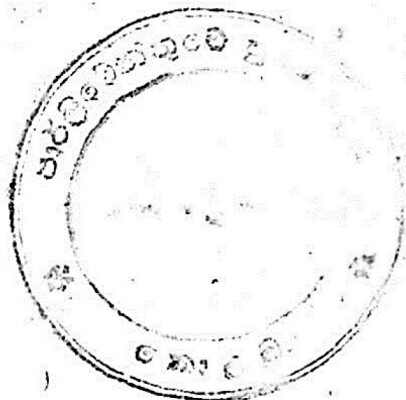




**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**SRI LANKA PORTS AUTHORITY
ACT, No. 51 OF 1979**

[Certified on 30th July, 1979]

Printed on the Orders of Government

**Published as a Supplement to Part II of the Gazette of the Democratic
Socialist Republic of Sri Lanka of August 03, 1979**

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVT. PUBLICATIONS BUREAU, COLOMBO

Price : Rs. 3.00

Postage : Re. 1.00

[Certified on 30th July, 1979]

L.D—O. 39/78

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA PORTS AUTHORITY TO DEVELOP, MAINTAIN, OPERATE AND PROVIDE PORT AND OTHER SERVICES IN THE PORTS OF COLOMBO, GALE AND TRINCOMALEE AND ANY OTHER PORT AS MAY BE DECLARED HEREAFTER BY THE MINISTER BY ORDER, TO BE A PORT TO WHICH THIS ACT SHALL APPLY ; FOR THE EXERCISE, PERFORMANCE AND DISCHARGE BY THAT AUTHORITY OF THE POWERS, DUTIES AND FUNCTIONS OF THE PORT COMMISSIONER, THE PORT (CARGO) CORPORATION, AND THE PORT TALLY AND PROTECTIVE SERVICES CORPORATION AND SUCH OTHER POWERS, DUTIES AND FUNCTIONS AS MAY BE CONFERRED, ASSIGNED OR IMPOSED ON THAT AUTHORITY BY LAW ; FOR MATTERS IN RELATION TO THE OFFICERS AND SERVANTS, PROPERTY, RIGHTS, OBLIGATIONS AND LIABILITIES OF THE PORT (CARGO) CORPORATION AND THE PORT TALLY AND PROTECTIVE SERVICES CORPORATION AND THE PUBLIC OFFICERS OF, THE PROPERTY HELD BY, AND THE RIGHTS, OBLIGATIONS AND LIABILITIES OF, THE DEPARTMENT OF THE PORT COMMISSIONER ; FOR THE REPEAL OF THE PORT OF COLOMBO (ADMINISTRATION) ACT (CHAPTER 238), THE PORT (CARGO) CORPORATION ACT, No. 13 OF 1958, AND THE PORT TALLY AND PROTECTIVE SERVICES CORPORATION ACT, No. 10 OF 1967 ; FOR THE MODIFICATION OF CERTAIN LAWS IN THEIR APPLICATION TO THE PORTS OF COLOMBO, GALLE AND TRINCOMALEE AND ANY OTHER PORT AS MAY BE DECLARED HEREAFTER BY THE MINISTER BY ORDER, TO BE A PORT TO WHICH THIS ACT SHALL APPLY ; AND FOR CONNECTED MATTERS.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Sri Lanka Ports Authority Act, No 51 of 1979, and shall come into operation on such date (in this Act hereafter referred to as the “appointed date”) as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

2. (1) This Act shall apply, in, to, and in relation to, the Ports of Colombo, Galle, Trincomalee, and any other Port, as may be declared hereafter by the Minister by Order published in the *Gazette* to be a port to which this Act shall apply.

Ports to
which this
Act applies.

(2) The ports to, and in relation to which this Act shall apply are hereafter in this Act referred to as “specified ports”.

(3) The Minister may by Order published in the *Gazette*, from time to time, define the limits of any specified port.

(4) Until an Order is made under subsection (3) in relation to any specified port, the limits of the specified ports on the day immediately preceding the appointed date shall be the limits of the specified ports, with the exclusion of—

- (a) the areas within limits defined for ports declared as Naval Ports under the Navy Act; and
- (b) land, buildings and other properties of the Sri Lanka Customs within the limits of the specified ports.

PART I

CONSTITUTION OF THE SRI LANKA PORTS AUTHORITY AND ITS POWERS, DUTIES AND FUNCTIONS

The Sri Lanka Ports Authority.

3. There shall be established an Authority to be called the Sri Lanka Ports Authority, hereafter in this Act referred to as the "Ports Authority" and which shall consist of the persons who are for the time being members of that Authority under section 5.

The Ports Authority to be a body corporate.

4. The Ports Authority shall, by the name assigned to it by section 3, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.

Membership of the Ports Authority.

5. (1) The Ports Authority shall consist of the following members :—

- (a) the Chairman and five other members all of whom shall be appointed by the Minister from among persons who appear to the Minister to have wide experience in, and to have shown capacity in, port development or port operations or legal or financial matters, or shipping, commercial or engineering activities or administration or labour relations;
- (b) a representative of the General Treasury nominated by the Minister in charge of the subject of Finance;
- (c) the Principal Collector of Customs; and
- (d) a representative of the Ministry in charge of the Minister to whom the subject of Fisheries has been assigned, nominated by such Minister.

(2) The Minister may appoint one of the members appointed under subsection (1) (a), other than the Chairman, to be the Vice-Chairman of the Ports Authority.

(3) The provisions of Schedule I to this Act shall have effect in relation to the Ports Authority.

6. (1) Subject to the provisions of this Act it shall be the duty of the Ports Authority—

Objects and
duties of
Ports
Authority.

- (a) to provide in any specified port, efficient and regular services for stevedoring, lighterage, shipping and transshipping, landing and warehousing of dry and wet cargo and cargo in bulk; for wharfage, the supply of water, fuel and electricity to vessels, for handling petroleum, petroleum products and lubricating oils to and from vessels and between bunkers and depots; for pilotage and the mooring of vessels; for diving and under-water ship repairs and for other services incidental thereto;
- (b) to provide in any specified port, efficient and regular tally and protective services;
- (c) to regulate and control navigation within the limits of, and the approaches to, the specified ports;
- (d) to maintain port installations and to promote the use, improvement and development of the specified ports;
- (e) to co-ordinate and regulate all activities within any specified port excluding the functions of the Customs;
- (f) to establish and maintain on and off the coast of Sri Lanka such lights and other means for the guidance and protection of vessels as are necessary for navigation in and out of the specified ports;
- (g) to perform such other duties as are imposed on the Ports Authority by this Act;
- (h) to conduct the business of the Ports Authority in such manner and to make in accordance with this Act such charges for services rendered by the Authority as will secure that the revenue of the Authority is not less than sufficient for meeting the charges which are proper to be made to the revenue of the Authority, to replace assets, make new investments and to establish and maintain an adequate general reserve; and
- (i) to endeavour to manage the specified ports and each of them as a self supporting enterprise in accordance with the provisions of this Act.

(2) The services provided under paragraphs (a) and (b) of subsection (1) are hereafter in this Act referred to as "Port Services".

(3) Subsection (1) shall not be construed as imposing on the Ports Authority, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Authority would not otherwise be subject.

Powers
of the
Ports
Authority.

7. (1) Subject to this Act, the Ports Authority may exercise all or any of the following powers :—

- (a) to acquire, hold, take on lease to give on lease, hire, pledge and sell or otherwise dispose of any movable or immovable property ;
- (b) to employ such officers and servants as may be necessary for carrying out the work of the Authority ;
- (c) to do anything for the purpose of improving the efficiency of port operations and advancing the skill of persons employed by the Authority or the efficiency of the equipment of the Authority or the manner in which the equipment is operated, including the provision by the Authority and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Authority ;
- (d) to establish an insurance scheme, a provident fund, a welfare fund and a fines fund and to provide welfare, health and recreational facilities, houses, hostels and other like accommodation for persons employed by the Authority ;
- (e) to make rules in relation to the officers and servants of the Authority, including their appointment, promotion, remuneration, discipline, conduct, leave, working times, holidays and the grant of loans and advances of salary to them ;
- (f) to make rules and prescribe procedures in respect of the administration of the affairs of the Authority ;
- (g) to delegate to the Chairman or to any member or officer of the Authority any such functions as the Authority may consider necessary to delegate for the efficient transaction of business ;

- (h) to establish, maintain and operate within the limits of any specified port, a security service for protecting port installations, equipment, cargo and vessels within such port and for enforcing the provisions of this Act ;
- (i) to acquire any undertaking affording facilities for the loading and discharging or warehousing of goods in any specified port or the bunkering of vessels in such port ;
- (j) to carry on the functions of builders and repairers of vessels and machinery, removers or salvagers of wrecks, ship breakers, carriers of passengers, vehicles and goods by land or sea, stevedores, wharfingers, warehousemen, lightermen, dealers in coal and other kinds of fuel, suppliers of water and stores to shipping and dealers in stores and equipment connected with, or required for, any of the aforesaid activities ;
- (k) to operate and maintain a rail transport system within the limits of any specified port ;
- (l) to control the berthing and movement of all vessels whether in the harbour or in the approaches to or alongside any quay, wharf, pier or landing place within the limits of any specified port and to divert vessels to any specified port ;
- (m) to enter into, and perform, directly or through any officer or agent authorised in that behalf by the Authority, all such contracts as may be necessary for the performance of the functions and the exercise of the powers of the Authority ;
- (n) subject to this Act, to levy such port dues, fees and other charges upon vessels, goods, vehicles and in respect of services within the limits of any specified port and upon cargo loaded, discharged or kept in such port as it may deem necessary ;
- (o) to construct, maintain and operate all means and appliances for berthing, loading and dismooring within any specified port ;
- (p) to provide and use, within the territorial waters of Sri Lanka or otherwise, vessels and appliances for the purpose of protecting, guiding and communicating with vessels or towing and rendering assistance to any vessel or for recovering any property lost, sunk or stranded ;

