundred" (w.e.f. 12.8.1992). 6. Subs. by the A. O. 1937 for "L.G.". 77 offence be punishable with fine which may extend to two hundred rupees each.

Drawing spirits by unprotected artificial light.

24. Drawing spirits by unprotected artificial light. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

Warping.

25. Warping. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

Leaving out warp or hawser after sunset.

26. Leaving out warp or hawser after sunset. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

Discharge of fire arms in port.

27. Discharge of fire arms in port. If any person, without lawful excuse, discharges any firearm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gun-powder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the 1*[Government], he shall for every such offence be punishable with fine which may extend to fifty rupees.

Penalty on master omitting to take order to extinguish fire.

28. Penalty on master omitting to take order to extinguish fire. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be

1. Subs. by the A. O. 1937 for "L. G.". 78 punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Unauthorized person not to search for lost stores.

29. Unauthorized person not to search for lost stores. (1) No person, without the permission of the conservator, shall, in any port subject to this Act, creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section

(1), he shall be punishable with fine which may extend to one hundred rupees.

Removing stones or injuring shores of port prohibited.

30. Removing stones or injuring shores of port prohibited. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port; and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring- post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punishable with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore. Special Rules

Moving of vessels without pilot or permission of harbour-master.

31. Moving of vessels without pilot or permission of harbour- master. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour- master or assistant of the port-officer or harbour-master on board; 1*[and no mechanically propelled vessel of any measurement less than two hundred tons and no other vessel of any measurement less than two hundred tons and exceeding one hundred tons] shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board,

1. Subs. by Act 55 of 1952, s. 3, for "and no vessel of any measurement less than two hundred tons and exceeding one hundred tons". 79 unless authority in writing so to do has been obtained from the conservator or some officer

empowered by him to give such authority: 1*[Provided that the 2*[Government] may, by notification in the Official Gazette, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.]

3*[(2) Notwithstanding anything in sub-section (1), the owner or master of a vessel which is by that sub-section required to have a pilot, harbour-master or assistant of the port-officer or harbour-master on board, shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel, in the same manner as he would have been if he had not been so required by that sub-section: Provided that the provisions of this sub-section shall not take effect till the first day of January, 1918, or such earlier date as the Central Government may notify in that behalf in the Official Gazette.]

4*[(3) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel. 5* * * * *

Provision of certain vessels with fire-extinguishing apparatus.

32. Provision of certain vessels with fire-extinguishing apparatus. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1),

1. Added by Act 36 of 1925, s. 2. 2. Subs. by the A. O. 1937 for "G. G. in C." 3. Ins. by Act 6 of 1916, s. 5.

4. The original sub-sections (2), (3) and (4) re-numbered as sub-sections (3), (4) and (5) respectively by s. 5, *ibid.*

5. Sub-sections (4) and (5), as re-numbered by s. 5, *ibid.*, rep. by Act 36 of 1925, s. 2. 80 neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to five hundred rupees.

CHAPTER V PORT-DUES, FEES AND OTHER CHARGES

Levy of port-dues.

33. Levy of port-dues. (1) 1*[Subject to the provisions of sub-section (2),] in each of the ports mentioned in the First Schedule, such port-due, not exceeding the amount specified for the port in the third column of the schedule as the 2*[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.

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

6*[(3)] Whenever the 2*[Government] 7* declares any other port to be subject to this Act, it may 8*, 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.

1. Ins. by Act 6 of 1916, s. 6. 2. Subs. by the A. O. 1937 for "L. G." 3. The words "within its own province" successively subs. by the A. O. 1937 and the A. O. 1950 to read as above. 4. The words "British India" successively subs. by the A. O. 1948 and the A. O. 1950 to read as above. 5. The proviso omitted by the A. O. 1937.

6. The original sub-section (2), re-numbered as sub-section (3) by Act 6 of 1916, s. 6. 7. The words "with the previous sanction of the G. G. in C." omitted by s. 6, ibid. 8. The words "with the like sanction" omitted by s. 6, ibid. 81 1* *
* * *

2*[(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.

