GOVERNMENT OF INDIA

MINISTRY OF LAW

सत्यमेव जयते

THE

BOMBAY PORT TRUST ACT, 1879

(BOMBAY ACT VI OF 1879)

(AS MODIFIED UP TO THE 1st JANUARY, 1952)

The Legal Adviser, Bombay Port Trust.
Ballard Road, Fort, Bombay.

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ST OF ACTS AND ADAPTATION ORDERS AFFECTING THE BOMBAY PORT TRUST ACT, 1879.

1. The Bombay Port Trust (Amending Bom. Act 6 of 1879), 1881 (Bom. 1 of 1881).
2. The Bombay Port Trust (Amending Bom. Act 6 of 1879), 1881 (Bom. 3 of 1881).
3. The Bombay Port Trust (Amending Bom. Act 6 of 1879), 1883 (Bom. 3 of 1883).
4. The Bombay Port Trust (Amending Bom. Act 6 of 1879), 1883 (Bom. 6 of 1883).
5. The Bombay General Clauses Act, 1886 (Bom. 3 of 1886).
6. The City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).
7. The Bombay Port Trust (Amendment) Act, 1899 (Bom. 1 of 1899).
8. The Bombay Port Trust (Amendment) Act, 1901 (Bom. 2 of 1901).
9. The Bombay Port Trust (Amendment) Act, 1910 (Bom. 4 of 1910).
10. The Bombay Port Trust (Amendment) Act, 1913 (Bom. 3 of 1913).
11. The Bombay Port Trust (Amendment) Act, 1914 (Bom. 6 of 1914).
12. The Bombay Port Trust (Amendment) Act, 1917 (Bom. 4 of 1917).
13. The Bombay Port Trust (Amendment) Act, 1919 (Bom. 4 of 1919).
14. The Bombay Port Trust (Amendment) Act, 1920 (Bom. 21 of 1920).
15. The Bombay Port Trust (Amendment) Act, 1923 (Bom. 5 of 1923).
16. The Bombay Port Trust (Amendment) Act, 1925 (Bom. 17 of 1925).
17. The Bombay Port Trust (Amendment) Act, 1926 (Bom. 8 of 1926).
18. The Bombay Port Trust (Amendment) Act, 1927 (Bom. 14 of 1927).
19. The Bombay Port Trust (Amendment) Act 1933 (Bom. 12 of 1933).
20. The Bombay Port Trust (Amendment) Act, 1936 (Bom. 9 of 1936).
21. The Government of India (Adaptation of Indian Laws) Order, 1937.
22. The Repealing and Amending Act, 1939 (34 of 1939).
23. The Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948 (36 of 1948).
24. The Bombay Port Trust (Amendment) Act, 1949 (27 of 1949).
25. The Repealing and Amending Act, 1949 (40 of 1949).
26. The Adaptation of Laws Order, 1950.
27. The Port Trusts and Ports (Amendment) Act, 1951 (35 of 1951).

LIST OF ABBREVIATIONS USED.

1937	..	for Government of India (Adaptation of Indian Laws) Order, 1937.
1950	..	for Adaptation of Laws Order, 1950.
		for Inserted

THE BOMBAY PORT TRUST ACT, 1879.

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BOMBAY ACT NO. VI OF 1879[1]

[THE BOMBAY PORT TRUST ACT, 1879.]

[*4th September, 1879.*]

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

Preamble.—WHEREAS it is expedient that the immoveable and other property vesting in the trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exercisable by the said trustees, be vested, subject to the provisions hereinafter appearing, in a new trust; It is enacted as follows:—

I—PRELIMINARY.

1. **Short title.**—This Act may be called the Bombay Port Trust Act, 1879.

2. **Repeal of Bombay Act I of 1873.**—From the date[2] which shall be notified by the [3][State Government] under section 8, Bombay Act I of 1873 (the Bombay Port Trust Act, 1873), shall be repealed:

Provided that all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the trustees appointed under the said Act shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the Board constituted by this Act;

and all rates and sums of money due to the said trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said trustees, may be continued or instituted by or against the said Board.

3. **Interpretation-clause.**—In this Act, unless there be something repugnant in the subject or context,—

(*1*) the word "rates" includes any toll, due, rent, rate, or charge leviable under section 43;

(*2*) "port" means the Port of Bombay within such limits as may, from time to time, be defined by [4][the Central Government] for the purposes of this Act, by notification in the [4][Official Gazette], and until a notification is so issued, within such limits as may have been defined[5] * * * * * * under section 73 of the [6]Bombay Port Trust Act, 1873, for the purposes of that Act;

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1878, Pt. V, p. 126, and *ibid*, 1879, Pt. V, p. 149, for Report of the Select Committee, *see ibid*, 1879, Pt. V, p. 14, and for Proceedings in Council, *see ibid*, 1879, Pt. V, pp. 4, 98, 110 and 151.

[2]The 1st November 1879—*see Bombay Government Gazette*, 1879, Pt. I, p. 814.

[3]Subs. by the A. O. 1950.

[4]Subs. by the A. O. 1937.

[5]The words "by Government" omitted, *ibid*.

[6]The Bombay Port Trust Act, 1873 (Bom. I of 1873), is repealed by this Act.

[1][(3) 'vessel' includes anything made for the conveyance mainly by water of human beings or of property;]

[2][(4) 'master' when used in relation to any vessel or to any aircraft making use of the port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, berthing master, dock-master or assistant harbour master of the port;]

(5) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and, when used in relation to any vessel [3][or any aircraft making use of the Port] includes any part-owner, charterer, consignee or mortgagee in possession thereof;

(6) "land" includes the bed of the sea below high-water mark;

(7) "wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same;

(8) "dock" includes basins, locks, cuts, entrances, graving-docks, graving-blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock;

(9) "pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge or pontoon, and any bridges or other works connected therewith;

(10) the word "goods" includes wares and merchandise of every description;

(11) "immoveable property" includes wharfage-rights and all other rights exercisable on, over, or in respect of, any land, wharf, dock, or pier;

[1](12) the words 'public securities' mean—

(a) promissory notes, debentures, stock or other securities of the Central Government or of any State Government;

(b) debentures or other securities for money issued by, or on behalf of, any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India and includes the debentures or other securities issued by the Board under this Act.]

[4][**3A. Requirements as to publication of notifications, orders, etc., in the Official Gazette.**—(1) Any requirement in this Act that a notification, order, rule or bye-law issued or made by the Board or by the Central Government shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or bye-law shall—

(a) where it is issued or made by the Board, be published in the Official Gazette of the State, and

(b) where it is issued or made by the Central Government, be published in the Gazette of India.

(2) Any notification, order, rule or bye-law issued or made by the Central Government shall, for general information, be also republished in the Official Gazette of the State.]

[1]Ins. by Act 35 of 1951, s. 2.

[2]Subs. *ibid.*

[3]Ins., *ibid.*

[4]Ins., *ibid*, s. 3.

II.—Of the Board of Trustees.

Constitution of Board.

4. Act to be carried out by trustees.—The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the Trustees of the Port of Bombay," and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

[1][**5. Constitution of the Board.**—*(1)* The Board shall consist of twenty-five members, that is to say, of fourteen elective Trustees, ten nominee Trustees and a Chairman.

(2) The ten nominee trustees shall be the following :—

(*a*) two representatives of the Defence Services chosen by the Central Government, one of whom shall be a representative of the[2] * * * * * Indian Navy in Bombay ;

(*b*) two representatives of labour chosen by the Central Government after consultation with the registered trade unions, if any, composed of persons employed in the port ;

(*c*) one representative of the Mercantile Marine Department, Bombay, chosen by the Central Government ;

(*d*) the Collector of Customs, Bombay, *ex-officio* ;

(*e*) the General Manager, Great Indian Peninsular Railway, *ex-officio* ;

(*f*) the General Manager, Bombay, Baroda and Central India Railway, *ex-officio* ;

(*g*) one representative chosen by the [3][State] Government ; and

(*h*) the Municipal Commissioner for the City of Bombay, *ex-officio*.]

[4][**6. Elective trustees.**—[1][*(1)* Of the [5][fourteen] elective trustees, two shall be elected by the Municipal Corporation of the City of Bombay and the remaining by such [6][State] or local bodies representing commercial interests as the Central Government may, from time to time, by notification in the Official Gazette, specify, and such notification may also specify the number of trustees that each of such bodies may elect.]

(2) The election shall be held in such manner as shall from time to time be determined by the electing bodies convened in accordance with the rules at the time in force in this behalf.

(3) The Secretary of every electing body shall make a return to [7][the Central Government] of the name of every person so elected by such body and his return shall be published in the [7][Official Gazette].

(4) In the event of default being made by any electing body in electing a trustee under the foregoing provisions within the period hereinafter prescribed in this behalf,

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[1]Subs. by Act 36 of 1948, s. 2 and Sch.
[2]Omitted by A. O. 1950.
[3]Subs. *ibid.*
[4]Subs. by Bom. Act I of 1910, s. 6.
[5]Subs. by Act 40 of 1949, s. 3 and Sch. III
[6]Subs. by the A. O. 1950.
[7]Subs. by the A. O. 1937.

it shall be lawful for [1][the Central Government] by notification in the [1][Official Gazette] to nominate a person, and the person so nominated shall be deemed to be a trustee as if he had been duly elected.]

7. Appointments by Central Government.—The [2][nominee-trustees other than those who are *ex-officio* trustees shall be appointed either by name or by virtue of office] by [1][the Central Government] by notification in the [1][Official Gazette.]

8. Commencement of term of office of first trustees.—Omitted by the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 5.

[3][**9. Term of office of nominee and elective trustees.**—(*1*) Subject to the provisions of sections 11A, 13, 13A and 14A, a nominee-trustee appointed by name or an elective-trustee shall hold office for a term of two years commencing on the first of April next following the appointment or election, as the case may be, of such trustee.

(*2*) Subject to the provisions of section 11A, a nominee-trustee appointed by the Central Government by virtue of an office shall, until the Central Government by notification in the Official Gazette otherwise directs, continue to be a trustee so long as he continues to hold that office.

10. Filling of vacancies in the office of trustees.—(*1*) Every vacancy in the office of a nominee-trustee appointed by name or of an elective-trustee caused by the expiration of the term of office of such trustee shall be filled by appointment or election, as the case may be, within one month immediately preceding the date of expiration of such term.

(*2*) Every vacancy in the office of a nominee-trustee appointed by the Central Government by virtue of an office caused by the expiration of the term of office of such trustee or otherwise shall be filled by appointment within one month of the occurrence of such vacancy.

11. The Chairman.—The Chairman shall be appointed by the Central Government by notification in the Official Gazette and shall hold office during the pleasure of the Central Government.

11.A. Resignation of trustees.—A nominee-trustee appointed by the Central Government, whether by name or by virtue of an office, or an elective-trustee may at any time resign his office by giving notice in writing to the Chairman who shall forward the same to the Central Government, and on such resignation being accepted by that Government he shall cease to be a trustee, and his office shall thereupon become vacant.]

12. Trustees re-eligible.—Any person on ceasing to be a trustee shall, unless disqualified under section 14, be re-eligible.

