

THE MAJOR PORT AUTHORITIES BILL, 2016

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ARRANGEMENT OF CLAUSES

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**Bill No. 328 of 2016**

THE MAJOR PORT AUTHORITIES BILL, 2016

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BILL

*to provide for regulation, operation and planning of Major Ports in India and to vest the administration, control and management of such ports upon the Boards of Major Port Authorities and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5       **1.** (1) This Act may be called the Major Port Authorities Act, 2016. Short title,  
commencement  
and application.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- (3) It shall, in the first instance, apply to the Major Ports of Chennai, Cochin, Jawaharlal Nehru Port, Kandla, Kolkata, Mumbai, New Mangalore, Mormugao, Paradip, V.O. Chidambaranar and Visakhapatnam and to such other Major Ports with effect from such
- 10       date as the Central Government may notify.
- 2.** (1) In this Act, unless the context otherwise requires,— Definitions.
- (a) “Adjudicatory Board” means the Board constituted by the Central Government under section 51;

(b) “Board” means the Board of Major Port Authority constituted by the Central Government in accordance with sub-section (1) of section 3 for each Major Port under this Act;

(c) “capital reserves” for the purpose of this Act, shall mean the total of the revenue excluding the reserves set forth in sub-section (1) of section 40 and the value of the current assets of the Board in the preceding financial year;

(d) “Chairperson” means the Chairperson of the Board appointed under sub-section (1) of section 4;

(e) “dock” includes all basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slipways, gridirons, moorings, transit-sheds, warehouses, tramways, railways and other works and things appertaining to any dock, and also the portion of the sea enclosed or protected by the arms or groynes of a harbour;

(f) “foreshore”, in relation to a Major Port, means the area between the high-water mark and the low-water mark relating to that Major Port;

(g) “goods” includes livestock and every kind of movable property;

(h) “grave emergency” means a condition as determined by the Central Government wherein the Board is unable to discharge its duties appropriately and includes acts of sedition, non-performance, unlawful and illegal actions, negligence and financial misappropriation;

(i) “high-water mark”, in relation to a Major Port, means a line drawn through the highest points reached by ordinary spring-tides at any season of the year at that Major Port;

(j) “immovable property” includes wharfage-rights and all other rights exercisable on, over, or in respect of, any land, wharf, dock or pier;

(k) “Independent Member” means a Member of the Board appointed under sub-section (3) of section 4;

15 of 1908.

(l) “Indian Ports Act” means the Indian Ports Act, 1908;

(m) “land” includes the bed of the sea or river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

(n) “low-water mark”, in relation to a Major Port, means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year at that Major Port;

(o) “Major Port” or ‘Major Port Authority’ means the Major Port as defined in clause (8) of section 3 of the Indian Ports Act;

(p) “Major Port approaches”, in relation to a Major Port, means those parts of the navigable rivers and channels leading to the Major Port, where the Indian Ports Act is in force;

(q) “master”, in relation to any vessel or any aircraft making use of any Major Port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, assistant harbour master, dock master or berthing master of the Major Port;

(r) “Member” means the Member of the Board appointed under section 4;

(s) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(t) “owner”,—

(i) in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods; and

5 (ii) in relation to any vessel or any aircraft making use of any Major Port, includes any part-owner, charterer, consignee, or mortgagee in possession thereof;

(u) “pier” includes any stage, stairs, landing place, hard, jetty, floating barge, transhipper or pontoon, and any bridges or other works connected therewith.

10 *Explanation.*—For the purposes of this clause, the term “transhipper” means a floating craft or vessel, whether dumb or self-propelled, on which gears are provided for discharging cargo from a barge or wharf and loading it into a ship;

(v) “port assets” means any asset within the port limits including land, movable or immovable property or any other property, whether tangible or intangible, owned by or vested with the Board through the Central Government or the State Government, as the case may be;

15 (w) “port limits” in relation to a Major Port, means the limits including any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels or for the improvement, maintenance or good governance of the Major Port and its approaches whether within or without high-water-mark, and, subject to any rights of private property therein, any  
20 portion of the shore or bank within fifty yards of high-water mark and the area of such Major Port as may be determined by the Central Government by way of notification from time to time;

25 (x) “port security” means the debentures, bonds or stock certificates issued by the Board in respect of any loan contracted by it under the provisions of this Act or issued by any other Authority for the payment of which the Board is liable under this Act;

(y) “prescribed” means prescribed by the rules made under this Act;

30 (z) “Public Private Partnership project” means the projects taken up through a concession contract entered into by the Board of Major Port Authority under sub-section (1) of section 21 based on a revenue or royalty sharing basis;

(za) “rate” includes any toll, due, rent, rate, fee, or charge leviable under this Act;

(zb) “regulations” means the regulations made by the Board under this Act;

35 (zc) “vessel” includes anything made for the conveyance, by water, of human beings or of goods and a caisson;

(zd) “wharf” includes any wall or stage and any part of the land or foreshore that may be used for loading or unloading goods, or for the embarkation or disembarkation of passengers and any wall enclosing or adjoining the same.

40 (2) Words and expression used but not defined in this Act and defined in the Indian Ports Act shall have the same meanings respectively assigned to them in that Act.

## CHAPTER II

### BOARD OF MAJOR PORT AUTHORITY

45 **3.** (1) The Central Government shall, within a period of ninety days from the date of commencement of this Act, by notification, in respect of each Major Port, constitute a Board called the Board of Major Port Authority for that Port which shall consist of the following Members, namely:—

Constitution  
and  
composition of  
Board of Major  
Port Authority.

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) one Member each from the—
- (i) Concerned State Government in which the Major Port is situated;
- (ii) Ministry of Railways; 5
- (iii) Ministry of Defence; and
- (iv) Customs, Department of Revenue;
- (d) not less than three and not exceeding four Independent Members;
- (e) one Member not below the rank of Director nominated by the Central Government, *ex officio*; and 10
- (f) one Member representing the interest of the employees of the Major Port Authority:

Provided that until the constitution of the Board of Major Port Authority, the Board of Trustees constituted under section 3 of the Major Port Trust Act, 1963 shall continue to function and shall cease to exist immediately after the constitution of the Board under this Act. 38 of 1963. 15

(2) The Board of each Major Port Authority constituted under this Act shall be a permanent body having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued. 20

Qualifications of Chairperson, Deputy Chairperson and Members of Board.

4. (1) The Chairperson and Deputy Chairperson of the Board shall be appointed by the Central Government on the recommendation of a Select Committee consisting of such persons and in such manner, as may be prescribed.

(2) The Members of the Board as mentioned in clause (c) of sub-section (3) of section 3 shall be appointed by the Board in such manner as may be prescribed from amongst persons having adequate knowledge and professional experience of not less than fifteen years in shipping, marine, management or administration. 25

(3) The qualifications, experience and manner of appointment of Independent Members shall be such as may be prescribed.

(4) The appointment of the Member referred to in clause (f) of sub-section (3) of section 3 shall be made by the Central Government, by notification, from amongst the persons who in the opinion of the Central Government are capable of representing the interest of the employees in the Major Port Authority. 30

(5) Every person nominated or appointed to the office of the Chairperson or the Member of the Board, shall, within thirty days of his nomination or appointment, furnish to the said Board his consent and a declaration that he is not disqualified or ineligible to hold such office. 35

Removal of Chairperson, Deputy Chairperson and Member from office in certain circumstances.

5. (1) A person shall not be eligible for appointment or to continue as a Member of the Board, if —

- (a) he has been adjudged as an insolvent; or 40
- (b) he has become physically or mentally incapable of acting as a Member; or
- (c) he has been convicted of an offence, involving moral turpitude; or
- (d) he holds an office of profit or the office of the Functional Head in the Major Port Authority or the Board of that Authority; or

(e) he has made a false declaration under sub-section (5) of section 4; or

(f) he has been removed or dismissed from the service of a Major Port Authority, Government or a body corporate owned or controlled by the Central Government or the State Government; or

5 (g) an order disqualifying him for appointment as a Member has been passed by a court or tribunal and such order is in force.

(2) The Chairperson or Deputy Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity or in contravention of the provisions of section 7 after the Central  
10 Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend the Chairperson or Deputy Chairperson or any other Member in respect of whom an inquiry under sub-section (2) is being initiated or  
15 pending till the Central Government has passed an order on receipt of the report of the inquiry.

6. (1) The Chairperson and the Deputy Chairperson shall hold office for a term not exceeding five years from the date on which they enter upon their office or until they attain the age of superannuation, whichever is earlier.

Term of office of Chairperson, Deputy Chairperson and Members.

20 (2) Subject to the provisions of this Act, a person appointed as a Member of the Board by virtue of an office under clause (c) of sub-section (3) of section 3 shall continue to be a Member of the Board so long as he continues to hold that office.

