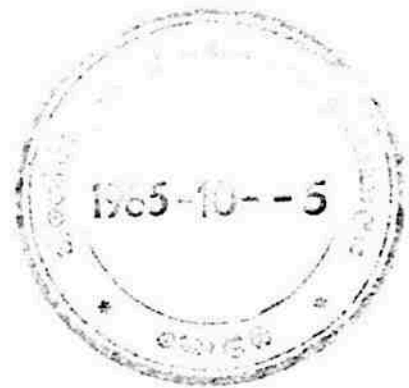


PARLIAMENT OF CEYLON

3rd Session 1949-50



Port of Colombo (Administration) Act, No. 10 of 1950

Date of Assent : March 17, 1950

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*Port of Colombo (Administration) Act,
No. 10 of 1950.*

L.D.—O. 83/46.

AN ACT TO PROVIDE FOR THE CONSTITUTION OF THE OFFICE OF PORT COMMISSIONER, COLOMBO, AND THE ESTABLISHMENT OF AN ADVISORY BOARD TO ADVISE THE COMMISSIONER; FOR THE PROPER ADMINISTRATION AND EFFICIENT OPERATION OF THE PORT OF COLOMBO, INCLUDING THE REGULATION OF PORT UNDERTAKINGS AND OF THE EMPLOYMENT OF LABOUR, AND THE MAINTENANCE OF A PORT LABOUR RESERVE; AND FOR THE MODIFICATION OF THE CUSTOMS ORDINANCE, IN ITS APPLICATION TO THE PORT, IN SUCH MANNER AS IS NECESSARY FOR THE PURPOSES AFORESAID.

[Date of Assent: March 17, 1950.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Port of Colombo (Administration) Act, No. 10 of 1950, and shall come into operation on such date as may be appointed by the Minister by notification published in the *Gazette*.

Short title
and date of
operation.

2. (1) There shall be a Port Commissioner and such other officers as may be necessary for the purpose of carrying out or giving effect to the provisions of this Act.

Appointment of
officers, &c.

(2) Every such officer shall be deemed to be a public servant within the meaning of the Penal Code.

Cap. 15.

(3) It shall be lawful for the Port Commissioner to assign to any such officer the functions or duties to be carried out by him; and every officer carrying out any function or duty under this Act shall be deemed, until the contrary is proved, to be the proper officer for the performance of that function or duty.

(4) In the exercise, performance or discharge of the powers, duties or functions conferred, imposed or assigned by or under this Act, the Port Commissioner shall be subject to the general direction and control of the Minister.

3. (1) There shall be an Advisory Board, to be known as "the Colombo Port Commission", consisting of—

Colombo Port
Commission.

(a) the Port Commissioner as Chairman;

(b) the Mayor of Colombo, the Principal Collector of Customs, the General Manager, Ceylon Government Railways, the Director of Medical and Sanitary Services, the Harbour Engineer and the Master-Attendant; and

(c) such other persons not exceeding ten in number, as the Minister may from time to time appoint by name or by office.

(2) Every member of the Colombo Port Commission appointed under sub-section (1) (c) shall, unless he earlier vacates office by resignation or revocation of appointment, hold office for a period of one year commencing on the date of his appointment.

Any member vacating his office by effluxion of time shall be eligible for re-appointment.

(3) There shall be a Secretary to the Colombo Port Commission.

(4) The Secretary shall summon a meeting of the Colombo Port Commission at least once in every quarter by notice addressed to every member of the Commission.

(5) In addition to the meetings required to be summoned under sub-section (4), the Secretary shall summon a meeting of the Colombo Port Commission—

(a) if required so to do by the Port Commissioner;
or

(b) upon a requisition in writing signed by any five of the members of the Commission.

(6) It shall be the duty of the Colombo Port Commission to advise the Port Commissioner in regard to all matters affecting the proper administration and efficient operation of the Port; but neither the Commission, nor any member thereof as such, shall have or exercise any administrative or executive power or function.

(7) The Colombo Port Commission may regulate the procedure to be followed at meetings of the Commission.

Power to
maintain
Labour
Reserve.

4. The Port Commissioner may, with the prior approval of the Minister, establish and maintain a Labour Reserve for the Port (hereinafter referred to as the "Labour Reserve") consisting of persons who will be available for engagement by employers of labour in the Port who require workers in addition to those permanently employed by them.

