

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

9. The functions of the Authority shall be-

Functions of the Authority

- (a) to manage, maintain, improve and develop the Port;
- (b) to provide and maintain adequate and efficient port services and facilities in the Port or the approaches to the Port;
- (c) to regulate and control berthing and movement of vessels and navigation within the Port;
- (d) to do such acts and things as may be necessary or convenient to be done in connection with, or incidental or conducive to, the performance of its functions under this Ordinance.

10. (1) Subject to the other provisions of this Ordinance, the Authority may take such measures and exercise such powers as may be necessary for carrying out the purposes of this Ordinance.

Powers of the Authority

(2) Without prejudice to the generality of the powers conferred by sub- section (1), the Authority shall, in particular, have power-

- (a) to construct, maintain and operate docks, moorings, piers and bridges within the Port, with all necessary and convenient drains, arches, culverts, roads, railways, fences and approaches;
- (b) to undertake any work of or in connection with the loading, unloading and storing of goods in the Port;
- (c) to construct, maintain and operate ferry vessels to carry passengers, vehicles and goods within the Port;
- (d) to construct, maintain and operate railways, warehouses, sheds, engines, cranes, scales and other appliances for conveying, receiving, handling and storing goods to be landed or shipped or otherwise dealt with by the Authority;
- (e) to reclaim, excavate, enclose or raise any part of the bank or bed of the river;

- (f) to construct, maintain and operate dredgers and appliances for clearing, deepening and improving the bed of the river;
- (g) to construct, maintain and operate all means and appliances for berthing, loading and discharging vessels;
- (h) to construct, maintain and operate vessels for towing or rendering assistance to vessels, saving life and property or recovering any property lost, sunk or stranded;
- (i) to supply fuel or water to vessels;
- (j) to provide fire and security services within the Port;
- (k) to acquire, hire, procure, construct, erect, manufacture, provide, operate, maintain or repair anything whatsoever required by the Authority for the purposes of this Ordinance;
- (l) to control the erection and use of docks and any other works, whether above or below the high water-mark, within the Port or the approaches to the Port;
- (m) to acquire any undertaking affording or intending to afford facilities for the loading and discharging or warehousing of goods in the Port or for the bunkering of vessels;
- ¹[(mm) to regulate the custom agents licensed under the Customs Act, 1969 (IV of 1969) in the performance of their functions within the limits of Port;]
- (n) to enter into any contract, bond or agreement of any kind whatsoever for the purposes of this Ordinance.

Removal of vessels and equipment from docks, etc.

²[**11.** (1) The Authority may, by notice in writing, order the master or owner or agent of any vessel or equipment to remove from any dock, mooring, pier, anchor site or any other site belonging to the Authority.

(2) If such vessel or equipment is not removed therefrom within the time specified in the notice, the Authority may charge in respect of such vessel or equipment at the rate specified by it in accordance with the provisions of section 19.]

¹ Clause (mm) was inserted by section 5 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

² Section 11 was substituted by section 6 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

12. (1) The Authority shall, immediately upon the landing of any goods on its quay, wharf or pier, take charge thereof and store such of the goods as may be liable to damage or deterioration by exposure in any shed or warehouse belonging to the Authority.

Authority to take charge of goods

¹[(2) Subject to the provisions of this Ordinance, the responsibility of the Authority for the loss, destruction or deterioration of goods of which it has taken charge shall be that of a bailee under section 151, 152, 161 and 164 of the Contract Act, 1872 (IX of 1872) :

Provided that no responsibility under this section shall attach to the Authority after the expiry of ten days from the date of taking charge of goods by the Authority.]

13. Where under the provisions of any law for the regulation of duties of customs, any dock, mooring, pier or shed, provided under this Ordinance for the use of sea-going vessels, is appointed to be a dock or wharf for the landing or shipping, or a warehouse for the storing of goods within the meaning of such law, the Authority shall set apart, maintain and secure on or in such dock, mooring, pier or shed such portion thereof, or place therein, or adjoining thereto, for the use of the officers of Customs as the Government may approve of or appoint in that behalf.

Accommodation for Customs Officers on docks, etc.

14. Notwithstanding that any dock, mooring, pier or shed or portion thereof has, under the provisions of section 13, been set apart for the use of the officers of Customs, all dues, rates, tolls, charges and rents payable under this Ordinance in respect thereof or for the use thereof or for the storage of goods therein, shall be paid and be payable to the Authority, or to such persons as it may appoint to receive the same.

Dues at Customs docks, etc.

15. (1) The master of every vessel entering or leaving the Port to which the provisions of the Customs Act, 1969 (IV of 1969), in regard to entering or clearing at a Customs House, do not apply shall be bound to stop at one or other of the stations established by the Authority for the registration of river-borne traffic, and forthwith to make a full and true declaration of the nature and value of the cargo at the time being carried by him on such vessel.

