

**GOVERNMENT OF INDIA  
MINISTRY OF SHIPPING  
(PORTS WING)**

**F No. 5(5)/2017-PD-VII**

**Dated: 27<sup>th</sup> April 2018**

**Public Circular**

**Sub: "The Indian Ports Bill, 2018" to replace Indian Ports Act 1908.**

Ministry of Shipping has proposed to revise The Indian Ports Act 1908, accordingly a draft **The Indian Ports Bill, 2018** has been prepared. This step is being taken keeping in view the need to repeal the obsolete clause and propose new clause which are beneficial for Maritime Sector and to bring in professional approach in its governance. The detailed draft bill has been uploaded on the website of the Ministry of Shipping ([www.shipmin.gov.in](http://www.shipmin.gov.in)) for review and comments from various stakeholders.

All stakeholders are requested to provide their comments on the draft bill latest by 1st June 2018. Comments may be forwarded to Director (Port) via e-mail to [arvind.chaudhary@nic.in](mailto:arvind.chaudhary@nic.in) or by post to the address mentioned below:

Director (Port)  
Ministry of Shipping  
Room No 530, Transport Bhawan,  
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[e-mail-arvind.chaudhary@nic.in](mailto:e-mail-arvind.chaudhary@nic.in)

  
(Arvind Chaudhary)  
Director  
Tel No.011- 23711323

Copy to:

**Managing Director, IPA:** IPA may also upload the same on its website.

20-04-2018

Bill No. \_\_\_\_\_ of 2018

**THE INDIAN PORTS BILL, 2018**

A

BILL

to consolidate and amend the enactments relating to ports and matters incidental thereto, or connected there with to meet the current requirements.

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

**CHAPTER 1**  
**Preliminary**

**1. Short title, commencement and application.**-(1) This Act may be called the Indian Ports Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies to-

(a) all ports; and

(b) to such parts of navigable waters including rivers and channels as may be notified by the Central Government in the Official Gazette.

Provided that nothing in this Act shall apply to :

(a) any vessel of war, or

(b) any vessel in the service of the Government during which security of India or any part of territory thereof is threatened by war or external aggression or during proclamation of emergency under clause (1) of article 352 of the Constitution.

**2. Saving.**- Nothing in this Act shall-

(1) deprive any person of any right of property or other private right, except as hereinafter expressly provided.

(2) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto.

**3. Definitions.-** In this Act, unless the context otherwise requires,-

- (a) "deputy conservator" means a person in possession of a certificate of competency of a master of foreign going ship, issued by the Government of India, or recognized as its equivalent, and appointed as such by the Government;
- (b) "dock" means an enclosed area of water in a port;
- (c) "foreshore" means the part of a shore between high- and low-water marks;
- (d) "Government", as respects major ports, for all purposes, and, as respects other ports for the purposes of making rules under section 6(1) and for the appointment and control of port health officers under section 17, means the Central Government, and save as aforesaid, means the State Government;
- (e) "high-water-mark" means the highest point reached by the sea, river, lake, water channel or any other water body at any time;
- (f) "low-water-mark" means the lowest point reached by the sea, river, lake, water channel or any other water body at any time;

- (g) "magistrate" means a person exercising powers under the Code of Criminal Procedure, 1973 (2 of 1974);
- (h) "major port" means any port which the Central Government may by notification in the Official Gazette declare, or may under any law for the time being in force have declared, to be a major port;
- (i) "master", when used in relation to any vessel or any aircraft making use of any port, means, subject to the provisions of any other enactment for the time being in force, any person except a pilot or harbour-master of the port having for the time being the charge or control of the vessel or the aircraft, as the case may be;
- (j) "net ton" means net tonnage as determined or determinable by the rules made under provisions of the Merchant Shipping Act, 1958;
- (k) "obstruction" includes any material or such other thing including any vessel or part of a vessel, or of any public nuisance in any part of the port which impedes port activity;
- (l) "pilot" means a person for the time being authorised by the Government to pilot vessels;
- (m) "port" includes parts of a river or channel;
- (n) "port limits" means the limit including any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty metre of high-water- mark;
- (o) "prescribed" means prescribed by the rules made under this Act;
- (p) "ton" means gross tonnage as determined or determinable by the rules made under provisions of the Merchant Shipping Act, 1958;
- (q) "vessel" includes anything made for the conveyance by water of human beings or of property;

## CHAPTER II

### POWERS OF THE GOVERNMENT

**4. Limits of Port and power to extend or withdraw the Act.**-(1) The Central Government shall notify the limits of every port in the Official Gazette.