5. The Minister may make regulations—

- (a) providing for the registration of workers who are or are to be permanently employed by persons requiring labour for work in the Port, and specifying the circumstances in which and the conditions subject to which any worker shall be deemed for such purposes to be permanently employed;
- (b) specifying the maximum number of workers to be included in the Labour Reserve or prescribing the manner in which such maximum number is to be determined from time to time;
- (c) providing for the issue to workers registered as permanently employed by employers of labour in the Port, or as being included in the Labour Reserve, of cards or certificates of identity bearing *inter alia* photographs and thumb impressions of the holders;
- (d) providing for the issue of meals and the maintenance of canteens and other amenities for such workers;
- (e) generally for the proper management and administration of the Labour Reserve and of the Fund to be maintained for the purposes thereof, and for all matters stated or required by any of the provisions of sections 7 and 8 to be prescribed.

Regulations
for registra-
tion of perma-
nent employees
and for
administration
of Labour
Reserve, &c.

6. (1) Without prejudice to the provisions of sub-section (2) of section 10, every worker who is for the time being included in the Labour Reserve, and registered as being so included, shall, for all purposes connected with or incidental to the payment of stand-by wages prescribed by or under any other written law, the grant of holidays or leave, the allocation of workers for engagement by employers of labour in the Port, and for purposes of disciplinary control (including dismissal from the Reserve), be deemed to be in the employment of the Port Commissioner.

Workers in
Labour Reserve
to be deemed
to be in the
employment of
the Port
Commissioner,
but not of
the Govern-
ment.

(2) Every day for which a stand-by wage is payable to any worker in the Labour Reserve shall, for the purposes of the grant of holidays or leave to that worker, be deemed to be a day on which he is employed.

(3) No worker included in the Labour Reserve shall, by reason of anything in sub-section (1), be deemed for any purpose whatsoever to be in the employment of the Government.

Port Commissioner to maintain Fund for administration of Labour Reserve.

7. (1) The Port Commissioner shall maintain a Fund for the purposes of the administration of the Labour Reserve.

(2) All expenses incurred by the Port Commissioner in respect of any matter referred to in sub-section (1) of section 6, or in complying with any regulation made under paragraph (d) of section 5, or in respect of any liability otherwise incurred by the Port Commissioner, in his capacity as such, to or in respect of any worker included in the Labour Reserve, shall be paid out of the moneys in the Fund maintained under this section.

(3) The Port Commissioner shall have charge and control of the moneys in the Fund for the time being and be responsible for the proper administration of the Fund and the receipt and payment of moneys into or out of the Fund, and may for such purposes maintain a separate account in any bank in Ceylon.

(4) The accounts of the Fund for each financial year ending on the thirtieth day of September shall be audited by the Auditor-General; and copies of the accounts of the Fund and of the reports of the Auditor-General thereon shall, at such times as may be prescribed, be forwarded to the Minister, to the Colombo Port Commission and to each employer of labour in the Port.

Employers to defray expenditure incurred in payment of stand-by wages, provision of amenities, &c.

8. (1) The amount of the expenses required by section 7 to be paid out of the Fund maintained under that section shall be defrayed by employers of labour in the Port by means of contributions to be made from time to time of such sums as shall be determined in the prescribed manner; and in the event of default by any employer in the payment of any sum due from him as such contribution, the sum may be recovered by the Port Commissioner on application made to the Magistrate's Court of Colombo in such summary manner as may be prescribed.

(2) All sums paid or recovered under sub-section (1) shall be credited to the Fund maintained under section 7.

9. (1) On and after a date to be specified by the Minister, by notification published in the *Gazette*, as the date on which the provisions of this section shall come into force, no employer of labour in the Port shall, subject to such exceptions as may be prescribed, engage for the purposes of work in the Port, any person other than—

Restriction as to engagement of workers by employers.

(a) a worker registered as hereinbefore provided as being permanently employed by that employer; or

(b) a worker included in the Labour Reserve and allocated by or under the authority of the Port Commissioner for engagement by that employer.

(2) Any employer who contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

10. (1) Notwithstanding anything in the Wages Boards Ordinance, No. 27 of 1941—

Special provisions as to application of Ordinance No. 27 of 1941.

(a) any decision of a Wages Board applicable to workers included in the Labour Reserve may contain provision prescribing a minimum daily stand-by wage for every worker in the Labour Reserve who is not engaged on any day by any employer of labour in the Port for any work in the Port; and

(b) neither the Port Commissioner nor any such employer shall be or be rendered liable under that Ordinance to pay to any such worker, for any day on which he is not so engaged, any wage other than the minimum stand-by wage prescribed by any such decision.

