



The Tuticorin Port Trust Act, 1924

Act 2 of 1924

Keyword(s):

Chief Officer of Customs, Goods, Master, Owner, Pier, Port, Port Trust
Security, Rate, Vessel, Wharf

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THE TUTICORIN PORT TRUST ACT, 1924.

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[TAMIL NADU] ACT No. II of 1924.²

[THE TUTICORIN PORT TRUST ACT, 1924.]

(Received the assent of the Governor on the 11th February 1924 and that of the Governor-General on the 8th May 1924 ; the assent of the Governor-General was first published in the Fort St. George Gazette of the 27th May 1924.)

WHEREAS it is expedient to make provision for the regulation, conservancy and improvement of the port of Tuticorin and WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Tuticorin Port Trust Act, 1924. Short title.

2. This Act shall come into force on such date or dates as the [State Government] may, by notification, direct. Commencement.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated the 20th November 1923, page 147.

Sections 1-13 came into force on the 10th June 1924 [Notification No. 41, Finance (Marine), dated the 10th June 1924, *Fort St. George Gazette*, Part I, p. 646].

Sections 14-23, 29-31 and 69-121 were brought into force on the 7th October 1924 [Notification No. 71, Finance (Marine), dated the 7th October 1924, *Fort St. George Gazette*, Part I, page 1151].

Sections 24-28 and 40-68 were brought into force on the 17th December 1924 [Notification No. 91, Finance (Marine), dated the 16th December 1924, *Fort St. George Gazette*, Part I, p. 1483].

³ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context,

"Board."

(1) "Board" means the Trustees of the Port of Tuticorin appointed under this Act ;

"Chief Officer of Customs."

(2) "Chief Officer of Customs" denotes the Chief Executive Officer of Customs for the Port of Tuticorin for the time being ;

"Goods."

(3) "Goods" means and includes every kind of movable property ;

"Land".

(4) "Land" includes the bed of the sea below high water-mark ;

"Master."

(5) "Master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel except a pilot or harbour master ;

"Owner."

(6) "Owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods ; and when used in relation to any vessel, includes any part owner, charterer, consignee, or mortgagee in possession thereof ;

"Pier."

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

"Port."

(8) "Port" means the port of Tuticorin within such limits as may from time to time be defined by the [State Government], for the purposes of this Act by notification in the [Official Gazette] and until a notification is so issued, within such limits as may have been defined by the Government under the provisions of the Indian Ports Act, 1908 ;

Central Act XV of 1908.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

(9) "Port Trust Security" means debentures, "Port Trust bonds or stock certificates issued by the Board in Security." respect of any loan contracted under the provisions of this Act ;

(10) "Prescribed" means prescribed by rules "Prescribed." or regulations or by-laws made under this Act ;

(11) "Rate" includes any toll, due, rent, rate "Rate." or charge leviable under this Act ;

(12) "Vessel" denotes anything made for the "Vessel." conveyance by water of human beings or of property ;

(13) "Wharf" includes any wall or stage and "Wharf." any part of the foreshore that may be used for loading or unloading goods, and any wall enclosing or adjoining the same.

CHAPTER II.

THE BOARD OF TRUSTEES.

4. 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 Tuticorin," and such Board shall be a body corporate and have perpetual succession and a common seal and shall sue and be sued by the aforesaid name. Imposition of duty of working the Act on a Board.

5. (1) The Board shall consist of ¹[such number of Trustees not being less than thirteen or more than seventeen] including the Chairman and Vice-Chairman, as the ²[State Government] may notify. Provided that the Chairman or Vice-Chairman, if absent Constitution of the Board.

¹ These words were substituted for the words "such number of Trustees not being less than nine or more than thirteen" by the Tuticorin Port Trust (Amendment) Act, 1949 (Tamil Nadu Act XXXII of 1949), which came into force on the 25th January 1950.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

on leave for more than a fortnight and if another Chairman or Vice-Chairman is appointed to act for him, shall cease to be a Trustee and shall, on return to duty, again become a Trustee.

(2) Not less than one-third of the number of the Trustees shall be "citizens of India", of whom two shall be persons engaged in sea-borne trade at Tuticorin and not more than one-third shall be Government officials.

Explanation.—For the purpose of this section, neither the Chairman nor the Vice-Chairman will be reckoned as a Government official unless he is such otherwise than in virtue of the office of Chairman or Vice-Chairman, as the case may be.

6. (1) The Chairman and Vice-Chairman shall be appointed by the ¹[State Government], provided one of them at least shall be ²[a citizen of India] ³(. . .).

