

(2) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed five thousand Taka, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spares, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Authority out of the proceeds of the distress:

Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorised officer belonging to the pilot service of the Authority and if such damage or mischief is in any way attributable to the order, act or improper omission of such officer, the case shall not be cognizable by the Magistrate under this section.

**43.** No Court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Authority or by an officer authorised for the purpose by the Authority.

Cognizance of offences

**44.** All fees and sums due on account of property for the time being vested in the Authority and all arrears of tolls, charges, rates and dues imposed under this Ordinance may be recovered as arrears of land revenue, in addition to the other modes provided by this Ordinance.

Recovery of dues as arrears of land revenue

## **CHAPTER VII**

### **MISCELLANEOUS**

**45.** (1) It shall be lawful for the Chairman or any member, or for any person either generally or specially authorised by the Chairman in this behalf,-

Power of entry

- (a) to enter upon and survey, inspect or take level of any land;
- (b) to dig or bore into the sub-soil;
- (c) to set out the boundaries and intended lines of any work;

- (d) to mark such levels, boundaries and lines by placing marks and cutting trenches; and
- (e) to do all other acts necessary to be done for any of the purposes of this Ordinance or for the preparation or execution of any plan or scheme in respect of the Port.

(2) No person shall enter upon any land without previously giving the occupier of the land at least twenty-four hours' notice in writing of his intention to do so.

Compulsory acquisition of land for the Authority

**46.** Any land required by the Authority for carrying out the purposes of this Ordinance shall be deemed to be needed for a public purpose and such land may be requisitioned or acquired for the Authority by the Deputy Commissioner or any other officer in accordance with any law for the time being in force.

Submission of yearly reports and returns

**47.** (1) The Authority shall submit to the Government, as soon as possible after the end of every financial year but before the last day of December next following, a report on the conduct of its affairs for that year.

(2) The Government may, after giving sufficient notice to the Authority, require it to furnish the Government with-

- (a) any return, statement, estimates, statistics, or other information regarding any matter under the control of the Authority;
- (b) a report on any subject with which the Authority is concerned; or
- (c) a copy of any document in the charge of the Authority;

and the Authority shall comply with every such requisition.

Indemnity to the Authority for acts of officers, etc.

**48.** The Authority shall not be answerable-

- (a) for any misfeasance, malfeasance or nonfeasance of any of its officers or other employees or of any persons acting under the authority or direction of any such officer or other employee; or
- (b) for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the limits of the Port which may be used by such vessel:

Provided that nothing in this section shall protect the Authority from a suit in respect of any negligence or default on its part or of any act done by or under its express order or sanction.

**49.** (1) No suit shall be instituted against the Authority or against the Chairman or any member, officer or other employee of the Authority or any person acting under their direction for anything done or purporting to be done under this Ordinance until the expiration of one month next after notice in writing has been delivered or left at the office of the Authority stating the cause of the suit and the name and place of residence of the intending plaintiff.

Limitation of suits

(2) Every such suit shall be commenced within six months next after the accrual of the right to sue and not afterwards.

**50.** No provision of law relating to the winding up of bodies corporate shall apply to the Authority and the Authority shall not be wound up save by order of the Government and in such manner as it may direct.

Winding up

**51.** The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.

Power of Government to make rules

<sup>1</sup>[**51A.** Notwithstanding anything contained in this Ordinance or in any other law, rule or regulations for the time being in force, the Government may, if it considers necessary in the public interest, transfer on deputation any officer of the Authority to Inland Water Transport Authority established under the Inland Water Transport Authority Ordinance, 1958 (E. P. Ord. LXXV of 1958) or Mongla Port Authority established under the Mongla Port Authority Ordinance, 1976 (LIII of 1976) and any officer of Inland Water Transport Authority to Mongla Port Authority or Chittagong Port Authority and any officer of Mongla Port Authority to Inland Water Transport Authority or Chittagong Port Authority.]

