

THE PORT AUTHORITY ACT

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SCHEDULE

THE PORT AUTHORITY ACT

[14th February, 1972.]

Law
13 of 1959.
Acts
16 of 1966,
35 of 1976.

1. This Act may be cited as the Port Authority Act. Short title.

PART I. *Preliminary*

2. In this Act unless the context otherwise requires or it is otherwise expressly provided— Interpretation.

“Authority” means the Port Authority established in accordance with this Act;

“harbour” means a harbour of the Island constituted under section 3 of the Harbours Act;

“port” means the Harbour of Kingston and includes any other harbour declared to be a port pursuant to section 3;

“port facilities” means facilities for the drydocking, berthing, towing, mooring or moving of vessels in or entering or leaving a port or its approaches, for the loading and unloading of goods or embarking or disembarking of passengers in or from any such vessel, for the lighterage or the sorting, weighing, warehousing or handling of goods, and for the carriage of passengers or goods in connection with any such facilities;

“vessel” means any decked vessel or craft, whatever may be its rig or tonnage, and whether propelled by sail, steam or otherwise.

3. The Minister may by order— Application.
- (a) declare any harbour to be a port for the purposes of this Act;

- (b) declare any navigable channel leading into a port to be an approach to such port for the purposes of this Act.

PART II. *Port Authority*

Establishment of Port Authority.

4.—(1) There shall be established for the purposes of this Act a body corporate called the Port Authority (in this Act referred to as the Authority) with perpetual succession and a common seal and with power to acquire, hold and dispose of property, to enter into contracts, to sue and be sued in its said name and to do all things necessary for the purposes of this Act.

Schedule.

(2) The provisions of the Schedule shall have effect as to the constitution and procedure of the Authority and otherwise in relation thereto.

Transfer of property.

5.—(1) The Minister may, by order, transfer to the Authority any property belonging to Government which appears to him to be necessary or useful to the Authority in carrying out its functions under this Act, and such property shall vest in the Authority by virtue of the order and without further assurance.

(2) An order made under subsection (1) shall—

- (a) specify the amount of compensation payable to Government in relation to property so transferred and the manner in which such compensation shall be paid;
- (b) contain such incidental, consequential and supplementary provisions as the Minister thinks necessary or expedient for the purposes of the order.

PART III. *Duties and Powers of Port Authority*

Duties and powers of the Authority.

6. It shall be the duty of the Authority—

- (a) to regulate the use of all port facilities in a port;

- (b) to provide and operate such port facilities and other services as the Minister may require;
- (c) to recommend to the Minister from time to time such measures as the Authority consider necessary or desirable to maintain or improve the port facilities;
- (d) to operate such facilities as may be vested in the Authority or to lease them on such terms as may be approved by the Minister;
- (e) to maintain and improve, where practicable, such port facilities as are vested in the Authority:

Provided the Authority shall not carry on the business of Wharfinger as defined by the Wharfage Act.

7.—(1) Subject to the provisions of this Act, the Authority shall have power to— Powers
of the
Authority.

- (a) regulate the berths and stations to be occupied by vessels in a port and the removal of vessels from one berth, station or anchorage to another berth, station or anchorage, and the time within which such removal shall be effected;
- (b) carry on such activities as appear to it to be advantageous, necessary or convenient for or in connection with the discharge of its duties under section 6.

(2) The Minister may, after consultation with the chairman, give to the Authority directions of a general character as to the policy to be followed by the Authority in the exercise and performance of its functions, so, however, that no such directions shall be given as regards the exercise or performance by the Authority of its functions under the Wharfage Act in relation to the determination of wharfage rates. 16/1966
S. 3 (b).

(3) The Authority may exercise the powers vested in it by paragraph (a) of subsection (1) of this section by making regulations or giving directions, and notwithstanding the provisions of section 29 of the Interpretation Act, regulations made under this section may prescribe greater penalties than those specified in the said section 29, so, however, that the maximum penalty that may be imposed by any such regulations shall be a fine of two hundred dollars or imprisonment with or without hard labour for a term of twelve months.

(4) Any person who contravenes any directions given by the Authority under this section shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

Compulsory
acquisition
of land.