(3) An Independent Member shall hold office for a term of three years from the date of his appointment or up to the age of seventy years, whichever is earlier and shall be eligible  
25 for re-appointment:

Provided that no Independent Member shall hold office for more than two consecutive terms:

30 Provided further that an Independent Member shall not, during the said period of three years, be appointed to or be associated with any Major Port Authority in any other capacity, either directly or indirectly.

(4) The Member appointed under clause (f) of sub-section (3) of section 3 shall hold office for a term of three years.

7. Before appointing any person as a Chairperson or Deputy Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson, Deputy Chairperson or Member:  
35

Disclosure of interest.

40 Provided that where any Member who is not so concerned or interested at the time of occupying such office, he shall, if he becomes concerned or interested afterwards, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested and resign forthwith.

8. The Chairperson, Deputy Chairperson and Members may, by notice in writing under their hand addressed to the Central Government, resign their office and on such resignation being accepted by that Government, shall be deemed to have vacated their office.

Resignation of Members.



Removal from office of Chairperson, Deputy Chairperson and Members.	<p><b>9.</b> The Central Government shall remove the Chairperson, Deputy Chairperson or any Member, if he—</p> <p style="padding-left: 40px;">(a) becomes subject to any of the disqualification mentioned in section 5; or</p> <p style="padding-left: 40px;">(b) has, in the opinion of the Central Government, ceased to represent the interest by virtue of which he was appointed or elected; or</p> <p style="padding-left: 40px;">(c) refuses to act or becomes incapable or acting; or</p> <p style="padding-left: 40px;">(d) is, without the permission of the Board previously obtained, absent from six consecutive ordinary meetings of the Board; or</p> <p style="padding-left: 40px;">(e) is absent from the meetings of the Board for a period exceeding six consecutive months; or</p> <p style="padding-left: 40px;">(f) acts in contravention of the provisions of this Act.</p>	5 10
Fees and honorarium payable to Members.	<p><b>10.</b> The Members appointed under clauses (c), (d) and (f) of sub-section (3) of section 3, shall be paid such honorarium as may be prescribed.</p>	
Powers and duties of Chairperson, Deputy Chairperson and Members.	<p><b>11.</b> The Chairperson and in his absence, the Deputy Chairperson shall have powers of general superintendence and directions in the conduct of affairs of the Major Port Authority and he shall, in addition to presiding over the meetings of the Board, exercise supervision and control over the acts of all employees of the Major Port Authority in matters of executive administration and in matters concerning the accounts and records of such Board.</p>	15
Meetings of Board.	<p><b>12.</b> (1) The Board shall meet at such places and times, and shall follow such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings), as may be specified by the regulations.</p> <p style="padding-left: 40px;">(2) If the Chairperson for any reason, is unable to attend a meeting of the Board, the Deputy Chairperson and in the absence of such Deputy Chairperson, any other Member chosen by the Members present amongst themselves at the meeting, shall preside at the meeting.</p> <p style="padding-left: 40px;">(3) All questions which come up before any meeting of the Board shall be—</p> <p style="padding-left: 80px;">(a) decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote;</p> <p style="padding-left: 80px;">(b) dealt with as expeditiously as possible and the Board shall dispose of the same within a period of sixty days from the date of receipt of the application:</p> <p style="padding-left: 40px;">Provided that where any such application could not be disposed of within the said period of sixty days, the Board shall record its reasons in writing for not disposing of the application within that period.</p>	20 25 30
Appointment of committees.	<p><b>13.</b> (1) A Board may, from time to time, from amongst its Members and any other person, constitute committees for the purpose of discharging such of its functions as may be delegated to such committee or committees by the Board.</p> <p style="padding-left: 40px;">(2) The committee or committees constituted under this section shall meet at such time and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum) as may be provided by regulations made under this Act.</p>	35 40
Delegation of powers.	<p><b>14.</b> The Board may, for the purpose of discharging of its powers, functions and duties, by general or special order in writing, specify—</p> <p style="padding-left: 40px;">(a) the powers and duties conferred or imposed upon the Board by or under this Act which may also be exercised or performed by the Chairperson; and</p>	

(b) the powers and duties conferred or imposed on the Chairperson by or under this Act, which may also be exercised or performed by the Deputy Chairperson or any officer or officers of the Board and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed:

5 Provided that any powers and duties conferred or imposed upon the Deputy Chairperson or any officer of the Board under this clause (b) shall be exercised and performed by him subject to the supervision and control of the Chairperson.

15 **15.** No act or proceedings of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Board; or

10 (b) any defect in the appointment of a person acting as a Member of such Board;

or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Vacancies, etc., not to invalidate proceedings of Board.

15 **16.** (1) The power of appointing any person to any Post, whether temporary or permanent shall—

Power to make appointments.

(a) in the case of a post—

(i) the incumbent of which is to be regarded as the Head of a department; or

(ii) to which such incumbent is to be appointed; or

20 (iii) the maximum of the pay scale of which (exclusive of allowances) exceeds such amount as the Central Government may, by notification in the Official Gazette, fix,

be exercisable by the Central Government after consultation with the Chairperson;

(b) in the case of any other post, be exercisable by the Chairperson or by such authority as may be specified by regulations:

25 Provided that no person shall be appointed as a pilot at any port, who is not for the time being authorised by the Central Government under the provisions of the Indian Ports Act to pilot vessels at that or any other port.

(2) The Central Government may, by order, specify any post the incumbent of which shall, for the purposes of this Act, be regarded as the Head of a department.

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### CHAPTER III

#### MANAGEMENT AND ADMINISTRATION

##### A. STAFF OF MAJOR PORT AUTHORITY

35 **17.** The Board shall after every five years prepare and submit to the Central Government a list of the employees of the Board of Major Port Authority indicating therein the designations and grades of employees and the salaries, fees and allowances which are proposed to be paid to them.

List of staff of Board.

##### B. PROPERTY AND CONTRACTS

**18.** On and from the date of constitution of the Board—

(a) the Board of the Major Port Authority shall be the successor of the Board of Trustees constituted under the Major Port Trusts Act, 1963;

Board to be deemed as successor of Board of Trustees of Major Port.

38 of 1963. 40

(b) all the assets and liabilities of the Board of Trustees shall stand transferred to, and vested in, the Board.

*Explanation.*—The assets of the Board of Trustees shall be deemed to include all rights and powers, all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Board of Trustees and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(c) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees immediately before that date, for or in connection with the purpose of the said Board of Trustees, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Board;

(d) all sums of money due to the Board of Trustees immediately before that date shall be deemed to be due to the Board;

(e) all suits and other legal proceedings instituted or which could have been instituted by or against the Board of Trustees immediately before that date may be continued or may be instituted by or against the Board;

(f) every employee serving under the Board of Trustees of the Major Port immediately before such date shall become an employee of the Board, shall hold his office or service therein by the same tenure and upon the same terms and conditions of service as he would have held the same if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to his disadvantage without the previous sanction of the Central Government.

Usage of property, assets, etc., by Board.

**19.** (1) The Board of each Major Port shall be entitled to use its property, assets and funds in such manner and for such purposes as it may deem fit for the benefit of that Major Port.

(2) All Port assets under the ownership of the Board or vested with the Board through the Central Government shall be used and developed as per the regulations made by the Board in that behalf and to the exclusion of any municipal, local or Government regulation:

Provided that any contract or arrangement by the Board for sale of land or immovable property or for lease of land or immovable property for port related use for a term exceeding forty years and for any purpose other than the purposes specified in section 22 for a term exceeding twenty years shall be subject to the prior approval of the Central Government:

Provided further that the tenure for lease of land or immovable property for Public Private Partnership projects by the Board shall be subject to the policy notified by the Central Government in respect of such Public Private Partnership projects.

(3) The Board of each Major Port may erect, construct or build such civil structures within the port limits for port development or improving commerce and trade in national interest for which no regulatory license or approval from the State authorities shall be required, unless so mandated by the Central Government.

Procedure when immovable property cannot be acquired by agreement.

**20.** Where any immovable property is required for the purposes of the Board, the Central Government or, as the case may be, the State Government may, at the request of the Board, procure the acquisition thereof under the provisions of the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act, 2013 or any other law for the time being in force, and on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board.

21. (1) The Board of each Major Port shall be competent to enter into and perform any contract necessary for the performance of its functions under this Act. Contracts by Board.

(2) Every contract shall, on behalf of the Board of each Major Port, be made by the Chairperson or by any such officer of the Board as the Chairperson may by general or special order, authorise in this behalf and shall be sealed with the common seal of the Board.

(3) The form and manner in which any contract shall be made under this Act shall be such as may be prescribed.

