



THE ZANZIBAR PORTS CORPORATION ACT, 1997

ARRANGEMENT OF SECTIONS

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ACT NO. 1 OF 1997

I ASSENT

A handwritten signature in red ink, appearing to read "Salmin Amour".

DR. SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND CHAIRMAN OF THE REVOLUTIONARY COUNCIL

9th June, 1997

AN ACT TO ESTABLISH ZANZIBAR PORTS CORPORATION AND PROVIDE FOR OTHER MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

ENACTED by the House of Representatives of Zanzibar.

PART I

PRELIMINARY PROVISIONS

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|------------------------------|----|---|
| Short title and Commencement | 1. | This Act may be cited as the Zanzibar Ports Corporation Act, 1997 and shall come into operation immediately upon being assented to by the President. |
| Interpretation | 2. | In this Act, except where the context otherwise requires:-

"animals" means animate things of every kind except human beings;

"authorised employee" means an employee authorised by the Director-General to exercise the powers or perform the duties in respect of which the expression is used;

"beacon" means any light, mark or other structure erected by the Corporation for the purpose of navigation; |



"Board" means the Board of Directors of the Corporation established under Part II of this Act;

"charges" means all sums received or receivable, charged or chargeable for, or in respect of, any ship or harbour or the handling or warehousing of goods by the Corporation or for, or in respect of any other service performed or facilities provided by the Corporation;

"Corporation" is the corporation established under this Act;

"customs law" means any law in force within the United Republic imposing or relating to the collection of customs or excise duties or transfer tax;

"Department of Ports" means the Department of Ports and Maritime Transport of the Ministry of Communications and Transport;

"Director-General" means the Director-General appointed by the President under section 6;

"employee" means any person in the service of the Corporation;

"ferry" means any vessel plying within a harbour, or the approaches thereto, for the purpose of the carriage of passengers or goods;

"goods" includes luggage, animals (whether alive or dead) and all other movable property of any description;

"Government" means the Government of Zanzibar;

"harbours" means the harbours set out in the Second Schedule;

"harbour office" means any office in a harbour where rates and charges may be paid to the Corporation;

"master" in relation to a ship, means any person (other than a pilot) having charge of that ship;

"Minister" means the minister responsible for harbours;

"perishable goods" means goods liable to rapid deterioration and, in particular, means fish, fruits, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, birds, poultry, small animals



and any other thing which the Director-General may by notice in the Gazette declare to be perishable goods;

"Pilot" means any person not belonging to a ship who has the conduct thereof;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"the purposes of the Corporation" means any purposes necessary or desirable for the performance of the services, or the provision of any facilities, which the Corporation is authorised to perform or provide under this Act;

"rates" includes all sums which may, under the provisions of this Act, be levied for, or in respect of, any ship or harbour or the handling or warehousing of goods by the Corporation or for, or in respect of, any other service performed or facility provided by the Corporation;

"road" includes any street, thoroughfare, path or lane;

"Shillings" in relation to any transaction, means Tanzanian Shillings;

"ship" includes any vessel, tug, lighter or boat of any kind whatsoever whether propelled by steam or otherwise or towed;

"Tariff Book" means the tariff book published by the Corporation under section 45;

"United Republic" means the United Republic of Tanzania;

"vehicle" means any vehicle other than a ship;

"warehouse" includes any building, place, wagon, ship or vehicle when used by the corporation for the purpose of warehousing or depositing goods;

"waterworks" includes boreholes, wells, reservoirs, dams, weirs, tanks, cisterns, conduits, aqueducts, pipes, hydrants, taps, pumps, engines and all other structures, plant and appliances used or constructed for obtaining, storing, purifying, conveying, distributing, measuring or regulating water;

"Zanzibar Wharfage Corporation" means the corporation established by Legal Notice Number 4 of 1975.



- (2) In this Act and in all documents issued under this Act unless the context otherwise requires:-
- (a) "premises occupied by the Corporation" means premises vested in or placed at the disposal of the Corporation for the purposes of the Corporation;
 - (b) "property of the Corporation" means property vested in the Corporation for the purposes of the Corporation;
 - (c) "the possession of the Corporation" means the possession by any employee in the course of his duty;
 - (d) "accepted by the Corporation" means accepted by an employee or agent of the Corporation for handling or warehousing by the Corporation in accordance with the provisions of this Act:
Provided that acceptance shall not be deemed to have been effected until a document of receipt in respect of the goods accepted, signed by an authorised employer agent of the Corporation, has been issued;
 - (e) "services or facilities provided by the Corporation" means services performed or facilities provided by the Corporation in accordance with the provisions of this Act;
 - (f) "operated by the Corporation" means operated by the Corporation in accordance with the provisions of this Act;
 - (g) "vehicle of the Corporation" includes vehicles operated on behalf of the Corporation;
- Act to prevail
3. Notwithstanding the provision of any other rules regulation relating to harbours, the Corporation shall have the powers, duties, functions and responsibilities vested to it by this Act and in the event of any conflict or duplicity between any law, rule or regulation the provision of this Act shall prevail.

PART II

ESTABLISHMENT AND CONSTITUTION OF ZANZIBAR PORTS CORPORATION

Establishment of
Zanzibar Ports
Corporation

4. (1) There is hereby established a Corporation to be known as the Zanzibar Ports Corporation.
- (2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to acquire, hold and dispose



of movable and immovable property for the purposes of the Corporation.

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| Head quarters | 5. The head quarters of the Corporation shall be situated within the Municipality of Zanzibar. |
| Management and Board of the Corporation | 6. (1) There shall be a Director-General of the Corporation who shall be appointed by the President;
(2) There shall be a Deputy Director-General of the Corporation who shall be appointed by the President.
(3) There shall be a Board of Directors of the Corporation which shall, subject to this Act, carry out the functions and manage the business and affairs of the Corporation.
(4) The Board of Directors shall consist of the following-
(a) A Chairman who shall be appointed by the President;
(b) The Director-General of the Corporation;
(c) Not less than five but not more than nine other members who shall be appointed by the Minister.
(5) The appointing authorities, in appointing the persons referred to in subsection (4) (c) shall have regard to the desirability of appointing persons with experience in commerce, industry, finance, or administration or with technical experience or qualification. |
| Remuneration of the members of the Board | 7. The Corporation shall pay to the members of the Board such remuneration, fees or allowances for expenses as may be determined by the Minister. |
| Further provision as to the Corporation | 8. The First Schedule shall have effect with respect to the constitution or organization of the Corporation and otherwise in relation thereto. |

PART III

FUNCTIONS AND POWERS OF THE CORPORATION

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|---------------------------|--|
| General duty of the Board | 9.(1) It shall be the duty of the Board to provide by means of the undertaking of the Corporation co-ordinated system of harbours, and facilities related thereto. |
|---------------------------|--|



- (2) The performance of the duty referred to in subsection (1) shall include a general duty to secure :-
- (a) the fullest development, consistent with economy, of the undertaking of the Corporation;
 - (b) that the undertaking of the Corporation is operated efficiently, economically and with due regard to safety;
 - (c) that the financial administration of the Corporation is conducted in accordance with Part IV;
 - (d) that the Corporation provides all reasonable facilities for the handling and warehousing of cargo and other goods, and
 - (e) that no particular person or body is given any undue preference or subjected to any undue disadvantage.
10. Subject to this Act, the control and executive management of the Corporation shall be vested in the Director-General.
- Powers of the Director-General
11. Subject to the directions of the Board, the Director-General may:-
- (a) establish and operate harbour services and facilities relating thereto;
 - (b) approve recurrent expenditure within limits determined by the Board;
 - (c) approve any individual capital work of which the estimated cost does not exceed thirty million Tanzanian Shillings or such other sum as the Minister may, by order, from time to time fix;
 - (d) approve any alteration in salaries, wages or other terms and conditions of service of employees of the Corporation not involving expenditure in excess of the limits determined by the Board;
 - (e) approve any alteration in the establishment of the Corporation other than an alteration involving a major reorganisation or a substantial reduction in the number of employees; and
 - (f) allocate functions to employees of the Corporation.