8.—(1) When there is any hindrance to acquisition by the Authority of any land required for carrying into effect any of the provisions of this Act, the Minister, upon the application of the Authority and after such enquiry as he may think fit, may declare that the land is required for the purposes of the Authority: and he may direct that action be taken under the provisions of the Land Acquisition Act for acquiring the land for the Government and for determining the compensation to be paid to the parties interested; and upon the making of such declaration the land to which it relates shall be deemed to be land required for a public purpose within the meaning of the Land Acquisition Act.

(2) When the land has been acquired as aforesaid, the Minister may vest such land in the Authority by means of a certificate under the hand of the Commissioner of Lands to the effect that the land has been made over to the Authority.

(3) The compensation for such acquisition shall in the first instance be paid by the Government, but the Authority shall refund to the Government any compensation so paid and all incidental expenses incurred by the Government.

9. Where powers are conferred or duties imposed by or under this Act on the Authority, such powers may be exercised or such duties discharged by or through any servant or agent of the Authority authorized in that behalf by the Authority.

Delegation
of powers
and duties.

10. In relation to the powers vested in the Authority under paragraph (a) of subsection (1) of section 7, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law in force at the commencement of this Act, and any directions given or regulations made at any time under any such law which may be inconsistent with directions given or regulations made in the exercise of the aforesaid powers by the Authority under this Act shall to the extent of such inconsistency have no effect.

Certain
provisions
of Act to
prevail.

Regulation of Wharves

11.—(1) The Authority may make by-laws for the control and management of the wharves and premises vested in or in the possession of the Authority and the maintenance of good order therein and, in particular, and without prejudice to the generality of the foregoing power, may make by-laws for all or any of the following purposes—

Power of
Authority
to make
by-laws.

(a) regulating, declaring and defining any wharves, docks, piers and places vested in or in the possession of the Authority on and from which goods shall be landed and shipped;

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- (b) regulating the manner in which and the conditions under which the loading and discharging of vessels shall be carried out;
- (c) regulating the use of any sheds, warehouses and railways vested in or in the possession of the Authority;
- (d) the exclusion and removal from the premises of the Authority of idle and disorderly or other undesirable persons and trespassers;
- (e) regulating the conduct of persons employed on wharves and premises vested in or in the possession of the Authority.

(2) Notwithstanding the provisions of section 29 of the Interpretation Act, by-laws made under this section may prescribe greater penalties than those specified in the said section 29, so, however, that the maximum penalty that may be imposed by any such by-laws shall be a fine of two hundred dollars or imprisonment with or without hard labour for a term of twelve months.

(3) A copy of the by-laws made under this section and for the time being in force shall be kept at the office of the Authority and the Authority shall allow any person to inspect it free of charge at all reasonable times.

PART IV. Financial Provisions

Funds and
resources
of the
Authority.

12. The funds and resources of the Authority shall consist of—

- (a) such sums as may be provided annually for the purpose in the Estimates of Revenue and Expenditure of the Island;
- (b) sums borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;

(c) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.

13. The revenues of the Authority shall be applied for the purposes authorized by this or any other law in relation to the functions and powers of the Authority.

Application of revenues.

14. For the purpose of enabling the Authority to carry out its functions under this Act, the Authority may, with the consent of the Minister, borrow money in such manner and subject to such conditions as the Minister may deem fit to impose.

Borrowing powers.

15.—(1) With the approval of the House of Representatives, the Minister may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Authority.

Power of Minister to guarantee loans to Authority.

(2) Notwithstanding anything to the contrary, where any loan is guaranteed by the Minister under subsection (1) of this section the repayment of the principal moneys and interest represented by the loan so guaranteed shall during the continuance of such guarantee be a first charge upon such revenue and assets of the Authority as shall be specified by the Minister.

(3) Where the Minister is satisfied that there has been default in the repayment of any principal moneys or in the payment of interest guaranteed under the provisions of this section, he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund and assets of this Island of the amount in respect of which there has been such default.

(4) The Authority shall make to the Accountant-General, at such times and in such manner as the Minister

may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Power to
invest
moneys.