#### C. PLANNING AND DEVELOPMENT

22. For the purposes of planning and development of the Major Port, the Board in relation to that Major Port shall have the power to make regulations, not inconsistent with the Customs Act, 1962 or any rules made thereunder, to— Powers of Board in respect of planning and development.

(a) undertake, execute and perform such works and provide such services at or within the port limits and Major Port approaches on such terms and conditions as it may deem necessary or expedient;

(b) declare availability of the port assets at the Major Port or Major Port approaches for port related activities and services subject to such limits, conditions and restrictions as it may deem necessary or expedient;

(c) develop and provide infrastructure facilities including setting up new ports, jetties, navigational channels, dry ports and such other infrastructure in furtherance of the interest of the Major Port;

(d) take charge of the goods from the concerned owner for the purpose of performing any port related services;

(e) order, in cases of emergency or for any other reason, the master or owner or agent of any sea-going vessel, not to bring any vessel alongside of, or to remove such vessel from, any dock, berth, wharf, quay, stage, jetty or pier belonging to or under the control of the Board;

(f) permit construction and development by itself or through any person, to make, erect, fix or remove within the port limits or Major Port approaches any wharf, dock, quay, stage, jetty, pier, building or structure, erection or mooring or undertake any reclamation of foreshore within the said limits and buildings and amenities required for the residence and welfare of the employees of the Board, subject to such limits, conditions and restrictions as it may deem necessary or expedient;

(g) provide exemption or remission from payment of any rate or charge leviable on any goods or vessels or class of goods or vessels under this Act;

(h) provide any other services or amenities in respect of vessels, passengers, goods or employees;

(i) undertake, execute and perform such works, activities and studies to promote maritime education, training skill development of coastal communities, seafarers welfare and Major Port related development; and

(j) make or construct or erect within the port limits such structures, buildings, drains, roads, fences, tube-wells, in-take wells, storage facilities, warehouses, pipelines, telephone lines, communication towers, electricity supply or transmission equipment, and such other works and conveniences as the Board of each Major Port thinks proper.

## D. IMPOSITION OF RATES

Scale of rates  
for assets and  
services  
available at  
Major Port.

**23.** (1) The Board of each Major Port Authority or the committee or committees appointed in this behalf by the Board in accordance with section 13, may,—

(a) frame scale of rates at which, and a statement of conditions under which any services shall be performed or made available; 5

(b) frame scale of rates at which, and a statement of conditions under which, the access to and usage of the port assets may be allowed by the Board;

(c) frame consolidated scale of rates for any combination of services specified in clause (a) or for any combination of such service or services with any user or permission to use or access to any port assets as specified in clause (b); 10

(d) pass an order for refund of any amount overcharged by the Board in relation to the services provided to any person;

(e) pass an order for recovery of any rate or charge which is short-levied or erroneously refunded by the Board to any person under this Act;

(f) frame different scales, fees, rates and conditions for different classes of goods and vessels under this section: 15

Provided that the fixation and implementation of such scales, fees, rates and conditions shall—

(a) not be with retrospective effect;

(b) not be applicable for Public Private Partnership projects already awarded by the Board or the Central Government; 20

(c) not be in derogation with the rules made by or the directives of the Central Government in this behalf;

(d) not be inconsistent with the provisions of the Competition Act, 2002; and 12 of 2003.  
25

(e) not be inconsistent with the provisions of any other law for the time being in force:

Provided further that in case of such Public Private Partnership projects, the Board may fix the reference tariff for purposes of bidding only and the concessionaire appointed under any such Public Private Partnership projects shall be free to fix the tariff based on market conditions and such other conditions as may be notified: 30

Provided also that the revenue share and other conditions would be as per the provisions of the specific concession agreement between the Board and the Public Private Partnership concessionaire appointed under the Public Private Partnership project. 35

(2) Notwithstanding anything contained in clause (b) of sub-section (1), the Board may, by auction or by inviting tenders, lease any land or shed belonging to or in its possession or occupation at a rate higher than that provided under clause (b) of sub-section (1).

Board's lien for  
rates.

**24.** (1) The Board for the amount of all rates leviable under this Act in respect of any goods and for the rent due to such Board for any buildings, plinths stacking areas, or other premises on or in which any goods may have been placed, it shall have a lien on such goods, and may seize and detain the same until such rates and rents are fully paid. 40

(2) The right of lien referred to in sub-section (1) shall have priority over all other liens and claims, except for general average and for ship owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner 45

provided in sub-section (1) of section 25, and for money payable to the Central Government under any law for the time being in force relating to customs, other than by way of penalty or fine.

(3) The right of lien shall also vest with any concessionaire appointed by the Board with whom a concession contract under a Public Private Partnership project for operating any berth or terminal within the port limits has been executed by the said Board.

25. (1) If the master or owner of any vessel or his agent, at or before the time of landing from such vessel or any goods at any port asset belonging to or in the occupation of the Board of the Major Port, gives to such Board a notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship owner, to an amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

Ship-owner's lien for freight and other charges.

(2) The goods shall be retained in the custody of the Board at the risk and expense of the owners of the goods until such lien is discharged and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

(3) Upon the production, before any officer appointed by the Board in that behalf, of a document purporting to be a receipt for, or release from, the amount of such lien, executed by the person by whom or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

52 of 1962. 26. (1) The Board may, after expiry of such time and in such manner as stipulated in section 48 of the Customs Act, 1962, sell any goods that have passed or placed into the custody of the Board upon landing thereof—

Sale of goods and application of sale proceeds in certain cases.

(a) if any rates payable to the Board in respect of such goods have not been paid; or

(b) if any rent payable to the Board in respect of any place on or in which such goods have been stored has not been paid; or

(c) if any lien of any ship-owner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charge has made to the Board an application for such sale; or

(d) if such goods are not removed by the owner or the person entitled thereto from the premises of the Board.

52 of 1962. (2) The procedure for sale of goods under sub-section (1) and the proceeds of any such sale shall be applied in the manner as provided in section 150 of the Customs Act, 1962.

(3) Notwithstanding anything contained in this section, controlled goods may be sold at such time and in such manner as the Central Government may direct.

*Explanation.*—In this section, “controlled goods” means the goods, the price or disposal of which is regulated under any law for the time being in force.

27. Subject to the rules made under this Act, the Board of each Major Port shall be entitled to create specific master plan in respect of any development or infrastructure established or proposed to be established within the port limits and such master plan shall be independent of any local or State Government regulations of any authority whatsoever.

Master Plan.

28. (1) If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any regulations or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Board may distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Board, together with such further amount as may accrue for any period during which the vessel is under distraint or arrest, is paid.

Recovery of rates and charges by distraint of vessel.

(2) In case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of fifteen days next after any such distress or arrest has been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such rates or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand. 5

Application to  
Adjudicatory  
Board.

**29.** Any person aggrieved by any action of the Board while exercising its powers under sections 19 to 28 (except section 25), may approach the Adjudicatory Board constituted under section 51 by filing an application before it in such form, manner and on payment of such fee, as may be prescribed. 10

#### CHAPTER IV

##### POWERS OF BOARDS OF MAJOR PORT AUTHORITIES IN RESPECT OF LOANS AND SECURITIES

###### A. FINANCIAL POWERS OF BOARDS OF MAJOR PORT AUTHORITIES

Power to raise  
loans and issue  
securities.

**30.** (1) The Board may for the purposes of its capital expenditure and working capital requirements raise loans in any currency or currencies from any— 15

(a) scheduled bank or financial institution located within India; or

(b) financial institution in any country outside India in compliance with the laws for the time being in force:

Provided that no loan or loans exceeding a sum equivalent to fifty per cent. of the capital reserves of the Board shall be raised by the Board without the previous sanction of the Central Government. 20

(2) The loans may be raised by the Board in open market within India and in any country outside India on port securities including but not limited to debentures, bonds and stock certificates issued by the Board or may be obtained from the Central Government or a State Government: 25

Provided that no loan shall be raised from and no securities shall be issued to any person resident outside India without complying with the Foreign Exchange Management Act, 1999, the circulars and guidelines issued by the Reserve Bank of India, the Foreign Direct Investment Policy issued by the Central Government and any other law for the time being in force. 30 42 of 1999.

(3) The holder of any port security in any form may obtain in exchange thereof, upon such terms as the Board may from time to time determine, a port security in such form as may be specified by the regulations made by the Board.

(4) The right to sue in respect of moneys secured by port securities shall be exercisable by the holders thereof subject to the provisions of the Limitation Act, 1963. 35 36 of 1963.

(5) Nothing contained in this Act shall be deemed to affect the power of the Boards of Major Port Authorities to raise loans under the Local Authorities Loans Act, 1914. 9 of 1914.