(2) The Central Government may, by notification in the Official Gazette, extend this Act to any other area in which this Act is not in force,

(3) A notification issued under sub-section (2) shall define the port limits of the area to which it relates.

**5. Alteration of limits of ports.**-(1) The Central Government may, by notification in the Official Gazette, subject to any right of a person of his private property, fix or alter the limits of any port.

**Explanation.**- For the removal of doubts, it is hereby declared that the power conferred on the Central Government under this sub-section includes the power to alter the limits of any port by uniting with that port any other port or any part of the other port.

(2) When the Central Government alters the limits of a port under sub-section (1), it shall declare or describe the precise extent of such limits, by notification in the Official Gazette and by such other means, if any, as it thinks fit,

**6. Power to make port-rules.**-(1) The Government may, in addition to any rules which it may make under any other enactment for the time being in force, makes such rules, consistent with this Act, as it thinks necessary for the purpose of safety, security, pollution prevention relating to vessel, personnel and port and for regulating the various aspects of port operation as may be required including making of rules for fixing the schedule of port charges including rates, fees payable and penalties;

(2) The Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for the purpose of prevention of danger arising to public health.

(3) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication;

(4) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.

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

(6) Any person including the master of a vessel disobeying any rule made under this section, shall be punishable for every such offence as provided in the schedule.

## CHAPTER III

### PORT-OFFICIALS, THEIR POWERS AND FUNCTIONS

**7. Appointment of conservator.**-(1) The Government shall appoint an officer or body of persons to be the conservator for every port.

(2) In a port where the conservator is not in place, the deputy conservator shall be deemed to be the conservator of that port;

(3) The conservator may, with the approval of the Government, delegate such of his powers as he thinks fit to a deputy conservator, harbour-master or other official of the Government.

(4) The deputy conservator, and his assistants, including the harbour-master shall be subject to the supervision and control of the conservator.

(5) The conservator shall be subject to the control of the Government, or of any intermediate authority as the Government may appoint.

**8. Power of conservator to issue directions.**-(1) The conservator of a port, with respect to any vessel within the port, subject to the provision of this Act may issue directions for complying with any rule for the time being in force.

(2) If any person wilfully and without reasonable cause refuses or neglects to obey any direction of the conservator, after notice thereof has been given to him, he shall, for every such refusal or neglect, be punishable as provided in the schedule and in the case of a continuing refusal or neglect, with such action as the Government may deem appropriate.

(3) In case of such refusal or neglect, the conservator may cause or cause to be done, all the necessary acts for execution of the directions and may hire and employ suitable persons for this purpose, and all reasonable expenses incurred in this behalf shall be recoverable from the person for such refusal or neglect.

**9. Power to cut warps and ropes.**-The conservator of a port may, in case of urgency cut or cause to be cut, any warp, rope cable or hawser endangering the safety of any vessel or port asset in the port or at or near the entrance thereof and move the vessel to a different place at the cost of the person having control over the vessel.

- 10. Removal of obstructions within limits of port.**-(1) The conservator may remove, or cause to be removed, any obstruction or impediment being in any part of a port, which in his opinion obstructs or impedes the port activity or the lawful use of any pier, jetty, landing-place wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port.
- (2) The person causing any obstruction or impediment shall be liable to pay the reasonable expenses for the removal thereof and if such owner or any other person has without lawful excuse caused any such obstruction or impediment or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable as provided in the schedule.
- (3) The conservator may cause removal of wreck, or obstruction within the port limits, including dismantling of the wreck if required, either on his own, or through any external agency.

**11. Recovery of expenses for removal of obstructions.-** (1) The conservator may recover expenses incurred for removal of obstruction in any part of the port, from the person causing such obstruction by public auction of the obstruction, and may retain all the expenses for such removal and sell out the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same and if no such person is available, the conservator shall cause the same to be kept and deposited in such manner as the Government directs;

(2) The Conservator may, if necessary, recover the expenses of keeping the unsold thing or materials together with the expenses of sale, by further sale of so much of the thing or materials as may remain unsold from time to time;

Provided that, if the sale proceeds are not adequate to meet the expenses incurred, such person shall be liable to pay the shortfall along with the interest as may be prescribed;

**12. Removal of lawful obstructions beyond limits of port.-** (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of to the Government, and shall, with the sanction of the Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to disputes in the case of land required for public purposes.