⁴[(2) (a) The members for the time being of each of the following bodies shall be entitled to elect the number of Trustees specified against it, at a meeting of the body held in accordance with its rules as then in force :—

- | | | |
|--|------|-----------|
| (i) The Tuticorin Municipal Council. | .. 2 | Trustees. |
| (ii) The Tuticorin Chamber of Commerce. | .. 2 | Trustees. |
| (iii) The Indian Chamber of Commerce, Tuticorin. | .. 4 | Trustees. |

¹ The words "citizens of India" were substituted for the word "Indians" and the words "a citizen of India" for the words "an Indian" by the Adaptation (Amendment) Order of 1950.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ The second sentence of sub-section (1) as amended by section 2 of the Tuticorin Port Trust (Amendment) Act, 1927 (Madras Act III of 1928), was omitted by section 3 (i) of the Tuticorin Port Trust (Amendment) Act, 1949 (Tamil Nadu Act XXXII of 1949), which came into force on the 25th January 1950.

⁴ This sub-section was substituted in lieu of the second sentence of sub-section (1), and sub-section (2) by *ibid.*

Appointment of Chairman, and Vice-Chairman, election of Trustees and appointment of nominated Trustees.

- (iv) The Tuticorin Trades Association. ... 1 Trustee.
- (v) The Tuticorin-Ceylon Current Exporters' and Importers' Chamber. ... 1 Trustee.
- (vi) The Hardware Merchants' Association, Tuticorin. .. 1 Trustee.

Provided that a person who is a member of two or more of the bodies referred to in items (ii) to (vi) above shall not vote except as a member of one of those bodies chosen by him, such choice not being revocable for a period of two years reckoned from the date on which he last so voted, whether he continues to be a member of that body or not.

(b) A return of the name of every person elected as Trustee under clause (a) shall be made to the ¹(State) Government by the Chairman or President of the body concerned.]

²[(3) One Trustee shall be appointed by the ¹(State) Government from a panel consisting of persons elected by trade unions of workers at the port, which have been registered under the Indian Trade Unions Act, 1926, the members for the time being of each of the unions being entitled to elect one person to the panel at a meeting of the union held in accordance with its rules as then in force.]

Central Act
XVI of 1926.

³[(4)] The remaining Trustees shall be appointed by the ³[State Government] with due regard to the provisions contained in sub-section (2) of section 5.

¹ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

² Original sub-section (3) was renumbered as sub-section (4) and new sub-section (3) was inserted by section 3 (ii) of the Tuticorin Port Trust (Amendment) Act, 1949 (Tamil Nadu Act XXXII of 1949), which came into force on the 25th January 1950.

³ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Publication of
names of
Trustees.

7. The names of persons appointed or elected as Trustees shall be published in the '[Official Gazette] and the *Tinnevely District Gazette*.

Disqualifica-
tions for office
of Trustee.

8. (1) No person shall be qualified to be a Trustee who—

¹[(a) is not a citizen of India or a Commonwealth citizen, or]

(b) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the ²[State Government] disqualifies him from being a Trustee, if such sentence has not been reversed, set aside, or remitted, or

(c) is an uncertificated bankrupt or undischarged insolvent, or

(d) holds any office or place of profit under the Board:

Provided that this disqualification shall not apply to the Chairman or Vice-Chairman who may, subject to the sanction of the ³[State Government], be permitted to hold any of the offices under the Board referred to in section 28, or

(e) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract or employment with, by, or on behalf of, the Board.

No person shall be deemed to have a share or interest in such work, contract, or employment by reason only of his—

(i) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

¹ These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

² This clause was substituted for original clause (a) by the Adaptation (Amendment) Order of 1950.

³ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(iii) being interested in any loan of money to the Board, or

(iv) having a share or interest in any lease, sale, exchange or purchase of immovable property or any agreement for the same, or

(v) having a share or interest in any licence by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway siding or any berth for vessels in the docks belonging to the Board, or

(vi) having a share or interest in the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades, or

(vii) being a person to whom, or a member of a firm or company to which, any of the functions specified in clauses (a) and (b) of sub-section (1) of section 40 shall have been relinquished under section 42, or

(f) not being an Indian by birth, is domiciled in any British possession or colony as defined in the Interpretation Act of 1889, the laws of which do not confer or recognize rights and privileges in respect of resident Indians which are equal to those conferred or recognized in respect of other residents:

Provided that the decision of the ¹[State Government] shall be final as to whether the conditions of the clause are fulfilled.

(2) Any Trustee who—

(a) becomes disqualified for any of the aforesaid reasons, or

(b) refuses to act or becomes incapable of acting, or

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(c) fails to attend, without the permission of the Board previously obtained, three consecutive ordinary meetings of the Board, or

(d) is absent from the meetings of the Board for a period exceeding six consecutive months. shall cease to be a Trustee.