(6) Notwithstanding anything contained in this Act, the Board may borrow moneys by means of temporary overdraft or otherwise by pledging the securities held by the Board in its reserve funds or on the security of the fixed deposits of the Board in its banks: 40

Provided that such temporary overdrafts or other loans shall not be taken, without previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds a sum equivalent to fifty per cent. of the capital reserves of the Board:

Provided further that all moneys so borrowed by temporary overdrafts or otherwise shall be expended for the purposes of this Act. 45

- 26 of 1881. **31.** Notwithstanding anything contained in section 15 of the Negotiable Instruments Act, 1881, no indorsement of a port security, which is transferable by indorsement, shall be valid unless made by the signature of the holder inscribed on the back of the security itself. Endorsements to be made on security itself.
- 26 of 1881. **32.** Notwithstanding anything contained in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having indorsed any port security be liable to pay any money due, either as principal or as interest, thereunder. Indorser of security not liable for amount thereof.
- 10 **33. (1)** The person to whom a duplicate or new security has been issued under the regulations made by the Board under section 22 shall be deemed for the purposes of sub-section (2) to have been recognised by the Board as the holder of the security; and a duplicate security or a new security so issued to any person shall be deemed to constitute a new contract between the Board and such person and all persons deriving title thereafter through him. Recognition as holder of port securities in certain cases and legal effect thereof.
- 15 (2) No recognition by the Board of a person as the holder of a port security shall be called in question by any court so far as such recognition affects the relations of the Board with the person recognised by it as the holder of a port security or with any person claiming an interest in such security; and any such recognition by the Board of any person shall operate to confer on that person a title to the security or securities subject only to a personal liability to the rightful owner of the security for money had and received on his account.
- 36 of 1963. **34.** Notwithstanding anything contained in the Limitation Act, 1963— Discharge in certain cases.
- 20 (a) on payment of the amount due on a port security on or after the date on which payment becomes due; or
- (b) when a duplicate security has been issued under the regulations made by the Board under section 22; or
- (c) when a new security has issued upon conversion, consolidation or sub-division under the regulations made by the Board,
- 25 the Board shall be discharged from all its liability in respect of the security so paid or in place of which a duplicate or new security has been issued—
- (i) in the case of payment after the lapse of six years from the date on which payment was due;
- 30 (ii) in the case of a duplicate security after the lapse of six years from the date of the issue thereof or from the date of the last payment of interest on the original security, whichever date is later;
- (iii) in case of a new security issued upon conversion, consolidation or sub-division after the lapse of six years from the date of the issue thereof.
- 35 **35.** If a loan is raised by the Board of any Major Port and a security other than the port security is required to be furnished to secure such loan, the Board of that Major Port may secure such loan against— Security for loans taken out by Boards of Major Port Authorities.
- (a) the port assets other than—
- (i) any sum set apart by the Board—
- (A) as the sinking fund for the purpose of paying off any loan; or
- 40 (B) for the payment of pension to its employees; or
- (ii) the provident or pension fund established by the Board; and
- (b) income of the Board from the port assets and services.
- 45 **36.** The Board may apply any sums, out of moneys which may come into its hands under the provisions of this Act and which can be so applied without prejudicing the security of the other holders of port securities, in repaying to the Government any sum which may remain due to it in respect of the principal account of any loan although the time fixed for the repayment of the same may not have arrived. Power of Board to repay loans to Government before due date.



Establishment and application of sinking fund.	<p><b>37. (1)</b> In respect of loans raised by the respective Board of the Major Port Authorities under this Act, which are not repayable before the expiration of one year from the date of such loans, such Boards shall set apart out of their income enough sinking fund or funds to service or liquidate such loans for a period of at least one year.</p> <p>(2) Before the commencement of this Act, if any sinking fund had been established by the Board of Trusts constituted under the Major Port Trusts Act, 1963 in respect of a loan raised by it for which loan, the Board is liable under this Act and the sinking fund so established by that Board of Trusts shall be deemed to have been established by the Board under this Act.</p> <p>(3) The sums so set apart by the Board under sub-section (1) and the sums forming part of any sinking fund referred to in sub-section (2) shall be applied in such manner as may be prescribed.</p> <p>(4) The Board may apply the whole or any part of the sums accumulated in any sinking fund in or towards the discharge of the moneys borrowed for the repayment of which the fund has been established:</p> <p>Provided that The Board pays into the fund in each year, and accumulates until the whole of the moneys borrowed are discharged a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.</p>	5 38 of 1963. 10 15
Existing loans and securities to continue.	<p><b>38.</b> Notwithstanding anything contained in this Act, all loans raised or borrowed and all securities issued or pledged in relation to a Major Port prior to the commencement of this Act shall continue to be governed in accordance with the provisions of the Major Port Trusts Act, 1963.</p>	20 38 of 1963.
<b>B. GENERAL ACCOUNTS OF MAJOR PORT AUTHORITIES</b>		
General accounts of Board.	<p><b>39.</b> All moneys received by or on behalf of the Board under the provisions of this Act shall be credited to such general account or accounts of the Board which the Board may from time to time generally open with the scheduled banks as per the guidelines of the Ministry of Finance, Government of India.</p>	25
Application of money in general accounts.	<p><b>40. (1)</b> The moneys credited to the general account or accounts under section 39, shall be applied by the Board in payment of the following charges, namely:—</p> <p>(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to—</p> <p style="padding-left: 40px;">(i) the Members of the Board except Members appointed under clauses (d), (e) and (f) of sub-section (3) of section 3;</p> <p style="padding-left: 40px;">(ii) the employees of the Board; and</p> <p style="padding-left: 40px;">(iii) the surviving relatives, if any, of such employees;</p> <p>(b) the cost and expenses, if any, incurred by the Board in the conduct and administration of any provident or welfare fund or loan or special fund established by the Board;</p> <p>(c) the maintenance, development, security and protection of the Board and the docks, warehouses and other properties of the Board;</p> <p>(d) the cost of repairs and maintenance of the property belonging to or vested in the Board and all charges upon the same and all working expenses;</p> <p>(e) the costs, expenses, sums, payments and contributions to be made or incurred by the Board for the purposes provided under section 23; and</p> <p>(f) any other charge or expenditure for which the Board may be legally liable.</p> <p>(2) All moneys standing to the credit of the Board which cannot immediately be applied in the manner or for the purposes specified in sub-section (1) may be used for such lawful purposes as the Board may from time to time decide.</p>	30 35 40 45

(3) Notwithstanding anything contained in section 38 and sub-sections (1) and (2), moneys received by or on behalf of the Board from non-port related use except those falling under section 59 shall be credited to a designated account and shall be applied by the Board for capital investment or for such purposes as may be prescribed.

5

## C. ACCOUNTS AND AUDIT

**41.** (1) The Board shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

10 (2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India or such other person as may be appointed by him in this behalf and any amount payable to him by the Board in respect of such audit shall be debitible to the general account of the Board.

15 (3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Board under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

20 (4) The accounts of the Board, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Board and the Central Government shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

25

## CHAPTER V

## SUPERVISION OF CENTRAL GOVERNMENT

**42.** As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the Board during the preceding year ending on the thirty-first day of March, in such form as the Central Government may direct.

Administration report.

**43.** The Central Government may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof and the cost of such survey and examination shall be borne and paid by the Board from and out of the moneys credited to its general account.

Power of Central Government to order survey or examination of works of Board.

35 **44.** (1) If, at any time, the Central Government is of the opinion that the inaction by any Board in repairing, completing, restoring, carrying out or providing any work or appliance mentioned in sub-section (2) has led to a grave emergency, the Central Government may cause such work to be restored or completed or carried out, or such repairs to be carried out or such appliance to be provided and the cost of any such restoration, completion, construction, repair or provision shall be paid by the concerned Board from and out of the moneys credited to its general account.

Power of Central Government to restore or complete works at cost of Board.

40 (2) The following actions or omissions may be considered to have led to grave emergency under sub-section (1), if any Board—

45 (a) allows any work or appliance constructed or provided by, or vested in, the Board to fall into disrepair; or

(b) does not, within a reasonable time, complete any work commenced by the Board or included in any estimate sanctioned by the Central Government; or

(c) does not, after due notice in writing, proceed to carry out effectually any work or repair or provide any appliance which is necessary in the opinion of the Central Government for the purposes of this Act.

Power of  
Central  
Government to  
take over  
management of  
Board.