13. Casual vacancies.—(*1*) Any casual vacancy in the office of [4][a nominee-trustee appointed by name or of an elective-trustee, occasioned by the death or resignation of such trustee or by virtue of the provisions of section 14A] shall be filled up within one month by [1] [the Central Government] if the office vacated was that of a nominee-trustee, or by [5] [the electing body concerned] if it was that of an elective-trustee, in the same manner and subject,

[1]Subs. by the A. O. 1937.

[2]Subs. by Act 35 of 1951, s. 4.

[3]Ss. 9, 10, 11 and 11A, subs. by Act 35 of 1951, s. 5.

[4]Subs. *ibid.*, s. 7.

[5]Subs. by Bom. Act I of 1910.

so far as may be, to the same provisions as are applicable in the case of original appointments and elections of trustees: Provided that the trustee so chosen shall retain his office so long only as the vacating trustee would have retained the same if such vacancy had not occurred.

(*2*) **Acting trustees.**—If [1][a nominee-trustee appointed by name or an elective-trustee] departs from Bombay with an intention of being absent for a longer period than three months, or if [1][such a trustee] shall have been absent for such period, a person shall be [1][appointed or elected, as the case may be] to act for such trustee during his absence or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

[2][(*3*) **Saving provision for acting appointment when necessary for less than three months.**—Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a [3][period not longer] than three months in the place of an absent trustee, on the application of the Board if the absentee be an elective-trustee, or at the discretion of [4][the Central Government] if he be a nominee-trustee.]

[5][**13A. Saving provision for appointment of nominee-trustees and elective-trustees after the prescribed period.**—(*1*) Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a nominee-trustee after the expiration of the period specified therefor in section 10 or section 13, as the case may be, if for any reason it has not been possible for the Central Government to make the appointment within the said period.

(*2*) If the Central Government is satisfied that an electing body has failed to elect a trustee within the period specified therefor in section 10 or section 13, as the case may be, for reasons beyond its control, the Central Government may, by notification in the Official Gazette, direct that the election shall be held on or before such date (after the expiration of the said period) as may be specified in the notification.

(*3*) Where a nominee-trustee is appointed by name, or an elective trustee is elected under sub-section (*2*) of this section or nominated under sub-section (*4*) of section 6 to fill any such vacancy as is referred to in section 10 after the expiration of the period specified therefor in that section, the term of office of such trustee shall commence on the date on which his appointment, election or nomination is notified in the Official Gazette and shall expire on the date on which his term of office would have expired if his appointment, election or nomination, as the case may be, had been made within the period so specified in section 10.]

Disqualifications of Trustees.

[6][**14. Disqualifications for office of trustee.**—(*1*) A person shall be disqualified to be a trustee who—

(*a*) is an [7][undischarged] insolvent ; or

(*b*) has been convicted and sentenced to imprisonment for an offence [8][involving moral turpitude] punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed [8][unless the Central Government has by order removed the disqualification] ; or

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[1]Subs. by Act 35 of 1951, s. 7.
[2]Ins. by Bom. Act 1 of 1899, s. 2.
[3]Subs. by Bom. Act 3 of 1913, s. 2.
[4]Subs. by the A. O. 1937.
[5]Ins. by Act 35 of 1951, s. 8.
[6]Subs. by Bom. Act 1 of 1899, s. 3.
[7]Subs. by Act 35 of 1951, s. 9.
[8]Ins., *ibid.*

(c) holds any office or place of profit under the Board : [1]* *

[2][Provided that this disqualification shall not apply to the chairman, *ex-officio* trustees and trustees appointed by virtue of office ; or]

(d) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment, with, by or on behalf of the Board.

(2) But a person shall not be so disqualified, or be deemed to have any share or interest in such contract or employment, by reason only of his having a share or interest in—

(a) any lease, sale, exchange or purchase of immoveable property, or any agreement for the same ; or

(b) any license by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway sidings or any berth for vessels in the docks belonging to the Board ; or

(c) any agreement for the loan of money, or any security for the payment of money only ; or

(d) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(e) any joint-stock company which shall contract with, or be employed by or on behalf of the Board ; or

(f) the occasional sale to the Board, to a value not exceeding [3][ten thousand] rupees in any one official year, of any article in which he trades.]

[3][**14A. Grounds on which trustees shall vacate office.**— [4][Any nominee-trustee appointed by name or elective trustee] who—

(a) becomes disqualified for any of the reasons mentioned in the last preceding section ; or

(b) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or without the permission of the Board from six consecutive ordinary meetings of the Board ; or

(c) acts in contravention of the provisions of the next succeeding section ;

shall cease to be a trustee, and his office shall thereupon become vacant.]

[3][**14B. Restriction on power of trustees to vote or discuss matters in which they are interested.**—A trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of, or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest such as is described in section 14, sub-section (2), or in which he is interested either professionally on behalf of a client or as agent for any person, [5][other than [6][the Government], a local authority, [7]* * * a Railway Company [8][or a trade union registered under the Indian Trade Unions Act, 1926 (XVI of 1926), or other than as agent, officer or member of an association formed for the purpose of promoting the interests or welfare of any class of [9][employees of the Board]].

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[1] The word "or" omitted by Act 35 of 1951, s. 9.

[2] Ins., *ibid*.

[3] Subs. *ibid*.

[3] Ins. by Bom. 1 of 1899, s. 4.

[4] Subs. by Act 35 of 1951, s. 10.

[5] Added by Bom. 1 of 1910.

[6] Subs. by the A.O. 1950.

[7] Certain words omitted by Bom. 12 of 1933, s. 2.

[8] Added, *ibid*.

[9] Subs. by Act 35 of 1951 s. 11.

Salaries of Trustees.

[1][15. (1) **Salary and allowances of the Chairman.**—The Central Government may, from time to time, determine the salary and allowances, if any, to be paid to the Chairman, and may prescribe the conditions and restrictions subject to which such salary or allowances shall be payable.

(2) **Fees payable to trustees other than the Chairman.**—The Central Government may determine, from time to time, the fees, if any, to be paid to the trustees or to any class of them (other than the chairman) for attendance at meetings, and may prescribe the conditions and restrictions subject to which such fees shall be payable.]

Proceedings of Board.

16. **Provisions as to Board's proceedings. Vacancy not to affect proceedings. Board to arrange for transaction of business.**—The following provisions shall be observed with respect to the proceedings of the Board (namely) :—

(1) during any vacancy in the Board, the continuing trustees may act as if no vacancy had occurred ;

(2) the Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely:—

(*a*) **to meet once a fortnight** ; that a meeting shall be held once at least in every fortnight ;

(*b*) **special meetings** ; that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting ;

(*c*) **quorum** ; that no business shall be transacted at any meeting unless at least five trustees are present from the beginning to the end of such meeting ;

(*d*) **presiding at meetings** ; that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent by such one of the trustees present as may be chosen by the meeting ;

(*e*) **questions decided by majority of votes** ; that all questions shall be decided by a majority of votes of the trustees present, the President having a second or casting vote in all cases of equality of votes ;

(*f*) **votes to be recorded, if poll demanded** ; that if poll be demanded the names of the trustees voting and the nature of their votes shall be recorded by the President ;

(*g*) **minutes of proceedings** ; that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the President of such meeting and shall be open to inspection by any trustee during office hours [2][and the said minutes, excepting such portion thereof as the Chairman may in any particular case direct, shall also be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time, be fixed by the Board] ;

[1]Subs. by Act 35 of 1951, s. 12.

[2] Added by Act 35 of 1951, s. 13.

[1][(*h*) a summary of the minutes of every meeting of the Board shall, as soon as practicable, be published in the Official Gazette].

(3) **Board may delegate powers to committees.**—The Board may delegate any of their powers to committees consisting of such trustees as they think fit; [2][any Committee to which any such power has been so delegated] shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of [2][any such committee].

(4) **Chairman of committee-meetings.**—Committee may elect a Chairman of their meetings, and if no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting;

(5) **Meetings of committees. Special meetings.**—Committees may meet and adjourn as they think proper; but the Chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;

(6) **Questions how decided at committee-meetings.**—Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the Chairman of the meeting shall have a second or casting vote; but no business shall be transacted at any such meeting unless at least [3][one-half, not being less than three in number,] of the members of the committee are present from the beginning to the end thereof;

(7) **Acts of Board, etc., not invalidated by informalities.**—No act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

[4][**16.A. Power of Board to enter into contracts.**—The Board may enter into contracts for carrying into effect the purposes of this Act:

Provided that no contract, under or by virtue of which a sum greater than seven lakhs of rupees may in any event be payable by the Board, shall be valid unless it has been made with the previous sanction of the Central Government.]

17. Power of Chairman as to contracts.—The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed [5][five thousand] rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

[6][**17A. Chairman's signature may be engraved.**—Notwithstanding anything contained in section 17, the signature of the Chairman may be engraved, lithographed or impressed by any mechanical process on the coupons attached to debentures issued

[1] Added by Act 35 of 1951, s. 13.
[2] Subs., *ibid.*
[3] Subs. by Bom. 3 of 1913, s. 3.
[4] Ins. by Act 35 of 1951, s. 14.
[5] Subs. by Act 35 of 1951, s. 15.
[6] Ins. by Bom. 3 of 1881, s. 1.

under this Act, and such signature so engraved, lithographed, or impressed shall be as valid as if the same had been subscribed in the proper handwriting of the said Chairman.]

18. **Board may compound for breach of contract.**—The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient :

[1][Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves a sum exceeding twenty-five thousand rupees.]

The Chairman.

19. **Duties of Chairman.**—The Chairman shall—

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

(2) exercise supervision and control over the acts and proceedings of all [2][Employees] of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; [3]

(3) furnish to [4][the Central Government] a copy of the minutes of any of the Board's proceedings, and any returns or other information which [4][the Central Government] may from time to time call for.

20. **Leave of absence to Chairman.**—[4][The Central Government] may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom [4][the Central Government] appoint to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

[5][The leave salary and the allowances, if any], which [4][the Central Government] direct to be paid to the Chairman during his absence on leave, and the salary [6][and the allowances, if any] which [4][the Central Government] direct to be paid to the person appointed to act for him, shall be a charge on the general account of the Board.

[7]**20A. Gratuity, etc. for Chairman.**—The Central Government may fix the amount of gratuity or compassionate allowance, if any, which shall be paid to the Chairman on his retirement from office and may determine the conditions under which the said gratuity or compassionate allowance shall be so payable.

20B. Permission to Chairman to join Provident Fund.—Notwithstanding anything contained in this Act the Central Government may permit the Chairman who, before such appointment, had been an employee of the Board, to join the provident fund established by the Board under clause (*6*) of section 22 for the benefit of the employees of the Board and may determine the conditions and restrictions subject to which such permission may be given.]

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[1] Added by Act 35 of 1951, s. 16.
[2] Subs., *ibid.*, s. 17.
[3] Certain words omitted by Bom. 5 of 1923, s. 4.
[4] Subs. by the A.O. 1937.
[5] Subs. by Act 35 of 1951, s. 18.
[6] Ins., *ibid.*
[7] Ins., *ibid.*, s. 19.

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

21. Schedule of staff and of pay and allowances to be prepared and sanctioned by Board.—The Board shall from time to time prepare and sanction a schedule of the staff of [1][employees] whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such [1][employee.]