Powers of the Board

12. In the exercise of its duty under section 9, and subject to any directions of a general nature which may be given to it by the Minister, the Board may:-
 - (a) approve any minor alteration in the tariffs, rates, fares and other charges;
 - (b) approve any minor alteration in salaries, wages or other terms and conditions of service of employees of the Corporation;
 - (c) approve any individual capital work, for the purposes of the Corporation;
 - (d) establish from among its members, committees for the purposes of the Corporation and delegate functions thereto;
 - (e) consider legislative proposals and recommend their enactment to the Minister;
 - (f) subject to section 18, provide harbour services or facilities requested by the government of any neighbouring or friendly country;
 - (g) approve any alteration in the organisation or establishment of the Corporation other than an alteration referred to in section 11 (e); and
 - (h) give directions to the Director-General.

Powers of the Minister

13. The Minister may:-
 - (a) give directions of a general nature to the Board relating to the operation of the undertaking of the Corporation;
 - (b) approve any major alterations in the tariffs, rates, fares and other charges made for the services provided by the Corporation;
 - (c) approve any major alterations in salaries, wages or other terms and conditions of service of employees of the Corporation;
 - (d) approve any individual capital work, for the purposes of the Corporation, of which the estimated cost exceeds thirty million Tanzania Shillings or such amount he may fix from time to time;
 - (e) give particular directions to the Board concerning any matter involving agreement with, or the interest of, any country.



Powers of the
Corporation
as a public body

14 (1) The Corporation shall have power -

- (a) to maintain, operate, improve and regulate the harbours set out in the Second Schedule;
- (b) to provide facilities relating to harbours and provide harbour services and services relating to harbours and provide harbour services ancillary thereto;
- (c) to construct, operate and maintain beacons and other navigational aids within Zanzibar and the territorial waters thereof;
- (d) subject to the provisions of subsection (3) of this section, to construct and operate new harbours;
- (e) to carry on the business of stevedore, wharfinger or lighterman;
- (f) to act as warehousemen and to store goods whether or not such goods have been, or are to be, handled as cargo or carried by the Corporation;
- (g) to the extent determined by the Minister, to act as carriers for goods or passengers by land or sea;
- (h) to consign goods on behalf of other persons to any places in the world;
- (i) to provide within Zanzibar such amenities facilities for persons making use of the services performed or the facilities provided by the Corporation as may appear to the Board necessary or desirable.

(2) Subject to the approval of the Minister, the powers conferred by subsection (1) shall include all such powers as are necessary or advantageous and proper for the purposes of the Corporation and in particular, without prejudice to the generality of the foregoing, shall include power-

- (a) subject to subsection (3), to construct any wharf, pier, landing stage, road, bridge, building or any other necessary or desirable works required for the purposes of the Corporation;
- (b) to clean, improve or alter any harbour or the approaches thereto;
- (c) to provide and use, within harbours and elsewhere, ships:-
 - (i) for the towage, protection, or salvage of life or property;



- (ii) for the carriage of goods and passengers;
- (d) to appoint, licence and regulate the activities of the pilots;
- (e) to control the erection and use of wharves in any harbour or the approaches thereto;
- (f) to operate inland transport;
- (g) to carry on any business necessary or desirable to be carried on for the purposes of the Corporation;
- (h) to acquire, construct, manufacture, maintain, or repair, water works or electric generating plant or any other works, plant or apparatus necessary or desirable for the supply or transmission of water or of electric energy for the purposes of the Corporation and to supply any such water or electric energy to any person;
- (i) to determine, impose and levy rates fares, charges, dues or fees for any service performed by the Corporation or for the use by any person of the facilities provided by the Corporation or for the grant to any person of a licence, permit or certificate;
- (j) to prohibit, control and regulate -
 - (i) the use by any person of the services performed, or the facilities provided, by the Corporation; or
 - (ii) the presence of any person, ship vehicle or goods within any harbour or on any premises occupied by the Corporation for the purposes of the Corporation;
- (k) to sell, let or otherwise dispose of any property, movable or immovable, which in the opinion of the Board is not necessary for the purposes of the Corporation :

Provided that the Corporation shall not sell, let or otherwise dispose of any building or land placed at its disposal by the Government otherwise than with the consent of and under conditions agreed by the Government;
- (l) to provide houses and other accommodation for employees;
- (m) to act as agent for any person engaged, whether within Zanzibar or elsewhere, in the performance of services, or the provision of facilities, of a kind similar or complementary to those performed or provided by the Corporation;



- (n) to enter into agreements with any person -
- (i) for the supply, construction, manufacture, maintenance or repair by the person of any property movable or immovable necessary or desirable for the purposes of the Corporation;
 - (ii) for the performance or provision by that person of any of the services or the facilities which may be performed or provided by the Corporation;
 - (iii) for the payment, collection or apportionment of any fares, rates, charges or other receipts arising out of the performance or the provision by that person of any such services or facilities and, for such purposes, to finance or assist in financing the activities of that person, whether by way of loan, the holding of stocks, shares or securities the guaranteeing of interest or the retention of any stocks, shares or securities or otherwise;
- (o) to hold shares in any other Corporation and to establish or acquire any subsidiary Corporation.
- (3) No harbour shall be constructed by the Corporation unless prior to such construction a report of the proposed undertaking, and the advantages and disadvantages of any alternative undertaking, has been made by the Board to the Minister and has been approved by the President.
- (4) For the avoidance of doubts it is hereby declared that subsections (1) and (2) relate only to the capacity of the Corporation as public corporation and nothing in those provisions shall be construed as authorising the disregard by the Corporation of any law.
- (5) The powers conferred on the Corporation under this section to construct or improve any harbour shall empower the construction or execution of any works necessary thereto on land vested in the Corporation or on land placed at its disposal by the Government for the purposes of the Corporation or in the case of land not so vested in or placed at the disposal of, the Corporation, only with the agreement of the owner of the land on which such works are to be constructed or executed, and where any land is required by the Corporation for the purpose of the Corporation, the Corporation shall make representations to the President and the President may acquire the land in accordance with the provisions of the law relating to the acquisition of land for public purposes.



survey

may, for the purposes of the Corporation enter upon any land and survey such land or any portion thereof.

Power to enter land to prevent accidents

16(1)

Any authorised employees of the Corporation may, for the purposes of preventing the occurrence of any accident, preserving the safety of navigation or the safe operation of any service provided by the Corporation, or repairing any damage caused by an accident, enter upon any land and-

- (a) cut down or remove any tree or other obstruction, not being a building, which obscures the view of any beacon or other fixed signal or which is likely to cause any obstruction or any danger to the safety of navigation or of any such service;
- (b) execute such other works as may be necessary to prevent the occurrence of any accident or to repair any damage caused as a result of any accident.