**45.** (1) If, at any time, the Central Government is of the opinion—

(a) any Board is unable to perform the duties imposed on it by or under the provisions of this Act or of any other law for the time being in force; or 5

(b) that any Board has persistently made defaults in performance of the duties imposed upon it by or under the provisions of this Act or of any other law for the time being in force and as a result of such default, the financial position or the administration of that Board has greatly deteriorated, 10

the Central Government may, by notification, take over the management of that Board for such period, not exceeding twelve months at a time, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable time of not less than three months to the Board to show-cause why its management should not be taken over and shall consider the explanations and objections, if any, of that Board. 15

(2) Upon the publication of a notification under sub-section (1) for taking over the management of the Board,—

(a) all the Members of the Board shall, as from the date of taking over, stand removed from their respective office or position in the Board; 20

(b) all the powers and duties which may, by or under the provisions of this Act or of any other law for the time being in force, to be exercised or performed by or on behalf of the Board, shall be exercised and performed by such person or persons as the Central Government may direct in this behalf until the Board is reconstituted under clause (b) of sub-section (3); 25

(c) all property vested in the Board shall, until the Board is reconstituted under clause (b) of sub-section (3), vest in the Central Government.

(3) On the expiration of the period of taking over specified in the notification issued under sub-section (1) or at any time prior to such expiration, the Central Government may by notification — 30

(a) extend the period of taking over the management of the Board for such further term, not exceeding twelve months, as it may consider necessary; or

(b) reconstitute the Board by making fresh appointment to all posts of the Board on such terms and conditions as the Central Government may consider necessary, and in such case, any persons who stand removed from their offices under clause (a) of sub-section (2) shall be deemed disqualified for appointment. 35

Laying of  
report.

**46.** For any action or actions taken under sections 42 and 44 and any notification issued under section 45, the Central Government shall prepare and cause a full report of any such action or actions and notification and the circumstances leading to such action to be laid before each House of Parliament. 40

Power of  
Central  
Government to  
exempt from  
obligation to  
use port assets.

**47.** Notwithstanding anything contrary in this Act, the Central Government may, in the interest of security of the nation or on account of a grave emergency, by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or classes of goods, at such place in a Major Port or within the Major Port approaches, in such manner, during such period and subject to such payments to the concerned Board in relation to such Major Port or such Major Port approaches and on such conditions as the Central Government may think fit. 45

48. The Board shall not sell, alienate or divest its assets, properties, rights, powers and authorisation vested in it under this Act without the prior sanction of the Central Government.

Board not to sell, alienate or divest its assets, properties, rights, powers and authorisations without sanction of Central Government.

38 of 1963. 5 49. (1) The Central Government or a State Government, from the date of commencement of this Act, shall have, in respect of loans made by it to the Board or to any other authority for the repayment of which the Board is legally liable on such commencement, the same remedies and priority as applicable under the Major Port Trusts Act, 1963 as if this Act had not been passed.

Remedies of Government in respect of loans made to Board.

10 (2) For prospective loans by the Central or State Governments or of loans made by any other authority, the remedies would be the same as available to holders of port securities issued by the Board unless priority or greater rights are granted by the Board in respect of such loans within the respective loan agreements.

15 50. (1) Without prejudice to the foregoing provisions of this Chapter, the Board shall in discharge of its functions under this Act, be bound by such directions on question of policy as the Central Government may give in writing from time to time:

Power of Central Government to issue directions.

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government on whether a question is one of policy or not shall be final and binding on the Board.

20

## CHAPTER VI

### CONSTITUTION OF ADJUDICATORY BOARD

25 51. (1) The Central Government may, by notification, constitute an Adjudicatory Board for adjudicating disputes relating to Major Ports and such Board shall consist of a Presiding Officer and such other members not exceeding two, as may be appointed by the Central Government.

Constitution of Adjudicatory Board and its functions.

(2) The head office of the Adjudicatory Board shall be in Mumbai:

Provided that the Adjudicatory Board may hold its sittings at such other places as the Presiding Officer may decide from time to time having taken into consideration the convenience to decide the disputes referred to it.

30 (3) The Adjudicatory Board referred to in sub-section (1) shall perform the following functions, namely:—

(a) the functions envisaged to be carried out by the erstwhile Tariff Authority for Major Ports arising from the Tariff Guidelines of 2005, 2008 and 2013 and tariffs orders issued by the said Authority;

35 (b) to receive and adjudicate reference on any dispute or differences or claims related to rights and obligations of Major Ports and Public Private Partnership concessionaires or captive users for dedicated berth within the framework of their concession agreements and to pass orders after considering and hearing all the parties involved in the dispute:

40 Provided that any party not agreeable with order of the Adjudicatory Board may resort to arbitration as provided under the provisions of their respective concession agreements;

(c) to appraise, review the stressed Public Private Partnership projects as referred by the Central Government or the Board of the Major Ports and to suggest measures to revive such projects; and

(d) to look into the complaints received from port users against the services and terms of service rendered by the Major Ports or the private operators operating in the Major Ports and to pass necessary orders after hearing the parties concerned: 5

Provided that any party not satisfied with the order of the Adjudicatory Board shall be free to resort to arbitration or any other available legal remedy.

(4) A person shall not be qualified for appointment as the Presiding Officer of the Adjudicatory Board unless he is, or has been, or is qualified to be, a judge of a High Court. 10

(5) The Presiding Officer and members of the Adjudicatory Board shall be appointed by the Central Government on the recommendation of a Select Committee consisting of such persons and in such manner as may be prescribed.

(6) The Presiding Officer and members of the Adjudicatory Board shall hold office for a term not exceeding five years from the date on which they enters upon their office or until they attain the age of seventy years, whichever is earlier. 15

(7) A person shall not be qualified for appointment as a member of the Adjudicatory Board unless he is an expert in the field of finance, commerce, marine, shipping and port related matters, etc., having worked in the respective field for not less than twenty years.

(8) The salaries and allowances payable to and other terms and conditions of service of the Presiding Officer and members of the Adjudicatory Board shall be such as may be prescribed: 20

Provided that neither the salary and allowance nor other terms and conditions of service of the Presiding Officer or members of the Adjudicatory Board shall be varied to their disadvantage after their appointment. 25

(9) The procedure to be adopted by the Adjudicatory Board, while discharging its functions referred to in sub-section(1) shall be such as may be prescribed.

(10) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Adjudicatory Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:— 30 5 of 1908.

(a) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Adjudicatory Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) issuing commissions for the examination of witnesses or documents; and 35

(d) any other matter which may be prescribed.

(11) Any proceeding before the Adjudicatory Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code and the Adjudicatory Board shall be deemed to a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 40 45 of 1860. 2 of 1974.

(12) Subject to the provisions of this Act, every order made by the Adjudicatory Board under this Act shall be final and shall not be called in question in any suit, application, execution or other proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Act. 45

## CHAPTER VII

## PENALTIES

5 **52.** Any person who contravenes any of the provisions of this Act or any rule, regulation or order made thereunder, shall be punishable with fine which may extend to rupees one lakh.

General provision for punishment of offences.

10 **53.** (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

15 (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that  
20 offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

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

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

25

## CHAPTER VIII

## MISCELLANEOUS

**54.** No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence punishable under this Act or any rule or regulation made thereunder.

Cognizance of offences.

30 **55.** No suit or other legal proceeding shall lie against the Board or any Member or employee thereof in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder, or for any deficiency of service or any consequential losses on account of deficiency in services.

Protection of acts done in good faith.

45 of 1860. 35 **56.** Every person employed by the Board under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Persons employed by Board of Authority to be public servants.

40 **57.** (1) Notwithstanding anything contained in any other law for the time being in force, the Board in exercise of the powers conferred on it by regulations made under this Act or by invoking the contractual remedies available to the Board may cancel the allotment of any premises made to any employee of the Board or any other person or evict an employee of the Board or any person in occupation of any part asset or premises or area in the port limits, by notice in writing, addressed to such allottee or employee or other person who may be in occupation or possession thereof in violation of the regulations specified or formulated by the Board:

Power to evict certain persons from premises of the Board.

45 Provided that such notice shall indicate the reasons for cancellation of allotment or eviction or removal along with the period within which the removal or eviction is sought and

recovery of the sums of dues in arrears and also for the extended unauthorised use of such premises.

(2) If any allottee or employee or other person is aggrieved by the order made under sub-section (1), then the said allottee or employee or other person may appeal against the order with the compensation officer so appointed by the Board within thirty days from the receipt of the order under sub-section (1). 5

(3) If any allottee or employee or other person refuses or fails to comply with an order made under sub-section (1), then any Magistrate of the First Class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for the purpose, use such force as may be necessary. 10

(4) Any such notice as is referred to in sub-section (1) may be served—

(a) by delivering or tendering it to the allottee or employee or any other person who may be in occupation or possession of the whole or any part of the premises; or 15

(b) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises; or

(c) by registered post; or

(d) by publishing in the local newspaper having circulation in the area.

