

The Orissa Ports Regulation, 1937

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Act 11 of 1937

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The Orissa Ports Regulation, 1937Orissa Regulation No. 11 of 1937Published vide Gazette of India/18.3.1937 and in the Orissa Gazette/26.3.1937, received the assent of the Governor-General on 11.3.1937.A Regulation to make provision for the levy of dues upon goods in the Ports of Orissa.Preamble. - Whereas it is expedient to make provision for the levy of dues upon goods in the ports of Orissa;It is hereby enacted as, follows :

1. Short title.

(1)This Regulation may be called the Orissa Ports Regulation, 1937.(2)Commencement - It shall come into force at once.(3)Local extent - The State Government may by notification declare any port in Orissa to be a port for the purposes of this Regulation.(4)Such notification shall define the limits of the area to which it refers.

2. Definitions.

- In this Regulation, unless there is anything repugnant in the subject or context-(a)"port" means any port in Orissa;(b)"owner", when used in relation to goods, includes any consignor, consignee, shipper or agent for the safe custody landing, shipping or transshipping of such goods;(c)"Port Officer" means any person declared by the State Government to be a Port Officer for the purposes of this Regulation.

3. Levy of dues.

- Dues according to the rates and in the manner and at the times fixed by the State Government shall be paid by the owners of goods landed or discharged from or shipped or transhipped into any vessel within the limits of a port in addition to any dues leviable otherwise than under the provisions of this Regulation.

4. Rates.

(1)The State Government shall by notification declare the rates at which dues leviable under this Regulation shall be paid, and(a)may cause such rates to vary in any or all of the following cases:(i)according to the class of the goods;(ii)according as the goods are exported from or imported into a port;(iii)according to the place to which the goods are to be exported or from which they are imported; and(iv)according to the class of vessel; and(b)may exempt specified classes of vessels or goods from the operation of this Regulation.(2)At least one month before issuing any notification under this section the State Government shall publish in the Gazette a draft of the proposed notification together with a notice specifying a date on or after which the draft will be taken into consideration, and the State Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.(3)The rates when finally sanctioned shall be published by notification in the Gazette and shall come into operation on such date as the State Government may prescribe.

5. Power to make rules.

(1)The State Government may make rules for carrying out the purposes of this Regulation.(2)Without prejudice to the generality of the foregoing power, such rules may contain directions as to all or any of the following matter, namely:(a)appointing places where goods landed or discharged from, or intended for shipment in, or transshipment into vessels are to be placed for the purpose of assessing the dues payable under this Regulation;(b)regulating the manner in which any dues payable under this Regulation shall be assessed;(c)regulating the time at which and the persons to whom such dues shall be paid;(d)enabling owners of private jetties or of specified classes of vessels to compound for the dues payable in respect of goods landed or discharged or shipped or transhipped on or from such jetties or out of or into such vessels by payment of fixed annual or monthly sums;(e)prescribing the method of publishing the notice referred to in Sub-section (2) of Section 8.(3)All rules made under Sub-section (1) shall be published in the Gazette and shall thereupon have effect as it enacted by this Regulation.

6. Receipt of dues.

- All dues levied under this regulation shall be credited to the Port Fund Account of the port prescribed by Sub-section (2) of Section 36 of the Indian Ports Act, 1908 (XV of 1908).

7. Bar to claims for refund of excess dues.

- No right to any refund of dues shall be recognised unless a claim therefor is preferred in writing to the Port Office and evidenced by satisfactory proofs within six months of the date of payment of such dues.

8. Recovery of dues by distress and sale of goods.

(1)The Port Officer may cause any goods in respect of which dues are payable under this Regulation to be seized and detained, at the risk of the owner, until such dues are satisfied.(2)Where any goods have been so seized, the Port Officer shall publish a notice in such manner as the State Government may direct, stating the description of the goods, the amount of dues payable in respect thereof and that if the dues remain unpaid after one month from the date of publication of such notice the goods will be sold. He shall also send a copy of such notice to the owner when his address is known. At the expiration of such period, if the dues and all costs of removal and warehousing and other expenses incidental to the detention of the goods have not been paid, the Port Officer may cause the goods, or any part of them, to be sold by public auction :Provided that, if the goods are of a perishable nature, the Port Officer may give such notice to the owner as the urgency of the case admits of, and may cause the goods to be sold at such time, being not less than 24 hours after the seizure of the same, as he shall think fit.(3)The title of a bona fide purchaser of goods at such sale shall not be invalidated by reason of the omission of, or any defect in, any such notice, nor shall any such purchaser be bound to inquire whether such notice has been given.(4)The proceeds of such sale shall be applied-(a)first, in payment of the expenses of such sale;(b)secondly, in payment of freight and other charges due to the master or owner of any vessel in respect of which such master or owner had a lien upon such goods at the time when the same were seized; provided that notice of such claim shall have been given to the Port Officer at or before such seizure; provided further that proof of such claims is given to the satisfaction of the Port Officer;(c)thirdly, in payment of the dues and expenses mentioned in Subsection (2).(5)The surplus, if any, of such proceeds shall be paid to the owner of the goods on his applying for the same : provided that such application be made in writing within one year from the sale, or reason be shown to the satisfaction of the Port Officer why such application was not so made;and, if no such application is made or reason shown such surplus shall be credited to the Port Fund Account.

9. Penalties.

- Whoever removes, or attempts to remove, or abets the removal of any goods with the intention that the payment of any dues payable under this Regulation may be evaded and whoever wilfully commits any breach of any rule made under Section 5, shall be punishable with a fine which may extend to one hundred rupees.

10. Repeal.

- The Madras Outports Landing and Shipping Fees Act, 1885 (Madras Act III of 1885) is hereby repealed in its application to the State of Orissa.