(2)

If any tree or other obstruction cut down or removed under subsection (1) (a) came into existence subsequent to the erection of any beacon or fixed signal or to the service being provided at that place, then, no compensation shall be payable in respect of such entry, or the cutting down or removal of such tree or other obstruction.

(3)

Where any person erects any building which obscures the view of any beacon or other fixed signal or is likely to cause any obstruction or any danger to navigation or to the operation of any service provided by the Corporation, the Corporation may unless such person has previously obtained the approval of the Director-General to the erection of such building or has modified it to the satisfaction of the Director-General, apply to a judge of the High Court for an order for the demolition or modification of such building or, as the case may require, for the payment to the Corporation of the cost incurred in resiting or replacing any fixed beacon, signalling equipment or otherwise necessary to prevent such obstruction or danger and the court, at its discretion, may grant such order and may make such order as to the payment of compensation and costs as it thinks fit.

Power to enter land to alter

17(1)

The Corporation, or any authorized employee, may for the purposes of the Corporation, enter upon any



position of pipes

land and alter the position of any pipe for the supply of gas, oil, water or compressed air or the position of any electric, telephone or telegraphic wire or the position of any drain.

- (2) Where the Corporation exercises any power under subsection (1) it shall give reasonable notice of its intention so to do to the authority or person having control of the pipe, water or drain and -
- (a) such authority or person may authorise a representative to superintend such work and may require the Corporation to execute such work to the satisfaction of such representative;
 - (b) the Corporation shall make arrangements for the maintenance of the supply of gas, oil, water compressed air or electricity, for the continuance of the telephonic or telegraphic communications or for the maintenance of the drainage, as the case may be, during the execution of such work.
- (3) Where any damage is caused by reason of the exercise of the powers conferred by this section, the person suffering such damage shall be entitled to compensation therefor in accordance with this Act.
18. The Corporation shall not be required to provide to any person or authority harbour facilities or services ancillary thereto, either gratuitously or at a rate or charge which is insufficient to meet the cost involved in the provision of such facilities or services by the Corporation unless the Government undertakes to make good the amount of the loss incurred by reason of the provision of such facilities or services.

Corporation
may not be
required to
provide
services at
a loss

PART IV

FINANCIAL PROVISIONS, ACCOUNTS AND REPORTS

Principles
of operation

19. (1) It shall be the duty of the Corporation to conduct its business according to commercial principles and to perform its functions in such a manner as to secure that, taking one year with another, its revenue is not less than sufficient to meet its outgoing which are properly chargeable to revenue account, including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension liabilities and interest and other provision for the repayment of loans and further to ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Corporation of such a percentage as the Board may from time to time direct.



(2) For the purpose of subsection (1) -

- (a) "net operating income" shall be determined by subtracting from gross operating revenue all operating and administrative expenses including taxes (if any) and adequate provision for maintenance and depreciation; and
- (b) "value of the net fixed assets in operation" shall be the value of such assets less the amount of accumulated depreciation shown in the statement of accounts of the Corporation:

Provided that, if the amounts shown in such statements of accounts do not reflect a true measure of value of the assets concerned because of currency revaluations, changes in prices or similar factors, the value of the fixed assets shall be adjusted adequately to reflect such currency ~~revelations~~, changes in prices or similar factors.

- (3) With the prior approval of the Minister, the Board may, from time to time, invest any part of the moneys available in any fund of the Corporation and which is not for the time being required for the purposes of the business of the Corporation in such investment as are authorized investments.

Borrowing powers 20. The Corporation may, with the consent of the Board or accordance with the terms of a general authority given by the Board, borrow temporarily by way of overdraft or otherwise such sums as the Corporation may require for meeting its obligations or discharging its functions under this Act.

Annual and supplementary budget 21(1) Not less than two months before the beginning of every financial year the Board shall pass a detailed annual budget of the amounts -

- (a) expected to be received; and
- (b) expected to be disbursed,

by the Corporation during that financial year, and whenever circumstances so require, the Board may pass a supplementary budget in any financial year.

(2) Such budget and supplementary budget shall be sent to the Minister for approval. The Board shall be bound to the budget approved, with or without changes, by the Minister.

Provided that with the sanction in writing of the Minister, the Board may make disbursement not otherwise provided for in the budget.



Annual accounts

22(1) The Board shall ensure that proper accounts and other records are kept in relation to the revenue and expenditure, assets and liabilities, and other financial transactions of the Corporation and shall ensure that within six months of the end of each financial year of the Corporation, or such longer period as the Board may allow in any particular case, a statement of accounts of the Corporation is prepared, in accordance with the best commercial standards and any directions which may be issued by the Board, and transmitted to the Auditor-General.

(2) The accounts of the Corporation and of all officers and authorities of the Corporation, shall be audited by the Auditor-General and for that purpose the Auditor-General and any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts and other documents relating to those accounts and upon receipt of a statement of accounts transmitted to him under subsection (1) the Auditor-General shall examine it, certify it and report on it and shall return the statement with the certificate and report to the Board.

Annual report and financial year

23.(1) The Board shall, within nine months after the end of each financial year, prepare a report upon the operation of the Corporation in that year and shall transmit such report to the Minister.

(2) The financial year of the Corporation shall run from the 1st day of January to the 31st day of December in each year. Provided that the first financial year of the Corporation shall commence on the date of the commencement of this Act and may be of a period longer or shorter than twelve months.

PART V

DECLARATION AND CONTROL OF HARBOURS

Declaration of harbours and their limits

24. (1) The ports set out in the Second Schedule of this Act are hereby declared to be harbours for the purposes of this Act.

(2) The President may, by order published in the Gazette, amend, vary or replace the provisions of the Second Schedule.

Compulsory pilotage harbours

25. (1) The harbours specified in the Second Schedule shall be compulsory pilotage harbours and all ships other than excepted ships, navigating, whether by entering, leaving or moving within the limits of a compulsory pilotage harbour, shall be under the pilotage of a pilot.

(2) For the purposes of this section, the following ships shall be excepted ships -



- (a) ships owned or operated by the governments of the United Republic or the Government of Zanzibar;
- (b) ships owned or operated by the Corporation;
- (c) ferry boats plying as such exclusively within the limits of a harbour;
- (d) ships of less than 200 tons net register;
- (e) ships trading exclusively between harbours within the United Republic;
- (f) tugs, dredgers, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the harbour.

(3) The Minister may by notice in the Gazette, exempt from compulsory pilotage any class of ship either generally or in relation to any particular harbour.

(4) The Director-General may exempt from compulsory pilotage any ship in any particular case.

(5) Where any harbour is a compulsory pilotage harbour the Minister may, by order, define the limits of such harbour for the purpose of compulsory pilotage.

(6) The Corporation shall not be responsible for any loss or damage caused through the act, neglect or default of any pilot.

(7) The owner or master of a ship navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as he would if pilotage were not compulsory.