Registration of cargo-boat traffic

¹ Sub-section (2) was substituted by section 7 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

(2) No such master shall withdraw his vessel from any such station until he has received from the officer-in-charge of the same a pass on which the particulars of the nature and value of the cargo so being carried shall be recorded.

Right of the Authority to maintain pilots

16. (1) The Authority shall have the right of maintaining pilots for the navigation of vessels at the Port and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the Authority:

Provided that no person shall be appointed to be a pilot by the Authority who is not for the time being authorised under the provisions of the Ports Act, 1908 (XV of 1908), to pilot vessels.

Private docks, etc. prohibited

17. (1) Save as provided in section 18, no person except the Authority shall make, erect or fix below high water-mark within the Port any dock, pier, erection or mooring.

(2) Any matter or thing made, erected or fixed in contravention of sub-section (1) may be removed by the Authority and the person who has so made, erected or fixed any such matter or thing shall be punishable with fine which may extend to ten thousand Taka and with a further fine which may extend to one thousand Taka for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Authority in removing such matter or thing.

Power to permit erection of private docks, etc.

18. The Authority may, by order in writing and subject to such conditions as may be specified therein, permit any person to make, erect or fix below high water-mark within the Port any dock, pier, erection or mooring.

Scales of tolls, etc.

19. (1) The Authority shall frame-

- (a) a scale of tolls, dues, rates and charges, annual or other, to be paid by the owners of vessels plying, whether for hire or not and whether regularly or occasionally, within or partly within and partly without the limits of the Port, in respect of such vessels and of persons whether in charge of or on board such vessels, and also in respect of the licensing, registration and regulation of such vessels and persons:

Provided that no such tolls, dues, rates and charges shall be chargeable in respect of vessels which are liable to port dues under the provisions of Schedule 1 to the Ports Act, 1908 (XV of 1908);

- (b) a scale of tolls, dues, rates and charges-
 - (i) for the landing and shipment of goods from and in sea-going vessels, and vessels not being sea-going, respectively, at such docks, piers and anchorages as belong to the Authority, or any other agency authorised by the Authority to construct such docks;
 - (ii) for the use of such docks, piers, and anchorages by such vessels;
 - (iii) for the storing and keeping of any goods stored in any premises belonging to the Authority;
 - (iv) for the removal of goods; and
 - (v) for the use of any mooring;
- (c) a scale of tolls for the use of the said docks, piers and anchorages by any such vessels, in case the Authority permits the goods to be landed or shipped by persons other than its own officers and employees; and
- (d) a scale of charges for-
 - (i) any services to be performed by the Authority or its officers and employees in respect of any vessels or goods;
 - (ii) the use of any works or appliances to be provided by the Authority;
 - (iii) ¹[* * *] the carrying of passengers and their personal effects on vessels belonging to, or hired by, the Authority; and
 - (iv) ²[* * *] the towing of and rendering assistance to any vessels, tugs or other boats, or their equipment, within the limits of the Port or outside those limits, for the purpose of saving or protecting life or property.

¹ The word “for” was omitted by section 8 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

² The word “for” was omitted by section 8 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

(2) Every scale framed under sub-section (1) shall be submitted to the Government and, after approval or modification by the Government, shall be published in the *official Gazette*.

Power of Authority to impose river dues

¹[**19A.** The Authority may, with the previous sanction of the Government and by notification impose a river due on all goods landed from or shipped into any seagoing vessel lying or being within the limits of the Port, whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, mooring, jetty or pier belonging to the Authority or not.]

Remission of tolls, etc.

20. The Authority may, in special cases, with the previous sanction of the Government, remit the whole or any portion of a toll, due, rate or charge leviable according to any scale for the time being in force under section 19:

Provided that no sanction of the Government shall be necessary if the remission in any one case does not exceed one thousand taka or such larger sums as the Government may from time to time specify.

Authority's lien for tolls, etc.

21. (1) For the amount of all tolls, dues, rates and charges leviable under this Ordinance in respect of any goods, the Authority shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

(2) For the amount of rent lawfully due on buildings, plinths, stacking areas and other premises which are the property of the Authority and not paid after demands therefore have been duly preferred, the Authority shall have a lien on all goods therein or thereon, and shall be entitled to seize and detain the same.

(3) Toll, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of goods and in respect of goods to be removed from the premises of the Authority or to be shipped for export shall be payable before the goods are removed or shipped.

¹ Section 19A was inserted by section 9 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

(4) The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, where such lien has been reserved in the manner hereinafter provided, and the lien for money payable to the Government under any law for the time being in force.

22. (1) If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any dock or pier, gives to the Authority notice in writing that such goods are to remain subject to a lien for freight, primage or average of any amount to be mentioned in such notice, such goods shall continue to be liable, after the landing thereof, to such lien.

Ship owner's
lien for freight

(2) Such goods shall be retained either in the warehouses or sheds of the Authority or, with the consent of the Collector of Customs, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

23. Upon the production to any officer appointed by the Authority in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Authority may permit such goods to be removed without regard to such lien.