*Explanation.*—For the purposes of this section, the expression “premises” means any land, building or part of a building which is part of port assets and includes— 20

(i) areas such as canteens, gardens, grounds and out-houses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and 25

(iii) any furniture, books or other things belonging to the Board and found in such building or part of a building.

Alternate  
remedy by suit.

**58.** Without prejudice to any other action that may be taken under this Act, the Board may recover by suit any rates, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties payable to, or recoverable by, the Board under this Act or under any regulations made in pursuance thereof. 30

Corporate  
Social  
Responsibility  
and  
development of  
infrastructure  
by Board.

**59.** (1) Subject to the provisions of the Companies Act, 2013, the Board may use its funds for providing social benefits including development of infrastructure in areas of education, health, housing, accommodation, skill development, training and recreational activities within the port limits for its own employees, customers, business partners, Government and Non-Government Organisation, local communities, environment and society at large. 18 of 2013. 35

(2) The manner of utilisation of funds for the Corporate Social Responsibility shall be such, as may be prescribed.

Power of  
Central  
Government to  
make rules.

**60.** (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act. 40

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition of the Select Committee and the manner of appointment of the Chairperson and Deputy Chairperson of the Board under sub-section (1) of section 4; 45

(b) the manner of appointment of Members of Board under sub-section (3) of section 4;

(c) the procedure for conducting of any inquiry made under sub-section (3) of section 5;

(d) the honorarium payable to the Members of the Board under section 10;

5 (e) the form and manner in which contracts shall be made by the Board under sub-section (3) of section 21;

(f) the form, manner and fees for filing application before the Adjudicatory Board under section 29;

(g) the manner of applying the sums under sub-section (3) of section 37;

10 (h) the purposes for which the moneys received by the Board shall be applied under sub-section (3) of section 40;

(i) the form in which and the time at which the Board shall prepare an annual report under sub-section (1) of section 41;

15 (j) the salaries and allowances payable to and other terms and conditions of services of the Presiding Officer and members of the Adjudicatory Board under sub-section (8) of section 51;

(k) the procedure to be adopted by the Adjudicatory Board, under sub-section (9) of section 51;

(l) other functions of the Adjudicatory Board under sub-section (10) of section 51;

20 (m) the manner of utilisation of funds for Corporate Social Responsibility under sub-section (2) of section 59; and

(n) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

25 **61.** (1) The Board may, with the previous approval of the Central Government and after previous publication, by notification, shall make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power of Boards of Port Authorities to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

30 (a) rules of procedure for transaction of business under sub-section (1) of section 12;

(b) rules of procedure for transaction of business under sub-section (2) of section 13;

(c) the appointment of employees under clause (b) of sub-section (1) of section 16;

35 (d) the use and development of the port assets under sub-section (2) of section 19;

(e) the purposes of planning and development of Major Port under section 22;

(f) the form of port security under sub-section (3) of section 30; and

(g) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

40 **62.** Every rule made by the Central Government, every regulation made by the Board and every notification issued by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or notification or both Houses agree that the rule, regulation or notification should not be made, the rule, regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under 45 that rule, regulation or notification.

Laying of rules and regulations.



Repeal and savings.	<p><b>63.</b> (1) The Major Port Trusts Act, 1963 is here by repealed.</p> <p>(2) Notwithstanding the repeal of the Major Port Trusts Act, 1963 under sub-section (1),—</p> <p style="padding-left: 2em;">(a) anything done primarily by the Board of Trustees under the Major Port Trusts Act, 1963 in respect of any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the Major Port Trusts Act, 1963, shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;</p> <p style="padding-left: 2em;">(b) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, trust, special purpose vehicle, joint venture, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of the repealed Major Port Trusts Act, 1963 shall, if in force at the commencement of this Act and not inconsistent with the provisions of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;</p> <p style="padding-left: 2em;">(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed Major Port Trusts Act, 1963;</p> <p style="padding-left: 2em;">(d) any person appointed to any office under or by virtue of the repealed Major Port Trusts Act, 1963 shall be deemed to have been appointed to that office under or by virtue of this Act;</p> <p style="padding-left: 2em;">(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;</p> <p style="padding-left: 2em;">(f) any documents and any funds constituted and established under the repealed enactments shall be deemed to be documents and funds constituted or established under the corresponding provisions of this Act;</p> <p style="padding-left: 2em;">(g) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court; and</p> <p style="padding-left: 2em;">(h) any inspection, investigation or inquiry ordered to be done under the repealed Major Port Trusts Act, 1963 shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act.</p> <p>(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the Major Port Trusts Act, 1963.</p>	<p>38 of 1963.</p> <p>38 of 1963.</p> <p>5 38 of 1963.</p> <p>38 of 1963.</p> <p>10</p> <p>15 38 of 1963.</p> <p>20</p> <p>38 of 1963.</p> <p>38 of 1963.</p> <p>25</p> <p>30</p> <p>35</p> <p>38 of 1963.</p> <p>40</p> <p>10 of 1897.</p> <p>38 of 1963.</p>
Power to remove difficulties.	<p><b>64.</b> (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:</p> <p>Provided that no such order shall be made in respect of a Major Port after the expiry of a period of three years from the date on which this Act is made applicable to that Major Port.</p>	<p>45</p>

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

**65.** Notwithstanding anything contained in this Act, the Board of Trustees functioning as such immediately before the commencement of this Act shall continue to so function until the Board for each Major Port is constituted under this Act, but on the constitution of such Board, under this Act, the Members of the Board of Trustees holding office before such constitution shall cease to hold office. Transitional provision.

5

## STATEMENT OF OBJECTS AND REASONS

The Major Ports Trust Act was enacted in the year 1963 for constitution of Port Authorities for certain Major Ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith.

2. In India, the Major Port Trusts were created by the Central Government in the 1960's following the Service Port Model. Each of the Major Port Trust so constituted is being governed by a Board of Trustees. The powers of these Trustees are limited as they are bound by the directions on policy matters and orders of the Central Government. The current model of the Board of Trustees has operational restrictions due to diverse representation of the Trustees. With the growth and development of private ports, the Major Ports are facing severe competition and difficulties in implementing the changes which may help the Major Ports compete in the evolving market conditions. The regulation of tariff in the Major Ports by the Tariff Authority under the Major Port Trusts Act, 1963 and their administrative control by the Central Government are some of the critical factors hindering their growth and development.

3. In view of the above, and to provide greater autonomy, flexibility to the Major Ports and to professionalise their governance, it is proposed to repeal the Major Port Trusts Act, 1963 and to replace it with a new legislation, namely the Major Ports Authorities Bill, 2016.

4. The proposed Major Port Authorities Bill, 2016, *inter alia*, provides for the following, namely:—

(i) to constitute the Board of Port Authority for each Major Port in the place of the Board of Trustees;

(ii) the Board for each Major Port Authority shall consist of—a Chairperson, a Deputy Chairperson, one Member each from the (a) concerned State Government in which the Major Port is situated; (b) Ministry of Railways; (c) Ministry of Defence; and (d) Customs, Department of Revenue, minimum three and not exceeding four Independent Members, one Member representing the interest of the employees and one Member nominated by the Central Government;

(iii) to enable the Board of Port Authority—

(a) to use its property, assets and funds in such manner and for such purposes as it may deem fit for the benefit of that Major Port;

(b) to enter into and perform any contract necessary for the performance of its functions under the proposed legislation;

(c) to make regulations for the purposes of operations, development and planning of the Major Port;

(d) to frame the scales of rates for assets and services available at Major Port;

(e) to claim lien on such goods and to seize and detain the same until such rates and rents are fully paid;

(iv) to empower the Board of Port Authority to raise the loans and issue securities for the purposes of the capital expenditure and working capital requirements of such Port Authority;

(v) empowering the Central Government—

(a) to order survey or examination of the works of the Port Authority;

(b) to restore and complete the works at the cost of the Port Authority;

(c) to take over the management of the Port Authority in certain circumstances;

(d) to exempt certain specified vessels from obligation to use port assets in the interest or security of the nation or on account of a grave emergency; and

(e) to issue directions to every Port Authority;

(vi) to constitute an Adjudicatory Board for adjudication of disputes among Major Ports, Public Private Partnership concessionaries and captive users. This Adjudicatory Board shall consist of a Presiding Officer and such other Members not exceeding two, as may be appointed by the Central Government; and

(vii) to make a provision for Corporate Social Responsibility measures within the port limits.

5. The Notes on Clauses explain in detail the various provisions contained in the Bill.
6. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 15th December, 2016.*

NITIN GADKARI

### *Notes on Clauses*

*Clause 1.*—This clause relates to the short title and commencement of the proposed legislation and enables the Central Government to appoint a date with respect to the commencement of the proposed legislation.

*Clause 2.*—This clause contains the definitions of various expressions used in the proposed legislation.