Term of office of Chairman, Vice-Chairman and Trustees.

9. The Chairman and Vice-Chairman shall hold office during the pleasure of the [State Government]. The remaining Trustees shall hold office for a term of two years from the date of election or appointment, as the case may be, but the Board may at any time accept the resignation of any Trustee.

First election of Trustees and first appointment of Chairman, Vice-Chairman and nominated Trustees.

10. The first elective Trustees shall be elected, and the first Chairman, Vice-Chairman and nominee Trustees shall be nominated on such dates as may be notified.

Eligibility of Trustees for re-election or re-appointment.

11. Any person ceasing to be a Trustee shall, unless disqualified under sub-section (1) of section 8, be eligible for re-election or re-appointment.

Filling up of vacancies arising in Board of Trustees.

[12. (1) Every vacancy in the office of a Trustee elected under section 6, sub-section (2), shall be filled up by the body concerned, within one month of the occurrence of the vacancy, in the manner provided in that sub-section.

¹The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

²This section was substituted for original section 12 by section 4 of the Tuticorin Port Trust (Amendment) Act, 1949 (Tamil Nadu Act XXXII of 1949), which came into force on the 25th January 1950.

(2) Every vacancy in the office of a Trustee appointed under section 6, sub-section (3), shall be filled up by the ¹(State) Government from a panel constituted in the manner provided in that sub-section, all elections to the panel by the trade unions concerned being made within one month of the occurrence of the vacancy :

Provided that if any one or more of such unions do not elect persons to the panel within the period aforesaid, the vacancy shall be filled up by the appointment of the person, or one of the persons, elected to the panel within the said period by the remaining union or unions :

Provided further that if no person is elected to the panel by any of the unions within the period aforesaid, the ¹(State) Government shall have power to fill up the vacancy by appointing any person they think fit.

(3) If the Chairman or Vice-Chairman appointed under section 6, sub-section (1), or any Trustee appointed under section 6, sub-section (4), ceases to hold office, the ¹(State) Government may appoint a Chairman, Vice-Chairman or Trustee, as the case may be.]

13. If a Trustee is not elected on the date notified under section 10 or within the period allowed by section 12, the ²[State Government] may appoint a Trustee and the person so appointed shall be deemed to be an elected Trustee.

Nomination of elected Trustees by State Government in default of election.

14. The ²[State Government] may from time to time grant to the Chairman or Vice-Chairman such leave of absence as they may deem fit, and any person appointed by the ²[State Government] to act

Grant of leave of absence to Chairman or Vice-Chairman.

¹ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

for the Chairman or Vice-Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman or Vice-Chairman, as the case may be.

Appointment
of acting
Trustee.

15. (1) When any Trustee departs from Tuticorin with the intention of being absent for a longer period than three months, a person shall be elected or appointed in the manner provided in section 6 to act in the place of such absent Trustee until he returns to Tuticorin, or ceases to be a Trustee. The person so appointed shall be subject to all the restrictions and be entitled to all the privileges to which the Trustee for whom he is acting was subject or entitled.

(2) If any question arises whether any Trustee departed with such intention as is referred to in subsection (1), the decision of the "[State Government]" on the question shall be final.

Remuneration
to Chairman
or Vice-Chair-
man and acting
Chairman or
Vice-Chairman.

16. The "[State Government]" may from time to time determine the remuneration, if any, to be paid as salary, leave allowances or other allowances to the Chairman or Vice-Chairman and to the person appointed under section 14 to act for the Chairman or Vice-Chairman during his absence on leave and may prescribe any conditions and restrictions upon and under which such remuneration shall be payable.

Fees payable
to Vice-Chair-
man and other
Trustees.

17. The "[State Government]" may prescribe from time to time the fees, if any, to be paid to the Chairman, Vice-Chairman and other Trustees for attendance at meetings and to prescribe conditions and restrictions upon and under which such fees shall be payable.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

18. The following provisions shall be observed with respect to the proceedings of the Board, namely:—

(1) 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 its meetings, and generally with respect to the transaction of business as it may think fit, subject to the following conditions, namely:—

Provisions concerning Board's proceedings. Meetings, etc., for transaction of business.

(a) that a meeting shall be held once at least in every month ;

Ordinary monthly meetings.

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

Special meetings.

(c) that no business shall be transacted at any meeting unless at least five Trustees are present throughout such meeting ;

Quorum.

(d) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, or the Vice-Chairman in his absence, and if and while both are absent, by such one of the Trustees present as may be chosen by the meeting ;

President at meetings.