16. All moneys of the Authority not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Authority may be invested in such securities as may be approved either generally or specifically by the Minister and the Authority may, with the approval of the Minister, sell all or any of such securities.

Accounts
and audit.

17.—(1) The Authority shall keep proper accounts and other records in relation to the business of the Authority and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with the best commercial standards.

(2) The accounts of the Authority shall be audited by an auditor or auditors appointed annually by the Authority and approved by the Minister.

(3) So soon as the accounts of the Authority have been audited, the Authority shall send the statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The auditors' fees and any expenses of the audit shall be paid by the Authority.

(5) The Auditor-General shall be entitled, on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Authority.

18.—(1) The Authority shall, as soon as practicable after the end of each financial year, cause to be made and transmit to the Minister a report dealing generally with the activities of the Authority during the preceding financial year, and containing such information relating to the proceedings and policy of the Authority as can be made public without detriment to the interests of the Authority. **Annual report.**

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and the Senate.

19. The Authority may with the approval of the Minister make regulations determining generally the conditions of service of servants of the Authority and, in particular, but without prejudice to the generality of the foregoing power, may make regulations relating to— **Regulations.**

- (a) the grant of pensions, gratuities and other benefits to such servants and their dependents, and the grant of gratuities and other benefits to the dependents or estates of deceased servants of the Authority;
- (b) the establishment and maintenance of sick funds, superannuation funds and provident funds, the contributions payable thereto and the benefits receivable therefrom.

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SCHEDULE

(Section 4)

- Appointment of members.** 16/1966 S. 4 (a). 35/1976 S. 2.
- Temporary appointments.**
- Chairman.**
- Tenure of office.**
- Resignation.**
- Publication of membership.**
- Authentication of seal and documents.**
- Procedure and meetings.**
1. The Authority shall consist of not more than ten members to be appointed by the Minister being persons who appear to the Minister to be qualified as having had experience of and shown capacity in, matters relating to industry, finance, economics, accountancy, commerce or law.
2. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of such member.
- 3.—(1) The Minister shall appoint one of the members of the Authority to be the chairman thereof.
- (2) In the case of the absence or inability to act at any meeting of the chairman, members of the Authority present at such meeting shall elect one of their number to act as chairman at that meeting.
- 4.—(1) The appointment of every member of the Authority shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.
- (2) Every member of the Authority shall be eligible for re-appointment.
- 5.—(1) Any member of the Authority, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Authority.
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.
6. The names of all members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*.
- 7.—(1) The seal of the Authority shall be authenticated by the signatures of the chairman or one member of the Authority authorized to act in that behalf and the secretary of the Authority, and shall be judicially and officially noticed.
- (2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the chairman or any member authorized to act in that behalf or the secretary of the Authority.
- 8.—(1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Authority shall determine.

(2) The chairman may at any time call a special meeting of the Authority and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Authority.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected to act as chairman in accordance with the provisions of sub-paragraph (2) of paragraph 3 shall preside at the meetings of the Authority, and when so presiding the chairman or the person elected as aforesaid to act as chairman, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Authority shall be not less than one-third of the members of the Authority including the chairman or the person elected to act as chairman as aforesaid.

(5) Subject to the provisions of this Schedule the Authority may regulate its own proceedings.

(6) The validity of any proceeding of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the chairman and other members of the Authority such remuneration, if any (whether by way of salaries or travelling or other allowances), as the Minister may determine.

Remuneration of members. 16/1966 S. 4 (b).

10.—(1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a secretary, and such officers, agents and servants as it deems necessary for the proper carrying out of its functions:

Power to appoint officers, agents and servants.

Provided that—

(a) no salary in excess of the rate of three thousand dollars per annum shall be assigned to any post without the prior approval of the Minister;

(b) no appointment shall be made to any post to which a salary in excess of the rate of three thousand dollars per annum is assigned without the prior approval of the Minister.

16/1966 S. 4 (c).

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Island to any office with the Authority:

Provided that in relation to pension, gratuity or other allowance, and to other rights as a public officer such officer shall be deemed to be in the service of the Island while so employed.

11.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

Protection of members of Authority.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph the Authority shall be liable to the extent that it would be if the said member was a servant or agent of the Authority.