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

Variation of port-dues by Government.

34. Variation of port-dues by Government. The 4*[Government] may, 5*[after consulting the authority appointed under section 36], exempt, 6*[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 4*[or may extend the periods 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.

Fees for pilot-age and certain other services.

35. Fees for pilot-age and certain other services. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the 4*[Government] may direct. 7* * * * *

(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).

8*[(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).]

1. The proviso, ins. by Act 6 of 1916, s. 6, omitted by the A. O. (4) and (5) respectively, s. 6, ibid. 3. Subs. by Act 23 of 1992, s. 5 (w.e.f. 12.8.1992). 4. Subs. by the A. O. 1937 for "L. G.". 5. Ins. by Act 6 of 1916, s. 7. 6. Subs. by s. 7, ibid., for "the vessels". 7. The original proviso was omitted by s. 8, ibid., and the proviso ins. by the Bengal Pilot Service (Centralisation of Administration) Act 11 of 1929, s. 3, omitted by the A. O. 1937. 8. Added by Act 35 of 1951, s. 190. 82

Receipt, expenditure and account of port-charges.

36. Receipt, expenditure and account of port-charges. (1) The 1*[Government] shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized 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,

1. Subs. by the A. O. 1937 for "L. G.". 2. Subs. by the A. O. 1937 for "that Government". 3. Added by Act 35 of 1951, s. 191.

4. Sub-section (3) omitted by Act 6 of 1916, s. 9. 5. Subs. by Act 35 of 1951, s. 191, for the original clause. 83 (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 by 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 provision 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. 2*[(5a) All fees charged for pilotage at any port subject to this Act 3*[(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

1. Subs. by the A. O. 1937 for "L. G.". 2. Ins. by Act 35 of 1951, s. 191. 3. Ins. by Act 23 of 1992, s. 6 (w.e.f. 12.8.1992). 84 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 or body appointed 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 pilot-age 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 1*[or of a pilotage account], any such balance may be temporarily invested in such manner as the 2*[Government] may direct.

Grouping of ports.

37. Grouping of ports. (1) The State Government may direct that for the purposes of the last foregoing section any number of ports 3*[in the State not

1. Ins. by Act 35 of 1951, s. 191. 2. Subs. by the A. O. 1937 for "L. G.". 3. Ins. by the A. O. 1937. 85 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. 1* * * * *

(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 2* 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 3*; 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.

Receipts for port-charges.

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.

Master to report arrival.

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 from any of the ports subject to this Act 4*.

1 The proviso omitted by the A. O. 1937. 2 The words "subject to the control of the G. G. in C." omitted by the A. O. 1937. The words in italics had been subs. by Act 6 of 1916, s. 10, for the words "with the previous sanction". 3 The words "and shall cause effect to be given to any directions which the G. G. in C. may deem it necessary to issue with respect to such expenditure" omitted by the A. O. 1937. 4 The words "or to ballam boats plying to and from the port of Chittagong" omitted by the A. O. 1948. 86

Conservator may in certain cases ascertain draught and charge expenseto master. 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.

Ascertainment of tonnage of vessel liable to port-dues.

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, (10 of 1841.) or the Indian Registration of Ships Act (1841) Amendment Act, 1850, (11 of 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 conservator 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, (10 of 1841.) or the Indian Registration of Ships Act (1841) Amendment Act, 1850 (11 of 1850) or under any other law for the time being in force for the registration of vessels in 1*[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

1. The words "British India" successively amended by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and Sch., to read as above. 87 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 clauses (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.

Distrain and sale on refusal to pay port-charges.

42. Distrain 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.]

No port-clearance to be granted until port charges are paid. 43. No port-clearance to be granted until port charges are paid. The officer of the 2*[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; (57 and 58 Vict., c. 60.) (b) until all expenses, which by the 3*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.

Port-charges payable in one port recoverable at any other port.