[2] * * * * * * * * * * * * *

[3][Provided always that—

(*a*) artisans, porters and labourers and mukadams of porters and labourers [4][and any persons employed in any capacity in any waiting or refreshment room constructed by the Board under the authority contained in section 68 (7A),] and

(*b*) persons in temporary employment other than those who are in receipt of a monthly salary exceeding one hundred and fifty rupees [5] * *

shall not be deemed to be within the meaning of this section or [5] * * of section 23.]

22. Board to regulate grant of leave.—The Board shall from time to time frame regulations—

(1) for regulating the grant of leave to the [1][employees] of the Board ;

(2) **Absentee allowances** ; for authorizing the payment of allowances to the said [1][employees] ; or to certain of them, whilst absent on leave ;

(3) **acting allowances** ; for determining the remuneration to be paid to the persons appointed to act for any such [1][employees] during their absence on leave ;

(4) **length of service** ; for regulating the period of service of all such [1][employees] ;

(5) **pensions, etc.** ; for determining the conditions under which such [1][employees] or any of them [6] * * * shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances :

[7][Provided that it shall be in the discretion of the Board to determine whether all of such [1][employees], or any, and, if so, which of them, shall become entitled on retirement to any such pensions, gratuities or compassionate allowances as aforesaid ;]

(6) **contributions to provident fund** ; for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may, with their approval, be established by the [1][empolyees] appointed under this Act, [8][or to such provident fund, if any, as may be established by the Board for the benefit of such [1] [employees] [6] * * ;]

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[1] Subs., by Act 35 of 1951, s. 17.
[2] Para 2 omitted by Bom. 1 of 1899, s. 21.
[3] Subs. by Bom. 4 of 1917, s. 2.
[4] Ins. by Bom. 21 of 1920.
[5] Certain words omitted by Act 35 of 1951, s. 20.
[6] Certain words omitted, ibid., s. 21.
[7] Ins. by Bom. 3 of 1883, s. 2.
[8] Added. *ibid.*, s. 3.

[1][(6A) For authorising the payment of—

(*a*) **Contributions to welfare fund**—Contributions to any welfare fund which may be established by the Board for the benefit of the employees appointed under this Act ;

(*b*) **contributions or appropriations to special fund**—Contributions or appropriations to any special fund which may be established by the Board for any of the purposes of this Act :

Provided that no such special fund shall be established without the previous sanction of the Central Government ; and the maximum rate of annual contribution to any such welfare fund or special fund and the maximum amount to which any such welfare fund or special fund may be allowed to accumulate shall be fixed from time to time by the Central Government ;]

[2][(7) **determining conditions of grant of wound pensions or compassionate allowances** ; for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such [3][employees] injured, or to the surviving relatives of any of such [3][employees] killed in the execution of their duty ;]

[4][(8) **gratuities to widows and children**, [5]****** for determining the conditions under which gratuities may be paid to the widows or children [6][or other surviving dependent relatives] of any such [3] [employees] who may die in the service of the Board ;]

[6][(9) **matters relating to terms and conditions of service not covered by other clauses.**—For regulating the recruitment, promotion, conduct, discipline, punishment and any other matter relating to the terms and conditions of service applicable to the employees of the Board or allotment of premises to them or their rights and their privileges, not covered by any of the foregoing clauses :]

[7][Provided that the regulations framed under this section shall not take effect unless and until they have been approved by the Central Government.]

22A. Deputy Chairman.—Rep. by the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 22.

Powers of Appointment, etc.

[8][**23. Appointments, etc., by whom to be made.**—(1) Subject to the provisions of the Schedule for the time being in force, sanctioned by the Board under section 21 and of the regulations and bye-laws made by the Board under sections 22 and 72 and also to the provisions of section 24, the power of appointing, promoting, granting leave to, suspending, fining, reducing or dismissing, or of disposing of any other question relating to the services of, the employees of the Board including the power of dispensing with the services of any such employee otherwise than by reason of such employee's own misconduct, shall be exercised, in the case of employees whose maximum monthly salary exclusive of allowances is less than one thousand rupees, by the Chairman and in every other case, by the Board.

[1] Subs. by Act 35 of 1951, s. 21.
[2] Ins. by Bom. 1 of 1899, s. 7.
[3] Subs. by Act 35 of 1951, s. 17.
[4] Ins. by Bom. 4 of 1917, s. 3.
[5] Certain words omitted by Act 35 of 1951, s. 21.
[6] Ins., *ibid.*
[7] Subs., *ibid.*
[8] Subs., *ibid.*, s. 23.

(2) The Chairman may upon such terms as he may think fit and subject to the provisions referred to in sub-section (*1*) and to the Chairman's powers of revision and control, delegate to the head of any department for the time being all or any of his powers under the said sub-section in respect of the employees of that department whose monthly maximum salary exclusive of allowances does not exceed three hundred and fifty rupees.

(*3*) Notwithstanding anything contained in sub-section (*1*), the power to make appointment to the posts of heads of departments shall be exercisable only by the Central Government after consultation with the Chairman.

(*4*) The Central Government may by order specify each of the posts the incumbent of which shall, for the purposes of this section, be regarded as the head of a department.

23A. Disposal of fines realised under section 23.—Notwithstanding anything contained in section 49, all fines realised under section 23 shall be credited to any such welfare fund as may be established by the Board for the benefit of the employees appointed under this Act.]

[1][**24. Sanction of Central Government when necessary.**—(*1*) Every order made by the Board under section 21 or section 23, save where such order has been made in accordance with the regulations, for the time being in force, framed under section 22 shall, so far as the same relates to any employee of the Board whose maximum monthly salary exclusive of allowances is not less than one thousand rupees, be subject to the sanction of the Central Government.

(*2*) For the purposes of sub-section (1), any person who may, from time to time, be employed as Consulting Engineer to the Board otherwise than on the basis of payment of monthly salary shall be deemed to be an employee whose maximum monthly salary exclusive of allowances is not less than one thousand rupees.]

25. [*Officers and servants of late trustees continued.*] *Rep. by the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 25.*

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

26. Powers of Board as to property.—The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them :

Provided that no sale of immoveable property and no lease of any such property for a term exceeding [2] [thirty years] shall be valid unless such sale or lease shall have been made with the previous sanction of [3][the Central Government].

27. Procedure when Board unable to acquire, by agreement, immoveable property.—When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, [3][the Central Government] may, [4] * * * order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the [5] Land Acquisition Act, 1870.

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[1] Subs. by Act 35 of 1951, s. 24.
[2] Subs., *ibid*, s. 26.
[3] Subs. by the A.O. 1937.
[4] Certain words omitted, *ibid*.
[5] *Now see* the Land Acquisition Act, 1894 (I of 1894).

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

Transfer of property to Board.

28. Transfer to Board of property of present Port Trust.—All such immoveable and other property as is held by or in trust for the trustees of the Port of Bombay under or in pursuance or for the purposes of the [1]Bombay Port Trust Act, 1873, shall, upon and after the date notified by the [2][State Government] under section 8, vest in the Board, but subject to all charges and liabilities affecting the same.

The property vested by this section in the Board shall be deemed to include the estate, right, title and interest of the [2][Government] in the rock, stones, shingle, gravel, sand or soil within the port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabar Point and Colaba Point.

29. Vesting in Board the right, title and interest acquired by Secretary of State in other Properties.—Whereas the Secretary of State for India in Council has initiated measures for the acquisition, from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; It is hereby enacted that upon and after such date as shall be fixed in this behalf by the [2][State Government], all the estate, right, title and interest of the Secretary of State for India in Council in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts and liabilities affecting the same.

30. Board to issue securities in payment of price of properties vested in them under section 29.—And whereas it is proposed that the purchase-money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; It is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties, securities in the form of Schedule B, under their common seal, for the sums for which the said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lakhs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Securities to be for not less than one hundred rupees each and to be transferable.—Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at the rate of four per centum per annum from the date fixed by the [2][State Government] under section 29; and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

The said securities shall be transferable by endorsement.

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[1] Rep. by this Act, s. 2.

[2] Subs. by the A.O. 1950.

[1][30-A. **Substitution of securities in new forms for those issued under section 30.**—The Board may from time to time, with the previous consent of [2][the Central Government], provide for the issue of securities in lieu of those already issued or yet to be issued under section 30 in a form other than that of Schedule B, and for the payment of the interest due on the principal sums thereby secured by coupons annexed to the said securities, or in such other manner as they shall think fit.

The holder of any security in the form of Schedule B, or in any new form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a security in any other form so authorized.

Every new security issued under this section shall be transferable in such manner as shall be therein expressed, [3][anything in section 30 to the contrary notwithstanding].]

Application of the Board's Property.

31. [*Sale-proceeds of Board's property how invested.*] *Rep. Bom. VI of 1914, s. 2.*

32. [*Saving of powers of any Government under Land Acquisition Act, 1894*]. *Rep. by the Port Trust and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 27.*

Liabilities

33. **Capital-debts of Board.**—The capital-debts due by the Board on account of the immoveable and other property vested in it by this Act are as follows (namely) :—

[4][(*a*) to the [5][Government]—so much of the amounts mentioned in Schedule C as shall for the time being remain unpaid];

(*b*) to the holders of the securities to be issued by the Board under section 30—the amounts of such securities.

34. **Interest in what cases to be paid by the Board.**—On the amounts mentioned in column 3 of Schedule C, no interest shall be payable.

[6][On so much of the amounts mentioned in column 2 of the said Schedule as had not been repaid on the 1st day of April 1913, and as shall for the time being remain unpaid thereafter, interest shall be payable by the Board to the [5][Government] annually on the 1st day of April in every year commencing from the 1st day of April 1913, at the rate of four per centum per annum.]

[7] * * * * * *

On the amounts, if any, which may hereafter be advanced to the Board by [2][the Central] or the [5][State Government] [8]* * * interest shall be payable by the Board to [2][that Government] on such dates and at such rates as shall be agreed upon between [2][that Government] and the Board in respect of such advances.

[1]. Ins. by Bom. 1 of 1881, s.1.
[2]. Subs. by the A.O. 1937.
[3]. Added by Bom. 3 of 1881, s. 2.
[4]. Subs. by Bom. 4 of 1917, s. 4.
[5]. Subs. by the A.O. 1950.
[6]. Subs. by Bom. 4 of 1917, s. 5.
[7]. Third paragraph omitted, *ibid.*
[8]. Certain words omitted by Bom. 3 of 1886.

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On the amounts of the securities issued by the Board under section 30 [1][or section 30-A] interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the [2][Government concerned] upon the balance from time to time overdue at the rate of four [3]* * * per centum per annum, until the whole amount is paid.

35. Interest to be paid out of Central Government revenues if default made by Board.—In the event of default being made by the Board in any payment of interest due by it under paragraph 2, 3 or 4 of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to [2][the revenues of the Central Government]; and, in the event of default being made by the Board in any payment due by it under paragraph 5 of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to [2][the revenues of the Central Government].

[4][**36. Lump payment to be made to Municipality in lieu of general tax.**—(*1*) The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the City of Bombay, in lieu of the general tax leviable by the said Corporation in respect of the property or some portion of the porperty, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the [2][Central Government]. The said value shall be fixed with a general regard to the provisions contained in the City of Bombay Municipal Act, 1888, (*Bom. III of 1888*) concerning the valuation of property assessable to property taxes, at such amount as the [2][Central Government] shall deem to be fair and reasonable. Every such decision of the [2][Central Government] shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases.