*Clause 3.*—This clause lays down the provisions for the constitution and composition of the Board of Major Port Authority. The Board shall consist of a Chairperson, a Deputy Chairperson, one Member each from the (a) concerned State Government in which the Major Port is situated; (b) Ministry of Railways; (c) Ministry of Defence; and (d) Customs, Department of Revenue, minimum three and not exceeding four Independent Members, one Member representing the interest of the employees and one Member nominated by the Central Government.

*Clause 4.*—This clause lays down the provisions relating to the qualification, experience and the manner of appointment of the Chairperson, Deputy Chairperson and Members of the Board.

*Clause 5.*—This clause lays down the circumstances in which the Chairperson, Deputy Chairperson and other Members of the Board shall be ineligible for appointment.

*Clause 6.*—This clause lays down the term of office of the Chairperson, Deputy Chairperson and Members.

*Clause 7.*—This clause provides that the Members of the Board shall disclose their interests which are likely to affect their official functions within the Board.

*Clause 8.*—This clause lays down the procedure and manner in which the Chairperson, Deputy Chairperson and Members of the Board may resign from their office.

*Clause 9.*—This clause lays down the circumstances under which the Chairperson, Deputy Chairperson or any Member of the Board shall be removed from his office.

*Clause 10.*—This clause relates to fees and honorarium payable to Members appointed from amongst the Members referred to in clauses (c), (d) and (f) of sub-section (1) of section 3.

*Clause 11.*—This clause provides that the Chairperson and in his absence, the Deputy Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Major Port Authority and he shall, in addition to presiding over the meetings of the Board, exercise supervision and control over the acts of all the employees of the Major Port Authority, in matters of executive administration and in matters concerning the accounts and records of such Board.

*Clause 12.*—This clause lays down the procedure and manner in which the meetings of the Board shall be conducted.

*Clause 13.*—This clause lays down the power of the Board to appoint Committees and delegation of powers to such Committees.

*Clause 14.*—This clause provides that Board may, for the purpose of discharging its powers, functions and duties, by general or special order in writing, specify (a) the powers and duties conferred or imposed upon the Board by or under this Act which may also be exercised or performed by the Chairperson; and (b) the powers and duties conferred or imposed on the Chairperson by or under this Act, which may also be exercised or performed

by the Deputy Chairperson or any officer or officers of the Board and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed.

*Clause 15.*—This clause provides that any vacancy, defect or irregularity in the constitution of the Board or appointment of the Members shall not invalidate the proceedings of the Board.

*Clause 16.*—This clause, *inter alia*, specifies the relevant authorities empowered to make appointments on different posts in the Major Port.

*Clause 17.*—This clause provides that the Board shall prepare and submit to the Central Government, after every five years, a list of the employees of the Board of the Major Port Authority indicating therein the designations and grades of employees and the salaries, fees and allowances which are proposed to be paid to them.

*Clause 18.*—This clause provides that the Board of the Port Authority shall be deemed to be the successor of the Board of Trustees of Major Port and all assets, contracts, obligations, liabilities and employees serving under the Board of Trustees under the Major Port Trusts Act, 1963 shall transferred to the Board of the Port Authority constituted under the proposed legislation.

*Clause 19.*—This clause lays down the provisions relating to usage of property, assets, etc, by the Board. This clause further lays down that any contract or arrangement to be entered by the Board for sale of land or immovable property or for lease of land or immovable property for port related use for a term exceeding forty years and for any purpose other than the purposes specified in clause 22 for a term exceeding twenty years shall be subject to the prior approval of the Central Government. This clause also provides that the tenure for lease of land or immovable property by the Board for Public Private Partnership projects shall be subject to the policy notified by the Central Government in respect of such Public Private Partnership projects.

*Clause 20.*—This clause lays down the procedure for the Board to acquire immovable property through the Central Government or State Government by payment of compensation under the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act, 2013.

*Clause 21.*—This clause empowers the Board to enter into contracts for performance of its functions under the proposed legislation. This clause further provides that the contracts shall be entered into by the Chairperson or any authorised officer on behalf of the Board.

*Clause 22.*—This clause empowers the Board to make different regulations for the planning and development of the Major Port and such regulations shall not be inconsistent with the Customs Act, 1962 and the rules made thereunder.

*Clause 23.*—This clause empowers the Board to frame and fix the scale of rates for assets and services available at Major Ports. This clause further provides that the fixation and implementation of such rates, etc. shall not be (a) with retrospective effect; (b) applicable for Public Private Partnership projects already awarded by the Board or the Central Government; (c) in derogation of the rules made by or directives of the Central Government in this behalf; (d) inconsistent with the provisions of the Competition Act, 2002; and (e) inconsistent with the provisions of any other law for the time being in force.

*Clause 24.*—This clause empowers the Board to have lien over the goods in respect of which any fee or rent is leviable and due to the Board under the proposed legislation. This clause further provided that the Board also has powers to detain such goods until the outstanding fee or rate is fully paid to the Board.

*Clause 25.*—This clause relates to ship-owner's lien for freight and other charges and provides that if the master or owner of any vessel or his agent, at or before the time of landing from such vessel or any goods at any port asset belonging to or in occupation of the Board, gives to such Board a notice in writing that such goods are to remain subject to a lien for

freight or other charges payable to the ship owner, to an amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

*Clause 26.*—This clause lays down the circumstances under which the Board may sell the goods that have been passed or placed into its custody upon landing at the Major Port and also empowers the Board to apply the sale proceeds of such goods in the manner stipulated under section 150 of the Customs Act, 1962.

*Clause 27.*—This clause empowers the Board to create specific master plan in respect of development of infrastructure within the port limits. The said master plan shall be independent of any local or State Government regulations.

*Clause 28.*—This clause relates to recovery of rates and charges by distraint of vessel and empowers the Board to detain or arrest any vessel in respect of which the rates or penalties are not paid as per the provisions of the proposed legislation.

*Clause 29.*—This clause provides that any person aggrieved by the action or decision of the Board under clauses 19 to 28 (except clause 25) of the Act to file an application against such action or decision before the Adjudicatory Board.

*Clause 30.*—This clause empowers the Board to raise loans and issue port securities for capital expenditure and working capital requirements of the Port Authority from any Scheduled Bank or financial institution located in India or from any financial institutions in any country outside India without prior approval of the Central Government up to fifty-one per cent. of the capital reserves of the Board.

*Clause 31.*—This clause relates to indorsements to be made on port security such as debentures, bonds and stock certificates issued by the Board and states that notwithstanding anything contained in section 15 of the Negotiable Instruments Act, 1881, no endorsement of a port security, which is transferable by indorsement, shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

*Clause 32.*—This clause provides that the indorser of security not liable for amount thereof and states that notwithstanding anything contained in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having indorsed any port security be liable to pay any money due, either as principal or as interest, thereunder.

*Clause 33.*—This clause provides for recognition of the person to whom a duplicate or new port security has been issued under the regulations made by the Board under clause 22 as the holder of the security. This clause further provides that such recognition by the Board of a person as the holder of a port security shall not be called in question by any court so far as such recognition affects the relations of the Board with the person recognised by it as the holder of a port security or with any person claiming an interest in such security. This clause also provides that such recognition by the Board of any person shall operate to confer on that person a title to the security or securities subject only to a personal liability to the rightful owner of the security for money had and received on his account.

*Clause 34.*—This clause lists out the events and circumstances in which the Board of Major Port Authority shall be discharged from its liability to make payments on amount due on port securities.

*Clause 35.*—This clause lists out different securities (other than the port security) that the Board of Major Port Authority may secure for raising loans.

*Clause 36.*—This clause relates to the power of the Board to repay loans to the Government before due date.

*Clause 37.*—This clause requires the Board to establish sinking fund in respect of loans raised by the Board which are not repayable before the expiry of one year from the date of such loan. This clause further provides that the Board is also required to set apart enough funds from its income as sinking fund and apply those funds to service or liquidate its loans.

*Clause 38.*—This clause clarifies that the loans raised and securities issued or pledged by the Major Ports before the commencement of the proposed legislation shall continue to be governed by the provisions of the Major Port Trusts Act, 1963.

*Clause 39.*—This clause provides that all moneys received by the Board shall be credited to the general accounts of the Board which it may open with the Scheduled Banks as per the guidelines of the Ministry of Finance, Government of India.

*Clause 40.*—This clause lays down the purposes for which the Board shall apply the moneys credited into the general accounts of the Board. This clause further provides that the provision includes payment of salaries, fees, allowances, pension, etc., of the Members and employees of the Board, cost and expenses incurred by the Board in the conduct and administration of any provident or welfare fund established by the Board, maintenance, development, security and protection of the Board, docks, warehouses and other properties of the Board, and the like.