Transfer of officers on deputation

**52.** (1) The Authority, may, with the prior approval of the Government, make regulations for carrying out the purposes of this Ordinance.

Power of the Authority to make regulations

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<sup>1</sup> Section 51A was inserted by section 15 of the Chittagong Port Authority (Amendment) Act, 1995 (Act No. XIX of 1995).

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for-

- (a) regulating, declaring and defining the docks, wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the Port;
- (b) safe and convenient use of such docks, wharves, quays, stages, jetties and piers and of landing places, railways, warehouses, sheds, and other works in and adjoining them;
- (c) regulating the manner in which, and the conditions under which, the loading and discharging of vessels shall be carried out;
- (d) regulating the reception and removal of goods within and from the premises of the Authority and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing or may be alleged to be so damaged;
- (e) regulating the mode of payment of tolls, dues, rates and charges levied under this Ordinance;
- (f) fixing and regulating the wages and allowances for pilotage to be received by pilots;
- (g) for regulating the behaviour and conduct of pilots, whether maintained by the Authority or not;
- (h) providing water for ships and for licensing and regulating water-boats within the Port;
- (i) removal of works from the Port or the river and keeping clean the Port, the river, the foreshore and the works of the Authority and for preventing filth and rubbish being thrown therein or thereon;
- (j) regulating conditions liabilities and responsibilities for the different types of goods received or shipped from or to vessels on docks, piers, sheds, open storages and moorings;
- (k) guidance of persons employed by the Authority under this Ordinance and generally for carrying out the purpose of this Ordinance; and
- (l) any other matter required under any provision of this Ordinance to be provided or prescribed by regulations.

(3) All regulations made under this section shall be published in the *official Gazette* and shall come into force on such publication.

**53. (1) Upon the establishment of the Authority-**

Repeal and savings

- (a) the Chittagong Port Act, 1914 (Ben. Act V of 1914), shall stand repealed;
- (b) all rules, regulations, bye-laws or orders made, notifications issued, acts done and actions and proceedings taken under the said Act, and force immediately before the establishment of the Authority, shall, in so far as they are not inconsistent with the provisions of this Ordinance, continue in force until altered, repealed or amended under the said provisions;
- (c) all assets, rights, powers, authorities and privileges, and all properties, movable and immovable, including lands, buildings, works, work-shops, machinery, leases, leaseholds, licences, cash and bank balances, funds, investments, and all other rights and interests in, or arising out of, such property of the Board of Trustees of the Port of Chittagong (hereinafter referred to as the Board of Trustees) or vested in or held in trust by the Board of Trustees subsisting immediately before the establishment of the Authority shall stand transferred to, and vest in, the Authority;
- (d) all debts, obligations, and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees before the establishment of the Authority shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Authority;
- (e) all tolls, dues, rates, charges, fees and other sums of money due to the Board of Trustees immediately before the establishment of the Authority shall be deemed to be due to the Authority;
- (f) all tolls, dues, rates, charges and fees levied by the Board of Trustees shall, until they are varied by the Authority, continue to be levied at the same rate at which they were levied by it immediately before the establishment of the Authority;
- (g) every officer or other employee of the Board of Trustees shall stand transferred to and become an officer or employee of the Authority and shall hold office or service

in the Authority on the same terms and conditions as were enjoyed by them immediately before such transfer and shall continue to do so until these terms and conditions are altered under this Ordinance:

Provided that no officer or other employee whose services are so transferred shall be entitled to any compensation because of such transfer;

- (h) all suits and other legal proceedings instituted by or against the Board of Trustees before the establishment of the Authority shall be deemed to be suits and proceedings by or against the Authority and shall be proceeded or otherwise dealt with accordingly.

(2) The Government may, for the purpose of removing any difficulty in relation to the transfer and other matters specified in sub-section (1), make such orders as it considers expedient and any such order shall be deemed to be, and given effect to as, part of the provisions of this Ordinance.

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