(*3*) The sum to be paid annually to the Corporation by the Board shall be [5][nineteen-twentieths] of the amount which would be payable by an ordinary owner of building or lands in the city, on account of the general tax on a rateable value of the same amount as that fixed under sub-section (*2*).]

37. Roads and thoroughfares constructed by Board to be maintained by Municipality in consideration of such payment.—In consideration of the said payment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has

[1] Ins. by Bom. 3 of 1881, s. 3.
[2] Subs by the A.O. 1937.
[3] Certain words omitted by Bom. 4 of 1917.
[4] Subs. by Bom. 3 of 1888, s. 145.
[5] Subs. by Bom 2 of 1901, s. 2.

been duly levelled, paved, metalled, flagged, channelled and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare : [1][Provided that in respect of any such road or thoroughfare wholly constructed after the passing of this Act the Commissioner before making such declaration may further require to be satisfied that the same has been drained, and that such lamps, lamp-posts and other apparatus as in his opinion are necessary for the lighting thereof and should be provided by the Board have been so provided]. The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

Roads and thoroughfares not to be stopped up without consent of Board.—The Municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares vested in the said Municipality ; but it shall not be competent to the Municipal Commissioner, or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by, the Board or the Trustees of the Port appointed under the [2]Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section or under section 9 of the said Act, without the previous consent in writing of the Board ; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

38. **Disputes under last section to be settled by Central Government.**—Any dispute which arises between the Board and the Municipality in respect of any of the provisions of the last preceding section shall be determined by [3][the Central Government], and their decision shall be final.

V.—Of the Borrowing Powers of the Board

39. **Borrowing powers.**—[4]* * * * * * *

[5][The Board may, after notification in the Bombay Government Gazette, raise money for [6][the general purposes of this Act] or for the purpose of repaying, either in whole or in part, any moneys heretofore or hereafter borrowed or owing by the Board :

Provided that—

(*i*) No loan shall be raised without the previous sanction of [3][the Central Government],[4]* * * * * * * *

(*ii*)[7]* * * * * * * *

(*iii*)[8]* * * * * * * *

[9][(*iv*) No notification shall be necessary if the Board raise the money by borrowing from the Central or the [10][State Government].

40. [*Manner of raising loans determined by Government*] *Rep. Bom. Act III of 1913, section* [4](2).

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[1] Ins. by Bom. 1 of 1899, s. 9.
[2] Rep. by this Act, s. 2.
[3] Subs. by the A.O. 1937.
[4] Certain words were omitted, *ibid*.
[5] Subs. by Bom. 3 of 1913, s. 4 (1).
[6] Subs. by Act. 34 of 1939, s. 2 and Sch.
[7] Proviso (*ii*) omitted by the A.O. 1937.
[8] Proviso (*iii*) omitted by Act 35 of 1951, s. 28.
[9] Proviso (*iv*) ins. by the A.O. 1937.
[10] Subs. by the A.O. 1950.

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[4] Subs. by the A.O
[5] Subs. by the A.O
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[7] Subs. *ibid*.
[8] Ins. *ibid*.

41. **Interest on debentures to be first charge on rates.**—If such money shall be raised on debentures bearing interest such interest shall be a charge on the rates prior to the charge for interest payable to the [1][Government] provided for by section 34.

[2][**41-A. Establishment of sinking fund.**—(*1*) In respect of every loan raised by the Board after the commencement of this section for a term exceeding one year (except a loan taken from the Secretary of State for India in Council [3][or the Central or the [4][State] Government]), the Board shall provide a sinking fund. Payments shall be made half-yearly to such sinking fund, and such payments shall be of such amount as shall with interest suffice to liquidate the loan within such period not exceeding sixty years from the date of the contracting of the same as the [5][Central Government] may in each case direct.

(2) **Application of sinking fund.**—The Board may apply the whole or any part of the sums accumulated in the sinking fund in or towards the discharge of the moneys for the repayment of which the fund has been established, provided that they pay into the fund in each year, and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

The sums so set apart as a sinking fund shall be invested in public securities as defined in section 3 (12) or in such other securities as [5][the Central Government] may approve in this behalf and shall be held in trust for the purposes of this Act by the Board.]

[2][**41-B. Annual examination of sinking fund.**—[6](1) The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant General, Bombay, who shall ascertain whether the cash and the [7][current market value] of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon. The Board shall pay forthwith into the sinking fund any amount which the Accountant General may certify to be deficient, unless the [5][Central Government] specially sanctions a gradual re-adjustment.]

[8][(*2*) If the cash and the current market value of the securities at the credit of the sinking fund are in excess of the amount which should be at its credit, the Accountant-General shall certify the amount of this excess and the Board may, with the previous sanction of the Central Government,—

(*a*) withdraw the whole or any part of the certified excess in the sinking fund, or

(*b*) reduce or discontinue the half-yearly contributions to the sinking fund prescribed by sub-section (*1*) of section 41-A, or

(*c*) adopt a combination of these measures.]

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1 Subs. by the A.O. 1950.
2 Ins. by Bom. 3 of 1913, s. 5.
3 Ins. by the A.O. 1937.
4 Subs. by the A.O. 1950.
5 Subs. by the A.O. 1937.
6 Renumbered sub-section (1) by Act 35 of 1951, s. 29.
7 Subs. *ibid.*
8 Ins. *ibid.*

[1][41-C. **Loans to be first charge on property and income of Board.**—All loans repayable by the Board, whether contracted prior to or after the enactment of this section together with the interest payable in respect of such loans shall, subject to the provisions of section 41, be a first charge on the income and property of the Board].

[2][41-D. **Power to repay loans before due date.**—The Board may with the previous sanction of the Central Government apply any sums, out of moneys which may come into their hands under the provisions of this Act and which can be so applied without prejudicing the security of other holders of debentures issued under this Act, in repaying to the Central Government any sum which may remain due to them in respect of the principal of any loan, although the time fixed for the repayment of the same may not have arrived :

Provided that no such repayment shall be made of any sum less than ten thousand rupees ; and that, if such repayment is made, the amount of interest in each succeeding instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

41-E. **Loans to be raised in India and in Indian currency.**—Unless the Central Government by notification in the Official Gazette otherwise direct, all loans contracted by the Board shall be raised in India and in the Indian Currency].

[3][42. **Forms of debentures.**—When money is raised by the Board on debentures, the debentures shall be in the form of Schedule D, or in such other form as the Board, with the previous consent of [4][the Central Government], shall from time to time determine :

[5]* * * * * * * * * *

The holder of any debenture in the form of Schedule D, or in any form duly authorized under this section, may obtain in exchange therefor upon such terms as the Board shall from time to time determine, a debenture in any other form so authorized.

Every debenture issued by the Board shall be transferable,—

(*a*) if it is in the form of Schedule D, by endorsement, and

(*b*) if it is in any other form, in such manner as shall be therein expressed.

The right to sue in respect of the money secured by debentures issued under this section shall vest in the respective holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.]

[6][42-A. **Right of survivors of joint or several payees of debentures and securities.**—(1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872 (IX of 1872),—

(*a*) when any debenture or security issued under the provisions of this Act is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons, and

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[1] Added by Bom. 9 of 1936, s. 2.
[2] Added by Act 35 of 1951, s. 30.
[3] Subs. by Bom. 1 of 1881, s. 2.
[4] Subs. by the A.O. 1937.
[5] Omitted by the A.O. 1937.
[6] Ss. 42 A to 42L subs. by Act. 35 of 1951, s. 31

(*b*) when any such debenture or security is payable to two or more persons severally, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons, or to the representative of the deceased or to any of them.

(*2*) This section shall apply whether such death occurred or occurs before or after the commencement of this Act.

(*3*) Nothing herein contained shall affect any claim which any representatives of a deceased person may have against the survivor or survivors under or in respect of any debenture or security to which sub-section (*1*) applies.

(*4*) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913 (VII of 1913) or the Co-operative Societies Act, 1912 (II of 1912) or any other for enactment for the time being in force whether in or outside India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

42-B. Power of one of two or more joint holders to grant receipts.—Where two or more persons are joint holders of any debenture or security issued under the provisions of this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of the holders.

42-C. Prohibition of indorsements elsewhere than on the debenture or security.—Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881 (XXVI of 1881), the holder of any debenture or security issued under the provisions of this Act and transferable by indorsement shall not be said to indorse the debenture or security, or be called the indorser thereof, if, when he signs the same for purpose of negotiation he subscribes his signature for that purpose elsewhere than on the back of the debenture or security itself.

42-D. Indorser of debenture or security not liable for amount thereof.—Notwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not, by reason only of his having indorsed any debenture or security issued under the provisions of this Act, be liable to pay any money due, either as principal or as interest, thereunder.

42-E. Impression of signature on debentures and securities.—(1) The signature of the person authorised to sign debentures or securities on behalf of the Board may be printed, engraved or lithographed, or impressed by such other mechanical process as the Board may direct, on the debentures or securities.

(*2*) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

42-F. Issue of duplicate debentures and securities.—(1) When any debenture or security issued under the provisions of this Act is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Board, and on producing proof to their satisfaction of the loss, theft or destruction and of the justice of the claim and on payment of such fee, if any, as may be prescribed by rules made under section 42-J, obtain from the Board and order for—

(*a*) the payment of interest in respect of the debenture or security said to be lost, stolen or destroyed pending the issue of a duplicate debenture or security, and

(*b*) the issue of a duplicate debenture or security payable to the applicant

(2) An order shall not be passed under sub-section (1) until after the issue of such notification as may be prescribed by rules made under section 42-J of the loss, theft or destruction.

(3) A list of the debentures or securities in respect of which an order is passed under sub-section (1) shall be published in such manner as may be prescribed by such rules.

(4) If at any time before the Board become discharged under the provisions of this Act from liability in respect of any debenture or security the whole of which is alleged to have been lost, stolen or destroyed, such debenture or security is found, any order passed in respect thereof under this section shall be cancelled.

42-G. Issue of converted, etc., debentures and securities—(1) The Board may, subject to such conditions as may be prescribed by rules made under section 42-J, on the application of a person claiming to be entitled to any debenture or security or debentures or securities issued under the provisions of this Act, on being satisfied of the justice of the claim and on delivery of the debenture or security or debentures or other securities receipted in the manner prescribed by such rules and on payment of such fees, if any, as may be so prescribed, convert, consolidate or sub-divide the debenture or security or debentures or securities, and issue to the applicant a new debenture or security or debentures or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a debenture or security or debentures or securities of the same or different classes or of the same or different loans.