26. No ship shall, without lawful excuse, embark or disembark any passenger or goods at any place other than a harbour:

Provided that -

- (i) the Director-General may authorize the master of any ship to embark or disembark passengers or goods at any place other than a harbour;
- (ii) nothing in this section shall apply to small boats carrying passengers or goods from any place within the United Republic to any other place within the United Republic.

Passengers,
etc. to be
embarked,
etc., only at
a harbour.



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|--|--|
| Master to supply information etc. | 27. The master of any ship arriving in a harbour shall if required, produce to an authorized employee -
<ul style="list-style-type: none">(a) the ship's register and the ship's papers;(b) a list of the crew;(c) a list of the passengers, if any, showing particulars of their sex and occupation;(d) a list showing the deaths, if any, which have occurred during the voyage;(e) a list showing the stowaways, if any, on the ship, and shall also supply such other information in relation to the ship, passengers and cargo thereof, as such employee may require. |
| Harbour rates may be levied | 28. (1) There shall be levied upon every ship entering a harbour such harbour rates and charges as the Corporation may determine and publish in the Tariff Book.

(2) At any harbour where there is a harbour office there shall be available for public inspection at such harbour office a notice specifying all harbour rates and charges applicable at that harbour . |
| Power to arrest ship for harbour charges | 29. (1) Where any harbour charges are owing in respect of any ship, an authorized employee may arrest the ship and the tackle, apparel and furniture thereof and may detain it until the amount of such charges is paid.

(2) Where, after such arrest, any such harbour charges remain unpaid for a period of seven days, an authorized employee may cause the ship and the tackle, apparel and furniture thereof arrested to be sold and out of the proceeds of such sale he may retain the amount of any harbour charges which are owing and the expenses of the detention and sale thereof, and shall deliver the balance, if any, to the person responsible, under this Act, for the payment of such harbour charges.

(3) Where any ship, in respect of which harbour charges are owing and have not been secured to the satisfaction of an authorized employee, leaves any harbour and enters or is in any other harbour then such ship may be dealt with as if the harbour charges so owing and not secured were harbour charges owing in respect of such other harbour. |
| Refusal of outward clearance | 30. The proper officer of customs of any harbour may refuse to give the master of any ship in such harbour outward clearance until - |



(a) all harbour rates and charges due in respect of the ship, and all penalties and expenses to which the ship and her master are liable under this Act, have been paid or secured to the satisfaction of an authorized employee;

(b) he has received a certificate from an authorized employee stating that the master has complied with the provisions of this Act.

Powers of
authorized
employee

31(1) An authorized employee may -

(a) remove any obstruction to a harbour or its approaches or any boat, timber, raft or other harbour thing floating in a harbour which endangers or obstructs, or is likely to endanger or obstruct, the free navigation of the harbour or the use of any wharf or dock therein;

(b) in case of urgent necessity, take any action in a harbour which in his opinion may be necessary to prevent any danger to life or shipping;

(c) enter upon any ship or into any building in a harbour if it is necessary for him so to do in the performance of any duty under this Act or if he has reasonable grounds for believing that an offence against this Act has been, or is about to be committed therein.

(2) The owner of any thing removed by an authorized employee under subsection (1) (a) shall, without prejudice to any other action which may be taken against him, be liable to pay the reasonable expenses of such removal; and such thing may be detained by such employee until such expenses are paid.

(3) Where any thing is removed under subsection (1)(a) and the expenses of removal have not been paid within seven days of such removal, the Corporation may sell such thing by public auction and may out of the proceeds of sale retain the expenses of such removal, detention and sale and shall deliver the balance, if any, to the person appearing to the Director - General to be entitled thereto.

(4) The provisions of this section are in addition to, and not in derogation of, the provisions of any law relating to wreck.

Power of
health officer
in a harbour

32(1) A health officer may board any ship in a harbour and -

(a) medically examine any person therein;

(b) inspect the provisions, medicines and accommodation therein;



(c) require the master to produce the log-book and any other documents which such health officer may think necessary for the purpose of ascertaining the state of health of person therein and the master shall produce such log-book or documents;

(d) question any person therein for the purpose of ascertaining the state of health of such person;

(e) prohibit any person therein who appears to be infected with, or who has been exposed to the risk of infection of, any infectious or contagious disease from leaving such ship or cause any such person to be landed and detained in any hospital or quarantine station.

(2) In this section the expression "health officer" means a medical practitioner appointed under any law to discharge the duties of a health officer at a harbour or some other person as may be deputed to perform port health duties by the Port Health Officer.

Authority
may retain
goods until
freight, etc.,
paid

33(1) Where the master of a ship from which any goods have been landed at a harbour and accepted by the Authority for handling or warehousing, or of delivery to the consignee notifies the Director-General in writing that freight or other charges to the amount specified in the notice, remain unpaid in respect of the goods, the Corporation may retain the goods and refuse delivery thereof to the consignee or any other person until -

(a) the production of a receipt for, or a release from the payment of such amount signed, or purporting to be signed, by or on behalf of the ship owner; or

(b) payment of such amount, together with any rates, charges and duties due in respect of such goods has been made by the person entitled to take delivery thereof.

(2) Where the Corporation delivers any goods in respect of which a notice has been given under subsection (1) to a person producing such receipt or release or making such payment as referred to in that subsection, the Corporation shall be freed from all liability to any person in respect of the goods.

(3) The Corporation shall be entitled to such charges as may be determined under this Act in respect of the custody of any goods delivered to it in accordance with this section and may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods and shall have a lien on the goods for such charges and any other expenses so incurred.

(4) Nothing in this section shall be construed as requiring the Corporation to take into the custody of the Corporation any goods which would not otherwise be receivable by the Corporation under the provisions of the Act or as requiring the Corporation to inquire into the validity of any claim for



freight or any other charges made in any notice given by any master under subsection (1).

Liability for demurrage.

34. The Corporation shall not be liable for any demurrage which may occur or be due on any ship however such demurrage may have been caused.

Master responsible for contravention of Act, etc., in respect of ship

35. The master of a ship shall be responsible for the compliance in respect of such ship with the provisions of this Act, and, in the event of a contravention thereof, may be proceeded against and held responsible for such contravention.

Order to be available to master

36. The Corporation shall, in every harbour, maintain for the inspection of the master of any ship arriving at such harbour a copy of this Act, any harbour regulations made thereunder and of any law relating to quarantine.

PART VI

RESPONSIBILITY OF THE CORPORATION AS WAREHOUSEMAN

Liability for loss of goods, etc.

37. Subject to this Act, or of any contract, the Corporation shall not be liable for the loss, misdelivery or detention of, or damage to, goods delivered to, or in the custody of the Corporation except where such loss, misdelivery, detention or damage is caused by the want of reasonable foresight and care on the part of the Corporation or any employee :

Provided that -

(a) the Corporation shall in no case be liable for such loss, misdelivery, detention or damage arising from -

- (i) act of God;
- (ii) act of war;
- (iii) seizure under legal process;
- (iv) act or order of the Government;
- (v) act or omission of the consignor, consignee, depositor or of the servant or agent any such person;
- (vi) fire, flood, tempest, riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatever cause whether partial or general;



(vii) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;

(viii) deficiency in the contents of unbroken packages; or

(ix) insufficient or improper packing or leakage from defective drums, containers or packages;

(b) the liability of the Corporation for the loss, misdelivery or detention of or damage to goods accepted by the Corporation for warehousing in relation to which an account false in any material particular has been given under section 40(1) shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

Limitation of
liability for
loss, etc.,
of goods
deposited in
cloakroom

38. (1) The liability of the Corporation for any loss or misdelivery of, damage to or delay in the delivery of any goods deposited in a cloakroom shall not in any case exceed ten thousand shillings unless at the time of such deposit the person depositing the goods declared that the value thereof exceeded that amount and paid, or agreed to pay, such additional charge as may be determined in the Tariff Book in respect of such excess value; and thereupon the liability of the Corporation shall not in any case exceed such declared value.