(e) 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 ;

Decision of questions by majority of votes.

(f) that if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the President of the meeting ;

Demand of poll.

(g) 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 ;

Minutes of proceedings.

(h) that the President may, with the consent of any meeting, adjourn it ;

Adjournment of meetings.

Transmission of minutes to Government and their publication in gazette.

(i) that a copy of the minutes of every meeting of the Board shall, as soon as conveniently may be, be sent for publication in the *Tinnevely District Gazette* at the cost of the Board and a copy of the minutes shall also within three days of every meeting be transmitted to such Secretary to the¹(State Government) as may from time to time be appointed to receive the same.

Appointment of Committees by Board.

(2) The Board may, from time to time, appoint Committees consisting of not less than five of its number for carrying into effect any part of the provisions of this Act, with such powers and under such instructions, directions or limitations as may be defined by the Board. The Board may at any time alter the constitution of or discontinue any such Committee.

Chairman at meetings of Committees.

(3) A Committee may elect a Chairman of its 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 the Chairman of the meeting.

Meetings of Committees.

(4) Committees may meet and adjourn at their discretion, 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.

Decisions of questions at meetings of Committees.

(5) 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 shall have a second or casting vote.

Quorum in Committees.

(6) No business shall be transacted at any such meeting unless at least three of the members of the Committee are present throughout such meeting.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

19. (1) No Trustee shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Board or of any Committee if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner, or in which he is interested professionally on behalf of a client or as agent for any person other than the Government, a local authority or a railway company.

Restriction on power of Trustees to vote or discuss matters in which they are interested.

(2) If objection is made that any Trustee has in any question before the meeting such interest as is referred to in sub-section (1), the objection shall be considered and decided by the other Trustees in such manner as may be prescribed by the ¹(State Government). The decision of the other Trustees shall be final.

(3) If objection is made to the Chairman that a Trustee voted on or took part in the discussion of any question contrary to the provisions of sub-section (1), the objection, unless, in pursuance of the resolution, a right in a third party has been created, shall be inquired into and decided in accordance with such rules as may be prescribed by the ¹(State Government), and such decision shall be final. Pending such decision the resolution on the question shall not be given effect to. If the decision is that the Trustee voted or took part contrary to the provisions of sub-section (1), the resolution on the question shall not be given effect to.

20. No act or proceeding of the Board or of any Committee or of any person acting as Chairman or Vice-Chairman shall be deemed to be invalid by reason only of some defect in the establishment of the Board or Committee or on the ground that any Trustee was disqualified for the office or by reason of such act having been done during the period of any vacancy in the office of Chairman or Vice-Chairman or of any Trustee.

Validation of acts and proceedings.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

delegation of
powers to
Chairman or
Vice-Chairman.

21. The Board may, by resolution in writing, with the sanction of the ¹(State Government), determine which of the powers and duties by this Act conferred or imposed upon the Board may be exercised and performed by the Chairman or Vice-Chairman.

duties of
Chairman.

22. It shall be the duty of the Chairman—

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

(2) to exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ;

(3) subject to the regulations prescribed under sections 25 and 98 and to the schedule for the time being in force framed by the Board under section 24, to dispose of all questions relating to the service of the officers and servants of the Board, and their pay, privileges and allowances :

Provided that, subject to the control of the ¹(State Government) the Chairman may delegate all or any of these duties to the Vice-Chairman as may seem good to him from time to time.

power to State
Government
direct that
Vice-Chairman
be elected.

23. Notwithstanding anything contained in this chapter, the ¹(State Government) may by notification direct that the Board shall elect, in such manner as may be prescribed, one of its Trustees as Vice-Chairman. Such Vice-Chairman shall hold office for the remainder of his term as Trustee. The provisions of sections 14 and 16 shall not apply to a Vice-Chairman elected under this section.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

CHAPTER III.

OFFICERS AND SERVANTS OTHER THAN THE
CHAIRMAN AND VICE-CHAIRMAN.

24. The Board shall, from time to time, prepare and sanction a schedule of the staff of officers other than the Chairman and Vice-Chairman and of servants whom the Board 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 officer or servant.

Schedule of
Board's staff.

Explanation.—Artizans, porters and labourers, and suppliers of porters and labourers are not officers and servants within the meaning of this section or of section 25 or 27.

