

PRESS NOTE

The Committee headed by Additional Secretary and Financial Advisor, Ministry of Shipping has finalized the draft Major Ports Regulatory Authority Act 2009 (MPRAA, 2009). This Act will be successor to the provisions currently enshrined in the Major Port Trust Act, 1963 in so far as the working of Tariff Authority for Major Ports (TAMP) is concerned.

2. The draft of MPRAA, 2009 has been hosted on the Ministry of Shipping website (www.shipping.nic.in). Comments/suggestions from all concerned invited on the draft Act, latest by 21.07.2009.
3. It is further informed that a public hearing will be conducted on Friday the 24th July, 2009 at 10 a.m in the Ministry of Shipping Conference Hall, 4th floor, Transport Bhavan, Parliament Street, New Delhi 110001. All interested persons are requested to attend the public hearing on the appointed date and time.

Major Ports Regulatory Authority Act, 2009.

First Draft	Revised Draft
NIL	An Act to provide for the establishment of a Major Ports Regulatory Authority to regulate rates for the facilities and services provided at the major ports and to monitor the performance standards of Port Authorities and Private Operators providing such facilities and services and also to decide specific disputes between Port Authorities, Private Operators and group of users and for matters connected therewith or incidental thereto.
CHAPTER-I Preliminary	
<p>1. Short title, commencement and application</p> <p>(a) This may be called the Major Ports Regulatory Authority Act, 2008.</p> <p>(b) It shall apply to all the Major Ports with effect from such date as the Central Government may, by notification in the official Gazette, appoint.</p>	<p>1. Short title, commencement and application</p> <p>(a) This may be called the Major Ports Regulatory Authority Act, 2009.</p> <p>(b) It shall apply to all the Major Ports with effect from such date as the Central Government may, by notification in the official Gazette, appoint.</p>

2. Definitions - In this Act, unless the context otherwise requires -

- (a) “appointed day”, in relation to a port, means the date on which this Act is made applicable to that port;
- (b) “Authority” means the Major Ports Regulatory Authority established under Section 3.
- (c) “Concession Agreement” means an agreement by which a Private Operator is granted Concession by the concerned Port Authority to provide port facilities and services within a major port for the prescribed period.
- (d) “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;
- (e) “Private Operator” means any person who provides port facilities and services within a major port under a concession granted by the concerned Port Authority with the previous sanction of the Central Government.

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- (d) “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;
- (e) **“Private Operator” means any person who provides port facilities and services within a major port under a concession granted by the concerned Port Authority with the previous sanction of the Central Government and**

<p>(f) "Port authority" in relation to a Major Port means an authority on whom the ownership, the control and management of port is transferred or vested for the time being in a form of Board of Trustees constituted under the Major Port Trust Act, 1963 or a Company constituted under the Companies Act, 1956.</p> <p>(g) "prescribed" means prescribed by rules or regulations made under this Act;</p> <p>(h) "rate" includes any toll, due, rent, rate, fee, or charge leviable under this Act;</p> <p>(i) "regulations" means regulations made under this Act;</p> <p>(j) "rules" means rules made by the Central Government under this Act;</p>	<p>includes any person authorised under section 42(3) of the MPT Act;</p> <p>(f) "Port authority" in relation to a Major Port means an authority on whom the ownership, the control and management of port is transferred or vested for the time being in a form of Board of Trustees constituted under the Major Port Trust Act, 1963 or a Company constituted under the Companies Act, 1956;</p> <p>(g) "prescribed" means prescribed by rules or regulations made under this Act by the Central Government;</p> <p>(h) "rate" includes any toll, due, rent, rate, fee, or charge leviable by a port authority or a private operator;</p> <p>(i) "regulations" means regulations made under this Act by the Central Government;</p> <p>(j) "rules" means rules made under this Act by the Central Government.</p>
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<p style="text-align: center;">CHAPTER-II</p> <p style="text-align: center;">Major Ports Regulatory Authority</p>	<p style="text-align: center;">CHAPTER-II</p> <p style="text-align: center;">Major Ports Regulatory Authority</p>
<p>3. Constitution and incorporation of Tariff Authority for Major Ports</p> <p>(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted, for the purposes of this Act, an Authority to be called the Major Ports Regulatory Authority.</p> <p>(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and immoveable and to contract and shall by the said name sue and be sued.</p> <p>(3) The head office of the Authority shall be at such place as the Central Government may decide from time to time.</p>	<p>3. Constitution and incorporation of <u>Major Ports Regulatory Authority</u>. <i>[Modified (3)]</i></p> <p>(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted, for the purposes of this Act, an Authority to be called the Major Ports Regulatory Authority.</p> <p>(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and immoveable and to contract and shall by the said name sue and be sued.</p> <p>(3) The head office of the Authority shall be at such place as the Central Government may decide from time to time and the Authority may, with the previous approval of the Central Government, establish regional offices at other places in India.</p>
<p>4. Qualification for appointment of Chairperson and other Members</p> <p>(1) The Authority shall consist of a Chairperson and four</p>	<p>4. Qualification for appointment of Chairperson and other Members -----</p> <p><i>(Deletion (a) & (b) and modified 2nd para of 2)</i></p>