42-H. Discharge in certain cases.—Notwithstanding anything contained in section 10 of the Indian Limitation Act, 1908 (IX of 1908),

(i) on payment of the amount due on any debentures or security issued under the provisions of this Act on or after the date on which payment becomes due, or

(ii) when a duplicate debenture or security has been issued under section 42-F, or

(iii) when a new debenture or security or debentures or securities has or have been issued upon conversion, consolidation or sub-division under section 42-G,

the Board shall be discharged from all liability in respect of the debenture or security or debentures or securities so paid or in place of which a duplicate or new debenture or security or debentures or securities has or have been issued—

(a) in the case of payment—after the lapse of six years from the date on which payment was due;

(b) in the case of a duplicate debenture or security—after the lapse of six years from the date of the publication under sub-section (3) of section 42-F of the list in which the debenture or security is first mentioned, or from the date of the last payment of interest on the original debenture or security, whichever date is later;

(c) in the case of a new debenture or security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

42-I. Issues of stock certificates. —(*1*) The Board at its discretion at the time of issue or at any time during the currency of any debentures or securities issued under the provisions of this Act, upon the application of the subscriber for, or holder of, any such debentures or securities, issued to him, in lieu of the debentures or securities deliverable to or held by him, a certificate in the nature of a stock certificate in respect of each loan to which such debentures or securities relate, which shall be in such form as the Board, with the previous consent of the Central Government, shall from time to time determine, and all the provisions of section 41 as to the interest on debentures shall apply to the interest on the stock certificates.

(*2*) The Board shall upon the application of the holder of a stock certificate convert the same into debentures or securities of the loan to which it relates.

42-J. Board empowered to make rules. —(*1*) The Board may from time to time make rules to prescribe—

(*a*) the amounts for which stock certificates may be issued;

(*b*) the fees to be levied in respect of the issue of stock certificates;

(*c*) the mode in which payment of interest in respect of all debentures, stock certificates and other securities issued under the provisions of this Act is to be made, recorded and acknowledged;

(*d*) the circumstances and the manner in which such debentures and securities may be renewed;

(*e*) the circumstances in which such debentures and other securities must be renewed before further payment of interest thereon can be claimed;

(*f*) the fees to be levied in respect of the issue of renewed debentures or other securities;

(*g*) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock;

(*h*) the form in which debentures or other securities delivered for renewal, conversion, consolidation or sub-division are to be receipted;

(*i*) the proof to be produced by persons applying for duplicate debentures or other securities;

(*j*) the form and manner of publication of the notification mentioned in sub-section (*2*) of section 42F, the manner of publication of the list mentioned in sub-section (*3*) of that section, and the fees to be levied in respect of the issue of duplicate debentures or other securities;

(*k*) the circumstances and manner in which duplicate stock certificates may be issued and the fees to be levied on any such issue;

(*l*) the nature and amount of indemnity to be given by a person applying for the payment of interest on debentures or other securities alleged to have been wholly or partly lost, stolen or destroyed, or the issue of duplicate debentures or other securities;

(*m*) the conditions subject to which debentures and other securities issued under the provisions of this Act may be converted, consolidated or sub-divided, and the fees to be levied in respect of the conversion, consolidation and sub-division of such debentures or other securities;

(*n*) generally the measures to be adopted for carrying out the purposes of this Part.

(*2*) The board may also, from time to time, vary, alter or revoke any such rules so made by them.

No rule, or alteration or revocation of a rule, shall have effect until approved by the Central Government, and such approval has also been published in the Bombay Government Gazette and no rule, or alteration or revocation of a rule, shall be approved by the Central Government until the same has been published for two weeks successively in the said Gazette and until fourteen days have expired from the date on which the same had been first published in that Gazette.

The Central Government may, at any time by notification in the said Gazette, cancel any rule published under the provisions of this section.

42K. Power of Board to borrow by means of temporary overdraft or otherwise.—Notwithstanding anything contained in this Act, the Board may borrow moneys by means of temporary overdraft or otherwise by pledging the debentures or other securities held by them in their reserve funds or on the security of their fixed deposits in their banks :

Provided that such temporary overdrafts or other loans—

(*a*) shall not at any time have a longer currency than six months, and

(*b*) shall not be taken without the previous sanction of the Central Government if at any time in any year the amount of such overdrafts or other loans exceeds ten lakhs of rupees :

Provided further that all moneys so borrowed by temporary overdraft or otherwise shall be expended for the purposes of this Act.

42L. Power of Board to raise loans under the Local Authorities Loans Act, 1914.—Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914 (IX of 1914).]

VI.—Of Revenue and Expenditure.

Levy of Rates.

43. Scale of rates to be framed by Board.—The Board shall frame a scale of tolls, dues, rents, rates and charges to be levied for each or any of the following matters (namely) :—

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at,

(*b*) for permission for vessels or boats to approach, or to be alongside, [1]**

(*c*) for animals or vehicles carrying goods or from, or entering upon or plying for hire at or on [2] [and],

[2] [(*d*) for permission to make any other use of]

any wharf, dock, [3][pier, land or building] in the possession of the Board, and so much of the [4][Sewri] and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay Baroda and Central India Railway Companies, respectively : Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said [4][Sewri] and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

[5]* * * * * * *

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[1] The word "and" omitted by Act 35 of 1951, s. 32.

[2] Added, *ibid*.

[3] Subs. by Bom. 6 of 1883.

[4] Subs. by Bom. 4 of 1919, s. 2.

[5] Last three paragraphs omitted by Bom. 1 of 1899, s. 11.

[1][43A. **Scale of charges for use of dock, etc.**—The Board may also frame a scale of charges to be levied—

(*a*) for the permission to use, and for the use of, any [2][wharf, dock or pier] in the possession of the Board, and for services which the Board renders to, and

for gear, tackle, tools, instruments, utensils, staging or materials supplied by the Board for the purpose of any vessel using, or any person working in, any such [2][wharf, dock or pier].

(*b*) subject to the provisions of section 68, for the use of waterboats, barges, and fire-engines belonging to or maintained by the Board, and for water supplied by the Board in accordance with the provisions of section 68 ; [3]**

(*c*) for the towing of, and rendering assistance of the nature referred to in clause (*9*) of section 68 to, vessels outside the limits of the port.]

[4][(*d*) for the loading, unloading, carting, sorting, weighing, stocking and repacking of goods ;

(*e*) for the towing of, and rendering assistance to, vessels within the port limits; and

(*f*) for any other services in respect of vessels or goods excepting services for which fees are chargeable under the Indian Ports Act, 1908 (XV of 1908).]

[1][43B. **Scales framed under last two sections to be submitted to Central Government for sanction.**—(*1*) Every scale framed by the Board under either of the two last preceding sections shall be submitted to [5][the Central Government] for sanction ; and, when so sanctioned and published in the *Bombay Government Gazette*, shall have the force of law; and subject to the like sanction and publication, may from time to time be amended or added to by the Board.

[6][(*1A*) **Power of Central Government to cancel scale of tolls, etc.**— It shall be competent for the Central Government at any time to cancel any of the scales framed under section 43 or section 43A, or to call upon the Board to modify any portion of such scales; and thereupon the Board shall modify such scales accordingly].

(*2*) **Rates may be remitted in special cases.**—The Board may, in special cases [6][for reasons to be recorded in writing] [7]* * * * remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section.]

[8][43C. **Power to levy concessional rate of charges on coastal cargo.**—In framing scales under section 43 or section 43A, the Board may prescribe a lower rate of charges in respect of cargo carried in a vessel from one Indian port to another.

Explanation.—For the purposes of this section, the expression " Indian port " includes the ports of Diu, Daman, Marmagao, Panjim, Mahe, Karaikal and Pondicherry.]

44. [Toll on troops.] Rep. by Act II of 1961.

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[1] Ins. by Bom. 1 of 1899, s. 12.
[2] Subs. by Act 35 of 1951, s. 33.
[3] The word " and " omitted, *ibid.*
[4] Ins. *ibid.*
[5] Subs. by the A.O. 1937.
[6] Ins. by Act 35 of 1951, s. 34.
[7] Certain words omitted by Bom. 3 of 1913, s. 8.
[8] Ins. by Act 35 of 1951, s. 35.

45. Charges for landing, shipping and transhipping goods.—Subject to the provisions of any law for the time being in force, the Board may land, ship or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

46. [Charges for towage.] Rep. by the Port Trusts and Ports (Amendment) Act 1951 (XXXV of 1951), s. 36.

DIVISION OF ACCOUNTS.

47. [Pilotage account.] Rep. by the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 36.

48. Items to be credited to general account.—The rates, and charges from time to time levied under sections 43 to [1][45] together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage fees, shall be credited to the general account.

[2][This section does not apply to fines and penalties imposed by a Court.]

49. Moneys credited to general account how expended.—[3][Subject to the provisions of section 36 of the Indian Ports Act, 1908 (XV of 1908),] the moneys credited to the general account shall be held by the Board in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely) :—

[4][(*1*) (*i*) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the [5][employees] appointed under this Act ;

(*ii*) the contributions, if any, duly authorised to be made,

(*a*) to any provident fund established by the said [5][employees] or,

(*b*) to such provident fund, if any, as may be established by the Board for the benefit of such [5][employees][6] * *

(*c*) to such welfare fund [6]**, if any, as may be established by the Board for the benefit of such [5][employees]; [6] * *

(*iii*) the contributions or appropriations to such special fund or funds as may be established by the Board for any of the purposes of this Act ; and

(*iv*) if any such provident fund or welfare fund or special fund be established by the Board, the cost and expenses, if any, which may be incurred by the Board in the conduct and administration thereof ;]

(*2*) the cost of repairs and maintenance of the property vested in the Board and all charges upon the same and all working expenses ;

(*3*) the interest due on any money that may have been raised by the Board under section 39 ;

(*4*) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue ;

(*5*) the interest payable by the Board under section 34 ;

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[1] Subs. by Act 35 of 1951, s. 37.
[2] Added by the A.O. 1937.
[3] Ins. by Act 35 of 1951, s. 38.
[4] Subs. by Bom. 14 of 1927, s. 3.
[5] Subs. by Act 35 of 1951, s. 17.
[6] Certain words omitted, *ibid*., s. 38.

[1][(*6*) the payment of pensions, gratuities and compassionate allowances granted by the Board to [2][employees] of the Board injured, or to the surviving relatives of such [2][employees] killed, in the execution of their duty ;]

[3][(*7*) the payment, in accordance with regulations sanctioned by [4][the Central Government], of gratuities granted by the Board to the widows or children [5][or other surviving dependent relatives of [2][employees] of the Board who may die in the service of the Board ;

[5](*8*) the payment of such sums as may from time to time be agreed upon by the Central Government and the State Government or by the Board and the State Government as a reasonable contribution on account of expenses in connection with the watch and ward functions of the harbour police and the police employed for guarding the docks, warehouses and other property of the Board ;

(*9*) any other charge for the purposes of this Act or for which the Board may be legally liable.]

[6]* * * *

[7]Provided [6]**** that the Board shall have power and shall be deemed always to have had power at any time to apply, with the sanction of [4][the Central Government], the moneys credited to the general account in payment of any other charge not included in the foregoing clauses of this section.]

[8][**49A. Power to transfer moneys from the general account to the pilotage account and vice versa.**– The Board may, with the previous sanction of the Central Government, apply any sum out of the moneys credited to the general account of the port towards meeting deficits, if any, in the pilotage account of the port maintained under section 36 of the Indian Ports Act, 1908 (XV of 1908), or transfer the whole or any part of any surplus funds in such pilotage account to the general account of the port.]

50. Pilotage fees how credited. Moneys credited to pilotage account how expended. Rep. by the Port Trust and Ports (Amendment) Act, 1951 (XXXV of 1951) s. 40.