(2) For the purpose of this section the expression "cloakroom" means any place provided by the Corporation as a facility for the temporary deposit of goods by persons using the services provided by the Corporation.

PART VII

OPERATIONS OF THE CORPORATION

Goods

Corporation
may determine
conditions for
warehousing
of goods

39. (1) The Corporation may, subject to this Act -
(a) determine the conditions upon which goods shall be handled or warehoused by the Corporation and different conditions may be determined in different cases; and such conditions shall be published in the Tariff Book and shall, subject as aforesaid, have effect from the date of such publication or from such later dates as may be specified therein;



(b) determine the rates and charges for the handling or warehousing of goods and for any other service or facility; and such rates and charges shall be published in the Tariff Book and shall, subject as aforesaid, have effect from the date of such publication or from such later date as may be specified therein.

(2) Notwithstanding subsection (1) the Corporation may, in relation to the special circumstances of any particular case, determine conditions, rates and charges applicable to such case for the handling or warehousing of goods by the Corporation or for any other service or facility and such conditions, rates and charges shall have immediate effect in relation to such cases:

Provided that such conditions, rates and charges shall, if they are of a continuing nature, be available to the public on request.

Description,
etc., of
goods to be
delivered.

40. (1) The consignor of, or the person tendering, any goods to the Corporation for handling or warehousing, and on request by an authorized employee, the consignee of or person receiving, any goods which have been handled or warehoused by the Corporation, shall deliver to an authorized employee an account in writing signed by such consignor, person or consignee, as the case may be, containing such description of the goods as may be sufficient to enable such employee to determine the rates and charges payable in respect of the handling or warehousing thereof by the Corporation.

(2) Any authorized employee may, for the purpose of checking any account delivered under subsection (1), require such consignor, person or consignee, as the case may be, to permit him to examine such goods.

(3) If such consignor, person or consignee fails to deliver the account referred to in subsection (1), or to permit such goods to be examined as required under subsection (2), an authorized employee may refuse to accept the goods for such handling or warehousing unless in respect thereof a rate or charge not exceeding the highest rate or charge payable for any class of goods is paid; or in respect of goods which have been handled or warehoused the Corporation may refuse to deliver such goods unless in respect thereof a rate or charge not exceeding such highest rate of charge is paid.

(4) If, in respect of goods which have been handled or warehoused by the Corporation, an account delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, an authorized employee may refuse to deliver such goods unless, in respect of the handling or warehousing of such goods, a rate or charge not exceeding double the highest rate or charge payable for any class of goods is paid.

Goods may be

41. (1) Where any person fails to pay on demand made by



sold to pay
rates, etc.

an authorized employee any rate or charge due from him in respect of any good, the Corporation may detain the whole or any part of the goods or, if they have been removed from the possession of the Corporation, any other goods of such person which may be in, or may thereafter come into, the possession of the Corporation.

(2) Where any goods have been detained under subsection (1), the Corporation may, if the rate or charge due is not sooner paid, sell by public auction sufficient of such goods to produce the rate or charge so owing and all the expenses of such detention and sale; and in the case of -

- (a) perishable goods, such auction may take place at once; or
- (b) any other goods, such auction may take place on the expiration of at least fifteen day's notice published in one or more local newspapers, of the intended auction :

Provided that no imported goods shall be sold under this section until they have been entered for home consumption in accordance with the provisions of the customs laws.

(3) The Corporation may, out of the proceeds of any sale effected under subsection (2), retain a sum equal to the rate or charge due and the expenses of the detention and sale; and shall deliver the balance, if any, of such proceeds together with such of the goods, if any, as remain unsold to the person appearing to the Director-General to be entitled thereto :

Provided that if such person fails, after notice so to do, to remove within a reasonable time the goods, if any remaining unsold, the Corporation may sell such goods and dispose of the proceeds of such sale in accordance with the provisions of this section.

(4) Nothing in this section shall prejudice the right of the Corporation to recover any such rate or charge, or any part thereof, by any other lawful means.

Unclaimed
goods in
possession of
the Corporation

42. (1) Where any goods in the possession of the Corporation are not claimed by the owner or any other person appearing to the Corporation to be entitled thereto, the Corporation shall, if such owner or person is known, take all reasonable steps to cause a notice to be served upon him requiring him to remove the goods.

(2) If -

- (a) the owner of any goods in the possession of the



Corporation is not known and no person appears to be entitled thereto; or

- (b) the notice referred to in subsection (1) cannot for any reason be served; or
- (c) there has been a non-compliance with the provisions of any notice served under subsection (1), the Corporation may, within a reasonable time not being less (except in the case of perishable goods) than three months, sell the good and dispose of the proceeds of sale thereof:

Provided that no imported goods shall be sold under this section until they have been entered or home consumption in accordance with the provisions of the customs laws.

Indemnity
where goods
claimed by two persons,
etc.

43. where-

- (a) any goods, or the process of the sale of any goods, are in the possession of the Corporation and such goods, are claimed by two or more persons; or
- (b) any person claiming any goods in the possession of the Corporation does not produce the documents showing that he is entitled to take delivery thereof,

the Corporation may withhold delivery of such goods, or proceeds, until the person appearing to the Director-General to be entitled thereto has given an indemnity to his satisfaction against the claim of any other person with respect to such goods or proceeds.

Dangerous
or offensive goods, etc.

44. (1) No person shall tender to the Corporation for handling or warehousing any goods to which this section applies without giving notice of the nature of such goods to the employee to whom such goods are so tendered .

- (2) An authorised employee may-
 - (a) refuse to accept such goods for handling or warehousing or accept them only under, and in accordance with, any special provisions dealing with the handling or warehousing of any such goods;
 - (b) require any such goods to be marked and packed in such manner as he may reasonable direct;
- (3) Where any authorized employee has reason to believe that any goods to which this section applies are being handled, or warehoused, or have been accepted for handling or warehousing, in contravention of subsection (1) or subsection (2), he may examine such goods and if, on examination, they are found to be goods to which this section



applies he may order their removal from any vehicle of, or premises occupied by, the Corporation.

- (4) Goods to which this section applies are any dangerous or offensive goods and any goods which are likely to cause damage to person or property.
- (5) Nothing in this section shall derogate from the provisions of any law relating to the possession or transport of explosives, petroleum, fire arms or ammunition.

General

Corporation
to prepare
Tariff Book,
etc.

45. (1) The Corporation shall cause to be prepared and published in such manner as it may think fit -
- (a) a Tariff Book containing all matters which under this Act are required to be contained therein together with such other matters as, under this Act, may be determined by the Corporation and such other matters as the Corporation may think fit;
 - (b) such other books and other documents as under this Act are required to be kept.
- (2) There shall be available for public inspection at every harbour office a copy of the Tariff Book containing all amendments for the time being in force.