<p>Members to be appointed by the Central Government, as follows</p> <p>(a) A Chairperson from amongst persons who is or who has been in the level of Secretary to the Government of India and who has experience in the management and knowledge of the functioning of the ports;</p> <p>(b) Four members, part-time or full time, as may be decided by the Central Government, from amongst persons having special knowledge of and professional experience of not less than fifteen years in the fields of port management, port operations, port conservancy, port engineering, shipping, finance, transport, economics, international trade, maritime law or infrastructure sector regulation.</p> <p>Provided no two members so appointed shall be from the same area of knowledge mentioned above.</p> <p>(2) The Central Government shall, for the purpose of selecting the Chairperson and other members of the Authority, constitute a search committee consisting of –</p> <p>(a) Cabinet Secretary Chairperson</p> <p>(b) Secretary to Govt. of India, Department of Shipping Member</p>	<p>(1) The Authority shall consist of a Chairperson and four Members, part time or full time.</p> <p>(2) The Chairperson and Members shall be appointed by the Central Government on the recommendations of a committee consisting of –</p> <p>(a) Cabinet Secretary Chairperson</p> <p>(b) Secretary, Ministry of Shipping Member</p> <p>(c) Secretary, Department of Economic Affairs Member</p> <p>(d) Secretary, Department of Legal Affairs Member</p> <p>(e) Any person of high reputation in the field of management or regulatory affairs to be nominated by the Department of Shipping Member</p> <p>(3) The Chairperson and Members shall be persons having special knowledge of and professional experience of not less than fifteen years in the fields of port operations and management, shipping trade, finance, transport economics, international trade, maritime law or infrastructure sector regulation.</p> <p>Provided that</p>
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<p>(c) Secretary to Govt. of India, Department of Economic Affairs Member</p> <p>(d) Secretary to Govt. of India, Department of Legal Affairs Member</p> <p>(e) Any person of high reputation in the field of management or regulatory affairs to be nominated by the Department of Shipping Member</p>	<p>(i) Chairperson and any other Member; or (ii) any two Members</p> <p>so appointed shall not be from the same area of knowledge.</p> <p>Provided also that a person who is, or has been, in the services of Government shall not be appointed as a Chairperson or a Member unless such person has held the post of Secretary to Government of India or equivalent in the Central Government in the case of Chairperson and Additional Secretary or equivalent in the Central Government, in the case of Members.</p>
<p>5. Term of office, conditions of service, etc., of Chairperson and other members:</p> <p>(1) Before appointing any person as the Chairperson or other member, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or such other member.</p> <p>(2) The Chairperson and other members shall hold office for a term of five years from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier.</p>	<p>5. Term of office and conditions of service of Chairperson and Members:</p> <p>(1) The Chairperson or a Member of the Authority shall not be a Member of Parliament or Member of Legislature of any State or Union Territory, as the case may be, or hold any other office of profit or carrying on any business or pursuing any profession which is likely to affect prejudicially his functions as Chairperson or such other Member.</p> <p>(2) The Chairperson shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment.</p>

Provided that the Chairperson and other members shall not be eligible for re-appointment.

Explanation – For the purposes of this section, appointment of a member as Chairperson shall not be deemed to be re-appointment.

(3) A person in the service of the Central Government, a State Government or an autonomous body, an undertaking, corporation or company owned or controlled by the Central Government or a State Government or from any other non-Government or corporate body shall resign or retire from such service before joining as the Chairperson or other full-time member, as the case may be.

(4) The salaries and allowances payable to and the other terms and conditions of service of the Chairpersons and the other members shall be such as may be prescribed.

Provided that neither the salary and allowance nor the other terms and conditions of service of the Chairperson or any other member shall be varied to his disadvantage after appointment.

(5) The Chairperson or other member may resign his office by

Provided that no Chairperson shall hold office as such after he has attained the age of sixty-five years.

(3) Every Member shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Member.

Provided that every Member shall, on vacating his office under this sub-section, be eligible for appointment as Chairperson in the manner specified in sub-section (2) of section 4.

Provided further that where the Member is appointed as the Chairperson, his term of office shall not be more than five years in aggregate as the Member and the Chairperson.

(4) The salaries and allowances payable to and the other terms and conditions of service of the Chairpersons and the other members shall be such as may be prescribed by the Central Government.

giving notice thereof in writing to the Central Government and on such resignation being accepted, the Chairperson or such other member shall be deemed to have vacated his office.

(6) The Chairperson or any other member, upon ceasing to hold office as such, shall

(a) be ineligible for further employment under the Central Government or any State Government, and

(b). Not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Explanation – For the purpose of this section, “commercial employment” means employment in any capacity under, or agency of a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an advisor or a consultant.

Provided that the salary and allowances and other terms and conditions of service of the Chairperson and the Member shall not be varied to their disadvantage after their appointment.

(5) The Chairperson or a Member may, at any time, by writing under his hand addressed to the Central Government, resign from his office.

Provided that the Chairperson or a Member may be removed in the manner specified under section 6.

(6) The Chairperson or any other Member shall, upon ceasing to hold office as such,

(a) be ineligible for further employment under the Central Government or any State Government or any Port Authority and

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Explanation – For the purpose of this section, “commercial employment” means employment in any capacity under, or

	<p>agency of a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an advisor or a consultant.</p>
<p>6. Removal of Chairperson or any other Member from office The Central Government may remove from office the Chairperson or any other Member, who –</p> <p>(a) has been adjudged as insolvent; or</p> <p>(b) has been convicted of an offence which in the opinion of the Central Government, involve moral turpitude; or</p> <p>(c) has become physically or mentally incapable of acting as a member; or</p> <p>(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or</p> <p>(e) has so abused his position as to render his continuance in office prejudicial to the public interest.</p> <p>Provided that no Chairperson or other member shall be removed from office under clause (d) or clause (e) unless the Central</p>	<p>6. Removal of Chairperson or any other Member from office</p> <p>(1) Subject to the provision of sub-section (3), the Chairperson or any Member shall be removed from his office only by order of the Central Government on the ground of proved misbehavior or incapacity if the Central Government, after holding an inquiry by any person appointed or authority constituted for the purpose and in accordance with such procedure as may be prescribed in this behalf, is satisfied that such person ought on such ground or grounds to be removed.</p> <p>(2) The Central Government may suspend from office, and if deem necessary prohibit also from attending office, the Chairperson or Member in respect of whom an inquiry is being held.</p> <p>(3) Notwithstanding anything contained in sub-section (1), the</p>