Disposal of Balances

51. Balances may be invested by Board in public securities.—The Board may invest any balance remaining on the 31st March of each year to the credit of [9][the general account] after meeting all the charges properly debitable to such account, in public securities [10][or in such other securities as the Central Government may approve in this behalf] and may from time to time sell the said securities and re-invest the proceeds on other public securities [10][or in such other securities as the Central Government may approve in this behalf] or credit the same to the account to which the balance invested belonged, for expenditure on any of the purposes to which the moneys credited to such account may lawfully be applied.

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[1] Ins. by Bom. 1 of 1899, s. 13.
[2] Subs. by Act 35 of 1951, s. 17.
[3] Ins. by Bom. 4 of 1917, s. 6.
[4] Subs. by the A.O. 1937.
[5] Ins. by Act 35 of 1951, s. 38.
[6] Omitted, *ibid.*
[7] Added by Bom. 14 of 1927, s. 3.
[8] Ins. by Act 35 of 1951, s. 39.
[9] Subs. by Act 35 of 1951, s. 41.
[10] Ins., *ibid.*

[1][**Limitation of the amounts to be so invested and disposal of the surplus.**—But the money so invested by the Board shall not exceed such amount, annually or in the aggregate, as may from time to time be prescribed by the Central Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied in liquidation, on or before the 1st of August next following the 31st of March on which such surplus accrued, of the principal of any loan raised by the Board under section 39 or of the capital of any debt at any time due by the Board to the Government, or of the money due to the holders of the securities issued by the Board under section 30.]

[2][**51A. Board may invest in their own debentures and securities**—(*1*) For the purposes of any investment which the Board are authorized to make by this Act it shall be lawful for the Board to reserve and set apart any debentures or securities to be issued by them on account of any loan to which the consent of [3][the Central Government] has been given, provided that the intention to so reserve and set apart such debentures or securities shall have been notified as a condition to the issue of the loan.

(*2*) The issue of any such debentures or securities direct to and in the name of "The Trustees of the Port of Bombay" shall not operate to extinguish or cancel such debentures or securities, but every debenture or security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(*3*) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture or security issued by the Board shall not operate to extinguish or cancel any such debenture or security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

(*4*) All debentures or securities of the Board heretofore purchased by, issued, transferred or assigned to, or endorsed into the names of the Trustees of the Port of Bombay, or any person on their behalf, and all debentures and securities heretofore issued by way of renewal, consolidation or sub-division of any such debentures or securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned or endorsed to any other person.]

Annual Estimates.

52. Chairman to submit annual estimate of income and expenditure.—The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as [4][the Central Government shall] from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each trustee at least ten clear days prior to the meeting before which the estimate is to be laid.

53. Board to revise and sanction estimate.—The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

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[1] Ins. by Act 35 of 1951, s. 41.
[2] Ins. by Bom. I of 1899, s. 15.
[3] Subs. by the A.O. 1937.
[4] Subs. by Act 35 of 1951, s. 42.

54. Estimate to be submitted to Central Government.—The estimate, as sanctioned by the Board, shall be submitted to [1] [the Central Government], which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by [1][the Central Government], forthwith proceed to amend the same, and shall re-submit the estimate so amended to [1][the Central Government].

55. **Supplementary estimates may be made when necessary.**—The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to [1][the Central Government] in the same manner as if it were an original annual estimate.

[2][**55A. Re-appropriation of amounts in estimate.**—Subject to any directions which the Central Government may give in this behalf, any sum of money, or part thereof, of which the expenditure has been authorised in an estimate for the time being in force, finally approved by the Central Government, and which has not been so spent, may at any time be re-appropriated by the Board to meet any excess in any other expenditure authorised in the said estimate :

Provided that no such re-appropriation shall be made from one major head of expenditure to another such head without the previous sanction of the Central Government.]

[3][**56. No Expenditure above fifteen thousand rupees to be incurred unless sanctioned in estimate.**—(*1*) Subject to the provisions of section 55-A no sum exceeding fifteen thousand rupees shall, save in cases of pressing emergency, be expended by or on behalf of, the Board unless such sum is included in some estimate at the time in force which has been finally approved by the Central Government.

(*2*) If any sum exceeding fifteen thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Central Government together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.]

[4][**56A Capital Expenditure.**—(*1*) No expenditure shall be charged by the Board to capital without the previous sanction of the Central Government.

(*2*) Nothing in sub-section (*1*) shall require further sanction of the Central Government in the case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten per cent. of the expenditure so sanctioned.

56B. Writing off of losses.—(*1*) Subject to such conditions as may be specified by the Central Government, where the Board are of opinion that any amount due to, or any loss, whether of money or of property, incurred by, the Board is irrecoverable, the Board may, with the previous approval of the Central Government, sanction the writing off finally of the said amount or loss :

Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed, in any individual case, two thousand and five hundred rupees or, in the aggregate in any one year, fifty thousand rupees.

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[1]Subs. by the A. O. 1937.

[2]Ins. by Act 35 of 1951, s. 43.

[3]Subs., *ibid.*, s. 44.

[4]Ins., *ibid.*, s. 45.

(2) Notwithstanding anything contained in sub-section (1), where the Chairman is of opinion that any amount due to, or any loss, whether of money or of property, incurred by, the Board is irrecoverable, the Chairman may sanction the writing off finally of such amount or loss, provided that such amount or loss does not exceed, in any individual case, five hundred rupees or, in the aggregate in any one year, ten thousand rupees ; and in every such case, the Chairman shall make a report to the Board giving reasons for such sanction.]

57[**Preparation and Acceptance of Estimate**]. **Rep. Bom. Act 1 of 1899.**

Audit of Accounts.

58. Accounts to be audited and examined.— The accounts of the receipts and expenditure of the Board shall, [1][once] in every year, be laid before [2][the Central Government], and shall be audited and examined [3][by the Comptroller and Auditor-General of India at such times and in such manner as may be determined by him].

Auditors to have power to call for books, etc.—For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Remuneration to be fixed by Central Government. Report to be published.— [1][The Comptroller and Auditor-General shall be paid] by the Board such remuneration as [2][the Central Government] shall determine, the amount being debited to the general account ; and, within fourteen days after the audit and examination shall have been completed, [1] [the auditors shall forward copies of their report upon the accounts to the Central Government and to the Board and the Board shall thereupon cause] the same to be published, together with an abstract of the accounts, in the [2][Official Gazette.]

[4][**58A. Board to remedy defects and irregularities pointed out in the audit report and Central Government to pass final orders.**—(1) The Board shall forthwith take into consideration any defects or irregularities that may be pointed out by the Auditors in their report and shall pass such orders thereon as the Board may think fit and shall also send a report of the action taken by the Board to the Central Government.

(2) If there is a difference of opinion between the Board and the Auditors on any point included in the audit report and the Board feel unable to accept the recommendations, if any, made by the auditors on such point, the matter shall forthwith be referred to the Central Government who shall pass final orders thereon and the Board shall be bound to give effect to such orders.

Submission of Accounts.

58B. Submission of accounts to the Central Government.—(1) The Board shall annually or oftener if directed by the Central Government so to do, submit statements of their receipts and disbursements to the Central Government in such form and at such time as that Government may direct.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board.]

[1]Subs. by Act 35 of 1951, s. 46.
[2]Subs. by the A. O. 1937.
[3]Ins. by Act 35 of 1951, s. 46.
[4]Ins. *ibid.* s. 47.

Fulfilment of Board's Liabilities

59. Board bound to provide for fulfilment of liabilities.—It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure or by increase of rates, for the due fulfilment of all their liabilities and for the efficient administration of this Act; and in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

60. In default Central Government may require Board to increase rates; and on Board's failing may itself increase them.—If it shall at any time appear to the [1][the Central Government] that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, [1][the Central Government] may require the Board,[2] * * * to increase, subject to [1][its] sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

If within fifteen days after receipt of such order the Board do not comply with the same, [1][the Central Government] may, by notification in the [1][Official Gazette], increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

Central Government may also appoint receiver to recover portion of Board's income.—And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the [1][Central Government] may, by an order published in the [1][Official Gazette], appoint some person to receive the rates, charges and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorised by [1][the Central Government] in respect of the appointment of such person and of the recovery by him of the said rates, charges and income; and the person so appointed shall have, for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the same purpose.

[3][**60A. How the balances of the Board may be employed.**—All moneys at the credit of the Board which cannot immediately be applied in the manner or to the purposes specified in this Act shall be deposited in such bank and subject to such conditions as may from time to time be prescribed by [1][the Central Government]: Provided that nothing in this section shall be deemed to prohibit an investment in public securities as defined in section *3* (12) or in such other securities as [1][the Central Government] may approve in this behalf; and the said securities shall be held in trust for the purposes of this Act by the Board.]

VII.—OF THE POWERS AND FUNCTIONS OF THE BOARD.

Recovery of Rates.

61. Recovery of rates in arrears.—For the amount of all rates leviable under this Act in respect of any goods the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods.

[1]Subs. by the A. O. 1937.

[2]Certain words omitted by the A. O. 1937.

[3]Ins. by Bom. 3 of 1913, s. 9.

Rates in respect of goods to be removed from the premises of the Board or to be shipped for export shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Government. [1]* * * * *.

[2][**61A. Board to take charge of goods landed.**—*(1)* The Board shall, immediately upon the landing of any goods, take charge thereof, except as may be otherwise provided in the bye-laws, and store such as are liable in their opinion to suffer from exposure in any shed or warehouse belonging to the Board.

[3][*(2)* **Goods not stored in licensed warehouses to remain at risk and expense of owner if not removed within seven days.**—If any owner, without any default on the part of the Board, fails to remove any goods other than those stored in the warehouses appointed by the Board for the storage of duty paid goods or in warehouses appointed under section 15, or licensed under section 16 of the Sea Customs Act, 1878 (VIII of 1878), from the premises of the Board within seven clear days from the date on which such goods shall have been landed, such goods shall remain on the premises of the Board at the sole risk and expense of the owner and the Board shall thereupon be discharged from all liability theretofore incurred by them in respect of such goods.]

[4][**61B. Responsibility of Board for loss, etc., of goods.**—The responsibility of the Board for the loss, destruction or deterioration of goods of which it has taken charge shall, subject to the other provisions of this Act and subject also in the case of goods received for carriage by railways to the provisions of the Indian Railways Act, 1890 (IX of 1890), be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872 (IX of 1872), omitting the words 'in the absence of any special contract' in section 152 of the last-mentioned Act.]

62. Lien for freight preserved after landing if notice be given.—If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall, continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of [5][the Chief Customs Officer of the port], in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

63. Discharge of lien by payment or release.—Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

[1]Omitted by the A. O. 1937.

[2]Ins. by Bom. 17 of 1925, s. 2.

[3]Subs by Bom. 8 of 1926, s. 5.

[4]Ins. by Act 35 of 1951, s. 48.

[5]Subs. by the A. O. 1950.

64. If rates not paid or lien for freight not discharged, goods may be sold after two months.—If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid, had been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods) as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the Bombay Government Gazette, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods 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 the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

[1][**64A. Disposal of goods not removed from the premises of the Board within time limited.**—*(1)* Notwithstanding anything contained in this Act, where any goods placed in the custody of the Board upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Board within one month from the date on which such goods were placed in their custody, the Board may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post [2][or if the notice cannot be so served upon him or his address is not known, cause a notice to be published in the Official Gazette and also in at least one of the principal local daily newspapers] requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction :

Provided that, where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be [3][so served or published under this sub-section] unless two months have expired from the date on which the goods were placed in the custody of the Board.