25. (1) The Board may, from time to time, frame regulations—

Power to
frame regula-
tions regarding
leave,

(a) for regulating the grant of leave to the officers (other than the Chairman or Vice-Chairman) and servants of the Board;

(b) for authorizing the payment of allowances to the said officers and servants, or to any of them, whilst absent on leave;

absentee
allowances,

(c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

acting
allowances,

(d) for regulating the period of service of all such officers and servants;

length of
service,

(e) for determining the conditions under which such officers and servants or any of them may become entitled, on retirement, to pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances;

pensions,
etc.,

(f) for authorizing the payment of contributions at such rates and subject to such conditions as the Board may prescribe to any provident fund, which

contributions
to provident
fund,

may, with the Board's approval, be established by the officers and servants appointed under this Act, or to such provident fund, if any, as may be established by the Board, with the approval of the ¹(State Government), for the benefit of such officers and servants ;

pensions in the case of subordinates injured or who died while in the service of the Board.

(g) for determining the conditions under which pensions, gratuities, or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any such officers and servants who died while in the service of the Board ;

(h) and generally for the regulation of similar matters.

(2) The regulations framed under clauses (e), (f) and (g) of sub-section (1) shall be subject to the approval of the ¹(State Government).

(3) Subject to the provisions of section 100, all pensions, contributions and allowances mentioned in this section shall be chargeable to the general fund of the Board.

Power to frame regulations for artizans, porters, etc.,

26. Notwithstanding anything contained in sections 24 and 25, the Board may, subject to the sanction of the ¹(State Government), frame regulations of the nature mentioned in clauses (e) to (g) of section 25 for the benefit of artizans, porters and labourers and the suppliers of porters and labourers ; and subject to the provisions of section 100 all pensions, contributions and allowances payable under any such regulation shall be chargeable to the general fund of the Board.

Power to appoint, punish or grant leave to officers and servants.

27. (1) Subject to the regulations prescribed under section 25 and the schedule for the time being in force framed by the Board under section 24, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

of the Board shall be exercised by the Chairman or Vice-Chairman in such cases and subject to such restrictions as may be determined by the ¹[State Government] and in every other case by the ¹[State Government].

(2) In the case of punishments inflicted by the Chairman or Vice-Chairman an appeal shall lie to the Board.

(3) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance shall, in the case of officers appointed by the ¹[State Government] lie with the ¹[State Government] and in all other cases with the Board. Power of dispensing with services or permitting retirement of officers or servants.

28. Every order or regulation made by the Board under sections 24, 25 or 27 shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of the ¹[State Government]. Prior sanction of State Government to orders or regulations of Board.

In this section the word "Engineer" means the Engineer of the highest grade on the Board's ordinary staff and also any one who may from time to time be employed as Consulting Engineer to the Board on a monthly salary.

CHAPTER IV.

PROPERTY OF THE BOARD.

29. On the coming into force of the whole of this Act, the several immovable properties specified in Schedule I and all movable property held by or vested in the Tuticorin Port Conservancy Board shall vest in the Board but subject to all charges and liabilities affecting the same. Property vested in Board.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Power to acquire, hold or alienate property.

30. (1) Subject to the provisions herein contained, the Board shall, for the purpose of this Act, have the power to acquire and hold immovable or movable property, whether within or without the limits of the port, and also power to lease or sell any immovable or movable property which may have vested in or been acquired by it.

(2) Every acquisition of immovable property, not being an acquisition from the ¹[Government], every sale and every lease for a term exceeding ten years of immovable property shall be made with the previous sanction of the ²[State Government].

Application of Land Acquisition Act.

31. When any immovable property is required for the purposes of this Act, the ²[State Government] may declare that such property is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same under the Land Acquisition Act, 1894. Such property, when so acquired, shall, on payment by the Board of the compensation awarded and all costs connected with its acquisition, be deemed to be vested in the Board.

Central Act I of 1894.

CHAPTER V.

WORKS AND SERVICES.

Power to execute works and provide appliances.

32. The Board may execute such works and provide such appliances as it may determine to be necessary or expedient for the purposes of the port.

General nature of works to be executed or appliances to be provided.

33. Such works and appliances may include—
1) wharves, quays, docks, stages, jetties and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, landing places, stairs, fences, roads, railways and approaches;

¹ This word was substituted by the Adaptation Order of 1950 for the word "Crown" as substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(2) railways, tramways, locomotives, rolling stock, sheds, warehouses and other accommodation for passengers and goods and other appliances within the port for carrying passengers and for conveying, receiving and storing goods landed, or to be shipped or otherwise ;

(3) moorings for carrying out the purposes of this Act, and cranes, scales, and all other necessary means and appliances for loading and unloading vessels ;

(4) reclaiming, excavating, enclosing and raising any part of the foreshore of the port which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act ;

(5) such breakwaters and other works within or without the limits of the port as shall be expedient for the protection of the harbour or port ;

(6) dredgers and other machines for cleaning, deepening and improving any portion of the port or foreshore ;

(7) 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 ;

(8) vessels, steam tugs or other boats for use as well within the limits of the port as beyond those limits, 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 and for the purpose of landing, shipping or transshipping passengers or goods under section 40 ;

(9) boats, barges and other appliances necessary in connexion with the supply of water to shipping in the port ;

(10) engines and other appliances necessary for the extinguishing of fires in the port and on the property of the Board ;

(11) all such other works and appliances as may be, in the opinion of the Board, expedient for carrying out the purposes of this Act.