<p>Government after holding an inquiry by any person appointed or authority constituted for the purpose and in accordance with such procedure as may be prescribed in this behalf, is satisfied that such person ought on such ground or grounds to be removed.</p>	<p>Central Government may by order remove from office the Chairperson or any other Member if the Chairperson or a Member, as the case may be, –</p> <ul style="list-style-type: none"> (a) is adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or (c) is, in the opinion of the Central Government, unfit to continue in office by reason of infirmity of mind or body; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest. <p>Provided that no Chairperson or a Member shall be removed from office under clause (d) or clause (e) only after an inquiry has been held in the manner as specified in sub-section (i).</p>
<p>7. If a casual vacancy occurs in the office of the Chairperson or any Member, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other</p>	

<p>incapacity, such vacancy shall be filled up by the Central Government by making a fresh appointment and the Chairperson or the Member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.</p>	
<p>8. Power of Chairperson The Chairperson shall have the power of general superintendence and directions in the conduct of the affairs of the Authority and shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions of the Authority, as may be assigned to him by the Authority.</p>	<p>8. Power of Chairperson <i>(Modified)</i> The general superintendence, direction and management of the affairs of the Authority shall vest in the Chairperson who shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions of the Authority, as may be assigned to him by the Authority.</p>
<p>9 Meetings of the Authority The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations.</p>	<p>9 Meetings of the Authority The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations.</p>
<p>10 Consultative Meetings Consultative meetings or hearings of a case jointly with the port authority or private operator and concerned users shall be organised and presided over by the Chairperson or in his</p>	<p>10 Consultative Meetings Consultative meetings or hearings of a case jointly with the port authority or private operator and concerned users shall be organised and presided over by the Chairperson or in his</p>

absence any other Member authorised by the Authority in this behalf.	absence any other Member authorised by the Authority in this behalf.
<p>11 Authentication of all orders and decisions of the Authority</p> <p>All orders, directions and decisions of the Authority shall be authenticated by the signature of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.</p>	<p>11 Authentication of all orders and decisions of the Authority</p> <p>All orders, directions and decisions of the Authority shall be authenticated by the signature of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.</p>
<p>12. Vacancy, etc. not to invalidate proceedings of the Authority</p> <p>No act or proceeding of the Authority shall be invalidated merely by reason of –</p> <p>(a) any vacancy in, or any defect in, the constitution of the Authority; or</p> <p>(b) any defect in the appointment of a person acting as a Chairperson or a Member of the Authority; or</p> <p>(c) any irregularity in the procedure of the Authority not affecting the merits of the case.</p>	<p>12. Vacancy, etc. not to invalidate proceedings of the Authority</p> <p>No act or proceeding of the Authority shall be invalidated merely by reason of –</p> <p>(a) any vacancy in, or any defect in, the constitution of the Authority; or</p> <p>(b) any defect in the appointment of a person acting as a Chairperson or a Member of the Authority; or</p> <p>(c) any irregularity in the procedure of the Authority not affecting the merits of the case.</p>

<p>13. Officers and employees of the Authority</p> <p>(1) The Authority may determine, with the approval of the Central Government, the number and categories of officers and other employees and appoint such officers and employees, as it considers necessary for the efficient discharge of its functions under this Act.</p> <p>(2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be specified by regulations</p>	<p>13. Officers and employees of the Authority</p> <p>(1) The Authority may determine, with the approval of the Central Government, the number and categories of officers and employees and appoint such officers and employees, as it considers necessary for the efficient performance of its functions under this Act.</p> <p>(2) The salary and allowances payable to and the terms and conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be prescribed.</p>
<p>CHAPTER-III</p> <p>Powers and Function of the Authority</p>	<p>CHAPTER-III</p> <p>Powers and Function of the Authority</p>
<p>14. Functions of the Authority</p> <p>(1) The Authority shall discharge all or any of the following functions, namely:</p> <p>(a) Fixing of rates, from time to time, including the statement of conditions in respect of services provided by Port Authorities and Private Operators, as provided in Sections 15, 17, 18 and</p>	<p>14. Functions of the Authority</p> <p><u>[Modified (b) & Deletion at h – 1st para]</u></p> <p>(1) Subject to the provisions of this Act, it shall be duty of the Authority to discharge all or any of the following functions, namely:</p> <p>(a) Fixing of rates, from time to time, including the statement</p>