- (q) to provide such fire services both within any specified port and on the high seas, as may be deemed necessary by the Authority for the purpose of extinguishing fires on land, on sea or afloat and of preserving life and property ;
- (r) to appoint, license and regulate weighers and measurers and surveyors of goods within any specified port ;
- (s) to arrange for insurance of goods in the premises of the Authority ;
- (t) subject to this Act, to borrow money (whether by way of overdraft or in any other manner) from any person, organisation or institution within or outside Sri Lanka or from the Government ;
- (u) to control the use of, and to issue licences in respect of all craft, equipment, vehicles and services that are operated within the limits of any specified port ;
- (v) to survey, plan and execute maritime engineering works for Government departments, public corporations and for other bodies approved by the Minister ;
- (w) to clean, deepen or improve any portion of any specified port and, for any of such purposes to construct, maintain and operate dredgers and other appliances and to make hydrographic surveys ;
- (x) to reclaim, enclose, raise, drain and excavate any area falling within the limits of any specified port or belonging to the Authority ;
- (y) to maintain, repair, erect, cause to be erected and to control the erection and use of piers, breakwaters, bridges, wharfs, docks, warehouses, stores, offices, shops, dwellings and any other buildings or works within the limits of, or the approaches to, any specified port and to instal and maintain coast lights and other means of protecting and guiding vessels ;
- (z) to provide or cause to be provided, the following services within the limits of, and the approaches to, any specified port :—
 - (i) the berthing, towing, mooring, moving, slipping or docking of any vessel including pilotage ;

- (ii) the loading or discharging of any vessel including all ancillary services ;
 - (iii) the sorting, weighing, measuring, storing, warehousing or otherwise handling of any goods ;
 - (iv) radio communication between the specified ports and between ships and such ports ;
 - (v) transport services and other facilities for port users and for employees of the Authority ;
 - (vi) the handling of petroleum, petroleum products and lubricating oil to and from vessels and between all depots and bunkers ;
 - (vii) the supply of electricity and telephone services to vessels ;
 - (viii) the disposal of garbage from ships ; and
 - (ix) tally and protective services ;
- (aa) to construct, manufacture, purchase, operate, maintain and repair anything required for the purposes of the business of the Authority ;
- (ab) to co-ordinate and execute any Government project relating to the establishment of a free trade zone in any specified port and to enter into any agreement with port users for the utilization of such facilities ;
- (ac) to control the entry of vehicles, persons, goods and animals within the limits of any specified port and to regulate their movements within such limits ;
- (ad) to engage in such other activities, and do such other things as appear to the Authority to be beneficial, necessary or convenient for it to carry on, for or in connection with the exercise, performance and discharge of its powers, functions and duties under this Act ; and
- (ae) to do all other things which, in the opinion of the Authority, are necessary for carrying on its business.

(2) The provisions of subsection (1) shall not be construed as authorising the disregard by the Ports Authority of any law for the time being in force.

Powers of the Minister in relation to the Ports Authority.

8. (1) The Minister may give the Ports Authority general or special directions in writing as to the performance of its duties and the exercise of its powers under this Act on matters which appear to him to affect the national interest and the Authority shall give effect to such directions.

(2) The Minister may, from time to time, direct the Ports Authority to furnish to him, in such form as he may require, returns, accounts and other information with respect to its property and business, and the Authority shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Ports Authority to be investigated and reported upon by such person or persons as he may specify, and upon such order being made, the Authority shall afford all such facilities and furnish all such information, as may be necessary to carry out the order.

Accounting Officer.

9. The Chairman, for and on behalf of the Ports Authority, shall be the Accounting Officer and shall be responsible for the administration of the affairs of the Authority.

Delegation of powers to Chairman and delegation of powers by Chairman to employees.

10. (1) The Ports Authority may delegate in writing to the Chairman any of its powers, duties or functions under this Act or any other written law.

(2) The Chairman may, with the written approval of the Ports Authority delegate in writing to any employee of the Ports Authority any of his powers, duties or functions.

Members, officers and servants of the Ports Authority to be public servants for the purpose of the Penal Code.

11. All members, officers and servants of the Ports Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Ports Authority to be a scheduled institution within the meaning of the Bribery Act.

12. The Ports Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

PART II

STAFF OF THE PORTS AUTHORITY

13. (1) The Ports Authority may, with the approval in writing of the Minister, appoint a competent and experienced person as General Manager.

General
Manager.

(2) The General Manager shall, subject to the general direction of the Ports Authority on matters of policy and special directions of the Chairman, be charged with the direction of the business of the Ports Authority, the organisation and the exercise, performance and discharge of its powers, duties and functions and the administrative control of the employees of that Authority.

(3) The General Manager, may, with the approval in writing of the Ports Authority, delegate in writing to any other employee of the Authority such of his powers, duties or functions as he may from time to time consider necessary, and any employee to whom such powers, duties or functions are so delegated shall exercise them subject to the general or special directions of the General Manager.

(4) The General Manager may not be removed from office without the prior approval of the Minister.

(5) If the General Manager is temporarily absent from Sri Lanka or is temporarily incapacitated by illness or for other reasons is temporarily unable to perform his duties, another person may be appointed by the Ports Authority, with the approval in writing of the Minister, to act in the place of the General Manager until he is able to resume duties.

14. (1) The Ports Authority may appoint a qualified, competent and experienced person as Finance Manager.

Finance
Manager.

(2) No decision of a financial nature, in respect of amounts not less than one million rupees, shall be taken by the Ports Authority, unless the Finance Manager submits a financial analysis indicating all the financial implications of expenditure.

Temporary
employment
with the
Ports
Authority
of officers
of the
Colombo
Port
Commission
who do
not belong
to a
combined
service.

15. (1) Every public officer of the Colombo Port Commission who does not belong to a combined service of the Government and who was in service on the day immediately preceding the appointed date, shall be offered temporary employment with the Ports Authority for a period not exceeding two years.

(2) Where a public officer referred to in subsection (1) accepts temporary employment with the Ports Authority—

(a) if, on the day immediately preceding the appointed date, his substantive post in the Colombo Port Commission was a post declared to be pensionable under the Minutes on Pensions—

(i) he shall be deemed, for the purpose of these Minutes, to continue to hold such a post so long as he is in the temporary employment of the Authority and shall be eligible for the grant of a pension or gratuity as though his service in the temporary employment of the Authority were service under the Government;

(ii) in respect of him, the Ports Authority shall pay out of its funds to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month of service during which he is in the temporary employment of the Authority such sum not exceeding twenty-five *per centum*, as may be determined by the Minister in charge of the subject of Finance, of the salary payable to him in the substantive post that he held in the Colombo Port Commission on the day immediately preceding the appointed date; and

(iii) he shall, for the purpose of the preceding sub-paragraphs (i) and (ii) be deemed, during such period of temporary employment with the Ports Authority, to have earned his increments, if any, in the substantive post that he held in the Colombo Port Commission on the day immediately preceding the appointed date, provided that the Authority certifies that his work and conduct were satisfactory and that he has earned his increments.

(b) if, on the day immediately preceding the appointed date, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance—

(i) he shall be deemed, for the purpose of that Ordinance, to continue to be such a contributor so long as he is in the temporary employment of the Ports Authority and shall be eligible for the grant of any award under that Ordinance as though his temporary employment under the Authority were service under the Government;

(ii) he shall, while in the temporary employment of the Ports Authority, pay to the Public Service Provident Fund such contributions as he was liable under that Ordinance to pay;

(iii) in respect of him, the Ports Authority shall pay at the close of each financial year, out of its funds, to the Deputy Secretary to the Treasury to be credited to the officer's account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to such Fund in respect of him; and

(iv) he shall, for the purpose of the preceding sub-paragraphs (i) and (ii) be deemed, during such period of temporary employment with the Ports Authority, to have earned his increments, if any, in the substantive post that he held in the Colombo Port Commission on the day immediately preceding the appointed date, provided that the Authority certifies that his work and conduct were satisfactory and that he has earned his increments.

(3) Every public officer referred to in subsection (1) who does not accept temporary employment with the Ports Authority shall be deemed to have left the Public Service on the appointed date.

(4) Every public officer referred to in subsection (2) whose temporary employment with the Ports Authority is terminated either at his option or at the instance of the Authority, shall be deemed to have left the Public Service on the date of termination of such employment.

Permanent employment with the Ports Authority of officers of the Colombo Port Commission who do not belong to a combined service.

16. (1) Every public officer referred to in section 15(2) shall, during the period of his temporary employment with the Ports Authority be offered permanent employment with the Authority.

(2) Every public officer referred to in section 15(2) who is permanently appointed to the staff of the Ports Authority shall be deemed to have left the public service on the date of his permanent appointment to the staff of the Authority.

(3) The provisions of section 26(4) and (5) of the State Industrial Corporations Act, No. 49 of 1957, shall apply, *mutatis mutandis*, to and in relation to public officers referred to in subsection (2).

(4) Where any public officer referred to in subsection (1) does not, on or before the date on which his temporary employment with the Ports Authority under section 15(1) terminates, accept permanent employment with the Ports Authority when such employment is offered to him, his temporary employment with the Authority shall be terminated and he shall be deemed to have left the Public Service on the date of termination of such temporary employment.

Retirement awards to officers of the Colombo Port Commission.