(2) Where any worker included in the Labour Reserve is engaged by any employer of labour in the Port for any work in the Port during any period, that employer shall, for the purposes of the application of the Wages Boards Ordinance, No. 27 of 1941, in respect of the payment of wages for such period and of all matters other than matters mentioned in section 6 of this Act, and for the purposes of the Workmen's Compensation Ordinance, be deemed to be the employer of that worker.

Application of
Chapter 117 in
relation to
workers in
Labour Reserve.

11. For the purposes of the application of the Workmen's Compensation Ordinance in relation to workers included in the Labour Reserve, the following provisions shall have effect:—

- (a) in the event of any injury being caused to any such worker by accident occurring while he is engaged by any employer of labour in the Port for any work in the Port, the employer by whom he is so engaged shall for the purposes of that Ordinance be deemed to be the employer of such worker;
- (b) in the event of any injury being caused to any such worker by accident occurring at any time while he, though not engaged by any employer of labour, is required to be in the Port in his capacity as a person included in the Labour Reserve, the Port Commissioner shall for the purposes of that Ordinance be deemed to be the employer of that worker;
- (c) save in the circumstances mentioned in paragraphs (a) and (b) of this section, neither the Port Commissioner nor any employer of labour in the Port shall be deemed for the purposes of that Ordinance to be the employer of any worker included in the Labour Reserve.

In this section "injury" includes the contracting of any disease which is deemed by section 4 of the Workmen's Compensation Ordinance to be an injury by accident within the meaning of section 3 thereof.

Maintenance of
Port equipment
facilities and
services and
charges therefor.

12. (1) The Port Commissioner may, with the prior approval of the Minister—

- (a) maintain port equipment and other port facilities (including floating craft and machinery, a fire brigade and repair yards), and make any such equipment or facilities available to persons requiring them; and
- (b) maintain services for the transport, delivery and handling of cargo or goods (including coal, oil and water) in the Port or in premises in the occupation or under the control of the Commissioner.

(2) The Minister may make regulations prescribing the charges or scales of charges to be made by the Port Commissioner for the use of equipment or facilities which are made available under sub-section (1) and for services provided under that sub-section, and for the manner of the recovery of such charges in a summary manner in the event of default in payment.

13. (1) The Minister may make regulations for the proper administration and regulation of all premises for the time being in the occupation or under the control of the Port Commissioner, for matters affecting the efficient operation of the Port, and for the conduct of workers and other persons in such premises or in the Port; and such regulations may in particular provide for all or any of the following matters:—

General regulations for Port administration, &c.

- (a) the definition of the limits of premises in the occupation or under the control of the Port Commissioner, and of the limits of the Port for the purposes of this Act;
- (b) the prevention of accidents by fire, and the regulation or prohibition of the use of candles, fires and lamps or of the smoking of tobacco or herbs within such premises;
- (c) the regulation of the use of vehicles or animals within such premises and of the conduct of persons using, driving or accompanying such vehicles or animals, and of porters, labourers and other persons working in or otherwise entering such premises;
- (d) the prevention of damage to any property, goods or equipment within such premises;
- (e) the prohibition or regulation of the admission of persons to such premises and the exclusion of persons therefrom;
- (f) the prohibition, regulation or control of the possession, transport, use, storage, discharge or handling of petroleum, explosives or dangerous substances, coconut oil, or other bulk liquid cargo in the Port or in such premises;

- (g) the regulation of the carrying on of undertakings in the Port or in such premises, including undertakings by way of stevedoring, landing and shipping cargo, bunkering, ship repairing or provisioning, coaling, and trading in boutiques within such premises, the introduction of a system for the issue of permits or licences authorising the carrying on of any such undertakings, the conditions subject to which such permits or licences may be issued, the conditions to be observed by the holders of such permits or licences, and the circumstances in which the Port Commissioner may refuse to grant any such permit or licence or cancel any permit or licence already issued;
- (h) the introduction and operation of any scheme to provide for the allocation, among persons carrying on any undertaking in the Port or in such premises by way of landing and shipping cargo, of work of any description falling within the scope of such undertaking, and to require the performance of any work so allocated by any such person;
- (i) the fixing of rates of charges for the performance of work of any description falling within the scope of any undertaking carried on by any person in the Port or in such premises by way of landing and shipping cargo;
- (j) the books and records relating to labour which shall be maintained by persons carrying on any undertaking referred to in paragraph (g) and by employers of labour in the Port, and the inspection of such books and records by the Port Commissioner or by officers authorised by him.