<p>19.</p> <p>(b) Fixing of rates, from time to time, for use of properties of the port authorities as provided in Section 16.</p> <p>(c) Determining and prescribing the conditions in relation to levy of the rates referred above.</p> <p>(d) Laying down the performance norms and standards of quality, continuity and reliability of service to be provided by the port authorities and private operators and monitor actual performance and services levels provided with a view to secure compliance of such prescribed norms and standards by the port authorities and private operators.</p> <p>(e) Monitoring the performance of respective duties and obligations under the Concession Agreement by a Port Authority and the concerned Private Operator and to determine and decide upon any disputes between them, unless the parties have agreed to refer the dispute to arbitration, as provided in the said Concession Agreement.</p> <p>(f) Deciding any dispute involving the port authorities / private operators and a group of persons using the services and / or proprieties with reference to application of Scale of Rates</p>	<p>of conditions in respect of services provided by Port Authorities and Private Operators, as provided in Sections 15, 17, 18 and 19.</p> <p>(b) fixing of rates, from time to time, including the statement of conditions for use of properties of the port authorities as provided in Section 16;</p> <p>(c) determining and prescribing the conditions in relation to levy of the rates referred to in sub-section (b);</p> <p>(d) laying down the performance norms and standards of quality, continuity and reliability of service to be provided by the port authorities and private operators and monitor actual performance and services levels provided with a view to secure compliance of such prescribed norms and standards by the port authorities and private operators;</p> <p>(e) monitoring the performance of respective duties and obligations under the Concession Agreement by a Port Authority and the concerned Private Operator and to determine and decide upon any disputes between them, unless the parties have agreed to refer the dispute to arbitration, as provided in the said Concession Agreement;</p>
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<p>and/or quality of services provided.</p> <p>(g) Advising the Central Government on any relevant matters that may be referred to it.</p> <p>(h) Performing such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Act.</p> <p>Provided that the Authority shall not exercise the functions mentioned at (d) and (e) above in respect of a Private Operator who, at the time of commencement of this Act, is already operating any facility at a major port under a concession agreement which does not contain any stipulation regarding performance or standard to be maintained by him.</p> <p>Provided further that the disputes which are maintainable before a consumer disputes redressal forum under the Consumer Protection Act, 1986 or which are within the purview of Competition Act, 2002 shall not be taken by the Authority but shall be raised before such appropriate forum</p> <p>(2) In determining rates and governing conditionalities and performance norms, the Authority shall be guided by the following, namely:-</p>	<p>(f) decide any dispute involving the port authorities / private operators and a group of persons using the services and / or proprieties with reference to application of Scale of Rates and/or quality of services provided;</p> <p>(g) advise the Central Government on any relevant matters that may be referred to it;</p> <p>(h) perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Act.</p> <p>Provided that the disputes which are maintainable before a consumer disputes redressal forum under the Consumer Protection Act, 1986 or which are within the purview of Competition Act, 2002 shall not be taken by the Authority but shall be raised before such appropriate forum</p> <p>(2) In determining rates and governing conditionalities and performance norms, the Authority shall be guided by the following, namely:-</p> <p>(a) safeguarding the interest of shippers/consignees and other port users;</p> <p>(b) ensuring just and fair return to port authorities and</p>
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<p>(a) Safeguarding the interest of shippers/consignees and other port users.</p> <p>(b) Ensuring just and fair return to port authorities and private operators.</p> <p>(c) The factors which will encourage competition, economical use of resources, efficiency in performance and optimum investment.</p> <p>(d) The policy directions issued by the Central Government under section 27 of this Act.</p> <p>(e) Ensuring transparency and participative approach while discharging its functions.</p> <p>(3) The Authority, with the previous concurrence of the Central Government, shall frame regulations in relation to exercise of its powers and functions and fixation of rates and conditionalities.</p>	<p>private operators;</p> <p>(c) factors which will encourage competition, economical use of resources, efficiency in performance and optimum investment;</p> <p>(d) the policy directions issued by the Central Government under section 27 of this Act;</p> <p>(e) ensuring transparency and participative approach while discharging its functions.</p> <p>(3) The Authority, with the previous concurrence of the Central Government, shall frame regulations in relation to exercise of its powers and functions and fixation of rates and conditionalities.</p>
<p>15. Scales of rates for services performed by Port Authorities or Private Operators</p> <p>The Authority shall from time to time, by notification in the Official Gazette, frame a scale of rates prescribing ceiling rates at which, and a statement of conditions under which, any of the services specified hereunder shall be performed by a Port Authority or</p>	<p>15. Scales of rates for services performed by Port Authorities or Private Operators --- <u>(Modified)</u></p> <p>The Authority shall from time to time, by notification in the Official Gazette, frame a scale of rates prescribing ceiling rates at which, and a statement of conditions including performance norms and standards under which, any of the services</p>

<p>any private operator at or in relation to the port or port approaches</p> <p>(a) transshipping of passengers or goods between vessels in the port or port approaches;</p> <p>(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;</p> <p>(c) cranage or portorage of goods on any such place;</p> <p>(d) wharfage, storage or demurrage of goods on any such place;</p> <p>(e) any other service in respect of vessels, passengers or goods,</p> <p>(2) Different scales and conditions may be framed for different classes of goods and vessels.</p>	<p>specified hereunder shall be performed by a Port Authority or any private operator at or in relation to the port or port approaches, namely</p> <p>(a) transshipping of passengers or goods between vessels in the port or port approaches;</p> <p>(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;</p> <p>(c) cranage or portorage of goods on any such place;</p> <p>(d) wharfage, storage or demurrage of goods on any such place;</p> <p>(e) any other service in respect of vessels, passengers or goods,</p> <p>(2) Different scales and conditions may be framed for different classes of goods and vessels.</p>
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16. Scales of rates and statement of conditions for use of property belonging to Port Authorities

(1). The Authority shall from time to time, by notification in the Official Gazette, also frame a scale of rates prescribing ceiling rates on payment of which, and a statement of conditions under which, any property belonging to, or in the possession or occupation of, the Port Authority, or any place within the limits of the port or port approaches may be used for the purposes specified hereunder –

(a) approaching or ling 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.

16. Scales of rates and statement of conditions for use of property belonging to Port Authorities -- (Modified)

(1). The Authority shall from time to time, by notification in the Official Gazette, also frame a scale of rates prescribing ceiling rates on payment of which, and a statement of conditions **including performance norms and standards** under which, any property belonging to, or in the possession or occupation of, the Port Authority, or any place within the limits of the port or port approaches may be used for the purposes specified hereunder –

(a) approaching or ling 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.