17. Every public officer referred to in sections 15 (3), 15 (4), 16 (2) and 16 (4) who retires or is deemed to have left the Public Service under the provisions of those sections shall—

(a) if, on the day immediately preceding the appointed date, his substantive post in the Colombo Port Commission was a post declared to be pensionable under the Minutes on Pensions, be granted such an award under those Minutes as might have been granted to him if he had been retired from the Public Service on the ground of abolition of office ; or

(b) if, on the day immediately preceding the appointed date, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance he shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of the contract with the consent of the Government, otherwise than by dismissal and may be granted an award under that Ordinance on that ground.

18. (1) On the appointed date all officers and servants of the Port (Cargo) Corporation and the Port Tally and Protective Services Corporation who were in the service of those Corporations on the day immediately preceding the appointed date shall be deemed to be transferred to the service of the Ports Authority and to be officers and servants of that Authority on the same terms and conditions as were applicable to them immediately preceding the appointed date.

Officers and servants of the Port (Cargo) Corporation and Port Tally and Protective Services Corporation.

(2) Every officer or servant who is deemed to be an officer or servant of the Ports Authority shall be deemed to have left the services of the Port (Cargo) Corporation or the Port Tally and Protective Services Corporation, as the case may be, and the Ports Authority shall take over the liability as regards employer's contribution to the Employees' Provident Fund under the Employees' Provident Fund Act, No. 15 of 1958, in respect of each such officer or servant, from the appointed date.

19. (1) At the request of the Ports Authority, any officer in the Public Service other than an officer referred to in section 15 may, with the consent of that officer, the Secretary to the Ministry by or under which that officer is employed, and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent or with like consent be permanently appointed to such staff.

Appointment of public officers other than those referred to in section 15.

(2) Where a public officer referred to in subsection (1) is temporarily appointed to the staff of the Ports Authority under that subsection, the provisions of section 13 (2) of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where a public officer referred to in subsection (1) is permanently appointed to the staff of the Ports Authority under that subsection, the provisions of section 13 (3) of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

20. (1) At the request of the Ports Authority, any officer or servant of the Local Government Service or of any local authority (whether he be a member of the Local Government Service or not) may, with the consent of that officer or servant and the Local Government Service Advisory Board or the local authority, as the case may be, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent or with like consent be permanently appointed

Appointment of officers and servants of the Local Government Service or of any local authority to the staff of the Ports Authority.

to that staff, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Ports Authority and the Local Government Service Advisory Board or local authority.

(2) Where an officer or servant of the Local Government Service or of any local authority (whether he be a member of the Local Government Service or not) is temporarily appointed to the staff of the Ports Authority under subsection (1), he shall be subject to the same disciplinary control as any other member of such staff.

Ports Authority entitled to alter conditions of service of certain employees.

21. (1) The Ports Authority may, when offering persons temporary or permanent employment under the provisions of section 15(1) or 16(1), make adjustments in salary and allowances provided that the terms and conditions shall, on the whole, be not less favourable than those enjoyed by him in the service of the Colombo Port Commission on the day immediately preceding the appointed date.

(2) Any person aggrieved by the terms and conditions offered under subsection (1) may appeal to the Secretary to the Ministry within a period of thirty days reckoned from the date on which such terms and conditions are communicated to him by the Ports Authority, and the decision of the Secretary on such appeal shall be final.

Service to the Ports Authority to be regarded as service to the Government for the purpose of contracts to serve the Government.

22. Where any person has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Ports Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

PART III

PROPERTY OF THE PORTS AUTHORITY

Transfer of property held by the Colombo Port Commission and of the Port (Cargo) Corporation and the Port Tally and Protective Services Corporation to the Ports Authority.

23. (1) With effect from the appointed date, all property movable and immovable (including money) held by the Colombo Port Commission and all property, movable and immovable (including money in the funds) of the Port (Cargo) Corporation and the Port Tally and Protective Services Corporation, including all assets, powers, rights, interests and privileges of the Colombo Port Commission, the Port (Cargo) Corporation, and the Port Tally and

Protective Services Corporation, subsisting on the day immediately preceding the appointed date, shall be transferred to and shall vest in the Ports Authority.

(2) Upon such transfer, all debts, liabilities and obligations in connection with or appertaining to the property referred to in subsection (1) of the Colombo Port Commission, the Port (Cargo) Corporation and the Port Tally and Protective Services Corporation shall also be transferred to, and deemed to have been incurred by, the Ports Authority.

24. (1) Notwithstanding anything in the Crown Lands Ordinance or any other written law, where the Minister considers that any land of the Republic is required by the Ports Authority for the purposes of its functions, the Minister may, with the concurrence of the Minister in charge of the subject of Lands, by Order (hereafter in this Act referred to as a "Vesting Order") published in the *Gazette*, vest such land in the Authority with effect from such date as shall be specified in the Order, subject to such restrictions or conditions, if any, as may be so specified.

Power of the Minister to vest land of the Republic in the Ports Authority.

(2) A Vesting Order shall, subject to such restrictions and conditions as may be specified in the Vesting Order, have the effect of giving the Ports Authority absolute title to any land specified therein free from all encumbrances.

25. (1) Where any immovable property, other than the property of the Republic, is required for the purposes of the business of the Ports Authority and the Authority is unable, by agreement to purchase such property, that property may, if the Minister by Order published in the *Gazette* approves its acquisition, be deemed to be needed for a public purpose and be acquired under the Land Acquisition Act and be transferred to the Ports Authority under that Act.

Acquisition of private lands under the Land Acquisition Act for the Ports Authority.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act by the Ports Authority shall be payable by the Authority.

Procedure
in ejectment
of occupant
&c. of land
held by the
Ports
Authority.

26. (1) Where any land is vested in or transferred to the Ports Authority under sections 24 and 25, the Authority may, in writing, order any person who is in unauthorised possession or occupation of such land to vacate the land within the time specified in that order.

(2) Where any person to whom an order under subsection (1) is served fails to vacate the land to which the order relates within the time specified in that order any officer of the Ports Authority authorised in that behalf by the Authority may, for and on behalf of the Authority take possession of such land.

(3) Where an officer authorised under subsection (2) to take possession of any land for and on behalf of the Ports Authority is unable, or apprehends that he will be unable, to take possession of such land because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where such land is situated, be entitled to an order of the Court directing the Fiscal to deliver possession of such land to such officer for and on behalf of the Ports Authority.

(4) Where an order under subsection (3) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall, in writing, report to the Court the manner in which that order was executed.

(5) For the purpose of executing an order issued by a Magistrate's Court under subsection (3), the Fiscal or any person acting under his direction may use such force as may be necessary to enter such land, building or other structure to which that order relates and to eject any person in occupation thereof, and to deliver possession of such land, building or other structure to the person who is authorised to take possession thereof, for and on behalf of the Ports Authority.

Exemption
from taxes.

27. The Minister, with the concurrence of the Minister in charge of the subject of Finance, may provide for the exemption from any licence fees or taxes, of any equipment belonging to the Authority, that is used exclusively within the limits of any specified port.

28. Notwithstanding the provisions of any other written law, it shall not be necessary for the Ports Authority to secure the approval of any local authority for the construction of any works or buildings, other than residential buildings, within the limits of any specified port.

Approval of local authority not necessary for certain buildings.

PART IV

FINANCE

29. (1) The Ports Authority shall have its own Fund. All receipts of the Ports Authority shall be paid into that Fund and all payments made by the Ports Authority shall be paid out of the Fund.

The Fund of the Ports Authority.

(2) Subsection (1) shall not restrict in any way the Ports Authority from maintaining separate accounts for its different activities and enterprises.

30. (1) Notwithstanding anything to the contrary in any other written law—

Transfer of certain moneys and other assets to the Ports Authority and grants by the Government to the Ports Authority.

(a) the balance lying to the credit of the Colombo Port Commission on the day preceding the appointed date out of the sums voted by Parliament for the expenditure of that Commission under the Appropriation Act, No. 18 of 1978;

(b) the value of all warehouses, transit sheds, oil installations, port railways, residential buildings, equipment and movable property, held by the Colombo Port Commission on the day immediately preceding the appointed date, as agreed between the Ports Authority and the Deputy Secretary to the Treasury; and

(c) the balance outstanding out of all loans granted by the Government to the Port (Cargo) Corporation and the Port Tally and Protective Services Corporation out of voted expenditure together with the amount of interest due on the day immediately preceding the appointed date,

shall with effect from the appointed date, be deemed to be an investment of equity capital in the Ports Authority by the Government, and the Authority shall pay to the Consolidated Fund on such equity capital a dividend not exceeding eight *per centum* per annum as the Minister in charge of the subject of Finance may, in consultation with the Minister, determine.

(2) There may be granted from time to time to the Ports Authority, by resolution of Parliament from the Consolidated Fund, such sums of money and on such terms as may be determined by the Minister in charge of the subject of Finance in consultation with the Minister.

Ports
Authority
Stock.

31. (1) The Ports Authority may create and issue any stock required for the purpose of exercising the borrowing powers of the Authority and the stock so created and issued shall be referred to as "Ports Authority Stock."

(2) Ports Authority Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Ports Authority with the approval of the Minister, given with the concurrence of the Minister in charge of the subject of Finance.

Government
guarantee.

32. (1) The Minister in charge of the subject of Finance may with the concurrence of the Minister guarantee the repayment of the principal of, and the payment of the interest on, any Ports Authority Stock created and issued under section 31 (1) or any other loan from any person, organisation or institution in or outside Sri Lanka.

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may with the prior approval of Parliament, be paid out of the Consolidated Fund.

(3) Any sum paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (1) shall be repaid, together with interest thereon, at such rate as the Minister in charge of the subject of Finance may determine with the concurrence of the Minister, by the Ports Authority in such manner and over such period as the Minister in charge of the subject of Finance may with such concurrence determine.