*Clause 41.*—This clause relates to the accounts and audit of the Board and requires the Board to prepare a budget and an annual statement of its accounts. This clause further provides that the accounts of the Board shall be audited by the office of the Comptroller and Auditor-General of India and the audited report as certified by the Comptroller and Auditor-General shall be forwarded to the Central Government for presentation before both the Houses of Parliament.

*Clause 42.*—This clause requires the Board to submit to the Central Government, an annual report in relation to the administration of the Major Port.

*Clause 43.*—This clause empowers the Central Government to order a survey or examination of the works of the Board and the cost of such survey and examination by the Central Government shall be borne and paid by the Board from and out of the moneys credited to its general account.

*Clause 44.*—This clause relates to the power of the Central Government to restore or complete works at the cost of the Board in case of non-completion or inaction of the Board to complete such works has led to grave emergency. This clause further provides the circumstances under which the actions or omissions of the Board may be considered to have led to grave emergency.

*Clause 45.*—This clause provides the circumstances under which the Central Government may take over the management of the Board.

*Clause 46.*—This clause requires the Central Government to prepare and lay report of actions taken under clauses 42, 44 and 45 before each House of the Parliament.

*Clause 47.*—This clause relates to the power of the Central Government to exempt from obligation to use port assets and states that the Central Government may, in the interest of security of nation or on account of grave emergency, by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or classes of goods, at such place in a Major Port or within the Major Port approaches, in such manner, during such period and subject to such payments to the concerned Board in relation to such Major Port or such Major Port approaches and on such conditions as the Central Government may think fit.

*Clause 48.*—This clause restricts the Board not to sell, alienate or divest its assets, properties, rights, powers and authorisation vested in it under the Act without the prior sanction of the Central Government.

*Clause 49.*—This clause, *inter alia*, provides that the Central and State Governments in respect of loans given by it to the Board or of loans given to any other authority for the repayment of which the Board is legally liable on the commencement of the Act, the same remedies and priority as applicable under the Major Port Trusts Act, 1963, as if the new Act had not been passed.



*Clause 50.*—This clause states that the Board shall in discharge of its functions under the Act, be bound by the directions on questions of policy as the Central Government may give in writing from time to time. This clause further states that the Board shall be given an opportunity to express its views before any direction is given by the Central Government; but the decision of the Central Government on whether a question is one of policy or not shall be final and binding on the Board.

*Clause 51.*—This clause provides for the constitution of the Adjudicatory Board for hearing the application against any person aggrieved by any action of the Board while exercising its powers under sections 19 to 28 (except section 25).

*Clause 52.*—This clause relates to general provision for punishment of offences and states that any person who contravenes any of the provisions of the Act or any rule, regulation or order made thereunder, shall be punishable with fine which may extend to rupees one lakh.

*Clause 53.*—This clause relates to the offences by companies and *inter alia*, states that if the person committing an offence under the proposed legislation is a company, then, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. This clause further provides that no such person shall be liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

*Clause 54.*—This clause relates to cognizance of offences and states that no court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence punishable under the proposed legislation or any rule or regulation made thereunder.

*Clause 55.*—This clause relates to protection of acts done in good faith and states that no suit or other legal proceeding shall lie against the Board or any Member or employee thereof in respect of anything which is in good faith done or intended to be done under the Act or any rule or regulation made thereunder, or for any deficiency of service or any consequential losses on account of deficiency in services.

*Clause 56.*—This clause stipulates that every person employed by the Board under the Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

*Clause 57.*—This clause relates to power of the Board to evict certain persons from premises of the Board and stipulates that the Board in exercise of the powers conferred on it by regulations made under the Act or by invoking the contractual remedies available to the Board may cancel the allotment of any premises made to any employee of the Board or any other person or evict an employee of the Board or any person in occupation of any port asset or premises or area in the port limits, by notice in writing, addressed to such allottee or employee or other person who may be in occupation or possession thereof in violation of the regulations specified or formulated by the Board.

*Clause 58.*—This clause entitles the Board with an alternate remedy to recover by suit any rates, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of the sale are insufficient, or any penalties payable to, or recoverable by, the Board under the Act or under any regulations made in pursuance thereof.

*Clause 59.*—This clause relates to Corporate Social Responsibility of the Major Ports and requires the Board of Port Authorities to utilise funds for providing social benefits including development of infrastructure in areas of education, environment, health, housing, skill development, training, etc., within the port limits for its employees, customers, business partners, Non-Government Organisations and society at large.

*Clause 60.*—This clause provides that the Central Government may, by notification make rules for carrying out the provisions of the Act.

*Clause 61.*—This clause provides that the Board may, with the prior approval of the Central Government, by notification, make regulations consistent with the provisions of the Act and the rules made thereunder.

*Clause 62.*—This clause provides that every rule, regulation and notification made under the Act shall be laid, as soon as may be after it is made, before each House of Parliament.

*Clause 63.*—This clause relates to repeal of the Major Port Trusts Act, 1963 and saving of certain actions taken under the said Act.

*Clause 64.*—This clause relates to power to remove difficulties and provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appears to it to be necessary or expedient for removing the difficulty.

*Clause 65.*—This clause relates to the transitional provision and provides that the Board of Trustees functioning as such immediately before the commencement of the Act shall continue to so function until the Board for each Major Port is constituted under the proposed legislation, but on the constitution of such Board under the proposed legislation, the Members of the Board of Trustees holding office before such constitution shall cease to hold office.

## FINANCIAL MEMORANDUM

Clause 23 of the Major Port Authorities Bill, 2016 Bill empowers the Board of each Major Port authority to frame scale of rates for services to be performed or made available, and for access to and usage of the port assets.

2. Clause 30 of the Bill empowers the Board to raise loans for capital expenditure and working capital requirements of the Port Authority from any Scheduled Bank or financial institution located in India or from financial institutions in any country outside India without prior approval of the Central Government upto fifty per cent. of the capital reserves of the Board.

3. Clause 37 of the Bill, *inter alia*, requires the Board to establish sinking fund in respect of loans raised by the Board which are not repayable before the expiry of one year from the date of such loan.

4. Clause 39 of the Bill provides that all moneys received by or on behalf of the Port Authority under the provisions of this Act shall be credited to such general account or accounts of the Port Authority which the Board may from time to time generally open with the Scheduled Banks as per the guidelines of the Ministry of Finance, Government of India.

5. Clause 40 of the Bill requires that the moneys credited in the general account shall be applied by the Port Authority for payment of such charges and for such purposes as mentioned in the said clause.

6. The Bill does not involve any other expenditure from the Consolidated Fund of India, either recurring or non-recurring.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Major Port Authorities Bill, 2016 seeks to empower the Central Government to make rules for—(a) the composition the Select Committee and the manner of appointment of the Chairperson and Deputy Chairperson of the Board under sub-section (1) of section 4; (b) the manner of appointment of members of the Board under sub-section (3) of section 4; (c) the procedure for conducting any inquiry made under sub-section (3) of section 5; (d) the honorarium payable to the Members of the Board under section 10; (e) the form and manner in which contracts shall be made by the Board under sub-section (3) of section 21; (f) the form, manner and fees for filing application before the Adjudicatory Board under section 29; (g) the manner of applying the sums under sub-section (3) of section 37; (h) the purposes for which the moneys received by the Board shall be applied under sub-section (3) of section 40; (i) the form in which and the time at which the Board shall prepare an annual report under sub-section (1) of section 41; (j) the salaries and allowances payable to and other terms and conditions of services of the Presiding Officer and members of the Adjudicatory Board under sub-section (8) of section 51; (k) the procedure to be adopted by the Adjudicatory Board, under sub-section (9) of section 51; (l) other functions of the Adjudicatory Board under sub-section (10) of section 51; (m) the manner of utilisation of funds for Corporate Social Responsibility under sub-section (2) of section 59; and (n) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

2. Clause 61 of the Bill empowers the Board, with the previous approval of the Central Government, by notification, to make regulations consistent with the provisions of the Act and the rules made thereunder to provide for — (a) rules of procedure for transaction of business under sub-section (1) of section 12; (b) rules of procedure for transaction of business under sub-section (2) of section 13; (c) the appointment of employees under clause (b) of sub-section (1) of section 16; (d) the use and development of the port assets under sub-section (2) of section 19; (e) the purposes of planning and development of Major Port under section 22; (f) the form of port security under sub-section (3) of section 30; and (g) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

3. The matters in respect of which the aforementioned rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for regulation, operation and planning of Major Ports in India and to vest the administration, control and management of such ports upon the Boards of Major Port Authorities and for matters connected therewith or incidental thereto.

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*(Shri Nitin Gadkari, Minister of Road Transport, Highways and Shipping)*