<p>(2) Different scales and conditions may be framed for different classes of goods and vessels.</p> <p>(3) Notwithstanding anything contained in sub-section (1), the Port Authority 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).</p>	<p>(2) Different scales and conditions may be framed for different classes of goods and vessels.</p> <p>(3) Notwithstanding anything contained in sub-section (1), the Port Authority 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).</p>
<p>17. Fees for pilotage and certain other services</p> <p>The Authority may fix ceiling rates for fees to be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels within any port..</p>	<p>17. Fees for pilotage and certain other services --(Modified)</p> <p>The Authority may fix ceiling rates for fees to be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels within any port and prescribe a statement of conditions including performance norms and standards governing levy of such rates.</p>
<p>18. Fixation of port-dues</p> <p>(1) The Authority shall from time to time, by notification in the Official Gazette, fix the ceiling rates of port-dues on vessels entering the port.</p> <p>(2) A vessel entering any port in ballast and not carrying passengers shall be charges with a port-due at a rate to be determined by the Authority and not exceeding three-fourths of</p>	<p>18. Fixation of port-dues --- (Modified)</p> <p>(1) The Authority shall from time to time, by notification in the Official Gazette, fix the ceiling rates of port-dues on vessels entering the port and prescribe a statement of conditions including performance norms and standards governing levy of such rates.</p> <p>(2) A vessel entering any port in ballast and not carrying</p>

<p>the rate with which she would otherwise be chargeable.</p> <p>(3) When a vessel enters a port but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Authority and not exceeding half the rate with which she would otherwise be chargeable.</p>	<p>passengers shall be charges 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.</p> <p>(3) When a vessel enters a port but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Authority and not exceeding half the rate with which she would otherwise be chargeable.</p>
<p>19. Consolidated rates for combination of services-</p> <p>The Authority may, from time to time, by notification in the Official Gazette, frame a consolidated scale of rates containing ceiling rates for any combination of service specified in Section 13 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 Port Authority, as specified in Section 14 or the fees to be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels as specified in Section 15 or the port dues to be fixed on vessels entering the port and for the duration of such</p>	<p>19. Consolidated rates for combination of services- (Modified)</p> <p>The Authority may, from time to time, by notification in the Official Gazette, frame a consolidated scale of rates containing ceiling rates for any combination of service specified in Section 13 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 Port Authority, as specified in Section 14 or the fees to be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels as specified in Section 15 or the port dues to be fixed on vessels entering the port and for the duration of</p>

<p>dues as specified in Section 16.</p>	<p>such dues as specified in Section 16 and prescribe a statement of conditions including performance norms and standards governing such Scale of Rates.</p>
<p>20. Powers of the Authority</p> <p>The Authority shall have, for the purposes of discharging their functions under this, the same powers as are vested in a Civil Court under the Code of Civil Procedure 1908 in respect of the following matters:</p> <ul style="list-style-type: none"> (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses or documents; (e) reviewing its decisions; (f) dismissing an application for default or deciding it ex-parte; 	<p>20. Powers of the Authority</p> <p>The Authority shall, for the purposes of discharging their functions under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :-</p> <ul style="list-style-type: none"> (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things; (b) requiring the discovery and inspection of documents; (d) receiving evidence on affidavit; (e) requisitioning any public record or copies thereof from any Court or office; (f) issuing summons for examination of witnesses or documents; (g) reviewing its decisions; (h) dismissing an application for default or deciding it ex-

<p>(g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;</p> <p>(h) granting interim relief</p> <p>(i) any other matter which may be prescribed</p> <p>(2) The Authority shall be guided by the principles of natural justice and subject to other provisions of this Act, shall have powers to regulate its own procedure.</p>	<p>parte;</p> <p>(i) setting aside any order of dismissal of any application for default or any order passed by it ex parte;</p> <p>(j) granting interim relief; and</p> <p>(k) any other matter which may be prescribed.</p> <p>(2) The Authority shall be guided by the principles of natural justice and subject to other provisions of this Act, shall have powers to regulate its own procedure.</p>
<p>21. Powers of Authority to call for information, conduct investigation, etc</p> <p>(1) Where the Authority considers it expedient so to do, it may, by order in writing,-</p> <p>(a) call upon any Port Authority or Private Operator at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or</p> <p>(b) authorise any of its officers or employees or appoint one or more persons to make an inquiry in relation to the affairs of a port authority or a private operator</p> <p>(c) direct any of its officers or employees or such other</p>	<p>21. Powers of Authority to call for information, conduct investigation, etc</p> <p>(1) Where the Authority considers it expedient so to do, it may, by order in writing,-</p> <p>(a) call upon any Port Authority or Private Operator at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or</p> <p>(b) authorise any of its officers or employees or appoint one or more persons to make an inquiry in relation to the affairs of a port authority or a private operator; or</p> <p>(c) direct any of its officers or employees or such other</p>