Accidents

Accidents
to be
reported

46. Where any accident occurs in any harbour, then if that accident -
- (a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to any person or property;
 - (b) involves any collision between ships or vehicles carrying passengers;
 - (c) is of such other kind as the Minister may specify,

the Director-General shall, as soon as practicable, give notice of the occurrence of such accident to the Board and, in the case of any such accident involving injury to any person, also to the police station or administrative authority nearest to the scene of such accident.



The Board
may order
inquiry, etc.

47. (1) The Minister or the Board may order such inquiry into any accident which occurs in any harbour as it may think fit.

(2) The Board shall submit to the Minister a report on such accident setting out inter alia the probable cause of such accident and the steps, if any, which have been taken, or it has directed shall be taken, with a view to avoiding a repetition thereof.

(3) The Director - General shall make to the Board a return, in such form and at such intervals as the Board may direct, of all accidents occurring in any harbour whether or not any such accident is attended with injury to any person.

Shipping
casualties

48. Sections 46 and 47 shall not apply where, in respect of any shipping casualty under any law relating to merchant shipping, a formal investigation is held under any such law.

PART VIII

PROVISIONS RELATING TO OFFENCES

Major offences

49. Any person who unlawfully -

- a) does any act which obstructs, or might obstruct, the working of any equipment or vehicle of the Corporation used in the operation of a harbour and which endangers or might endanger, the life of any person therein; or
- (b) damages or in any way interferes with any ship, vehicle, signal points, rail, sleeper, lighthouse, buoy mark, beacon or other property of the Corporation in such a manner as to endanger, or as might endanger, the life of any person,

shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years.

Minor
offences

50. Any person who -

- (a) not being specifically authorized in that behalf or an employee, passenger or agent of the Corporation -

- (i) is found during the hours of darkness on any premises occupied by the Corporation;
- (ii) is found in any area designated by the Corporation as dangerous by the erection of notice board to that effect; or
- (iii) refuses to leave premises occupied by the Corporation, or any ship or vehicle thereof, after being lawfully warned to do so by an employee or police officer.



- (b) being on any premises occupied by the Corporation -
 - (i) refuses when called upon by an employee or police officer to give his name and address or gives a false name or address for the purpose of avoiding prosecution;
 - (ii) is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of any other person;
 - (iii) discharges any firearms or does anything which may cause injury to any person on such premises or upon such ship or vehicle;
 - (iv) commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language;
 - (v) without lawful excuse contravenes any lawful direction given by any employee;
 - (vi) save with the express permission of the Director-General hawks, sells or exposes for sale any article or touts, applies for or solicits custom of any description, or
 - (vii) smokes in any part of such premises, ship or vehicle bearing a notice that smoking is not permitted in that part;
- (c) writes, draws or affixes any profane, obscene, indecent or abusive word, matter, representation or character upon any premises occupied by the Corporation or upon any ship or vehicle of the Corporation;
- (d) defaces the writing on any board or any notice authorized to be maintained upon any premises occupied by the Corporation or upon any ship or vehicle of the Corporation;
- (e) damages or without lawful excuse, interferes with any property of the Corporation;



- (f) without lawful excuse, does any act which obstructs, or is likely to obstruct, the free navigation of any harbour or the use of any wharf, pier, landing stage or dock therein;
- (g) without lawful excuse, enters or leaves any ship or vehicle of the Corporation while it is in motion or elsewhere than at the place appointed by the Corporation for passengers to enter or leave or open any outer door of such ship or vehicle while it is in motion;
- (h) being a driver or conductor of any vehicle, disobeys while upon premises occupied by the Corporation any reasonable direction given to him in respect of such vehicle by any police officer or, not being an employee of the Corporation, disobeys any such direction given by an authorized employee;
- (i) in the absence of a gate-keeper, omits to shut and fasten, if any form of fastener is provided, any gate within premises belonging to the Corporation, as soon as such person or any animal, vehicle or other thing under his charge has passed through such gate;
- (j) fails to deliver at the earliest opportunity to an authorized employee any property which there is reason to believe has been lost, forgotten or found on any premises occupied by the Corporation or on any ship or vehicle of the Corporation;
- (k) wilfully obstructs or impedes an employee of the Corporation in the discharge of his duties;
- (l) gives or offers to any employee any money or anything of value for the purpose of avoiding payment of any sum due to the Corporation;
- (m) unlawfully removes any property of the Corporation;
- (n) being an employee of the Corporation, receives from any passenger, or from any other person delivering goods to the Corporation for any of the purposes of the Corporation or from any other person making use of the facilities provided by the Corporation, any amount of money and fails within a reasonable time, not exceeding half an hour, to issue a receipt in respect of such amount of money;
- (o) travels, without the permission of an authorized employee, in or upon any part of a ship or vehicle of



the Corporation other than the part ordinarily provided for passengers during travel; and

- (p) contravenes any direction given by a health officer under this Act or refuses to answer any question put to him under the provisions of this Act or gives in reply thereto any information which is false in a material particular:

shall be guilty of an offence and liable to a fine not less than one hundred thousand Shillings or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

False returns

51. Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is required or authorized to be made for the purposes of the Corporation under this Act shall be guilty of an offence and liable to a fine not less than one hundred and fifty thousand Shillings or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

Unlawfully transporting dangerous goods

52. (1) Any person who, in contravention of section 44 delivers any goods to which that section applies to the Corporation for handling or warehousing shall be guilty of an offence and liable to a fine not less than three hundred thousand Shillings or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.

(2) Any person who is convicted of an offence under this section shall also be responsible for any loss, injury or damage which may be caused by reason of such goods or having been so delivered to the Corporation for handling warehousing; and the court which convicts such offender may order him to pay the amount of any such loss, injury or damage to the person suffering it and in default of such payment may impose a further term of imprisonment not exceeding one year.

Offences by master of vessel

53. Any master of a ship who contravenes any of the provisions of section 26, section 27 or 32 (1), or produces any document or gives any information which is false in any material particular shall be guilty of an offence and liable to a fine not less than three hundred thousand Shillings or in default of payment thereof to imprisonment for a term not exceeding one year.

Navigating without pilot in compulsory pilotage harbour.

54. If, after a pilot has offered his services, any ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the pilotage of a pilot, the master thereof shall be guilty of an offence and liable to a fine not less than six hundred thousand Shillings or in default of payment thereof to imprisonment for a term not exceeding one year.



Employee
endangering
safety of
operation

55. Any employee of the Corporation who while on duty, endangers the safety of any person -

- (a) by contravening any of the provisions of this Act;
- (b) by contravening any lawful order, direction or rule given to such employee or made in respect of his service;
- (c) by being under the influence of alcohol or drugs; or
- (d) by any rash or negligent act,

shall be guilty of an offence and liable to a fine not less than two hundred thousand Shillings or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

Employee
demanding improper amount

56. Any employee of the Corporation who, with intent to defraud, demands, solicits or receives from any person delivering goods to the Corporation for handling or warehousing or from any person making use of the facilities provided by the Corporation, any greater or lesser amount than he should demand or receive, or any other thing of value, shall be guilty of an offence and liable to a fine not less than one million Shillings or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

Arrest of
employee

57. (1) Where the safe operation of any harbour, or any service ancillary thereto, would be endangered by the immediate arrest, whether with or without a warrant, of any employee thereof, the police officer whose duty it is to make such arrest shall -

- (a) request the officer in charge of such harbour to relieve such employee from his duties as soon as practicable; and
- (b) refrain from arresting such employee until he is so relieved and shall, until he is so relieved, take all necessary steps to ensure that such employee does not escape.