(2) [3][If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section *(1)*, the Board may at any time after the expiration of one month from the date on which the notice was so served or published in the Official Gazette], sell the goods by public auction after giving notice of the sale in the manner prescribed in paragraphs 2 and 3 of section 64.

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

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[1]Ins. by Act 27 of 1949, s. 2.

[2]Ins. by Act 35 of 1951, s. 49.

[3]Subs., *ibid*.

65. Application of proceeds of sale.—[1][In the case of any sale under section 64 or section 64A], the moneys received from the sale shall be applied as follows—

firstly, in payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates ;

secondly, in payment of the expenses of the sale ;

thirdly, in payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made, to the satisfaction of the Board ; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

66. Power to distrain for non-payment of rates etc.—If the master of any vessel in respect of which any rates, charges or penalties shall be payable under this Act, or any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their 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 shall be paid ; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

67. Port clearance not granted till rates, etc., are paid.—If the Board shall give to the [2][Government Officer] whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of rates, charges or penalties chargeable under this Act or any bye-laws or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

[3][**67A. Alternative remedy by suit.**—Notwithstanding anything contained in the seven sections last preceding and in section 85, the Board may recover by suit any tolls, dues, rents, rates, charges, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Board under this Act or under any bye-laws made in pursuance thereof.]

Works.

68. Works to be executed under Act.—The works to be undertaken by the Board under this Act may include—

(1) wharves, docks and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, fences, roads, railways and approaches ;

(2) tramways, warehouses, sheds, engines and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise ;

[1]Subs. by Act 27 of 1949, s. 3.
[2]Subs. by the A. O. 1950.
[3]Ins. by Bom. 1, of 1899, s. 16

(3) lighthouses, light-ships, beacons, pilot boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port ;

(4) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels ;

(5) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board, when such reclamation, excavation, enclosure or raising may be necessary for any of the purposes of this Act ;

(6) the construction and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid ;

(7) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act ;

[1][7A(1) the construction upon any part of the property vesting in the Board and the equipment and maintenance of such buildings, including offices, quarters for [2][employees] of the Board, waiting rooms and refreshment rooms, as may in the opinion of the Board be necessary for carrying out the purposes of this Act ;]

[3][(8) the extinguishing of fires on the property of the Board, and the equipment, maintenance and use of engines for that purpose ;]

[3][(9) the equipment of vessels, steam tugs or other boats and their use as well within the limits of the port as on the high seas beyond those limits, and whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property ;]

[3][(10) the supply of water to shipping in the port, and the equipment, maintenance and use of boats and barges for that purpose ;]

[3][(11) the extinguishing of fires in the port, and the equipment, maintenance and use of engines for that purpose :]

Procedure before commencement of new work.— Provided always that no new work, the estimated cost of which exceeds [4][ten thousand] rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them ; nor shall any new work, the estimated cost of which exceeds two lakhs of rupees, be commenced until such plan and estimate shall have been submitted to and approved by [5][the Central Government.]

[6][Provided further that where the estimated cost of any new work has been approved by the Central Government, no expenditure which exceeds by more than ten per cent. the estimated cost so approved shall be incurred by the Board without the previous approval of the Central Government.]

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[1]Ins. by Bom. 21 of 1920, s. 3.
[2]Subs. by Act 35 of 1951, s. 17.
[3]Ins. by Bom. 1 of 1899, s. 17.
[4]Subs. by Act 35 of 1951, s. 50.
[5]Subs. by the A. O. 1937.
[6]Ins. by Act 35 of 1951, s. 50.

[1][*Explanation.*—Waiting rooms in this section shall be deemed to include sleeping accommodation for passengers arriving or departing by sea and persons escorting or meeting such passengers.]

[2][**68A. Power of Chairman as to execution of works.**– Notwithstanding anything contained in section 68, the Chairman may direct the execution of any work the cost of which does not exceed five thousand rupees, and may enter into contracts for the execution of such works and in every such case, the Chairman shall make a report to the Board at its next meeting of any such directions given or contracts entered into by him.]

[2][**68B. Power of Central Government to order survey or examination of works.**—The Central Government may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof, and the cost of such survey and examination shall be borne and paid by the Board out of the moneys credited to the general account of the Board.]

[2][**68C. Power of Central Government to restore or complete works at the cost of Board.**—If at any time, the Board,—

(*a*) allow any work constructed by, or vested in, the Board under this Act to fall into disrepair, or

(*b*) do not, within a reasonable period, complete any work commenced by the Board, or included in any estimate approved by the Central Government, or

(*c*) do not, after due notice in writing, proceed to carry out effectually any work or repair which is necessary in the opinion of the Central Government for the purposes of this Act,

the Central Government may cause such work to be restored or completed or carried out, or such repair to be carried out, and the cost of any such restoration, completion, construction or repair shall be paid by the Board, and if the Board do not within a reasonable time provide for such payment, the same shall be recoverable in the manner provided in the Local Authorities Loans Act, 1914 (IX of 1914).]

Regulation of use of Wharves, etc.

69. Saving of rights of Central Government to use wharves, etc., for collecting duties; and of power of Customs Officers.– Nothing in this Act shall be deemed to affect –

(*a*) the right of [3][the Central Government] to collect customs duties, or of the Municipal Corporation of the City of Bombay to collect town duties, at any wharf, pier or dock in possession of the Board, or

(*b*) any power or authority vested in the Customs authorities [4] * * * under any law for the time being in force for the administration of sea-customs.

70. Places to be set apart for use of Customs Officers on wharves, etc.—Whenever any wharf, pier or dock in the possession of the Board shall be appointed, under the provisions of any Act for the time being in force for the administration of sea-customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

[1]Ins. by Bom. 21 of 1920, s. 3.
[2]Ins. by Act 35 of 1951, s. 51.
[3]Subs. by the A. O. 1937.
[4]Omitted by the A. O. 1950.

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart and maintain such place on or adjoining such wharf, dock or pier, or in such warehouse, or portion of a warehouse, for the use of the officers of Customs, as [1][the Central Government] shall in that behalf approve or appoint ;

But right of Board to levy rates not affected.—But all rates payable in respect of any wharf, pier or warehouse, or portion thereof so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart ;

Surplus income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board.—And if any portion of the Customs Bonded Warehouse shall, with the consent of [1][the Central Government], be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board shall set apart and maintain such portion thereof in good order for the said purpose ; but the [2][Chief Customs Officer of the Port] shall pay to the Board from time to time, as may be determined by [1][the Central Government], all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

71. Board to provide free landing-places.—The Board shall provide such number of public landing places as shall, in the opinion of [1][the Central Government], be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Control of Pilots.

72. Trustees vested with right and privilege of maintaining pilots.—The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, [3]* * * : provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by [1][the Central Government], under the provisions of the [4] Indian Ports Act, 1875, to pilot vessels.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots ;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension or deprivation of appointment, or otherwise, as to them may appear expedient : Provided that such bye-laws shall first have been approved by [1][the Central Government], and published in the manner directed by section 74.

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[1]Subs. by the A. O. 1937.

[2]Subs. by the A. O. 1950.

[3]Words omitted by Act 35 of 1951, s. 52.

[4]See now Act 15 of 1908.

[1][*Powers of the Board as Conservator, etc.*]

[1][**72.A.—Moneys received by the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.** (1)All moneys received by the Board as the Conservator of the Port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908) excluding all fees and all fines and penalties creditable to the pilotage account of the port under sub-section (*5a*) of that section shall be deemed to be a portion of the income of the Board and shall be included in their annual estimates and accounts.

(2) **Powers, etc., of the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.** —All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised shall apply to the works which may be executed by the Board as such Conservator or body, not being works the cost of which is chargeable to the pilotage account of the port under sub-section (*5b*) of section 36 of the Indian Ports Act, 1908, and also to the sanction of such works, the estimates therefor and the expenditure thereunder.]

Bye-laws

73. Trustees empowered to make bye-laws.— The Board may, from time to time, make bye-laws—

(*a*) for the guidance of persons employed by them under this Act ;

(*b*) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways and other works constructed or acquired by them under this Act ;

(*c*) for the use of the public landing-places constructed by or belonging to them ;

(*d*) for the reception and removal of goods brought within the premises of the Board ;

(*e*) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon ;

(*f*) for settling the mode of the payment of the rates and charges leviable under this Act ;

(*g*) for regulating, declaring and defining the wharves, docks and piers vested in the Board on which goods shall be landed from, and shipped on board, vessels ; [2][and]

[3][(h) * * * * * * * *

[4][(*i*)] generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter or revoke any such bye-laws so made by them.

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[1]Ins. by Act 35 of 1951, s. 53.

[2]Ins., *ibid.*, s. 54.

[3]Omitted, *ibid.*

[4]Re-lettered by Act 1 of 1899, s. 18.

74. Approval and publication of bye-laws.—No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by [1][the Central Government], and such approval shall have been published in the Bombay Government Gazette; and no bye-law or alteration or revocation of a bye-law shall be approved by [1][the Central Government] until the same shall have been published [2][for two weeks successively in the said Gazette and until fourteen days have expired from the date on which the same had been first published in that Gazette.]

Cancelment by Central Government.—It shall be lawful for [1][the Central Government] at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

75. Penalties for infringement of bye-laws.—The Board may, in the bye-laws made under section 73, prescribe such penalty as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

76. Bye-laws and scales of rates and charges to be exhibited.—The Board shall cause the said bye-laws and the scales of rates and charges leviable by the Board to be printed in the English, Marathi and Gujarathi languages, to be hung up at the several wharves, docks and piers, and other convenient places on the premises of the Board.

77. Continuance of bye-laws framed under Bombay Act I of 1873.—Until bye-laws are framed by the Board under section 73, the bye-laws framed by the trustees appointed under the [3]Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed to have been framed under the said section 73 of this Act.

VIII.—PENALTIES

78. For being interested in contracts with Board.—Any person who, being a trustee or an [4][employee] of the Board shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code (XLV of 1860):

[5][Provided that nothing in this section shall apply to a person who is declared not to be disqualified, or to be deemed to have any share or interest in any contract or employment, by sub-section (2) of section 14.]

[6][**79. Persons employed under this Act to be public servants for certain purposes.**—Every person employed under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code (Act XLV of 1860) and for the purposes of the Prevention of Corruption Act, 1947 (II of 1947), be deemed to be a public servant within the meaning of section 21 of the said Code.]

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[1]Subs. by the A. O. 1937.
[2]Subs. by Act 35 of 1951, s. 55.
[3]Rep. by this Act.
[4]Subs. by Act 35 of 1951, s. 17.
[5]Subs. by Bom. 1 of 1899, s. 19.
[6]Subs. by Act 35 of 1951, s. 56.