(4) Immediately after any guarantee is given under subsection (1) the Minister in charge of the subject of Finance shall lay or cause to be laid, a statement of the guarantee before Parliament.

(5) Where any sum is paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (2), the Minister in charge of the subject of Finance shall forthwith lay or cause to be laid a statement of the guarantee before Parliament.

33. Unless otherwise specially provided for by this Act, the provisions of Part II of the Finance Act, No. 38 of 1971, shall, *mutatis mutandis*, apply to and in relation to the financial control of the Ports Authority.

Application of the provisions of the Finance Act, No. 38 of 1971.

34. The financial year of the Ports Authority shall be the calendar year.

Financial year.

35. Notwithstanding anything to the contrary in any other written law, the Principal Collector of Customs, if he is satisfied that it should be in the interests of the national economy, may, with the sanction of the Minister in charge of the subject of Finance, waive the Customs duty on any plant, machinery and other equipment imported by the Ports Authority for any of its purposes.

Exemption from Customs duty.

PART V

CHARGES AND THE RECOVERY OF CHARGES

36. With effect from the appointed date all port services in any specified port shall be provided exclusively by the Ports Authority or, in exceptional circumstances, on a direction by the Minister, by any person authorised by the Ports Authority.

Port services in specified ports.

37. (1) The charges that may be levied by the Ports Authority for the services provided by the Authority shall be fixed, and may be revised from time to time, by the Authority with the approval of the Minister who shall, before giving his approval, consult the Minister in charge of the subject of Finance.

Charges for services.

(2) Until the charges are fixed under subsection (1) the charges leviable for services by the Principal Collector of Customs, the Port Commissioner, the Master Attendant of

any specified port, the Port (Cargo) Corporation and the Port Tally and Protective Services Corporation on the day immediately preceding the appointed date shall be the charges for the respective services rendered by the Ports Authority.

(3) The Ports Authority may, in the interests of the national economy, by resolution, and with the approval of the Minister, remit the whole or any portion of the charges leviable under this section.

Recovery of
charges in
arrears.

38. (1) (a) The Ports Authority shall, in respect of charges which have not been paid on any goods, have a lien on such goods and shall be entitled to seize and detain such goods until the charges are fully paid, provided that the Principal Collector of Customs has no claim on such goods as goods seized or forfeited or goods liable to such seizure or forfeiture under the Customs Ordinance.

(b) Where the Principal Collector of Customs has a claim on goods seized and detained by the Ports Authority for non-payment of Ports Authority charges, the Principal Collector of Customs shall take charge and dispose of such goods or transfer such goods to a Customs warehouse within thirty days of such goods being landed in the transit warehouse :

Provided that where goods seized or forfeited are disposed of by the Principal Collector of Customs under the preceding provisions of this paragraph, he shall pay to the Ports Authority all charges due to the Ports Authority :

Provided further that where such goods are released to the consignee after due inquiry as being goods that are not liable to seizure or forfeiture such goods shall be released to the consignee after the Principal Collector of Customs has satisfied himself that all charges due to the Ports Authority have been paid by the consignee.

(2) The lien referred to in subsection (1) shall have priority over all other claims and lien except claims for money payable to the Government.

(3) Charges in respect of goods to be landed shall become payable immediately on the landing of such goods.

(4) Charges in respect of goods to be shipped shall be payable before such goods are shipped.

(5) Charges in respect of goods to be removed from the premises of the Ports Authority shall be payable on demand.

39. (1) Without prejudice to the provisions of section 40, the Ports Authority may, where any goods which have been placed in any transit sheds of the Authority are not removed from such transit sheds within a period of twenty-one days from the time when such goods were placed in such transit sheds, at the expiration of such period, sell by public auction any or all of such goods as are still in the said transit sheds :

Power to
sell goods
remaining
in transit
sheds.

Provided that—

(a) in the case of goods for which a through bill of lading has been issued there shall be substituted a period determined by the Ports Authority which shall not be less than forty-two days for the period of twenty-one days referred to in this subsection ;

(b) a sale or disposal of any goods shall not be held under the provisions of this section until the Principal Collector of Customs has been notified in writing of the date of the sale or disposal and his concurrence has been obtained for such sale or disposal and for the valuation of such goods for such sale or disposal.

(c) notwithstanding anything in paragraph (b) if the goods are of a perishable, hazardous or offensive nature the Authority may direct their removal within such shorter period (not being less than twenty-four hours after the landing) as the Authority may think fit, and the said power of sale may be exercised at the expiration of such period ;

(d) if no bid is made at such sale, the Authority may, with the concurrence or agreement of the Principal

Collector of Customs dispose of such goods in any manner whatsoever.

(2) For the purpose of subsection (1) a sale shall not be rendered invalid by reason only that it takes place on premises or in an area to which the public is not admitted except on presentation of a pass.

(3) Before making such sale the Ports Authority shall give not less than three days' notice thereof by advertisement in a Sinhala, Tamil and an English newspaper circulating in Sri Lanka unless the goods are of so perishable, hazardous or offensive a nature as in the opinion of the Authority to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case requires.

(4) Notice shall also be given to the owners of the goods and to the agent of the discharging vessel by letter delivered at or sent by registered post to their addresses if such addresses are ascertainable from the manifest of the cargo or from any of the documents which have come into the hands of the Ports Authority or are otherwise known. Such notice shall specify the description and the location of the goods that are to be sold.

(5) Notwithstanding the provisions of subsection (4), the title of a bona fide purchaser shall not be invalidated by reason of the omission to send the said notice, and such purchaser shall not be required to inquire whether such notice has been sent.

(6) The proceeds of the sale of any goods referred to in subsection (1) shall be applied by the Ports Authority for the following payments and in accordance with the following order :—

- (a) the customs duty payable to the Government in respect of such goods ;
- (b) the expenses of the sale ;
- (c) the payment of the rates, charges and expenses due to the Authority in respect of the goods ; and

- (d) freight and other claims or lien of which notice under the law relating to merchant shipping has been given.

(7) The balance (if any), of the proceeds of the sale after making the payments under subsection (6), shall, if the goods are not perishable, hazardous or offensive goods, be paid to the person entitled thereto on demand or, where no such demand is made within one year from the sale of the goods or if the goods are perishable, hazardous or offensive goods, to the general revenue and thereupon all rights to the same by such person shall be extinguished.

40. (1) Where the master, owner or agent of a vessel fails to pay to the Ports Authority on demand any charges or part thereof payable under this Act the Authority may distrain or arrest the vessel and the tackle, apparel or furniture or other article belonging to the vessel, and detain the same until the charges are paid :

Power to
distrain for
non-
payment
of charges
&c.

Provided, however, that it shall be lawful for any party aggrieved by any distrain or arrest of such vessel to apply to any court of competent jurisdiction for such relief as he may, in law, be entitled to.

(2) Where any part of the charges, arrears, rents, dues, penalties or the costs of the distress, arrest or detention of the vessel, tackle, apparel or furniture or other article remains unpaid for the period of fourteen days next after any such distress, arrest or detention, the Ports Authority may cause the vessel or the other articles so distrained, arrested or detained, to be sold, and may apply the proceeds thereof to satisfy the charges and costs (including the costs of the sale) and the Authority shall pay the balance thereof (if any) to the master, owner or agent of the vessel on demand.

(3) Where the Ports Authority issues a notice to the Principal Collector of Customs stating that an amount specified therein is due in respect of charges against any vessel, the Principal Collector of Customs may refuse to grant any port clearance to such vessel until the amount so leviable has been paid.

(4) The provisions of this section shall be in addition to, and not in derogation of the rights of the Ports Authority under any other written law.

Deposit of
security for
charges.

41. The Ports Authority may require a person who incurs or intends to incur any charges, to deposit with the Authority or to guarantee such sum of money in such manner as may be determined by the Authority as is, in the opinion of the Authority, reasonable having regard to the amount of the charge. Where such person fails to deposit or to guarantee the sum of money required, the Authority may detain a vessel in the harbour or goods on the port premises in respect of which the charge has been, or will be, incurred until the requirement has been complied with or the charge paid.

False
information
and evasion
of charges.

42. (1) Where there is any false or incorrect information in any document furnished to the Ports Authority in regard to any port services by or on behalf of any port user and the Authority incurs any expenditure in respect of these services, it may, after due inquiry and notwithstanding anything to the contrary in any other provision of this Act order the consignor or consignee as the case may be, to pay for that service an amount not exceeding twice the normal charge made for that service and report to the relevant authorities. Such amount may be recovered under subsection (2) as a charge due to the Ports Authority.

(2) Where the owner of any goods or the owner or master of any vessel fails to pay any charges due to the Ports Authority, the Authority may institute legal proceedings for the recovery of such charges from such owner or master.

(3) Notwithstanding anything in any other written law, the legal proceedings referred to in subsection (2) may be instituted by the Ports Authority any time within a period of three years from the date on which such charges became due.

Arrange-
ments
between the
Ports
Authority
and the
Principal
Collector
of Customs.

43. (1) The Ports Authority shall not deliver any cargo to the consignee or his agent or ship any cargo until Customs clearance documents in respect of such cargo are produced.

(2) The Ports Authority and the Principal Collector of Customs may enter into any such agreement or arrangement as they think fit to provide for, or to facilitate, the assessment, collection and recovery of charges and for the speedy loading and unloading of vessels in the specified ports.

44. An officer of the Ports Authority authorised by the Authority may, on producing, if so required, his authority, enter and inspect a vessel within the limits of any specified port or the approaches thereto to ascertain the charges payable on or in respect of the vessel or in respect of the goods carried therein, to obtain any other information required for, or in connection with, the assessment and collection of charges and the loading and unloading of cargo from such vessel or to prevent or extinguish a fire.