**13. Fouling of moorings.-** (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoys or moorings for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel; and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same and for repairing the damages or for the replacement, if required.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punishable as provided in the schedule.

**14. Raising or removal or wreck impeding port activity within limits of port.** (1) If any vessel is wrecked, stranded or sunk in any port, the conservator shall give notice to the owner of the vessel to raise, or remove or dismantle the vessel within such period as may be specified in the notice and to furnish such adequate security to the satisfaction of the conservator to ensure that the owner of the vessel shall cause the vessel to be raised, or removed or dismantle within the said period;

Provided that the conservator may extend such period to such further period as he may consider necessary having regard to the circumstances of such case and the extent of it's impediment to navigation.

(2) Where the owner of any vessel to whom a notice has been issued under sub-section (1) fails to raise or remove or dismantle such vessel within the period specified in the notice or the extended period or fails to furnish the security required of him, the conservator may cause the vessel to be raised, or removed or dismantled.

(3) Notwithstanding anything contained in the forgoing sub-sections, if the conservator is of the opinion that any vessel which is wrecked, stranded or sunk in any port is required to be immediately raised, removed or destroyed for the purpose of uninterrupted navigation in such port, he may, without giving any notice under sub-section (1), cause the vessel to be raised, removed or dismantled.

(4) If any property recovered by a conservator acting under sub-section (2) or sub-section (3) is unclaimed or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than thirty days after the recovery thereof.

(5) The expenses and further sum aforesaid shall be payable to the conservator out of the sale proceeds of the property, and the balance, shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within three years from the date of the sale.

(6) Where the sale proceeds of the property are not sufficient to meet the expenses and further sum aforesaid, the owner of the vessel at the time the vessel was wrecked, stranded or sunk shall be liable to pay the deficiency to the conservator on demand, and if the deficiency be not paid within one month of such demand the conservator may recover the deficiency from such owner in accordance with law.

**15. Power to board vessels and enter buildings.**-(1) The conservator or a person authorized by the conservator, whenever he suspects that any offence against the provisions of this Act has been, or is about to be committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act, and the person appointed under this Act to receive any port dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act, either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable as provided in the schedule.

**16. Power to require crews to prevent or extinguish fire, or other aspects pertaining to safety, security, pollution prevention of the vessel, personnel and port.**-(1) For the purpose of preventing or extinguishing fire, or for any matter affecting the safety, security or pollution prevention aspect of the vessel or personnel in any port subject to this Act, the conservator or duly authorized official of port may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punishable as provided in the schedule, and any seafarer, then under his orders who, after being directed by the master to obey the orders of the conservator or authorized official of the port for the purpose aforesaid, refuses to obey such orders, shall be punishable as provided in the schedule.

**17. Appointment and powers of health-officer.**-(1) The Central Government may appoint at any port subject to this Act, an officer, or an empanelled medical practitioner as the health-officer at the place to carry out the functions of the port health officer.

(2) A health-officer shall be subject to the control of the Central Government and have the following powers, within the limits of the port for which he is appointed, or empanelled, namely:-

(a) with respect to any vessel, the powers of inspection of provisions, water and sanitation of a vessel including accommodation of the vessel.

(b) power to enter on board any vessel and medically examine all or any of the seafarer or apprentices on board the vessel;

(c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel.

**18. Indemnity of Government against act or default of port-official or pilot.**- (1)The Government shall not be responsible for any act or default of any conservator, or harbour-master, of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel.

Provided that nothing in this section shall protect the Government from a suit in respect of any act done by or under the express order or sanction of the Government.

**CHAPTER IV**  
**RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS**

**19. Damage to buoys, beacons, mooring, wharfs, jetty etc..-**(1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority, of the Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be punishable, in addition to the payment of the amount of damage done, as provided in the schedule.

**20. Wilfully loosening vessel from moorings.-** If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punishable as provided in the schedule.