Seagoing vessels compelled to use wharves, etc.

34. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in seagoing vessels, the Board may, with the previous sanction of the ¹(State Government), by a notification published in three consecutive issues of the ²(Official Gazette) and one issue of the *Tinnevely District Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping or for landing or for shipping, as the case may be, goods from and in seagoing vessels.

From and after such publication, the Board may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any seagoing vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to do so. In making such order the Board shall have regard, as far as possible, to the convenience of such vessel and of the shippers, in respect of the use of any particular wharf, quay, stage, jetty or pier.

If accommodation sufficient, all seagoing vessels compelled to use wharves, etc.

35. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of the ¹(State Government)

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

by an order published in three consecutive issues of the [Official Gazette] and one issue of the *Tinnevely District Gazette* direct that no goods shall be landed or shipped from or in any seagoing vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

36. Any officer appointed by the Board in this behalf may, in cases of emergency, or for any reason which appears to him sufficient by notice in writing, order the master or owner of any vessel not to bring such vessel alongside of, or to remove such vessel from, any wharf, quay, stage, jetty or pier belonging to the Board, and, if such notice is not obeyed, the Board may charge in respect of such vessel such sum as it thinks fit, not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, during which such vessel remains at such wharf, quay, stage, jetty or pier:

Power to order vessels not to come alongside of, or to be removed from wharves, etc.

Provided that, in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of twelve hours from the service of such notice as aforesaid on the master or owner of the vessel.

37. Notwithstanding anything contained in sections 34 and 35, the [State Government] may, by notification in the [Official Gazette] and the *Tinnevely District Gazette*, from time to time, permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner during such period subject to such payments and on such conditions as they may think fit, and otherwise grant exemption from the provisions of such sections.

Power to State Government to exempt from obligation to use wharves, etc., and to require preference to be given to Government vessels.

¹ These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

The ¹[State Government] may also, by like notification, cancel or modify any such notification.

The ¹[State Government] may also, at any time require that any vessel belonging to or in the service of ²[Government]³[.....] shall be permitted to come alongside of any wharf, quay, stage, jetty or pier belonging to the Board in preference to all other vessels at the time in port ; and it shall be incumbent on the Board to give effect to any such requisition.

Power to order survey or examination of works.

38. The ¹[State Government] may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof. The cost of such survey and examination shall be borne and paid by the Board out of its general fund.

Power to State Governments to restore or complete works at the cost of the Board.

39. If, at any time, the Board allows any work or appliance constructed or provided by or vested in it to fall into disrepair,

or does not, within a reasonable time, complete any work commenced by it or included in any estimate sanctioned by the ¹[State Government],

or does not, after due notice in writing, proceed to carry out effectually any work or repair or to provide any appliance which is necessary in the opinion of the ¹[State Government] for the purposes of this Act,

the ¹[State Government] may cause such work to be restored or completed or carried out, or such repair to be carried out, or such appliance to be provided ; and the cost of any such restoration, completion, construction or provision shall be paid by the Board ; and if the Board does not within a

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² This word was substituted for the words "His Majesty" by the Adaptation Order of 1950.

³ The words "or the Government of India" were omitted by the Adaptation Order of 1937.

reasonable time provide for such payment, the same shall be recoverable in the manner provided in the Local Authorities Loans Act, 1914.

40. (1) The Board shall, according to its powers, provide all reasonable facilities for and shall have power to undertake the following services :—

(a) landing, shipping, or transshipping passengers and goods between vessels in the port and the wharves, piers, quays or docks in possession of the Board ;

(b) receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises ;

(c) carrying passengers by rail, tramway or otherwise within the limits of the port, subject to such restrictions and conditions as the [State Government] may see fit to impose ; and

(d) receiving and delivering, transporting and booking and despatching goods originating in the vessels in the port and intended for carriage by the neighbouring railways, or *vice versa*, as a railway company or administration under the Indian Railways Act, 1890.