Entry on
vessels.

PART VI

LIABILITY OF THE PORTS AUTHORITY

45. The Ports Authority shall not be liable for any loss, damage or injury caused to any property or person within the limits of any specified port unless such loss, damage or injury is caused by the negligence or wrongful or unlawful act of that Authority or any of its employees or agents acting within the scope of his employment.

Limitation
of the Ports
Authority's
liability for
loss, damage
or injury.

46. All goods which are lodged or deposited in any place of deposit provided by the Ports Authority or carried in a vessel or vehicle belonging to the Authority or its agents shall be at the risk of the owner, importer, exporter, shipper or consignee of such goods and the Ports Authority shall not be liable for any loss or damage to any such goods unless caused by the negligence or wrongful or unlawful act of the Ports Authority or any of its employees or agents acting within the scope of his employment.

Goods
lodged or
deposited
&c., to be at
owner's risk.

47. Notwithstanding anything in this Act or in any other written law, the Ports Authority shall not be liable to pay in respect of any loss or damage referred to in section 46, an amount in excess of five hundred rupees per package or unit unless the nature and value of the goods contained therein have, prior to the delivery to the Authority been declared in writing by the person delivering or causing the same to be delivered :

Maximum
liability.

Provided, however, that the Authority shall not be liable therefor where the value of any such goods has been mis-stated.

48. The limitation of liability under this Part shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such losses or damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under written law and notwithstanding anything contained in such written law.

Limitation
of liability
in respect
of one
occasion.

Power of
Courts to
consolidate
claims.

49. Where any liability is alleged to have been incurred by the Ports Authority in respect of loss of life, personal injury, or loss of, or damage to vessels, trains, vehicles or other goods whatsoever and several claims are made or apprehended in respect of that liability, the Authority may apply to the District Court of Colombo which, notwithstanding anything to the contrary in any other law, is hereby vested with jurisdiction to hear and determine that application and that Court may determine the amount of the liability of the Authority and may distribute that amount rateably among the several claimants and may stay any proceedings pending in any other court relating to the same matter and may proceed in such manner and subject to such directions, as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who had not come in within a prescribed time, and as to requiring security from the Authority and as to payment of any costs, as such Court thinks fit.

Ports
Authority
not liable
for loss or
damage for
dredging
within
prescribed
limits.

50. (1) The Ports Authority may with the approval of the Minister, by notification published in the *Gazette* prescribe the limits within which, and the levels to which, dredging may be carried out by the Authority within any specified port and the approaches thereto.

(2) The Ports Authority shall not be liable for any loss or damage whatsoever to any sea or river-wall, wharf, dock or other property arising out of any dredging by the Authority within the limits and the levels so specified.

Ports
Authority
may accept
goods as
well as lia-
bility for
loss, des-
truction or
damage in
certain cir-
cumstances.

51. This Part shall not preclude the Ports Authority from accepting goods for storage as well as liability for any loss, destruction or damage to, goods so accepted for storage.

Liability to
pay compen-
sation to
workmen.

52. This Part shall not affect any liability that may be imposed on the Ports Authority by any written law relating to compensation to workmen.

Ex-gratia
payments.

53. This Part shall not preclude the Ports Authority from making, by resolution, any ex-gratia payment to any person in respect of any loss, injury or damage referred to in this Part.

54. No action shall be instituted against the Ports Authority for anything done or purported to have been done in pursuance of this Act—

Notice of action against the Ports Authority.

- (a) without giving the Authority at least one months' previous notice in writing of such intended action ;
or
- (b) after twelve months have elapsed from the date of accrual of the cause of action.

PART VII

OFFENCES, PENALTIES AND PROCEDURES

55. Any person who, within the limits of any specified port or the approaches thereto—

Penalty for obstructing the Ports Authority in the performance of its duties.

- (a) removes any marks set up for the purpose of indicating any levels or direction necessary to the execution of any work authorised by this Act ;
- (b) wilfully and without lawful cause lifts, injures, makes a vessel fast to, loosens or sets adrift, any moorings, buoys, beacons or sea or land marks ;
- (c) assaults, resists, obstructs or impedes the Ports Authority or any of its employees or its agents or contractors while in the discharge of his duties or incites any other person so to assault, resist, obstruct or impede ;
- (d) without lawful cause discharges any gun except for the purpose of making a signal of distress or for such other purpose as is allowed under any written law ;
- (e) smokes any vessel or boils or heats any pitch, tar, resin, dammar, turpentine oil or other such combustible matter on board any vessel, or carries out any under-water operations, or performs such acts, at any time or within any limits at or within which such act is prohibited by any order of the Ports Authority, or contrary to the orders or directions of such Authority ;
- (f) uses a naked light when drawing off spirits, turpentine oil, or other inflammable oils or liquids of any kind on board any vessel ;
- (g) pollutes the water of the harbour by the overflow or discharge of oil or any other impurity ; or
- (h) immobilises a vessel without the prior written permission of the Ports Authority,

shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding two thousand five hundred rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Penalty
for
extinguish-
ing a lamp.

56. A person who unlawfully extinguishes the light on a lamp belonging to the Ports Authority shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding five hundred rupees.

Evasion of
dues, rates
and
charges.

57. (1) Any master, owner or agent of any vessel or any owner of any goods who, by any means whatsoever, evades or attempts to evade any dues, rates or charges leviable under this Act, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding two thousand rupees, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and shall in addition be liable to pay to the Ports Authority as penalty an amount which is double the amount of the dues, rates or charges he evaded or attempted to evade.

(2) The tender to, or the acceptance by, the Ports Authority or any of its officers of any dues, rates or charges which have been previously evaded or left unpaid, shall not release or discharge any person from any liability for any damages or penalty consequent upon such evasion or non-payment.

False
returns.

58. Any person who knowingly uses forged documents or makes any statement which is false in any material particulars in any return, claim or other document which is required or authorised to be made by or under the provisions of this Act, shall be guilty of an offence, and shall be liable on conviction by a Magistrate to a fine not exceeding one thousand rupees or to imprisonment of a term not exceeding six months or to both such fine and imprisonment.

Penalty for
giving
false infor-
mation as
to draught
&c. of
vessel.

59. Any master of a vessel entering or leaving or intending to enter or leave, any dock, berth, or to come alongside, or depart from, any wharf, who gives false information of the draught, length or beam of such vessel or refuses to give such information to any employee of the Ports Authority whose duty it is to ascertain the same, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding two thousand rupees.

60. Any person who throws or empties into the harbour or any specified port any ballast, rubbish, dust, ashes, stones or other refuse or things, or does any act to prejudice any of the works of the Ports Authority, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding two thousand rupees.

Penalty for throwing ballast or rubbish into harbour.

61. (1) Any person who wilfully removes, destroys or damages any property belonging to the Ports Authority or in its custody or control or hinders or prevents such property from being used or operated in the manner in which it is intended to be used or operated, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding one thousand rupees and on application by the Ports Authority, the Magistrate may order the offender to pay compensation to the Authority for any damage done by him.

Damage to property.

(2) Any person who carelessly or accidentally removes, destroys or damages any property belonging to the Ports Authority or hinders or prevents such property from being used or operated in the manner in which it is intended to be used or operated shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding five hundred rupees.

(3) This section shall not prevent the Ports Authority from taking any legal proceedings open to it at law before any court having jurisdiction for the recovery of the full amount of the damage caused by such person.

62. Any person who contravenes any provision of this Act or of any regulation or rule made under this Act for which a punishment is not expressly provided in this Act or such regulation or rule, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding five hundred rupees and, in the case of any continuing offence, to a fine not exceeding fifty rupees for every day or part of a day during which the offence is continued after the date of the conviction.

Contravention of the provisions of this Act an offence.

63. Where an offence under this Act is committed by a body of persons then—

(a) if that body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body ; or

Liability of the directors and certain officers of a body of persons for offences committed by that body.

- (b) if that body is not a body corporate, every person at the time of the commission of the offence was a member of that body,

shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

Fines when recovered to be paid to the fines fund.

64. All fines imposed for any offence under this Act or any regulation or rule made thereunder shall when recovered, notwithstanding the provisions of any written law to the contrary, be paid into the fines fund of the Ports Authority.

Chairman to sanction prosecution and who may conduct prosecutions.

65. (1) A prosecution for any offence under this Act or any regulation or rule made thereunder shall not be instituted in any court, except with the written sanction of the Chairman of the Ports Authority or by an officer authorised by him in writing.

(2) Any employee of the Ports Authority authorised in that behalf by the Authority may conduct such prosecution on behalf of the Authority.

Power of arrest.

66. Any person who commits an offence under this Act or against whom reasonable suspicion exists that he is guilty of any such offence may be arrested without any warrant in any place either upon land or water by a police officer or within the area of the Ports Authority by an employee of the Ports Authority duly authorised by the Authority and every person so arrested shall forthwith—

- (a) be produced before a Magistrate to be dealt with according to law, or
- (b) where it is impracticable so to do, be handed over to the officer in charge of the nearest police station to be dealt with according to law.

PART VIII

GENERAL

Regulations.

67. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized to be made

and in particular in respect of all or any of the following matters :—

- (a) the allocation of the berths and stations to be occupied by vessels, and the removal of vessels from any berth, station or anchorage, and the time within which such removal shall be effected ;
- (b) the manner in which, and the conditions subject to which, the loading and discharging of vessels shall be carried out, and the changing of the position of vessels loading or discharging ;
- (c) the keeping of free passages of such width as is deemed necessary within the limits of any specified port and along or near, the wharfs, docks, moorings and other similar works in or adjoining the same and the marking out of the places to be kept free ;
- (d) the anchoring, fastening, mooring, unmooring and warping of all vessels, and the use of their motive power, warps, moorings, buoys, chains and other equipment and the granting of permission on such conditions as the Ports Authority may deem fit, for the keeping or placing of, private moorings or buoys ;
- (e) the regulation of traffic ashore, afloat and in the air, the prevention of obstruction and the keeping of order on wharfs and in the harbour and the ensuring of the safety in the port premises of any cargo thereon, port works and equipment ;
- (f) the regulation of the use of fires and light and illuminations and the signals to be used or measures to be taken in case of fire ;
- (g) the enforcement and regulation of the use of navigation lights, signals and signal lights by vessels, and the steps to be taken for avoiding collision by vessels navigating in the waters of any specified port or the approaches thereto ;
- (h) the information to be supplied by the masters, owners or other persons in charge of vessels in respect of the arrival and departure of vessels, and of goods loaded or discharged at the wharfs and premises of the Ports Authority, and the time and manner in which such information shall be supplied ;

- (i) the regulation of the use by vessels of whistles, sirens and other like instruments ;
- (j) the prohibition of chipping, scaling, noisy work or underwater repairs on vessels or the breaking up of vessels except at such places and at such times and by such persons as may be specified ;
- (k) the safe and convenient use of the wharfs, docks and premises vested in the Ports Authority or under its control, and of any ferry services maintained or controlled by the Authority ;
- (l) the arrangements and the conditions relating to the reception, storage and removal of goods within and from the premises of the Ports Authority and the prescribing of the procedure to be followed in respect of the taking charge of goods which have been damaged before landing or alleged to have been so damaged ;
- (m) the loading, discharging and storage of dangerous goods within the limits of any specified ports, the classification of goods as dangerous goods and the regulation of navigation and the place of berthing of vessels carrying dangerous goods ;
- (n) the regulation of the mode of stowing and keeping dangerous goods on board vessels carrying dangerous goods within any specified port ;
- (o) the prohibition or the restriction of the conveyance of any kind of dangerous goods with any other kind of goods or articles on vessels within any specified port ;
- (p) the handling of petroleum, petroleum products and lubricating oil to and from vessels and between depots and bunkers in or around any specified port ;
- (q) the regulation and issue of licences to organisations or individuals who provide engineering, surveying, ship chandling, ship repairing, clearing, forwarding and similar services in any specified port ;
- (r) the establishment and administration of a provident fund with the concurrence of the Minister in charge of the subject of Labour, a reward fund and a fines fund ;

- (s) the prevention of theft of, pilferage of or damage to, or the commission of nuisance on, any property owned, used or being handled by the Ports Authority;
- (t) the safety of employees of the Ports Authority and of port users in any specified port;
- (u) the prevention of damage to or pollution of premises of the Ports Authority and the pollution of the water in the harbours of any specified port;
- (v) the establishment and operation of ports security service to protect cargo, equipment and property of the Ports Authority, to assist in maintaining law and order within the premises of specified ports and to enforce the provisions of this Act;
- (w) the loading, unloading and transshipment of cargo, including tallying;
- (x) the regulation of the entry of persons and vehicles and goods to and the regulation of their movement within specified ports.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval.

(4) Any regulation which is not so approved, shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(5) The date on which any regulation shall be deemed to be rescinded shall be published in the *Gazette*.

68. (1) The Ports Authority may make rules in respect of all or any matters for which rules are authorised or required by this Act to be made.

Rules made
by the
Ports
Authority.

(2) A rule made by the Ports Authority under subsection (1) shall not have effect until it is approved by the Minister and notification of such approval is published in the *Gazette*.

Protection for
action taken
under this
Act or under
direction of
the Ports
Authority.

69. A suit or prosecution shall not lie—

(a) against the Ports Authority for any act which in good faith is done or purported to be done by the Authority under this Act; or

(b) against any member, employee, or agent of the Authority for any act which in good faith is done or purported to be done by him under this Act or under the direction of the Authority.

Writ not to
issue against
person or
property of a
member of
the Ports
Authority.

70. A writ against person or property shall not be issued against a member of the Ports Authority in any action brought against the Authority.

Ports Authority may
create and
maintain a
ports
security
service.

71. The Ports Authority may establish and maintain a ports security service within the limits of any specified Port.

Power of
Ports
Authority to
compound
claims

72. The Ports Authority may compound any claim or demand made against it by any person for such sum or other compensation as it may deem sufficient.

Bonded
warehouse.

73. (1) Where any warehouse of the Ports Authority is approved and appointed as a bonded warehouse under any written law for the time being in force, the Authority shall give such security as is required, in that written law for the payment of such import duty as is payable in respect of the goods stored in such bonded warehouse or for the due exportation of such goods.

(2) Where such security has been given by the Ports Authority, further security shall not be required by the Government or any other person to the same effect.

(3) Any person being, or having the powers of, a revenue officer under any written law for the time being in force shall, for the performance of his duties at all times be admitted to all parts of any specified port including those parts of the premises approved and appointed as a bonded warehouse, and he shall be permitted to inspect the books kept in connection therewith and the stocks therein.

74. The Ports Authority may in accordance with such rules as may be made by the Authority enter into such contracts as are necessary for the discharge of its functions, and in the case of contracts for the supply of goods or material or for the execution of works, such rules shall—

Contracts of
the Ports
Authority.

(a) as far as is practicable and except as otherwise therein provided, require that notice of the intention to enter into such contracts shall be published and tenders invited ; and

(b) specify the manner in which such notice shall be published and tenders invited:

Provided that a person entering into a contract with the Ports Authority shall not be bound to inquire whether such rules have been complied with, and all such contracts, if otherwise valid, shall have full force and effect notwithstanding that the rules applicable thereto have not been complied with.

75. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform all such contracts with the Ports Authority as may be necessary for the exercise of the powers and performance of the duties of the Authority.

Powers of
companies &c.
to enter into
contracts
with the
Ports
Authority.

76. (1) All notices, orders, receipts and other documents of whatsoever nature which the Ports Authority is empowered to give by this Act, or by any other written law, may be given by any employee of the Authority authorised for the purpose by the Authority.

Receipts and
notices may
be given
by employee
if authorised.

(2) Where any such notice, order, receipt or document requires authentication, the signature or a facsimile thereof, of any employee of the Ports Authority authorised for the purpose by the Authority, affixed thereto, shall be sufficient authentication.

77. (1) Any notice, order or document required or authorised under this Act or any regulation or rule made thereunder to be served on any person, may be served--

Service of
notice &c.

(a) by delivering it to that person or by delivering it at the usual or last known place of abode of that person or to some adult member or servant of his family ;

(b) by leaving it at the usual or last known place of abode or business of such person in a cover addressed to such person ; or

(c) by sending it by registered post addressed to that person at his usual or last known place of abode or business.

(2) Notwithstanding the provisions of subsection (1), any notice required to be given to any person who causes any obstruction or impediment to navigation and whose identity is unknown, shall be deemed to be properly served if affixed on, at or near, the place where such obstruction or impediment is caused.

Powers to enter upon lands.

78. Any person who is an employee, agent or contractor of the Ports Authority may, if so authorised by the Authority, enter, after sufficient notice at all reasonable hours of the day into or upon, any building or land for the purpose of making any survey or inspection or of executing any work required to be made or executed for the purposes of this Act. Such person shall not be liable on account of such entry or on account of anything done bona fide in any part of such building or land which is necessary in the execution of his duties in pursuance of this Act.

Removal of vehicles left in the port premises without the permission of the Ports Authority.

79. (1) (a) If a vehicle is left without the permission of the Ports Authority—

(i) in a parking place provided by the Authority for a longer period than twenty four hours ;

(ii) in any part of the port premises where the parking of vehicles is prohibited by notice erected by the Authority ; or

(iii) in any place where it is likely to obstruct or interfere with the use of the port premises ;

the Authority may remove the vehicle and place it in one of its open yards at the risk of the owner of such vehicle ;

(b) Any such notice as is referred to in sub-paragraph (ii) of paragraph (a) of this subsection shall be conspicuously posted in or in proximity to the place to which it relates.

(2) Where the Ports Authority in the exercise of the powers of this section removes the vehicle, or uses the services of any other person to remove the vehicle, the expenses of and incidental to the removal of the vehicle

together with any charges or penalty shall be recoverable by the Authority from the owner of the vehicle as a debt in any court of competent jurisdiction.

(3) If the Ports Authority in the exercise of the powers of this section removes a vehicle, the Authority shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purpose of the Motor Traffic Act or any other regulations having the same effect for the time being in force, at his last known address, his registered address or at the address where the vehicle is ordinarily kept, notice that the Ports Authority has exercised the powers of this section and that the vehicle may be claimed and removed on payment of the charges and penalties specified in subsection (2).

(4) If any such vehicle is not claimed and removed by the owner or some person on his behalf within fourteen days after being removed by the Ports Authority (or in the case of a registered vehicle, within fourteen days after the service of a notice on the owner or proprietor) the Authority may cause the vehicle to be sold by auction or by public tender but not less than seven days' notice of such auction or calling of tenders shall be given in at least one Sinhala, one Tamil and one English newspaper published and circulated in Sri Lanka and if the vehicle is not sold as a result of any such auction or calling of tenders the Ports Authority may sell, destroy or give away the vehicle as they think fit.

(5) Where any vehicle is sold in the purported exercise of the power of sale conferred by this section the title of the purchaser shall not be impeachable on any ground whatsoever and he shall take the vehicle free from any title, estate, interest or right of any other person.