**21. Improperly discharging ballast, oil, garbage and sewage from ships and emission from ships.-**(1) No emissions or ballast, oil, oily waste, noxious liquid substance, garbage, sewage shall be emitted or discharged from a vessel in contravention of the provisions of the MARPOL Convention, or Ballast Water Convention as may be applicable.

(2) Any person, who contravenes the provision of sub-section (1), in addition to the punishment, shall be liable to pay the expenses incurred in removing or cleaning such oil, oily wastage, noxious liquid substance, garbage, sewage as provided in the schedule.

(3) If, after receiving notice from the conservator of the port, or an official authorized by the conservator to desist from discharging ballast, oil, oily waste, noxious liquid substance, garbage, sewage or rubbish or such other thing, any master continues so to cast, throw or discharge the same, he shall also be punishable as provided in the schedule.

**22. Warping.**-(1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punishable for every such offence as provided in the schedule.

**23. Leaving out warp or hawser.**-(1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punishable for every such offence as provided in the schedule.

**24. Discharge of fire-arms in port.**-If any person, without lawful excuse, discharges any fire-arms in any port or, on or from any pier, landing place, warp or quay thereof, he shall for every such offence be punishable as provided in the schedule.

**25. Penalty on master omitting to take order to extinguish fire.**-If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or any person acting under the authority of the conservator in extinguishing or attempting to extinguish the fire, he shall be punishable as provided in the schedule.

**26. Unauthorised person not to search for lost stores.**-(1) No person, without the permission of the conservator, shall, in any port subject to this Act, creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punishable as provided in the schedule.

**27. Removing stones or injuring shores of port prohibited.-** (1) No person without the permission of the conservator shall in any port remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punishable as provided in the schedule; and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

**28. Moving of vessels without pilot or permission of harbour master.-** (1) No vessel shall enter, leave or be moved in any port without having a pilot, harbour-master or assistant of the harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer authorised by him to give such authority;

Provided that the Government may, by notification in the Official Gazette, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.

(2) Notwithstanding anything in sub-section (1), the owner or master of a vessel which is by that sub-section required to have a pilot, harbour-master or assistant of the harbourmaster on board, shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel, in the same manner as he would have been if he had not been so required by that sub-section:

(3) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punishable as provided in the schedule, unless upon application to the proper officer, the master was unable to procure a pilot, harbour-master or assistant of the harbour-master to go on board the vessel.

**CHAPTER V**  
**PORT-DUES, FEES AND OTHER CHARGES**

**29. Levy of port-charges.-** (1) Every port may levy port charges for different activities and services of the port including pilotage charges, as may be notified by the Government, or as published by the port which is authorised to do so by the Government:

Provided that the port may specify different rates for different type of vessels, different activities and different services.

(2) The port-charges currently leviable in any port shall continue to be so leviable till the same are altered.

(3) An order increasing or imposing port-dues under this section shall not take effect till the expiration of thirty days from the day on which the order was published.

**30. Power to Remit or exempt.-**The Government may, in special cases, remit or exempt the whole or any portion of the port charges.

**31. Grouping of ports.-**The State Government may group any number of ports in the State not being major ports to be regarded as constituting a single port for the purposes as may be notified in the Official Gazette.

**32. Master to report arrival.-**(1) The master of a vessel shall provide intimation to the conservator of its arrival within the limits of a port immediately after the arrival but in any case not later than six hours after such arrival.

(2) The master failing without lawful excuse to make such arrival intimation within the time specified in sub-section (1) shall be punishable as provided in the schedule.

**33. Conservator may in certain cases ascertain draught and charge expense to master.-**

If any vessel is in any port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained and the master of the vessel shall be liable to pay the expenses for the same.

**34. Distraint and sale on refusal to pay port-charges.**-If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act, refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges, may distraint or arrest the vessel, and the tackle apparel and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues fees, or other charges, or of the costs of the distress or arrest or of the keeping of the vessel, or other thing distrained or arrested remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel, or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the cost including the costs of sale remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand:

Provided that where such vessel or other thing is already arrested under the order of a Court or other authority, the authority appointed to receive port dues, fees or other charges, may sell the vessel or other thing only with the prior permission of such Court or other authority and satisfy the port dues, fees or other charges and the costs including costs of sale remaining unpaid, and disburse the surplus, if any in accordance with the orders or directions of such Court or other authority:

**35. No port-clearance to be granted until port-charges are paid.**-The officer of the Government whose duty is to grant a port-clearance for any vessel shall not grant such clearance- until her owner or master or agent, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines penalties and expenses to which the vessel or her owner or master is liable under this Act.