<p>persons as may be nominated by it to inspect the books of account or other documents of any port authority or private operator.</p> <p>(2) Where any inquiry in relation to the affairs of a port authority or private operator has been undertaken under sub-section (1),</p> <p>(a) every officer of the Port Authority;</p> <p>(b) every director, manager, secretary or other officer of the private operator or;</p> <p>(c) every other person or body of persons who has had dealings in the course of business with the port authority or private operator</p> <p>shall be bound to produce before the Authority or the persons mentioned at sub-section (1) (b) or (c) making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.</p> <p>(3). The Authority shall have power to verify the data supplied by</p>	<p>persons as may be nominated by it to inspect the books of account or other documents of any port authority or private operator.</p> <p>(2) Where any inquiry in relation to the affairs of a port authority or private operator has been undertaken under sub-section (1),</p> <p>(a) every officer of the Port Authority;</p> <p>(b) every director, manager, secretary or other officer of the private operator or;</p> <p>(c) every other person or body of persons who has had dealings in the course of business with the port authority or private operator</p> <p>shall be bound to produce before the Authority or the persons mentioned at sub-section (1) (b) or (c) making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.</p> <p>(3). The Authority shall have power to verify the data supplied</p>
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<p>a Port Authority or Private Operator and appoint any person or persons for the purpose and take such measures as it may consider necessary.</p> <p>(4) Every Port Authority and Private Operator shall allow inspection of such facilities and documentary records, as may be specified by the Authority, by any person authorised by the Authority.</p>	<p>by a Port Authority or Private Operator and appoint any person or persons for the purpose and take such measures as it may consider necessary.</p> <p>(4) Every Port Authority and Private Operator shall allow inspection of such facilities and documentary records, as may be specified by the Authority, by any person authorised by the Authority.</p>
<p>22. Enforcement of orders of the Authority</p> <p>For the purposes of enforcement of its orders the Authority shall have power to call for any information from any person and to issue such directions as it may think fit in order to ensure due compliance of its orders and for effectively discharging its functions under the Act.</p>	<p>22. Enforcement of orders of the Authority</p> <p>For the purposes of enforcement of its orders, the Authority shall have power to call for any information from any person and to issue such directions as it may think fit in order to ensure due compliance of its orders and for effectively discharging its functions under the Act.</p>
<p>23. Bar of jurisdiction of Civil Courts</p> <p>Notwithstanding anything contained in the Act for the time being in force, no Civil Court shall have jurisdiction to entertain any matter pertaining to matters falling within the jurisdiction of the Authority and generally in relation to orders passed by the Authority in exercise of its powers and functions under the Act.</p>	<p>23. Bar of jurisdiction of Civil Courts</p> <p>No Court shall entertain any suit, application or other proceeding in respect of matters falling within the jurisdiction of the Authority and generally in relation to orders passed by the Authority in exercise of its powers and functions under the Act.</p>

<p>24. Overriding Effect</p> <p>The provisions of this Act in relation to the powers and functions of the Authority shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act</p>	<p>24. Overriding Effect</p> <p>The provisions of this Act in relation to the powers and functions of the Authority shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>
<p>25. Power to make regulations</p> <p>(1) The Authority may, with the previous concurrence of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide or any of the following matters namely-</p> <p>(a) The time and places of meetings of the Authority and consultative meetings and the procedure to be followed at such meetings.</p> <p>(b) The salaries and allowances payable to and the other conditions of service of officers and other employees of the</p>	<p>25. Power to make regulations - (Modification 2-a,) <u>(Addition at 2 - d,e & f)</u></p> <p>(1) The Authority may, with the previous concurrence of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide or any of the following matters namely-</p> <p>(a) The time and places of meetings of the Authority and consultative meetings and the procedure (including quorum necessary for the transaction business) to be followed at such meetings.</p> <p>(b) The salaries and allowances payable to and the other</p>

<p>Authority</p> <p>(c) Exercise of its powers and functions and guidelines relating to fixation of rates and conditionalities.</p> <p>(3). Every regulation made 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 or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation 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 regulation.</p>	<p>conditions of service of officers and other employees of the Authority</p> <p>(c) Exercise of its powers and functions and guidelines relating to fixation of rates and conditionalities.</p> <p>(d). Setting of performance norms and standards and monitoring actual performance alongwith the corrective / penal measures to applied in case of non adherence of such norms and standards.</p> <p>(e). The manner and procedure to be followed in the proceedings initiated to decide the disputes under Section 14 (1) (e) and section 14 (1) (f).</p> <p>(f). Prescribing the necessary formats and instructions for filing tariff proposals and periodic returns at such intervals as may be specified.</p> <p>(g). any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.</p> <p>(3). Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament,</p>
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	<p>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 or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation 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 regulation.</p>
<p>CHAPTER-IV Powers of the Central Government</p>	<p>CHAPTER-IV Powers of the Central Government</p>
<p>26. Power of Central Government to require modifications or cancellation of rates</p> <p>(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, 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.</p> <p>(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</p>	<p>26. Power of Central Government to require modifications or cancellation of rates</p> <p>(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, 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.</p> <p>(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</p>

<p>modifications therein as it may think fit.</p> <p>Provided that before so cancelling or modifying any scale the Central Government shall consider any objection or suggestion which may be made by the Authority during the specified period.</p> <p>(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.</p>	<p>modifications therein as it may think fit.</p> <p>Provided that before so cancelling or modifying any scale the Central Government shall consider any objection or suggestion which may be made by the Authority during the specified period.</p> <p>(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.</p>
<p>27. Power of Central Government to issue policy directions</p> <p>(1). The Authority shall, in the discharge of its functions under this Act be bound by such directions on questions of policy as the Central Government may give in writing from time to time.</p> <p>Provided that the Authority shall be given opportunity to express its views before any direction is given under this sub-section.</p> <p>(2).The decision of the Central Government whether a question is one of policy or not shall be final.</p>	<p>27. Power of Central Government to issue policy directions</p> <p>(1). The Authority shall, in the discharge of its functions under this Act be bound by such directions on questions of policy as the Central Government may give in writing from time to time.</p> <p>Provided that the Authority shall be given opportunity to express its views before any direction is given under this sub-section.</p> <p>(2).The decision of the Central Government, whether a question is one of policy or not, shall be final.</p>

28. Power of Central Government to supersede the Authority

(1) If the Central Government is of the opinion that the Authority is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has willfully or without sufficient cause, failed to comply with any direction issued by the Central Government the Central Government may, by notification in the Official Gazette, supersede the Authority for such period as may be specified in the notification.