(2) Any person who contravenes or fails to comply with any provision of any regulation made under sub-section (1) shall be guilty of an offence under this Act.

(3) Any person who obstructs the Port Commissioner or any other officer in the performance of

any duties imposed by any regulation made under sub-section (1) shall be guilty of an offence under this Act.

14. (1) Every regulation made under this Act shall be published in the *Gazette* and shall come into force on the date of such publication or on such later date as may be specified therein.

Procedure for making and approval of regulations.

(2) Every regulation made under this Act shall, as soon as may be after the date of the publication thereof and not later than three months after that date, be brought before the Senate and the House of Representatives by motion that such regulation be approved.

(3) Any such regulation which is not brought before the Senate and the House of Representatives within the period specified in sub-section (2), or which the Senate or the House of Representatives refuses to approve, shall be deemed to be rescinded at the end of that period or with effect from the date of such refusal, as the case may be, but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

(4) Every such regulation which is approved by the Senate and the House of Representatives shall be as valid and effectual as if it were herein enacted. Notification of such approval shall be published in the *Gazette*.

15. (1) Every person who is guilty of an offence under this Act shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

Offences and penalties.

(2) No prosecution for any offence under this Act shall be instituted except by, or with the written sanction of, the Port Commissioner.

(3) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the company, he, as well as the company, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

The Customs
Ordinance (Cap.
185) to apply
in Port of
Colombo sub-
ject to modi-
fications, &c.

16. The Customs Ordinance in its application in relation to, but only in relation to, acts or things done or omitted to be done, or required or authorised to be done, in the Port of Colombo, shall have effect subject to the adaptations, modifications and additions set out hereunder, that is to say—

- (1) No sufferance shall be granted by the Collector under section 36 or section 63 of that Ordinance until the Port Commissioner has communicated to the Collector in writing his consent to the grant of such sufferance.
- (2) Section 43 of that Ordinance, in its application in the case of goods placed in any Colombo Port warehouse, shall have effect subject to the modification that the powers conferred by that section on the Collector (other than the power to require packages to be stowed if necessary in a grille or other place of security inside any Colombo Port warehouse) shall be exercised by the Port Commissioner.
- (3) Section 44 of that Ordinance, in its application in the case of any offence committed in relation to any goods in any Colombo Port warehouse, shall have effect subject to the modification that the reference in that section to the Collector shall be deemed to be a reference to the Port Commissioner.
- (4) Section 60 of that Ordinance shall have effect subject to the modification that the power conferred by that section to appoint legal quays or other places from which goods may be laden, put off or waterborne shall be exercised by the Port Commissioner.
- (5) Section 61 of that Ordinance shall have effect subject to the modification that the power to issue stiffening orders under that section shall be exercised by the Port Commissioner.
- (6) Section 102 of that Ordinance shall have effect subject to the modification that the power conferred by that section on any officer of customs to require the removal of certain articles from the customs premises

shall be exercised by any officer authorised in that behalf by the Port Commissioner in writing.

- (7) The following section shall have effect as section 103A of the Customs Ordinance:—

Approval of
Port Commis-
sioner for
bringing cargo
into Colombo
Port ware-
house.

103A. No cargo shall be brought into any Colombo Port warehouse for shipment without the prior approval of the Port Commissioner.

- (8) Section 110 of that Ordinance shall have effect subject to the modification that the powers conferred by that section on the Collector shall be exercised by the Port Commissioner.

- (9) Section 114 of that Ordinance shall have effect subject to the following modifications:—

- (a) The references to the Collector shall be deemed to be references to the Port Commissioner.
- (b) The reference to the proper officer of customs shall be deemed to be a reference to any officer authorised in writing by the Port Commissioner.
- (c) The reference to fifty rupees shall be deemed to be a reference to one thousand rupees.

- (10) Section 115 of that Ordinance shall have effect subject to the following modifications:—

- (a) The references to the Collector shall be deemed to be references to the Port Commissioner.
- (b) The reference to fifty rupees shall be deemed to be a reference to one thousand rupees.
- (c) No sale of any goods shall be held under that section (as hereinbefore modified) until the Collector has in writing addressed to the Port Commissioner fixed the upset price of the goods and approved the sale; and the entire proceeds of any such sale shall

be remitted by the Port Commissioner to the Collector for disposal as provided in that section.