(2) The Board shall, if so required by any owner, perform in respect of goods all or any of the services mentioned in clauses (a), (b) and (d) of sub-section (1), which it shall have undertaken ; provided that the Board shall not be bound to perform any service which it has relinquished under the provisions of clause (a) of sub-section (1) of section 42.

(3) The Board shall, if required, take charge of the goods for the purpose of performing the service and shall give a receipt in the form and to the effect prescribed from time to time by the [State Government].

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

After any goods have been taken charge of and a receipt given for them under this section, no liability for any loss or damage which may occur to them shall attach to any person to whom a receipt shall have been given or to the master or the owner of the vessel from which the goods have been landed or transhipped.

Responsibility of Board for loss, etc., of goods.

41. (1) 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 railway, to the provisions of the Indian Railways Act, 1890, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, omitting the words "in the absence of any special contract" in section 152 of the last-mentioned Act. Provided that, till the receipt mentioned in sub-section (3) of section 40 is given by the Board, the goods shall be at the risk of the owner.

Central Act IX of 1890. Central Act IX of 1872.

(2) The Board shall not be in any way responsible for loss of or damage to goods of which it has taken charge, unless notice of such loss or damage shall have been given within one month of the date of the receipt given for the goods under sub-section (3) of section 40.

Relinquishment of services subject to the control of the State Government.

42. (1) The Board may, subject to the sanction of the ¹[State Government] and to such conditions as the ¹[State Government] may prescribe—

(a) enter into an agreement relinquishing the performance of any of the services specified in clauses (a) and (b) of sub-section (1) of section 40 to an approved person, or

(b) enter into an agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 41.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(2) Every agreement entered into under this section shall be in writing and signed by or on behalf of the parties concerned.

(3) No person to whom the performance of any service specified in clause (a) or (b) of sub-section (1) of section 40 is relinquished shall charge or recover for such service any sum in excess of the amount leviable according to the scale framed under section 44, section 45 or section 46 if such service were performed by the Board.

(4) Notwithstanding such relinquishment, the Board may charge dues according to the scales laid down in sections 44, 45 and 46 for the use of its works or appliances or for other services connected with that which has been relinquished without thereby incurring any liability under section 41.

43. (1) Any person to whom any or all of the services under clauses (a) and (b) of sub-section (1) of section 40 has or have been relinquished under section 42, shall, if so required by the owner, perform in respect of goods any of the services so relinquished and for that purpose take charge of the goods and give a receipt in the form prescribed by the ¹[State Government].

Performance of services by person to whom the services have been relinquished by the Board.

(2) The responsibility of any such person for the loss, destruction or deterioration of goods of which he has taken charge shall, subject to the other provisions of this Act, be that of a baillee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

Central
Act IX
of 1872.

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

CHAPTER VI.

LEVY AND RECOVERY OF RATES.

scale of rates.

44. The Board shall frame a scale of rates at which and a statement of the conditions under which any of the services specified hereunder shall be performed by itself or by a person to whom any service has been relinquished under section 42 or partly by one and partly by the other :—

(a) transshipping of passengers or goods between vessels in the harbour ;

(b) landing and shipping of passengers or goods from or to such vessels to or from any wharf, quay, pier, dock, land or building in the possession or occupation of the Board or at any place within the limits of the port ;

(c) craning or portering of goods on any such place ;

(d) wharfage, storage or demurrage of goods on any such place ;

(e) any other service in respect of vessels, passengers or goods.

scale of rates
statement
conditions
under which
any property
belonging to
or in the
possession
or occupation
of the Board
or any place
within
the limits
of the port
may be used
for the
purposes
specified
hereunder :—

45. The Board shall also frame a scale of rates on payment of which and a statement of conditions under which any property belonging to or in the possession or occupation of the Board or any place within the limits of the port may be used for the purposes specified hereunder :—

(a) approaching or lying at or alongside any moorings, wharf, quay, pier, dock, land, buildings or place as aforesaid by vessels or boats ;

(b) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building or place as aforesaid by animals or vehicles carrying passengers or goods ;

(c) leasing of land or sheds by owners of goods imported or intended for export or by steamer agents ;

(d) any other use of any land, works or appliances belonging to or provided by the Board.

46. The Board may frame a consolidated scale of rates for any combination of the services specified in section 44 or for any combination of such service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in section 45.

Consolidated rates for combination of services.

47. (1) Every scale and every statement of conditions framed by the Board under section 44, section 45 or section 46 shall be submitted to the ¹[State Government] for sanction ; and, when so sanctioned and published in the ²[Official 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.

Prior sanction of State Government to such scales.

(2) The Board may, in special cases, with the previous sanction of the ¹[State Government], remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section. It may also on its own initiative correct mistakes, remit overcharges made in its bills, and write off irrecoverable sums up to a limit of two hundred rupees in each case.