80. For refusing or neglecting to appear before auditor, etc.—Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

81. For setting up erection below high water mark in port.—Any person, other than the Board or the Conservator of the port, who shall, without first obtaining the written consent of [1][the Central Government] to his so doing, make, set up or fix, below high-water mark within the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring or other erection may be removed by the Board, and the person who made, set up, or fixed the same shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

82. For understating quantity or weight of goods etc.—If it be found, when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the [2][weight, quantity, value or description of such goods or the tonnage of any vessel carrrying such goods has been understated or incorrectly given] in any document presented to any [3][employee] of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the [2][entire weight, quantity or value of the consignment of goods so understated or incorrectly described or on the amount of tonnage so understated as may be determined by the Board or when any officer of the Board has, subject to such conditions as may be laid down by the Board, been generally or specially authorised by the Board in this behalf, by such officer, and the said sum shall on application by or on behalf of the Board], be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

83. For evading rates, etc.—Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code (XLV of 1860) the removal of, any goods, vessel, animal or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board, shall be punished with fine which may extend to fifty rupees.

84. Recovery of value of damage to property of Board.—If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel :

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[1]Subs. by the A. O. 1937.

[2]Subs. by Act 35 of 1951, s. 57.

[3]Subs. *ibid*, s. 17.

Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or if he appears, until he has been heard ; and

Provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized [1][Dock Master or] officer in the pilot-service of the port [2]* * * * [1][unless the damage caused is in no way attributable to the order, act, or improper omission of such Dock Master or officer].

85. Cognizance of offences.—Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All [3]* * * damages recovered from any offender or by any distress under section 84, shall be paid to the Board.

IX.—MISCELLANEOUS

86. Provision when day appointed for any purpose falls on Sunday or holiday.—Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

[4][**86A. Application of certain provisions of the Act to aircraft.**—The provisions of sections 43, 43A, 45, 66, 67, 68, 73, 83, 84 and 87 shall apply in relation to all aircraft making use of the port while on water as they apply in relation to vessels.]

87. Limitation of suits, etc.—No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

The Board shall not be responsible for any misfeasance, malfeasance or non-feasance of any [5][employee] appointed under this Act ;

nor, if they should be appointed by [6][the Central Government], under the Indian Ports Act, 1875, [7]Conservators of the port for any misfeasance, malfeasance or non-feasance of any Deputy Conservator, Master-attendant or Harbour-master, or of any assistant or deputy of any such [5][employee], or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy ;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board which may be used by such vessel ;

nor shall the Board, or any of the said [5][employees], be liable in damages for any act *bona fide* done, or ordered to be done, by them in pursuance of this Act.

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[1]Ins. by Bom. 1 of 1899, s. 20.

[2]Certain words omitted, *ibid.*

[3]Certain words omitted by the A. O. 1937.

[4]Ins. by Act 35 of 1951, s. 58.

[5]Subs. by Act 35 of 1951, s. 17.

[6]Subs. by the A. O. 1937.

[7]*See* now Act 15 of 1908.

[1][88. **Power to evict certain persons from the premises of the Board.**— (1) Notwithstanding anything contained in any other law, if the Board in exercise of the powers conferred on them by regulations made under this Act cancel the allotment of any premises made to any employee of the Board, the Board may, by notice in writing, order such allottee or any other person who may be in occupation of the whole or any part of the premises to vacate them and deliver the same to the Board or a person appointed by the Board in that behalf within such period as may be specified in the notice.

Explanation.—For the purposes of this section, "premises" means any building or part of a building and includes—

(*i*) the gardens, grounds and outhouses, if any, appertaining to such building or part of a building;

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and

(*iii*) any furniture, books or other things belonging to the Board and found in such building or part of a building.

(*2*) If any allottee or other person refuses or fails to comply with an order made under sub-section (*1*), any Presidency-Magistrate or Magistrate of the first class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for that purpose, use such force as may be necessary.

(*3*) Any such notice as is referred to in sub-section (*1*) may be served—

(*a*) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises, or

(*b*) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises, or

(*c*) by registered post.]

[1][89. **Annual administration report of the port.**—As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the Port during the preceding year ending on the thirty-first day of March in such form as the Central Government may direct.]

[1][**Power to supersede the Board.**—(1) If, at any time, the Central Government are of opinion,—

(*a*) that on account of a grave emergency, the Board are unable to perform the duties imposed on them by or under the provisions of this Act or of any other law, or

(*b*) that the Board have persistently made default in the performance of the duties imposed on them by or under the provisions of this Act or of any other law and as a result of such default, the financial position of the Board or the administration of the Port has greatly deteriorated,

the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months at a time, as may be specified in the notification:

[1]Added by Act 35 of 1951 s. 69.

Provided that before issuing a notification under this sub-section for reasons mentioned in clause (*b*), the Central Government shall give a reasonable time of not less than three months to the Board to show cause why the Board should not be superseded and shall consider the explanations and objections, if any, of the Board.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the Board the following consequences shall ensue :—

(*a*) all the trustees shall, as from the date of supersession, vacate their offices as such trustees ;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall, until the Board are reconstituted under clause (*b*) or clause (*c*) of sub-section (*3*), be exercised and performed by such person or persons as the Central Government may direct ;

(*c*) all property vested in the Board shall, until the Board are reconstituted under clause (*b*) or clause (*c*) of sub-section (*3*), vest in the Central Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government may—

(*a*) extend the period of supersession for such further term, not exceeding six months, as they may consider necessary ; or

(*b*) reconstitute the Board by fresh appointment and fresh election, and in such case any persons who vacated their offices under clause (*a*) of sub-section (*2*) shall not be deemed disqualified for appointment or election, as the case may be ; or

(*c*) reconstitute the Board by appointment only for such period as they may consider necessary and in such case the persons who vacated their offices under clause (*a*) of sub-section (*2*) shall not be deemed disqualified for such appointment merely because they were trustees when the Board were superseded :

Provided that the Central Government may at any time before the expiration of the period of supersession, whether as originally specified under sub-section (*1*) or as extended under this sub-section, take action under clause (*b*) or clause (*c*) of this sub-section.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before Parliament at the earliest possible opportunity.]

SCHEDULE A

Properties referred to in section 29.

No.	Names of Holders	General Description of Properties
1	The Sassoon Dock Company ..	All the property at Kolaba belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of Kolaba road appertaining thereto, and all rights, privileges and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	**The New Kolaba Company** ..	A strip of land varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Kolaba Company, situated at Kolaba commencing from the Kolaba road at the point where the properties of the New Kolaba Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar-wall of the Victoria Basin and the Harbour-face up to the junction of the New Kolaba Company's property with the Gun-carriage Reclamation; again, commencing at the junction of the New Kolaba Company's property and the property of the Apollo Press Company and running along the Harbour-face and alongside the Arthur Basin up to the Kolaba road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Kolaba Company in respect of the strip of land, Bandar and ground aforesaid and of the Victoria and Arthur Basins.
3	The Apollo Press Company ..	All the land at Kolaba, the property of the Apollo Press Company, and known as the Jamsetji Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun-carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Kolaba Company.
4	The Mazgaon Land Company ..	All the land at Mazgaon, known as the Powder-works Bandar, the property of the Mazgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar: together with all rights and privileges enjoyed or claimed by the Mazgaon Land Company in respect of the said land.
5	The Frere Land Company ..	All the land north of Tank Bandar, the property of the Frere Land Company, bounded towards the west by the Ghorupdevi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.

No.	Names of Holders.	General Description of Properties
6	Hajee Ismail Hajee Hubeeb ..	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south and by the property of the trustees of the port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.
7	Hajee Jackaria Nur Mahomad ..	
8	Manekjee Adurjee	
9	Aitwar Lukdee	
10	Munchorjee Framjee Cama ..	
11	Dadabhoy Hormusjee	
12	Hajee Essa Hajee Fusla	
13	Dorabjee Nusservanjee	
14	Byramjee Cawasjee..	
15	Esmail Mahomed Songaji ..	

SCHEDULE B

(See Section 30)

FORM OF SECURITY

THE TRUSTEES OF THE PORT OF BOMBAY

No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to , or order, the sum of rupees , value received ; such payment to be made on demand at the office of the Accountant General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the Bombay Government Gazette. We further promise and agree for ourselves and our successors to pay to the said or order, interest on the said sum of rupees , from the day until the expiration of three months after such notice of payment as aforesaid ; such interest to be at the rate of four per centum per annum and to be payable on demand at the office aforesaid half-yearly on the first day of April and the first day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common seal this day of 187 .

Signatures of the Chairman and two trustees

Seal.

of the Corporation

SCHEDULE C

(See Section 33).

STATEMENT OF CAPITAL DEBTS OF THE BOARD DUE TO THE [1] [GOVERNMENT]

On account of what Property, etc.	Bearing interest	Not bearing interest.	Total
	Rs. A. P.	Rs. A. P.	Rs. A. P.
Elphinstone Estate, Purchase price.	1,85,91,596 12 8	..	
Elphinstone Estate, expended in 11 months to 31st March 1871.	7,47,370 2 10	..	
Elphinstone Estate, expended in 12 months to 31st March 1872.	2,75,090 8 6	..	
Elphinstone Estate, Troop Siding, Carnac Bandar.	39,790 3 2	..	
			1,96,53,847 11 2
Moody Bay Reclamation (portion east of Frere Road) expended in year to 31st March 1871.	3,57,596 8 8	..	
Moody Bay Reclamation (portion east of Frere Road) expended in year to 31st March 1872.	2,01,345 6 4	..	
			5,58,941 15 0
Apollo Bay Reclamation, expended in year to 31st March 1872.	9,752 11 11	..	9,752 11 11
Wellington Reclamation, expended in year to 31st March 1872.	934 12 8	..	934 12 8
Apollo Pier, expended prior to 31st March 1870.	..	2,23,038 12 2	
Apollo Pier, expended in year to 31st March 1871.	1,38,173 7 8	..	
Apollo Pier, expended in year to 31st March 1872.	61,825 9 2	..	
			4,23,037 13 0
Tank Bandar, expended in year to 31st March 1871.	182 0 0	..	182 0 0
Customs Bonded Warehouse. — Apollo Bonded Warehouse,	..	5,50,000 0 0	
Custom-house Godown.	..	25,165 0 0	
			5,75,165 0 0

[1] Subs. by the A. O. 1950.

On account of what Property, etc.	Bearing interest Rs. A. P.	Not bearing interest Rs. A. P.	Total Rs. A. P.
Kussara Bandar ..	..	5,285 0 0	5,285 0 0
Saw Mill Property, Tank Bandar.	..	41,189 14 4	41,189 14 4
Expended on the above properties between 31st March 1872 and the passing of Bombay Act I of 1873.	1,45,053 5 4	..	1,45,053 5 4
Balance of interest unpaid at 31st March 1871.	2,75,273 4 7		
Balance of interest unpaid at 31st March 1872.	1,50,233 3 2	..	6,02,042 10 0
Balance of interest unpaid for the period from 1st April 1872, until the date on which Bombay Act I of 1873 came into operation.	1,76,536 2 3		
Total ..	2,11,70,754 2 11	8,44,678 10 6	2,20,15,432 13 5

SCHEDULE D.

(*See Section 42*).

FORM OF DEBENTURE.

THE TRUSTEES OF THE PORT OF BOMBAY.

The 18 .

No.

By virtue of the Act No. of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, in consideration of the sum of rupees paid to us by *A.B.*, of promise to pay to the said , or order, the said sum of rupees after the date hereto, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of .

Given under our Corporate seal this day of 187 .

(*Signatures of the Chairman and two Trustees.*)

Seal.

of the Corporation