(2) Where any request is made to the officer in charge of a harbour under this section, it shall be his duty to relieve the employee in respect of whom the request is made with the least possible delay.

Power of arrest,
removal and
place of trial.

58. (1) Any person who commits any offence mentioned in section 49, 50 or 55 may be arrested without warrant by any authorized employee of the Corporation or police officer and



shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or to commit him for trial.

(2) Any person who commits any offence under this Act, other than an offence mentioned in subsection (1), may be arrested without warrant by any authorized employee of the Corporation or police officer if -

- (a) there is reason to believe that such person will abscond; or
- (b) he refuses on demand to give his name and address; or
- (c) there is reason to believe that the name or address given by him is incorrect, and shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or commit him for trial :

Provided that, save where there is reason to believe that such person will abscond, he shall if his true name and address are ascertained, be released on his executing a bond without sureties for his appearance before a magistrate when required.

(3) Any person who commits any of the offences set out in section 50 or section 52 may be required by any authorized employee of the Corporation or police officer to leave the premises occupied by the Corporation or the ship or vehicle thereof, as the case may be, in which such person is at time of the commission of the offence; and if such person fails to comply with such requirement he may be removed therefrom with such force as may be reasonably necessary in the circumstances.

(4) Any person charged with any offence under this Act may be proceeded against, tried and punished in any place in which he may be in custody for that offence as if the offence had been committed in such place; and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial or punishment thereof be deemed to have been committed in that place:

Provided that nothing herein contained shall preclude the prosecution, trial and punishment of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.



PART IX

MISCELLANEOUS

Staff

Appointment
of staff

59. (1) Subject to this Act, the Board may appoint such employee of the Corporation as may be necessary for its efficient working under such terms and conditions, including conditions relating to discipline and dismissal, as it, may think fit.

(2) The Board may, subject to such conditions as it thinks fit, delegate its powers under subsection (1) to a committee of the Board, the Director-General or any employee of the Corporation.

(3) The Director-General may, by notice in writing authorize any employee appointed under this section to maintain order upon any premises occupied by the Corporation, or in any harbour of the Corporation, and any employee so authorized shall in the performance of such duty, have all the powers, rights, privileges and protection of a police officer.

Regulations
relating to staff

60. (1) Subject to this Act, the Minister may make regulations generally relating to the conditions of service of employees and of the foregoing and particular, but without prejudice to the generality may make regulations relating to -

(a) the grant of pensions, gratuities and other retiring allowances to employees and their dependants and the grant of gratuities to the estate or dependants of deceased employees;

(b) the establishment and maintenance of sick funds, superannuation and provident funds and the contributions payable thereto and the benefits receivable therefrom;

(c) the liability, or otherwise, to assignment, attachment, sequestration or other levy of sums payable to an employee or other persons under regulations made under this section.

Legal Provisions

Delegation
and
signification

61. (1) Subject to the provisions contained in this Act, the Minister, the Board and the Director-General may delegate to any person any of the powers, except power to make regulation, vested in them under this Act.

(2) Any act or decision, or the notification thereof, of the Minister, the Board or the Director-General may be signified under



the hand of an officer of the Government or any employee of the Corporation authorized for that purpose as the case may require.

Protection
of members
of the
Board and
employees.

Notice of
claim

62. Without prejudice to the provisions of this Act relating to offences, no act or thing done or omitted to be done by any member of the Board or by any employee of the Corporation shall, if done or omitted *bona fide* in the execution or purported execution of his duties as a member of the Board or an employee of the Corporation, subject him to any action, liability or demand of any kind.

63. (1) No person shall be entitled to compensation for non-delivery of the whole of a consignment of goods, or for any separate package forming part of such consignment, accepted by the Corporation for handling or warehousing unless a claim in writing giving such particulars as may reasonably be necessary, is given to the Director-General within six months of the date upon which such goods were accepted by the Corporation.

(2) No person shall be entitled to compensation for any goods missing from a packed or unpacked consignment of, or for misdelivery of, or damage to any goods accepted by the Corporation for handling or warehousing unless -

- (a) the Director-General is notified of such fact in writing within four days of the date upon which such goods were delivered to the consignee or person entitled to take delivery; and
- (b) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Director-General within one month of such date.

(3) Where the person claiming compensation proves that it was impracticable for him to notify the Director-General, or give the Director-General his claim, as set out in subsections (1) and (2) within the time specified therein and that such notification or claim was made or given in reasonable time nothing in those subsections shall prejudice the right of such person to obtain compensation.

Limitation

64. No action or legal proceedings shall lie or be instituted against the Corporation unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuing injury or damage, within six months next after the cessation thereof.

Overcharge and
undercharge.

65. (1) Where the amount paid for harbour or other charges to the Corporation is found to be incorrect, then, if such amount is -

- (a) an overcharge, the person who paid the charge shall be entitled to a refund of the amount of the overcharge;



(b) an undercharge, the Corporation shall be entitled to collect the amount of the undercharge from the person who paid the charge :

Provided that such overcharge or undercharge shall not be refunded or collected, as the case may be unless a notice in writing containing such particulars as may be reasonably necessary is given -

- (i) by the person claiming such overcharge to the Director-General; or
- (ii) by the Director-General, to the person against whom the amount of such undercharge is claimed, within six months after such harbour or other charge was so incurred however, that where such undercharge is caused by any information or description subsequently found to be incorrect, such period of six months shall commence from the discovery by the Corporation of the correct information or description.

(2) Where the person claiming a refund under subsection (1) proves, to the satisfaction of the Director-General, that it was impracticable for him to notify the Director-General of his claim within the time specified in that subsection, and that such notification was made, or given, in reasonable time, nothing in that subsection shall prejudice the right of such person to obtain such refund.

Service of
notice, etc., on
the Director-
General.

66. Any notice or other document required or authorized under this Act to be served on the Corporation, or the Director General, may be served -

- (a) by delivery of the notice or other document to the Director-General or to any authorized employee; or
- (b) by leaving it at the office of the Director-General; or
- (c) by sending it by registered post to the Director-General.