**36. Port-charges payable in one port recoverable at any other port.**-(1) If the master of any vessel in respect of which any such sum as is mentioned in section 35 is payable, causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the section 35 became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding and also (in case the amount payable is disputed) in any subsequent proceedings.

**37. Penalty for evading payment of port-charges.**-(1) If the master of a vessel evades the payment of any such sum as is mentioned in section 35, he shall be punishable with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1) any such certificate as is mentioned in section 36 stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section

**CHAPTER VI  
SUPPLEMENTAL PROVISIONS**

**38. Hoisting unlawful colours in port.**-If any vessel hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof is unlawful, the master of the vessel shall, for every such offence, be punishable as provided in the schedule.

**39. Grant of sites for sailors institutes.**-(1)Any local authority in which any immovable property in or near a port is vested may, with the previous sanction, in the case of a cantonment authority or the port authority of a major port, of the Central Government, and in other cases, of the State Government, appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

**40. Service of written notices of directions.**- (1)Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

**41. Authorities exercising jurisdiction to co-operate in manoeuvres for defence of port.**-Every authority exercising any powers or jurisdiction in, or relating to, any port to which this Act for the time being applies shall, if so required by an officer authorized by general or special order of the Central Government in this behalf, co-operate in such manner, as such officer may direct, in carrying out any manoeuvres in connection with any scheme or preparations for the defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material:

Provided that if any vessels are placed at the disposal of such officer in accordance with this section, the Central Government shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto.

Explanation.-The expression 'running expenses' in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels:

Provided further that any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manoeuvres:

Provided further that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.

**42. Duties of the said authorities in an emergency.**- Whenever the Central Government is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 41 on the authorities therein mentioned, or other duties of a like nature should be imposed on such authorities continuously during the existence of the emergency, it may, by general or special order, authorise any officer to require the said authorities to

perform such duties until the Central Government is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely:- The Central Government shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Central Government, and the decision of such person shall be final.

**43. Application of certain provisions of the Act to aircraft and seaplane.**-(1) The provisions of this Act shall apply in relation to all aircraft and seaplane making use of any part of the port, while on water, as they apply in relation to vessels

(2) No aircraft shall enter or leave any port subject to this Act, except with the permission granted by the conservator of the Port or by such other officer as may be authorized in this behalf by the conservator.

**44. Security of ships and ports.**-Every port shall comply with the requirements of security of ships and port facilities as specified in **part IXB** of the Merchant shipping Act 1958.

**45. Navigational safety, general safety and compliance with requirements of International Maritime Dangerous Goods Code.**-Every port shall comply with the requirements with regard to the navigational safety of port and all other safety requirements of port including International Maritime Dangerous Goods Code.

**46. Nuclear Vessels.**-Every port shall comply with the requirements specified in part IXA of the Merchant shipping Act 1958 in respect of nuclear vessels calling at the port.

**47. Dealing with emergencies.**- Every port shall take steps to ensure that the port is ready in all respect to deal with emergencies that may arise at the port and for this purpose the port shall carry out regular drills to ensure that the readiness is maintained to the required level at all times.

**48. Reception facility.**-Every port shall provide reception facilities for receipt of wastes including oil, noxious liquid substances, ballast water or contaminated water from the vessel at reasonable rates as may be specified in the rules.

**49. Shore leave for seafarers.**-Every port shall facilitate the issue of shore leave for seafarers of vessels calling at the port.

**50. Port community system.**-The Government may, by notification in the Official Gazette, direct a port to adopt a mechanism for integration of all trade related data electronically at a centralized hub.

**51. Power to remove difficulties.**-(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

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

## **CHAPTER VII PENALTIES AND PROCEDURES**

**52.** (1) Any person who contravenes any provision of this Act or fails to comply with any provision thereof, which it was his duty to comply with, shall be guilty of an offence committed under this Act.

(2) The offences mentioned in column (2) of the Table of the Schedule shall be punishable to the extent mentioned in column (4) of the Table with reference to such offence respectively.