Provided that, before issuing a notification under this sub-section, the Central Government shall give reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority -

(a) the Chairperson and the Members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such Chairperson or Members as the case may be;

28. Power of Central Government to supersede the Authority

(1) If the Central Government is of the opinion that the Authority is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has willfully or without sufficient cause, failed to comply with any direction issued by the Central Government, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period as may be specified in the notification.

Provided that, before issuing a notification under this sub-section, the Central Government shall give reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority -

(a) the Chairperson and the Members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such Chairperson or Members, as the case may be;

<p>(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct.</p> <p>(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may-</p> <p>(a) extend the period of supersession for such further period as it may consider necessary; or</p> <p>(b) reconstitute the Authority in the manner provided in Section 1.</p>	<p>(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct.</p> <p>(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may-</p> <p>(a) extend the period of supersession for such further period as it may consider necessary; or</p> <p>(b) reconstitute the Authority in the manner provided in Section 1.</p>
<p>CHAPTER-V Finance Accounts and Audit</p>	<p>CHAPTER-V Finance Accounts and Audit</p>
<p>29. Grants by Central Government</p> <p>The Central Government may, after due appropriation made by Parliament in this behalf, make to the Authority grants of such sums of money as are required to meet its expenses.</p>	<p>29. Grants by Central Government</p> <p>The Central Government may, after due appropriation made by Parliament in this behalf, make to the Authority grants of such sums of money as are required to meet its expenses.</p>

30. Accounts and Audit

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor General of India.

Explanation: For the removal of doubts, it is hereby declared that the decisions of the Authority taken in discharge of its functions under this Act, shall not be subject to audit under this section.

(3) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Authority under the Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India generally has in

30. Accounts and Audit

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

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Explanation: For the removal of doubts, it is hereby declared that the decisions of the Authority taken in discharge of its functions under this Act, shall not be subject to audit under this section.

(3) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Authority under the Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India generally has in

<p>connection with the audit of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.</p> <p>(4) The accounts of the Authority, as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid, as soon as may be after it is received before each House of Parliament.</p>	<p>connection with the audit of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.</p> <p>(4) The accounts of the Authority, as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid, as soon as may be after it is received before each House of Parliament.</p>
<p>31. Annual Report</p> <p>(1) The Authority shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.</p> <p>(2) A copy of the report received under sub section (1) shall be laid as soon as may be received, before each house of Parliament</p>	<p>31. Annual Report</p> <p>(1) The Authority shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.</p> <p>(2) A copy of the report received under sub section (1) shall be laid as soon as may be received, before each House of Parliament</p>

<p style="text-align: center;">CHAPTER-VI</p> <p style="text-align: center;">Offence and Penalties</p>	<p style="text-align: center;">CHAPTER-VI</p> <p style="text-align: center;">Offence and Penalties</p>
<p>32. Offences and Punishment</p> <p>(1). If a person violates the Scale of Rates or contravenes the directions or fails to comply with the order of the Authority, such person shall be punishable with fine which extend to one crore rupees and in case of continuing contravention with additional fine which may extend to a lakh rupees for every day during which the contravention continues.</p> <p>(2). (a). Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the</p>	<p>32. Offences and Punishment</p> <p>(1). If a person violates the Scale of Rates or contravenes the directions or fails to comply with the order of the Authority, such person shall be punishable with fine which may extend to one crore rupees and in case of continuing contravention with additional fine which may extend to a lakh rupees for every day during which the contravention continues.</p> <p>(2). (a). Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent</p>

commission of such offence.

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

Explanation – For the purpose of this section –

(a) “company” means any body corporate and includes a firm or other association of individuals; and’

(b) “director”, in relation to a firm, means a partner in the firm.

(3) (a) Where an offence under this Act has been committed by any Port Authority, the Head of the Port Authority shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves

the commission of such offence.

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

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(3) (a) Where an offence under this Act has been committed by any Port Authority, the Head of the Port Authority shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves

<p>that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(b). Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a Port Authority and it is proved that the offence has been committed with the consent or connivance of, or is attributable to such neglect on the part of, any officer, other than the Head of the Port Authority such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p>	<p>that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(b). Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a Port Authority and it is proved that the offence has been committed with the consent or connivance of, or is attributable to such neglect on the part of, any officer, other than the Head of the Port Authority such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p>
<p>33. Cognizance of certain offences</p> <p>(1) No court shall take cognisance of any offence punishable under section save on a complaint made by the Authority or by any investigating agency directed by the Central Government.</p> <p>(2) No court inferior to that of a Chief Metropolitan Magistrate or of a Chief Judicial Magistrate shall try any offence punishable under this Chapter.</p> <p>(3) Every offence punishable under this Act shall be cognizable.</p>	<p>33. Cognizance of certain offences</p> <p>(1) No court shall take cognisance of any offence punishable under section 32 save on a complaint made by the Authority or by any investigating agency directed by the Central Government.</p> <p>(2) No Court inferior to that of a Chief Metropolitan Magistrate or of a Chief Judicial Magistrate shall try any offence punishable under this Chapter.</p> <p>(3) Every offence punishable under this Act shall be cognizable.</p>