(6) The net proceeds of such sale less any amount payable under subsection (3) shall be held in deposit with notice to parties by the Ports Authority and shall be paid to the person entitled to it.

In the event of there being more than one claimant to the said proceeds the dispute shall be referred to court for adjudication.

But, if however, the proceeds are not claimed by any person within one year, the proceeds shall be credited to the Fund of the Authority.

(7) If the person to whom any money is so paid is not the person entitled thereto, the Ports Authority shall not be liable for such payment, but any other person who claims such money may have recourse against the person to whom payment was made by the Authority.

(8) In this section "vehicle" includes all goods and chattels attached to, in, or on, the vehicle.

(9) The powers and discretions conferred on the Ports Authority by this section may be exercised by any officer of the Authority authorised in writing in that behalf by the Authority.

(10) A notice stating the general effect of paragraph (a) of subsection (1) shall be displayed in a prominent position in the main notice board of the Ports Authority.

Master to leave a list of cargo at the office of the Ports Authority.

80. (1) The master or owner of every importing vessel or his agent shall sign and leave at the office of the Ports Authority within fourteen days next after the final discharge of all goods imported in such vessel, a full and accurate list of the said goods, containing all particulars as to—

- (a) the gross weight, measurements, marks, numbers and contents of each package ; and
- (b) the names of the consignees according to the bills of lading or the names of the persons actually paying the freight for such goods.

(2) Any such master owner or agent who fails to sign and leave such list shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding rupees two thousand.

(3) The owner, charterer, consignor, agent or other person acting in the loading and clearing of every exporting vessel shall prepare a full and accurate list or manifest of all goods exported in such vessel, from the bills of lading and freight list thereof, and shall sign and leave at the office of the Ports Authority within fourteen days after such vessel has cleared from the port, a correct transcript of such list or manifest, distinguishing therein the names of the several shippers of such goods according to the bills of lading.

(4) Any such owner, charterer, consignor, agent or other person who fails to prepare such list or manifest, and to sign and deliver such transcript shall be guilty of an offence and shall be liable, on conviction by a Magistrate to a fine not exceeding rupees one thousand.

81. (1) Every vessel lying alongside a wharf or within the harbour of any specified port, shall be kept so equipped, provided and loaded or ballasted so as to enable her to be removed with safety whenever it is necessary in the judgement of the Ports Authority that it shall be removed.

Vessels to be kept equipped for removal with safety.

(2) Any master or owner of a ship contravening the provisions of subsection (1) shall be guilty of an offence and shall be liable, on conviction by a Magistrate to a fine not exceeding rupees one thousand.

82. (1) In every case in which any damage is done to any property of the Ports Authority by any vessel or vehicle or by any person employed in or about the same, the cost of making good such damage may be recovered by the Authority from the master, owner or person in charge of such vessel or vehicle.

Master, owner or person in charge of vessel answerable for damage.

(2) The Ports Authority may detain any such vessel or vehicle until the cost of making good such damage has been paid to the Authority or security has been given to the Authority for the amount thereof.

(3) For the purposes of subsection (2) the provisions of section 40 (2) shall apply.

83. (1) If through any act, neglect or default on account of which any person has incurred any penalty imposed under this Act any damage to the property of the Authority has been caused by such person, he shall be liable to make good such damage as well as pay such penalty.

Damage to the Ports Authority's property to be made good in addition to penalty.

(2) The amount of such damage shall, in the case of dispute, be determined by the court by which the party incurring such penalty has been convicted, and may be recovered as if it were a fine imposed by the court.

84. (1) Where any cargo is left standing in the premises of any specified port for a period of over three months and, in the opinion of the Ports Authority, appears to be abandoned or is obstructing its transit sheds, the Authority may dispose of such cargo by public auction or by calling for tenders and if such cargo is not sold as a result of any such auction or calling for tenders, the Authority may sell, give away or destroy such cargo :

Disposal of cargo that appears to be abandoned or is obstructing the transit sheds.

Provided that sale or disposal of cargo shall not be held under this section until the concurrence of the Principal Collector of Customs is obtained in respect of such sale or

disposal and valuation in respect of such cargo for such sale or disposal.

(2) The proceeds of the sale of any goods referred to in subsection (1) shall be applied by the Ports Authority in the manner set out in section 39 (6).

(3) The balance, if any, of the proceeds of the sale after making the payments under subsection (2) shall be paid to the person entitled thereto on demand or where no such demand is made within one year from the sale of the goods, to the general revenue and thereupon all rights by such person to the same shall be extinguished.

Transitional provisions.

85. (1) Any fund, scheme, document, licence, provision or resolution, constituted, prepared, made, granted or approved under the Port of Colombo (Administration) Act, the Port (Cargo) Corporation Act, No. 13 of 1958, the Port Tally and Protective Services Corporation Act, No. 10 of 1967, or under the provisions of any other written law relating to such functions as are vested in the Ports Authority under this Act shall, except where otherwise expressly provided in this Act or any other written law, continue to have effect, and be deemed to have been constituted, prepared, made, granted or approved, as the case may be, under this Act.

(2) Notwithstanding the repeal by this Act of any written law, every rule, regulation or order made under such repealed law shall, if it is in force immediately prior to the appointed date and is not inconsistent with the provisions of this Act, be deemed to be a rule, regulation or order made under this Act, and have effect accordingly; and may be amended, replaced or rescinded by any rule, regulation or order, as the case may be, made under this Act.

(3) All deeds, bonds, agreements, instruments and working arrangements subsisting on the day immediately preceding the appointed date, affecting any of the assets and liabilities vested in the Ports Authority or any employee of the Ports Authority under this Act, shall have full force and effect against or in favour of the Ports Authority, as the case may be, and be enforceable as fully and effectually as if, instead of the Port Commissioner, the Port (Cargo) Corporation, Port Tally and Protective Services Corporation, the Government or any person acting on behalf thereof, the Ports Authority had been named therein or had been a party thereto.

(4) All legal proceedings instituted or which might have been instituted by or against the Port Commission, the Port (Cargo) Corporation or the Port Tally and Protective Services Corporation in respect of any functions or assets which, under and by virtue of this Act, are transferred to, and vested in, the Ports Authority may, subject to the provisions of this Act and to any other written law, be, if they are pending on the day immediately preceding the appointed date, continued or be, if they have not been instituted before the appointed date, instituted by or against the Ports Authority.

86. (1) The Port of Colombo (Administration) Act, the Port (Cargo) Corporation Act, No. 13 of 1958, and the Port Tally and Protective Services Corporation Act, No. 10 of 1967, are hereby repealed.

Repeal and
modification
of certain
laws.

(2) The Customs Ordinance, in its application in relation to, but only in relation to, acts or things done or omitted to be done, or required or authorised to be done, in any specified port shall have effect subject to the adaptations, modifications and additions set out hereunder, that is to say—

- (a) section 15 of that Ordinance shall not apply within the limits of any specified port in respect of any warehouse or other place of deposit under the control of the Ports Authority ;
- (b) sections 23, 24 and 25 of that Ordinance shall not apply in respect of and within the limits of any specified port subject to the modifications that the Principal Collector of Customs shall continue to have the power to enforce payment of penalties under the provisions of section 24 of the Customs Ordinance ;
- (c) sufferance shall not be granted by the Collector under section 34 or section 62 of that Ordinance until the Ports Authority has communicated to the Principal Collector of Customs in writing its consent to the grant of such sufferance ;

The reference to the warehouse of the Republic in section 34 of that Ordinance shall include any Ports Authority warehouse or transit shed approved by the Principal Collector of Customs and any rent payable under this section shall be paid to the Ports Authority ;

- (d) section 37 of that Ordinance, in its application to the transhipment of cargo within any specified port shall have effect, subject to the modification that the Ports Authority may conduct transhipment operations in the presence of an officer deputed by the Principal Collector of Customs to superintend the Customs procedures of such operations ;
- (e) section 41 of that Ordinance, in its application in the case of goods placed in any warehouse or transit shed belonging to the Ports Authority shall have effect subject to the modification that the powers conferred on the Collector other than the power to require packages to be stored, if necessary, in a grill or other place of security inside a warehouse, shall be exercised by the Ports Authority ;
- (f) section 42 of that Ordinance, in its application in the case of any offence committed in relation to any goods in any warehouse or transit shed belonging to the Ports Authority shall have effect subject to the modification that the reference in that section to the Collector shall be deemed to be a reference to the Ports Authority ;
- (g) section 60 of that Ordinance shall have effect subject to the modification that the power to issue stiffening orders shall be exercised by the Ports Authority ;
- (h) section 102 of that Ordinance shall have effect subject to the modification that the power conferred by that section on any officer of the Customs to require the removal of certain articles from the Customs premises may also be exercised by any officer authorised in that behalf by the Ports Authority in writing ;
- (i) section 104 of that Ordinance shall have effect subject to the modification that the reference therein to the Port Commissioner shall be deemed to be a reference to the Ports Authority, and the reference to a Colombo Port warehouse shall be deemed to be a reference to any warehouse or transit shed under the control of the Ports Authority ;

(j) section 116 of that Ordinance shall have effect subject to the following modifications :—

(i) the reference to the Collector shall be deemed to be a reference to the Ports Authority ;

(ii) the reference to the proper officer of Customs shall be deemed to be a reference to any officer authorised in writing by the Ports Authority ;

(iii) the reference to one hundred rupees shall be deemed to be a reference to one thousand rupees ;

(k) section 117 of that Ordinance shall have effect subject to the following modifications :—

(i) the reference to the Collector shall be deemed to be a reference to the Ports Authority ;

(ii) the reference to one hundred rupees shall be deemed to be a reference to one thousand rupees ;