Regulations

Regulations

67. The Minister may make regulations generally with respect to the services performed and the functions provided by the Corporation, for the maintenance of order in any harbour or on any ship or vehicle of the Corporation and, without prejudice to the generality of the foregoing, with respect to -

- (a) the berths and stations to be occupied by ships and the removal of ships from one berth, station or



anchorage to another and the time within which such removal shall be effected;

- (b) ships whilst taking on or discharging ballast or cargo or while bunkering or provisioning;
- (c) the anchoring, fastening, mooring and unmooring and warping of all ships and the use of warps, mooring buoys, chains and other moorings;
- (d) the use by ships of navigating lights or signals and of signal lights;
- (e) the prohibition of smoking in any portion of any ship, premises or vehicle;
- (f) the proper control, management, and protection of any ship, premises or vehicle or other property of the Corporation;
- (g) the proper control and management of foreshores and harbours, and the entrance thereto, the prevention and removal of obstructions therein and the regulation of any work, service or facility performed or provided thereat;
- (h) subject to the provisions of any law relating to merchant shipping -
 - (i) the taking of measures for the prevention of ships from leaving any harbour if overloaded, improperly loaded, improperly found, insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety or if otherwise unseaworthy;
 - (ii) the examination and certification of masters, mates and engineers of ships engaged in local trade, tugs, dredgers, fishing boats and light craft and the charges and licence fees payable in respect thereof;
 - (iii) the registration, licensing, inspection and control of ferries, tugs, launches, hulks, fishing or ferry boats or other craft, the charges to be paid therefor and the number of passengers to be carried therein;
- (i) subject to the provisions of any law relating to merchant shipping, the protection of ships and cargoes and the removal, destruction, sale or abandonment of stranded ships and their cargoes and appurtenances which obstruct, or are likely to obstruct, the fairway of any harbour, the payment of expenses in connection



therewith and the levy and recovery of rent for the right of a hulk, wreck or wreckage to lie in any harbour;

- (j) the examination, registration and licensing of pilots, the charges to be made by pilots and their duties and obligations and the limitation of their liability for negligent navigation; and
- (k) the licensing of ferrymen, boatmen, porters, landing agents, shipping agents, baggage and parcel agents and contractors for the supply of water or ballast, or other persons concerned in harbour work, and the regulation of charges leviable by them, and their duties and the hours of their attendance at work.

Revocation

Revocation
and
saving

68(1) The following legal notices are hereby revoked -

- (a) Zanzibar Wharfage Corporation Order, L.N.4 of 1975.
- (b) Zanzibar Wharfage Company Limited (Vesting of Assets), L.N.5. of 1975.

(2) Notwithstanding the above revocation -

- (a) all permits, licences, authorization and other instruments or documents granted or issued under the revoked law or legal notice shall as long as they are valid continue to be valid and in force until replaced by new ones issued under this Act.
- (b) all subsidiary legislation's, made under the Ports Decree cap.130 shall continue in force with necessary modification until such time when replaced by regulations made under this Act.
- (c) the Tariff Books published by Zanzibar Wharfage Corporation and Department of Ports shall continue in force until such time when replaced by Tariff Books published by the Corporation.
- (d) all navigational marks erected prior to the establishment of the Corporation shall be deemed to have been erected by the Corporation.
- (e) all proceedings pending in court or any tribunal by or against Zanzibar Wharfage Corporation and Department of Ports shall continue as if are proceeding under this Act.

Vesting of

69. On coming into force of this Act, all assets and



assets and liabilities	liabilities of Zanzibar Wharfage Corporation and all assets and liabilities of the Department of Ports shall vest to the Corporation by virtue of this Act and without further conveyance.
Transition	70. Until such time when the Corporation assumes its functions under this Act, it shall be lawful for the Corporation to manage the affairs, properties and operations of the Zanzibar Wharfage Corporation and that of the Department of Ports subject to such directions as the Minister may give in that behalf, and the provisions of this Act shall apply as if such affairs, properties and operations were the affairs, properties and operations of the Corporation.
Repeal and saving	71. The Port Decree, Chapter 130 of the Laws of Zanzibar is hereby repealed only to that extent it contradicts this Act and all the provisions which do not contradict this Act and which if repealed a legal vacuum on maritime administration will be created are hereby saved and retained and shall continue to be in force until such time they are repealed or amended.

FIRST SCHEDULE

BOARD OF DIRECTORS

Composition of Board	<p>1.(1) The Board shall consist of -</p> <ul style="list-style-type: none">(a) a Chairman, who shall be appointed by the President;(b) the Director-General;(c) not less than five but not more than nine other members, who shall be appointed by the Minister. <p>(2) When appointing members under paragraph (1) (c), due regard shall be paid to the experience and involvement of the person in commerce, industry, agriculture, finance or administration.</p>
Vice-Chairman	<p>2 .- The members of the Board shall elect a member from amongst themselves to be the Vice-Chairman of the Board, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.</p>
Tenure of appointment	<p>3.(1) A member of the Board, other than the Director- General shall, unless his appointment is sooner terminated by the appointing authority, or he ceases in any other way to be a member, hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment.</p> <p>(2) Any member of the Board, other than the Director-General, may at any time resign his office by giving notice in writing addressed to the appointing authority and from the date</p>



Appointment of temporary member	<p>specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.</p>
Meeting of the Board	<p>4. When any member of the Board, other than the Director-General, is by reason of absence from the United Republic or illness or other sufficient cause unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member expires, whichever occurs first.</p> <p>5.(1) The Board shall ordinarily meet for the transaction of business at the time and at the places decided upon by the Board, but shall meet at least once every two months.</p> <p>(2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board, and shall call a special meeting upon a written request by a majority of the members of the Board in office.</p> <p>(3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board. In the absence of both the Chairman and the Vice-Chairman the members present shall appoint a member from amongst themselves to preside over the meeting.</p>
Quorum	<p>6. The quorum at a meeting of the Board shall be the majority of the members in office.</p>
Decisions of the Board	<p>7.(1) Questions proposed at a meeting of the Board shall be by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.</p> <p>(2) Notwithstanding sub-paragraph (1), a decision may be made by the Board without a meeting by circulation of the relevant papers among the members of the Board, and the expression of the views of the majority of the members of the Board in writing, but any member shall be entitled to require that the decision be deferred and the subject-matter be considered at a meeting of the Board.</p>
Minutes of meetings	<p>8. The Board shall cause to be recorded and kept minutes of all proceedings of its meetings, and the minutes of each meeting of the Board shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.</p>
Vacancies, etc., not to invalidate proceedings	<p>9. The validity of any act or proceeding of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.</p>



Execution of contracts

10.(1) The application of the official seal of the Corporation, shall be authenticated by two signatures, namely -

- (a) the signature of the Chairman of the Board or some other member of the Board, other than the Director-General authorized by the Board in that behalf; and
- (b) the signature of the Director-General or some other employee of the Corporation authorized by the Board to act for that purpose in place of the Director General.

(2) Any instrument or contract which, if executed or entered into by a person other than a body corporate would not be required to be under seal, may be executed or entered into on behalf of the Corporation by the Director-General or any other member of the Board if that member has previously been authorized, either specifically or generally by resolution of the Board to execute or enter into that particular instrument or contract or that class of instruments or contracts.

(3) Every document purporting to be a document executed or issued by or behalf of the Corporation and to be -

- (a) sealed with the official seal of the Corporation authenticated in the manner provided by sub-paragraph (1); or
- (b) signed by the Director General or by a member of the Board authorized in accordance with sub-paragraph (2) to act for that purpose,

shall be deemed to be so executed or issued until the contrary is proved.

Board may regulate its own proceedings

11. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

Proof of documents

12. Any document purporting to be a document duly executed or issued under the seal of the Corporation or on behalf of the Corporation shall be received in evidence and be deemed to be a document so executed or issued (as the case may be) without further proof unless the contrary is shown.



SECOND SCHEDULE

Chake Chake
Mkokotoni
Mkoani
Wete
Zanzibar

Passed on the House of Representatives on 21st day of March, 1997.

KJ Chande
(Khamis Juma Chande)
CLERK OF THE HOUSE OF REPRESENTATIVES
OF ZANZIBAR.