(3) Any person who contravenes any provision of this Act or fails to comply with any provision thereof, which it was his duty to comply with, shall be guilty of an offence, and if in respect of such offence no penalty is specifically provided in sub-section (2), he shall be punishable with fine which may extend to fifty thousand rupees.

(4) The conservator may, after affording an opportunity of being heard, by order in writing, impose penalties as specified in column (4) of the said Table.

(5) Any person aggrieved by the order under sub-section (4), may, within a period of thirty days from the date of receipt of such order, prefer an appeal before the Government concerned in such form and manner as the Government may specify in this behalf:

Provided that the appeal filed beyond the period of limitation may be entertained if sufficient cause which prevented him from filing the appeal in time is shown to the satisfaction of the appellate authority.

(6) The Government concerned may, after affording an opportunity of being heard, within a period of thirty days from the date of receipt of the appeal under sub-section (5), pass appropriate order which shall be final and binding on all parties.

**53. Penalty for disobedience to rules and orders of the Government.**-Any person who disobeys any rule or order made by the Government made in pursuance of this Act for which express provision has not been made elsewhere in the Act, he shall be punishable for every such offence with fine as provided in the schedule.

**54. Offences how triable, and penalties how recovered.**-Any offence under this Act punishable with imprisonment shall be triable by a Magistrate, having jurisdiction, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle apparel and furniture thereof, or so much thereof as is necessary.

**55. Costs of conviction.**-(1) In case of any conviction under this Act, the Magistrate may order the convict to pay the assessed costs in addition to any fine or expenses to which he may be liable.

(2) Such costs shall be recovered in the same manner as fine under this Act.

**56. Ascertainment and recovery of expenses and damages payable.**-(1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the **authority (to delete)** person to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

**57. Cost of distress.**-Whenever any fine, expenses or damages is or are levied under this Act, by distress and sale, the cost of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

**58. Magistrate to determine the amount to be levied in case of dispute.**-If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last section-57, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

**59. Jurisdiction over offences beyond local limits.**-(1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

**60. Conviction to be quashed on merits only.**-(1) No conviction, order or judgement of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgement, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgement, but the depositions taken supply that defect, the conviction, order or judgement shall be aided by what so appears in the depositions.

## CHAPTER VIII

### MISCELLANEOUS

**61. Power of Central Government to make rules.**-(1) The Central Government may by, by notification, make rules for carrying out the provisions of this Act.

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

(a) .....

(b) .....

(c) .....

**62. Protection of persons acting under the Act.**-No suit or other legal proceeding shall lie against any person or anything which is in good faith done or intended to be done under this Act.

**63. Repeal and savings.**-(1) The Indian Ports Act, 1908 is hereby repealed.

(2) Notwithstanding such repeal, any order, rule notification made or issued or anything done or any action taken in pursuance of any provision of the Indian Ports Act, 1908, shall be deemed to have been made, done or taken under the corresponding provisions of this Act.

SCHEDULE

| Serial No. | Offences   | Section of this Act to which offence has referred | Penalties   | By whom the offence triable and penalties imposed |
|------------|--|---|---|---|
| (1)        | (2)  | (3)   | (4)   | (5)   |
| 1.         | Any person including the master of a vessel disobeying any rule made under the section.  | 6(6)  | Fine of minimum rupees ten thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees ten per ton of the vessel exceeding 500 ton     | conservator                                       |
| 2.         | If any person wilfully and without reasonable cause refuses or neglects to obey any lawful direction of the conservator.   | 8(2)  | Fine of minimum rupees one lakh for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees one hundred per ton of the vessel exceeding 500 ton | conservator                                       |
| 3.         | The owner of any obstruction, shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to | 10(2)   | Fine of minimum rupees two lakh for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees two hundred per ton of the vessel exceeding 500 ton | conservator                                       |

|    |  |       |  |             |
|----|--|-------|--|-------------|
|    | affect such free navigation or lawful use, he shall also be punishable.  |       |  |             |
| 4. | Any master or other person offending against the provisions of this section shall, for every such offence, be punishable.  | 13(2) | Fine of minimum rupees fifty thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees fifty per ton of the vessel exceeding 500 ton  | conservator |
| 5. | If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable. | 15(2) | Fine of minimum rupees one lakh for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees one hundred per ton of the vessel exceeding 500 ton. | conservator |
| 6. | If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable  | 16(2) | Fine of minimum rupees one lakh for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees one hundred per ton of the vessel exceeding 500 ton. | conservator |