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

1. Ins. by Act 23 of 1992, s. 7 (w.e.f. 12.8.1992). 2. Subs. by the A. O. 1950 for "Crown" which had been subs. by the A. O. 1937 for "Govt.". 3. Coll. Stat., Vol. II. 88 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.

Penalty for evading payment of port-charges.

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.

Port-due on vessels in ballast.

46. Port-due on vessels in ballast. A vessel entering any 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.

Port-due on vessels not discharging or taking in cargo.

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

1. The words "British India" successively amended by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and Sch., to read as above. 2. The words and brackets "(other than a port in Burma)", omitted by the A. O. 1937. 3. Subs. by the A. O. 1937 for "L. G.". 89 be determined by the 1*[Government] and not exceeding half the rate with which she would otherwise be chargeable.

Port-due not to be chargeable in certain cases.

48. Port-due not to be chargeable in certain cases. No port-due shall be chargeable in respect of-- (a) any pleasure-yacht, or (b) any vessel which, having left any port, is compelled to re-enter it by stress of weather or in

consequence of having sustained any damage, or (c) any vessel which, having entered 2*[any port 3*[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.

Power to impose hospital port-dues.

49. Power to impose hospital port-dues. (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 1*[Central Government] thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the 1*[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 1*[Central Government] is satisfied that proper provision has been made by the owners or agents of any class of vessels 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 vessels from any payment under this section.

1. Subs. by the A. O. 1937 for "L. G.". 2. Subs. by Act 35 of 1950, s. 3 and Sch. II, for "any port within the territories administered by the Governor of Fort Saint George in Council". 3. Subs. by the Adaptation of Laws (No. 2) Order 1956 for "in the State of Madras or in the State of Andhra". The words in italics were ins.

by the Andhra (Adaptation of Laws on Union Subjects) Order, 1954 (w.e.f. 1-10-1953). 90

Application and account of hospital port-dues.

50. Application and account of hospital port-dues. (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).

CHAPTER VI HOISTING SIGNALS

Master to hoist number of vessel.

51. Master to hoist number of vessel. (1) The master of every inward or outward bound vessel, on arriving within signal distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

Pilot to require master to hoist number.

52. Pilot to require master to hoist number. (1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

Penalty on pilot disobeying provisions of this Chapter.

53. Penalty on pilot disobeying provisions of this Chapter. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punishable

1. Subs. by the A. O. 1937 for "L. G.". 91 with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and, in addition, shall be liable to have his authority to act as a pilot withdrawn.

CHAPTER VII PROVISIONS WITH RESPECT TO PENALTIES

Penalty for disobedience to rules and orders of the Government.

54. Penalty for disobedience to rules and orders of the Government. If any person disobeys any rule or order which a 1*[Government] has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punishable for every such offence with fine which may extend to one hundred rupees.

Offences how triable, and penalties how recovered.

55. Offences how triable, and penalties how recovered. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Costs of conviction.

56. Costs of conviction. (1) In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate and may be recovered in the same manner as any fine under this Act.

Ascertainment and recovery of expenses and damages payable under this Act.

57. Ascertainment and recovery of expenses and damages payable under this Act. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

Cost of distress.

58. Cost of distress. Whenever any fine, expenses or damages is or are levied under this Act, by distress and sale, the cost of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

1. Subs. by the A. O. 1937 for "L. G." 92

Magistrate to determine the amount to be levied in case of dispute.

59. Magistrate to determine the amount to be levied in case of dispute. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such cost, if not paid on demand, shall be enforced as if they were a fine Jurisdiction over offences beyond local limits of jurisdiction. 60. Jurisdiction over offences beyond local limits of jurisdiction. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Conviction to be quashed on merits only.

61. Conviction to be quashed on merits only. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII SUPPLEMENTAL PROVISIONS

Hoisting unlawful colours in port.