(11) Section 139A and section 139B of that Ordinance, in their application in relation to any offence or contravention mentioned in the First Schedule to this Act, shall have effect subject to the following modifications :—

- (a) The reference in the Proviso to section 139A to the Principal Collector of Customs shall be deemed to be a reference to the Port Commissioner.
- (b) The power under section 139B to sanction a prosecution or to compound any offence shall be exercised by the Port Commissioner.
- (c) The reference in sub-section (4) of section 139B to the Collector of Customs shall be deemed to be a reference to the Port Commissioner.

(12) Notwithstanding anything in section 145 of that Ordinance, the amount of any penalty payable under section 44 thereof in respect of any goods placed in a Colombo Port warehouse or payable under section 114 or section 115 in respect of any contravention committed in the Port of Colombo, shall be paid into the hands of the Port Commissioner and shall (after deducting any expenses incurred) be paid and applied as follows, that is to say, one moiety to the Deputy Secretary to the Treasury for the purpose of the general revenue of the Island and the other moiety into a fund under the control of the Port Commissioner for distribution at his discretion among the officers concerned and the informers.

(13) Section 155 of that Ordinance shall, in the case of any forfeiture or penalty, or liability to forfeiture or penalty, incurred under section 44 of that Ordinance in relation to goods placed in any Colombo Port warehouse, or under section 114 or section 115 of that Ordinance in respect of any contravention committed in the Port of Colombo, have effect subject to the modification that the power of mitigation shall be exercisable by the Port Commissioner, except where the Collector has, under section 43 of that Ordinance, required packages to be stored in a grille or other place of security inside any Colombo Port warehouse.

17. The Minister may by notification published in the *Gazette* amend the Second Schedule to this Act by the omission therefrom of any warehouse specified therein, or by the addition thereto of any warehouse, or otherwise in such manner as may be necessary.

Amendment of
Second
Schedule.

18. (1) This Act shall, save as expressly provided therein, be read and construed as one with the Customs Ordinance.

Construction
and inter-
pretation.

(2) In this Act, and in the Customs Ordinance (in its application as modified by this Act), unless the context otherwise requires—

“Colombo Port warehouse” means any King’s warehouse or other warehouse for the time being specified in the Second Schedule to this Act;

“employer” means any person who employs any worker for work in the Port of Colombo, whether such worker is engaged by him directly or by some other person under any arrangement or agreement to provide or secure workers for such employment;

“the Port” means the Port of Colombo;

“Port Commissioner” means the person for the time being holding office as Port Commissioner, Colombo, and includes any officer acting under the authority in writing of the Port Commissioner;

“prescribed” means prescribed by regulations made under this Act.

19. The provisions of this Act or of any regulations made thereunder shall not apply to—

Non-application
of the Act and
the regulations
made thereunder.

(a) any person in the service of His Majesty’s naval, military or air forces, or

(b) any matter connected with such forces:

Provided that the Minister of Defence and External Affairs may, by Order published in the *Gazette*, apply, with or without modification, any such provisions to any such person or matter.

FIRST SCHEDULE.

(OFFENCES REFERRED TO IN SECTION 16 (11).)

1. Any offence referred to in section 44 of the Customs Ordinance, alleged to have been committed in respect of goods placed in any Colombo Port warehouse.
2. Any offence against or contravention of section 60 of the Customs Ordinance, alleged to have been committed by reason of any goods having been laden, put off or waterborne from any place in the Port of Colombo other than a legal quay appointed by the Port Commissioner.
3. Any offence against or contravention of any of the following sections of the Customs Ordinance, alleged to have been committed in the Port of Colombo, that is to say, sections 102, 103A, 114 and 115.

SECOND SCHEDULE.

COLOMBO PORT WAREHOUSES.

1. Warehouses and premises leased to the Ceylon Wharfage Co., Ltd., by the Colombo Port Commission.
2. T 3 Warehouse.
3. F 1, F 2, F 3 Warehouses, and the yard adjoining F 3 Warehouse.
4. Delft extension Warehouse, Delft Warehouses 1, 2, 3 and the yard in that area.
5. The Yard in the Delft area.
6. Baghdad Warehouses Nos. 1 and 2 and the yard in that area.
7. Pettah 1, 2 and 3 warehouses and the yards in that area.
8. Kochchikade 1, 2 and 3 warehouses and the yards in that area.
9. Canal Yard.
10. Chalmers Quay and Canal Quay warehouses 1 and 2.
11. No. 15 warehouse in the Main Area.