Discharge of
Ship owner's
lien for freight

24. (1) If the tolls, dues, rates and charges payable to the Authority under this Ordinance in respect of any goods or if rents due under section 21 are not paid, or if the lien for freight, primage or general average, where such notice as mentioned in section 22 has been given, is not discharged, the Authority may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall at the expiration of two months from the time when the goods were placed in its custody, or seized and detained for rents due sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amount hereinafter directed to be paid out of the produce of such sale.

Recovery of
tolls, etc. by
sale of goods

(2) Before making such sale at least ten days' notice of the sale shall be given by publication thereof in a daily newspaper and a copy thereof shall be affixed in a conspicuous place in the office of the Authority.

(3) If the address of the consignee of the goods or of his agent has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Authority, or is otherwise known, notice shall also be given to the consignee of the goods to his agent by letter delivered at such address or sent by post; but the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to inquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Authority in that behalf, to render early or immediate sale necessary or advisable, the Authority may, within such period being not less than twenty-four hours after the landing of the goods, as it thinks fit, sell by public auction the said goods or such portion thereof as aforesaid in which event such notice, if any, shall be given to the consignee of the goods or his agent as the urgency of the case admits of.

Removal of
unclaimed and
un cleared
goods

25. (1) When delivery of goods is not claimed or effected by the owner at the expiry of ¹[thirty days] from the date on which they are placed in the custody of the Authority, the Authority shall cause a notice to be served upon the owner requiring him to remove the goods:

Provided that, where all rates and charges in respect of such goods have been duly paid, such notice shall not be served till the expiration of two months from the date on which the goods were placed in the custody of the Authority.

(2) Such notice shall be published and served in the manner prescribed in sub-sections (2) and (3) of section 24, but where the owner is not known or the notice cannot be served upon him or he does not comply with the notice, the Authority may sell the goods by public auction after the expiration of ²[forty-five days] from the date on which such goods were placed in the custody of the Authority.

(3) The Government may, by notification in the *official Gazette*, exempt any goods or class of goods from the operation of this section.

¹ The words “thirty days” were substituted for the words “one month” by section 10 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

² The words “forty-five days” were substituted for the words “seventy-five days” by section 10 of the Mongla Port Authority (Amendment) Act, 1995 (Act No. XX of 1995).

26. (1) If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Ordinance, or any regulations or orders made thereunder, refuses or neglects to pay the same or any part thereof on demand, the Authority may distrain or arrest of its own authority such, vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due is paid.

Power to
distrain vessels
for non-
payment of
tolls, etc.

(2) In case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, remains unpaid for a period of fifteen days next after any such distress or arrest has been so made, the Authority may cause the vessel, or other things so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, charges or penalties and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

27. If the Authority gives to the officer of Government, whose duty is to grant the port-clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Ordinance, or any regulations or orders made thereunder, against such vessel, or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Port-clearance
not to be
granted till tolls,
etc. paid

28. Notwithstanding anything contained in sections 21, 22, 23, 24, 25, 26 and 27, the Authority may recover by suit any tolls, dues, rates, charges, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalty payable to or recoverable by the Authority under this Ordinance or any regulations made thereunder.

Alternative
remedy by suit

29. The surplus, if any, of the moneys credited under section 36 of the Ports Act, 1908 (XV of 1908), to the account of the Port fund of the Authority, after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Authority.

Surplus of port
dues to be paid
to the Authority

30. (1) The Authority shall provide a sufficient number of landing places and bathing places within the Port from, upon or in which the public may be permitted to embark, land or bath free of charge.

Public landing
and bathing
places

(2) The Authority may occupy or remove or alter any landing place or bathing place, and prohibit the public from using such landing place or bathing place:

Provided that the Authority shall in that case provide for the use of the public some other landing places or bathing places.

CHAPTER IV

ESTABLISHMENT

Appointment of officers, etc.

31. The Authority may, from time to time, appoint such officers and other employees as it may consider necessary for the performance of its functions on such terms and conditions as may be prescribed by regulations.

Members, etc. to be public servants

32. The Chairman, members, officers and other employees of the Authority shall when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Penal Code (XLV of 1860).

Indemnity

33. No suit, prosecution or other legal proceeding shall lie against the Authority or against the Board or the Chairman or any member, officer or other employee of the Authority in respect of anything in good faith done or intended to be done under this Ordinance.

Delegation of powers to Chairman, etc.

34. The Authority may, by general or special order, delegate to the Chairman or a member or an officer of the Authority any of its powers, duties or functions under this Ordinance subject to such conditions as it may think fit to impose.

CHAPTER V

FINANCE

Authority Fund

35. (1) There shall be formed a fund to be known as the Mongla Port Authority Fund which shall vest in the Authority and shall be utilised by the Authority to meet the charges in connection with its functions under this Ordinance, including the payment of salaries and other remuneration to the Chairman, members, officers and other employees of the Authority.