62. Hoisting unlawful colours in port. (1) If any vessel belonging to 1*[any citizen of India or Commonwealth citizen], or sailing under 2*[Indian or British colours], hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on

1. Subs. by the A. O. 1950 for "any of His Majesty's subjects". 2. Subs. by the A. O. 1950 for "British colours". 93 board such vessel has been prohibited by the 1*Merchant Shipping Act, 1894 (57 & 58 vict., c. 60.), or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of 2*[the regulations] in force for the time being, the master of the vessel shall, for every such offence, be punishable with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port or any officer of 3*[the Indian Navy] may enter on board any such vessel and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

Foreign deserters.

63. Foreign deserters. Any Magistrate, upon an application being made to him by the Consul of any foreign Power to which section 238 of the 1*Merchant Shipping Act, 1894 (57 & 58 vict., c. 60), has, by an Order in Council 4*[or order], been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the description of

any seaman, not being a slave, from any vessel of such foreign Power, may, until a revocation of such Order in Council 4*[or order] has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month: Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention and that the detention of the deserter shall not be continued beyond twelve weeks.

Application of sections 10 and 21.

64. Application of sections 10 and 21. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the 5*[Government] to be ports for the shipment and landing of goods but not otherwise

1. Coll. Stat. Vol. II. 2. Subs. by the A. O. 1950, for "His Majesty's regulations". 3. Subs. by the A. O. 1950, for "His Majesty's Navy or the Royal Indian Navy." 4. Ins. by the A. O. 1950. 5. Subs. by the A. O. 1937, for "L. G.". 94 subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions, shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the 1*[Government].

Grant of sites for sailors' institutes. 65. Grant of sites for sailors' institutes. Any local authority in which any immoveable property in or near a port is vested

may, 2*[with the previous sanction, in the case of a cantonment authority or the port authority of a major port, of the Central Government, and in other cases, of the State Government], appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

Exercise of powers of conservator by his assistants.

66. Exercise of powers of conservator by his assistants. (1) All acts, orders, or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

Service of written notices of directions.

67. Service of written notices of directions. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

Publication of orders of Government.

68. Publication of orders of Government. Every declaration, order and rule of a 1*[Government] 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.

1. Subs. by the A. O. 1937, for "L. G." 2. Subs. by the A. O. 1937, for "with the previous sanction of the L. G." 95 68A. Authorities exercising jurisdiction in ports to co-operate in manoeuvres for defence of port. 1*[68A. Authorities exercising jurisdiction in ports to co- operate in manoeuvres for defence of port. Every authority exercising any powers or jurisdiction in, or relating to, any port to which this Act for the time being applies, shall, if so required by an officer authorized by general or special order of the Central Government in this behalf, co-operate in such manner as such officer may direct, in carrying out any manoeuvres in connection with any scheme or preparations for the defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material: Provided, firstly, that if any vessels are placed at the disposal of such officer in accordance with this section, the Central Government shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto. Explanation.--The expression "running expenses" in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels: Provided, secondly, that any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manoeuvres: Provided, thirdly, that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section. 68B. Duties of the said authorities in an emergency. 68B. Duties of the said authorities in an emergency. Whenever the Central Government is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 68A on the authorities therein mentioned, or other duties of a like nature, should be imposed on such authorities continuously during the existence of the emergency, it may, by general or special order, authorize any officer to require the said authorities to perform such duties until the Central Government is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely:-- The Central Government shall pay any authority, on

whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agree-

1. Ins. by Act 6 of 1916, s. 11. 96 ment, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Central Government, and the decision of such person shall be final.] 68C. Application of certain provisions of the Act to aircraft. 1*[68C. Application of certain provisions of the Act to aircraft.

(1) The provisions of sections 6, 13 to 16 (both inclusive), 18, 21 and 28, sub-section (2) of section 31 and sections 33, 34, 35, 39, 42 to 48 (both inclusive) and 55 shall apply in relation to all aircraft making use of any port subject to this Act, while on water as they apply in relation to vessels.

(2) No such aircraft shall enter or leave any port subject to this Act, except with the permission granted by the conservator of the port or by such other officer as may be authorized in this behalf by the conservator.]

Repeal. 69. [Repeal.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

o00o