|     |  |       |  |   |
|-----|--|-------|--|---|
| 7.  | If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done to fine.  | 19(2) | Fine of minimum rupees fifty thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees fifty per ton of the vessel exceeding 500 ton.   | conservator   |
| 8.  | If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punishable with fine as given in the schedule. or with imprisonment for a term which may extend to six months or both. | 20    | Fine of minimum rupees ten thousand for vessel up to 500 tons or with imprisonment for a term which may extend to six months, or both. In addition, vessel above 500 tons, fine of rupees ten per ton of the vessel exceeding 500 tons   | Magistrate  |
| 9.  | If after receiving notice from the conservator of the port to desist from discharging ballast, oil, oily waste, noxious liquid substance, garbage, sewage or rubbish or such other thing any master continues so to cast, throw or discharge the same, he shall also be liable with fine.  | 21(3) | Fine of minimum rupees five lakh for vessel up to 500 tons or with imprisonment for a term which may extend to one year or both. In addition, vessel above 500 tons, fine of rupees five hundred per ton of the vessel exceeding 500 ton | Conservator in case of fine.<br>Magistrate in case of imprisonment. |
| 10. | A master offending against sub-section (1) shall be punishable for every such offence with fine as provided in the schedule.   | 22(2) | Fine of minimum rupees fifty thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees fifty per ton of the vessel  | conservator   |

|     |  |       |   |             |
|-----|--|-------|---|-------------|
|     |  |       | exceeding 500 ton   |             |
| 11. | A master offending against sub-section (1) shall be punishable for every such offence with fine as provided in the schedule.   | 23(2) | Fine of minimum rupees fifty thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees fifty per ton of the vessel exceeding 500 ton | conservator |
| 12. | If any person, without lawful excuse, discharges any firearm in any port subject to this Act or, on or from any pier, landing place, warp or quay thereof, he shall for every such offence be punishable with fine.  | 24    | Imprisonment as per the Arms Act 1959 and the Explosives Substances Act 1908 and fine as per the said Acts  | magistrate  |
| 13. | If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punishable with fine. | 25    | Fine of minimum rupees one lakh for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees one hundred per ton of the vessel exceeding 500 ton | conservator |
| 14. | Unauthorised person not to search for lost stores: If any person offends against the provisions of sub-section (1), he shall be punishable with fine.  | 26    | Fine of minimum rupees ten thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees ten per ton of the vessel exceeding 500 ton     | conservator |

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|-----|---|-------|---|-------------|
| 15. | If any person offends against sub-section (1), he shall for every such offence be punishable with fine as provided in the schedule and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.  | 27(2) | Imprisonment and fine as per the Prevention of Damage to Public Property Act, 1984  | magistrate  |
| 16. | If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of subsection (1), the master of the vessel shall for every such offence be punishable with fine as provided in the schedule, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel. | 28(3) | Fine of minimum rupees ten thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees ten per ton of the vessel exceeding 500 ton     | conservator |
| 17. | The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine as  | 32(2) | Fine of minimum rupees fifty thousand for vessel up to 500 tons. In addition, vessel above 500 tons, fine of rupees fifty per ton of the vessel exceeding 500 ton | conservator |

|     |   |       |  |             |
|-----|---|-------|--|-------------|
|     | provided in the schedule.   |       |  |             |
| 18. | If any vessel hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof is unlawful, the master of the vessel shall, for every such offence, be punishable.  | 38    | Fine of minimum rupees ten thousand or with imprisonment for a term which may extend to six months, or both. | Magistrate  |
| 19. | Any pilot of a vessel who disobeys, or abets disobedience to, any of the provisions of this Act, shall be punishable with fine as provided in the schedule for each instance of such disobedience or abetment, and, in addition, shall be liable to have his authority to act as a pilot withdrawn. | 39(1) | Fine of minimum rupees ten thousand  | conservator |
| 20  | Any person who disobeys any rule or order made by the Government made in pursuance of this Act for which express provision has not been made elsewhere in the Act, he shall be punishable for every such offence  | -     | Fine of minimum rupees ten thousand  | conservator |