(iii) a sale of any goods shall not be held under that section (as herein modified) until the Collector has, in writing addressed to the Ports Authority, fixed the upset price of the goods and approved the sale, and the entire proceeds of any such sale shall be disposed of by the Ports Authority as provided in that section provided that the Customs duties are credited to the Collector ;

(l) sections 146 and 147 of that Ordinance in their application in relation to any offence or contravention mentioned in Schedule II of this Act shall have effect subject to the following modifications :—

(i) the reference in the proviso to section 146 to the Principal Collector of Customs shall be deemed to be a reference to the Ports Authority ;

(ii) the power under section 147 to sanction a prosecution or to compound any offence shall be exercised by the Ports Authority ;

(iii) the reference in subsection (4) of section 147 to the Principal Collector of Customs shall be deemed to be a reference to the Ports Authority ;

(m) notwithstanding anything in section 153 of that Ordinance the amount of any penalty payable under section 42 of that Ordinance in respect of any goods placed in a Ports Authority warehouse or transit shed or payable under section 116 or section 117 of that Ordinance in respect of any contravention committed in any specified port, shall be paid to the Ports Authority and shall (after deducting any expenses incurred) be paid to the reward fund maintained by the Ports Authority for distribution at its discretion among informers and deserving employees ;

(n) section 163 of that Ordinance shall, in the case of any forfeiture or penalty, or liability or forfeiture or penalty, incurred under section 42 of that Ordinance in relation to any goods placed in any Ports Authority warehouse or transit shed or under section 116 or 117 of that Ordinance in respect of any contravention committed in any specified port, have effect subject to the modification that the power of mitigation shall be exercisable by the Ports Authority, subject to revision by the Minister on application made to him.

(3) The Masters Attendant Ordinance, the Pilots Ordinance, the Boats Ordinance, the Customs Ordinance, the Police Ordinance and the Boatmen's Ordinance and the rules and regulations made thereunder shall, in their application to any specified port, have effect subject to the modification that the powers, duties and functions conferred and imposed on the Master Attendant or the Port Commissioner (as the case may be) by those Ordinances, rules and regulations shall be exercised, performed and discharged by the Ports Authority ; and accordingly every reference in those Ordinances and in any rules and regulations to the Master Attendant or the Port Commissioner shall be deemed to be a reference to the Ports Authority.

The provisions of this Act to be in addition to provisions of Customs Ordinance.

87. The provisions of this Act shall be construed to be in addition to and not in derogation of the provisions of the Customs Ordinance.

The provisions of this Act to bind the Republic.

88. The provisions of this Act shall apply to and shall bind the Republic or any Department of the Government.

89. In this Act, unless the context otherwise requires—

“beacon” means any light, mark or sign used as an aid to navigation, other than a lighthouse or buoy ;

“buoy” includes any floating light, mark or sign used as an aid to navigation, other than a lighthouse ;

“charges” include charges, rates, fees and dues of every description which the Ports Authority is, for the time being authorised to demand, take and recover and “charge” shall be construed accordingly ;

“dangerous goods” include aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitroglycerine, petroleum, carbide of calcium and any explosive within the meaning of the Explosives Act ;

“goods” include animals, carcases, baggage and any other movable property of any kind whatsoever ;

“land” includes land covered by water and any interest in land ;

“local authority” means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council ;

“master” includes every person, except a pilot having for the time being the command, charge or control of any vessel ;

“owner” when used in relation to goods, includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, discharge or delivery of such goods ; and when used in relation to any vessel, includes any part-owner, charterer or operator thereof or any duly authorised agent of any such person ;

“Port (Cargo) Corporation” means the Port (Cargo) Corporation established by the Port (Cargo) Corporation Act, No. 13 of 1958 ;

“Port Commissioner” means the Port Commissioner appointed under the Port of Colombo (Administration) Act and includes any officer acting under the authority in writing of such Port Commissioner ;

“port premises” means the landing places and all other works and land at any time vested in, belonging to or administered by the Ports Authority ;

“Port Tally and Protective Services Corporation” means the Port Tally and Protective Services Corporation established by the Port Tally and Protective Services Corporation Act, No. 10 of 1967 ;

“stevedoring” means the operations connected with the loading, discharging, shipping, transshipping and storage of cargo in the holds of, or on board, any vessels ;

“tallying and protecting services” means tally and watchmen and other protective services performed by persons employed on board a ship or ashore in the interest of the owner, agent or master of the ship and includes receipt keepers, assistant receipt keepers, supervisors, plan clerks and pier clerks ;

“transit shed” includes all buildings, yards and other places owned or occupied by the Ports Authority and appropriated by the Authority for the landing and shipping of goods and any foreshore so owned or occupied and used for such purposes, but shall not include any portion of the foreshore or other places not so owned or occupied ;

“vessel” includes any ship or boat or any other description of vessel used in navigation ; and

“wharf” includes a quay, pier, jetty or other landing place.

SCHEDULE I

[Section 5 (3)]

PROVISIONS RELATING TO THE MEMBERS OF THE PORTS AUTHORITY

1. A person shall be disqualified from being appointed or continuing as a member of the Ports Authority if he is a Member of Parliament.

2. Before appointing a person to be a member of the Ports Authority, the Minister shall satisfy himself that such person shall not have any financial or other interest as is likely to affect prejudicially the discharge by such person of his functions as a member of the Authority; and the Minister shall also satisfy himself, from time to time, in respect of every member of the Ports Authority appointed by the Minister that he does not have any such interest. Any person appointed by the Minister or whom the Minister proposes to appoint as a member of the Authority shall, when requested by the Minister so to do, furnish to the Minister such information as the Minister considers necessary for the performance of his functions under this Act.

3. A member of the Ports Authority who is in any way, directly or indirectly, interested in any contract made or proposed to be made by the Authority shall disclose the nature of his interest at a meeting of the Authority and such disclosure shall be recorded in the minutes of the Authority and the member shall not take part in any deliberation or decision of the Authority with regard to that contract.

4. (1) Every member of the Ports Authority, other than the Principal Collector of Customs, the member nominated by the Minister in charge of the subject of Finance and the member nominated by the Minister in charge of the subject of Fisheries shall, subject to the provisions of sections 5 and 6 of this Schedule hold office for such term not exceeding three years reckoned from the date of his appointment as the Minister may at the time of appointment determine and unless he has been removed from office under section 5 of this Schedule, shall be eligible for re-appointment :

Provided that a member appointed by the Minister in place of a member who vacates office shall unless he vacates office earlier hold office for the unexpired part of the term of office of the member whom he succeeds.

(2) Subject to section 6 of this Schedule, the term of office of the Chairman or the Vice-Chairman shall be the period of his membership of the Ports Authority.

5. The Minister may, without assigning any reason therefor, remove any member of the Ports Authority appointed by him and the Minister in charge of the subject of Finance or the Minister in charge of the subject of Fisheries, as the case may be, may, without assigning any reason therefor, remove the member of the Ports Authority nominated by that Minister and such removal by the Minister or the Minister in charge of the subject of Finance or the Minister in charge of the subject of Fisheries, shall not be called in question in any court or tribunal.

6. A member of the Ports Authority appointed by the Minister may at any time resign his office as a member, Chairman, or Vice-Chairman by a letter in that behalf addressed to the Minister.

7. (1) Where any member of the Ports Authority is temporarily unable to perform the duties of his office on account of ill health or other infirmity, absence from Sri Lanka or any other cause, then—

- (a) if he is a member appointed by the Minister, the Minister may appoint another person to act in place of that member, or
- (b) if he is the member nominated by the Minister in charge of the subject of Finance, that Minister may nominate another representative of the General Treasury to act in place of that member, or
- (c) if he is the member nominated by the Minister in charge of the subject of Fisheries, that Minister may nominate another representative of the Ministry to act in place of that member, or
- (d) if he is the Principal Collector of Customs, the officer for the time being acting for him may act as a member of the Ports Authority.

(2) Where the Chairman or Vice-Chairman of the Ports Authority is temporarily unable to perform the duties of his office due to ill health, other infirmity, absence from Sri Lanka or any other cause, the Minister may appoint any other member appointed by him to act as Chairman or Vice-Chairman, as the case may be.

8. All or any of the members of the Ports Authority may be paid such remuneration, allowances and other expenses out of the funds of the Ports Authority, as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

9. The quorum for any meeting of the Ports Authority shall be three members. The Chairman of the Authority shall preside at all meetings of the Authority. In the absence of the Chairman from any meeting of the Authority, the Vice-Chairman of the Authority shall preside and in the absence of both the Chairman and the Vice-Chairman from any meeting of the Authority, the members present shall elect one of them to preside at the meeting.

10. Subject to the other provisions of this Schedule, the Ports Authority may regulate its own procedure in regard to its meetings and the transaction of business at the meetings.

11. The seal of the Ports Authority shall be in the custody of the Chairman of the Ports Authority and it shall not be affixed to any instrument or document except in the presence of two members of the Authority one of whom shall be the Chairman or Vice-Chairman of the Authority. Both such members shall sign such instrument or document in token of their presence. The seal of the Authority may be altered in such manner as may be determined by the Authority.

12. The Ports Authority may act notwithstanding any vacancy among its members and any act or proceeding of the Authority shall not be or be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment or nomination of a member thereof.

SCHEDULE II

OFFENCES REFERRED TO IN SECTION 86 (2) (1)

1. Any offence referred to in section 42 of the Customs Ordinance alleged to have been committed in respect of goods placed in any Ports Authority Warehouse.

2. Any offence against or contravention of any of the following sections of the Customs Ordinance, alleged to have been committed in any specified port, that is to say sections 102, 104, 116 and 117.