<p style="text-align: center;">CHAPTER-VII Miscellaneous</p>	<p style="text-align: center;">CHAPTER-VII Miscellaneous</p>
<p>34. Authority to be exempted from certain taxes</p> <p>(1) Notwithstanding anything contained in the Wealth Tax Act, 1957, the Income Tax Act, 1961 or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth tax, income tax or any other tax in respect of their wealth, income, profits or gains derived.</p> <p>(2) The Authority shall also be exempted from payment of any stamp duty, octroi, sales tax, levies, cess, or any other tax of whatsoever nature whether imposed by the Central Government or by the State Governments.</p>	<p>34. Authority to be exempted from certain taxes – <u>(Modified)</u></p> <p>(1) Notwithstanding anything contained in the Wealth Tax Act, 1957, the Income Tax Act, 1961 or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth tax, income tax or any other tax in respect of their wealth, income, profits or gains derived.</p> <p>(2) The Authority shall also be exempted from payment of any stamp duty, octroi, sales tax, levies, cess, or any other tax of whatsoever nature whether imposed by the Central Government or by the State Governments or local authorities.</p>
<p>35. Publication of orders of Authority</p> <p>(1) Every Scale of Rates and regulations of the Authority made in pursuance of this Act shall be published in the Gazette of India and a copy thereof shall be kept in the office of the Port Authority of every port to which the Scale of Rates or regulation shall there be open at all reasonable times to the inspection of any person</p>	<p>35. Publication of orders of Authority - <u>(Modified 2)</u></p> <p>(1) Every Scale of Rates and regulations of the Authority made in pursuance of this Act shall be published in the Gazette of India and a copy thereof shall be kept in the office of the Port Authority of every port to which the Scale of Rates or regulation apply and shall there be kept open at all reasonable times to</p>

<p>without payment of fee.</p> <p>(2) An order increasing or altering the Scale of rates and fees shall not take effect until expiration of thirty days from the day on which the order was published in the Official Gazette, unless otherwise a different arrangement, for good and valid reasons, is not specifically mentioned in the Order by the Authority.</p>	<p>the inspection of any person without payment of fee.</p> <p>(2) An order increasing or altering the Scale of rates and fees shall not take effect until expiration of thirty days from the day on which the order was published in the Official Gazette, unless otherwise a different arrangement, for good and valid reasons, is not specifically ordered by the Authority.</p>
<p>36. Chairperson, members, etc., to be public servants</p> <p>The Chairperson, Members, Officers and other employees of the Authority shall be deemed when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.</p>	<p>36. Chairperson, Members and other employees to be public servants</p> <p>The Chairperson, Members, Officers and other employees of the Authority shall be deemed when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.</p>
<p>37. Protection of action taken in good faith</p> <p>No suit, prosecution or other legal proceeding shall lie against the Central Government, the Authority or any officer of the Central Government or any Chairperson, Member, officers or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.</p>	<p>37. Protection of action taken in good faith</p> <p>No suit, prosecution or other legal proceeding shall lie against the Central Government, the Authority or any officer of the Central Government or any Chairperson, Member, officers or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.</p>

<p>38. Repeal and Saving</p> <p>(1). With the establishment of the Authority in terms of Section 3, the Tariff Authority for Major Ports, 1963 constituted under Chapter V-A of the Major Port Trust Act, 1963 shall cease to function.</p> <p>(2). Notwithstanding such cessation,</p> <p>(a). The Chairperson and Members of the Tariff Authority for Major Ports shall be deemed to have been appointed as Chairperson and Members of the Authority in terms of Section 4 of this Act for the remaining period of their tenure.</p> <p>(b). All such action taken or orders and notifications issued or regulations framed by the Tariff Authority for Major Ports shall be deemed to have been done or taken or issued under the corresponding provisions of this Act.</p> <p>(c). All such policy directions issued by the Central Government to the Tariff Authority for Major Ports under Section 111 of the Major Port Trusts Act, 1963 shall be deemed to have been issued by the Central Government to the Authority under the corresponding provisions of this Act.</p>	<p>38. Repeal and Saving</p> <p>(1). With the establishment of the Authority in terms of Section 3, the Tariff Authority for Major Ports, 1963 constituted under Chapter V-A of the Major Port Trust Act, 1963 shall cease to function.</p> <p>(2). Notwithstanding such cessation,</p> <p>(a). the Chairperson and Members of the Tariff Authority for Major Ports shall be deemed to have been appointed as Chairperson and Members of the Authority in terms of Section 4 of this Act for the remaining period of their tenure.</p> <p>(b). All such action taken or orders and notifications issued or regulations framed by the Tariff Authority for Major Ports shall be deemed to have been done or taken or issued under the corresponding provisions of this Act.</p> <p>(c). All such policy directions issued by the Central Government to the Tariff Authority for Major Ports under Section 111 of the Major Port Trusts Act, 1963 shall be deemed to have been issued by the Central Government to the Authority under the corresponding provisions of this Act.</p>
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<p>(d). All the officers and other employees of the Tariff Authority for Major Ports shall be deemed to be the officers and other employees of the Authority.</p> <p>(e). All assets, liabilities, contracts, agreement and other transactions pertaining to Tariff Authority for Major Ports shall be transferred to the Authority and the Authority will be deemed to the successor of Tariff Authority for Major Ports for this purpose.</p> <p>(f). All litigations in any Court of law initiated by or pending against Tariff Authority for Major Ports shall be pursued by the Authority as its successor.</p>	<p>(d). All the officers and other employees of the Tariff Authority for Major Ports shall be deemed to be the officers and other employees of the Authority.</p> <p>(e). All assets, liabilities, contracts, agreement and other transactions pertaining to Tariff Authority for Major Ports shall be transferred to the Authority and the Authority will be deemed to the successor of Tariff Authority for Major Ports for this purpose.</p> <p>(f). All litigations in any Court of law initiated by or pending against Tariff Authority for Major Ports shall be pursued by the Authority as its successor.</p>
<p>39. Power to remove difficulties</p> <p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:</p> <p>Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.</p>	<p>39. Power to remove difficulties</p> <p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the difficulty:</p> <p>Provided that no order shall be made after the expiry of two years from the date of the commencement of this Act.</p>

<p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	<p>(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.</p>
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