Remission of rates in special cases.

(3) In respect of any item of any scale of rates framed under the powers conferred by section 44, section 45 or section 46, the Board, with the previous sanction of the ¹[State Government], may fix maximum and minimum rates, and may levy any charges not exceeding the maximum and not below the minimum thus fixed.

Power to fix maxima and minima rates.

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

² These words were substituted for the words " Fort St. George Gazette " by the Adaptation Order of 1937.

Refund of
overcharges.

48. No person shall be entitled to a refund of an overcharge unless his claim to the refund has been preferred in writing by him or in his behalf to the Board within six months from the date of payment.

Power to
increase
rates to
cover defi-
ciency of
revenue.

49. (1) If, on the preparation of the estimate of any year, it appears that the estimated income of the Board for such year, after deducting therefrom the estimated expenditure of such year, will be insufficient for the payment of the interest which may be payable by the Board during such year to the ¹[Government] or to any other creditor, and of any sinking fund established under section 75 and of any sum the repayment of which is due in pursuance of any terms under section 67 ;

or if, at any time in the course of a year, it appears that the income of such portion of the year as has then elapsed, and the estimated income of the residue of such year after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be insufficient for the payment of the said interest, sinking funds and sums due ;

the Board may, and upon the requisition of the ²[State Government], shall increase the rates for the time being in force to such extent as will render the estimated income of the year sufficient, as nearly as may be, for the payment in full of the said interest, sinking funds and sums due.

(2) Such increased rates shall be fixed by the Board, and shall be submitted to the ³[State Government], and, if approved by the ²[State Government], shall be published in the [Official Gazette], and shall

¹ This word was substituted by the Adaptation Order of 1950 for the word " Crown " as substituted for the words " Secretary of State for India in Council " by the Adaptation Order of 1937.

² The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

³ These words were substituted for the words " Fort St. George Gazette " by the Adaptation Order of 1937.

become leviable after the expiration of one month from the date of such publication, and continue leviable until altered by the Board with the sanction of the ¹[State Government].

50. If the Board shall, for fifteen days after the receipt by the Chairman of any such requisition from the ¹[State Government] neglect or refuse to submit to the ¹[State Government] for approval such increased rates, the ¹[State Government] may, by notification in the ²[Official Gazette], increase such rates as they think fit ; and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed under section 44, section 45 or section 46 and sanctioned and published under section 47.

Power of State Government to enhance rates if Board fails to do so.

51. The Board shall not lease, farm, sell or alienate any power vested in it under this Act of levying rates without the assent of the ¹[State Government].

Board not to lease rates without sanction.

52. All fines and penalties recovered under this Act ³[other than fines and penalties imposed by a Court] shall be paid to the Board.

Fines and penalties payable to Board.

53. The ¹[State Government] may ⁴[.] at any time direct that the whole or any portion of the balance of the moneys which may be credited under the Indian Ports Act, 1908, to the account of the Port Fund, if any, which may be formed for the Port of Tuticorin, after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board for the purposes of this Act.

Payment of balance of Tuticorin Port Fund to Board.

Central Act XV of 1908.

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

² These words were substituted for the words " Fort St. George Gazette " by the Adaptation Order of 1937.

³ These words were inserted by *ibid*.

⁴ The words " in their discretion " were omitted by the Adaptation Order of 1937.

Time for
payment of
rates on
goods.

54. Rates in respect of goods to be landed shall be payable immediately on the landing of the goods; in respect of goods to be removed from the premises of the Board or to be shipped for export or transhipped, before the goods are removed or shipped or transhipped.

Lien for
rates.

55. For the amount of all rates leviable under this Act in respect of any goods, and for the rent due to the Board on any buildings, plinths, stacking areas or other premises on or in which any goods may have been placed, the Board shall have a lien on such goods and may seize and detain the same until such rates are fully paid.

Priority of
lien of
Board over
other liens
and claims.

56. Such lien shall have priority over all other liens and claims, except for general average and for the shipowner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner provided in section 57, and for primage, and for money payable to [the Government].

Preservation
of lien
for freight
after goods
are landed.

57. 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 dock, wharf, quay, stage, jetty or pier in the occupation of the Board, gives to the Board notice in writing that such goods are to remain subject to a lien for freight or other charges including landing charges payable to the shipowner to an amount to be mentioned in such notice, such goods shall continue liable to such lien to such amount.

Retention of
such goods
until lien is
discharged.

58. Such goods shall be retained in the custody of the Board, or with the consent of the Chief Officer of Customs in the public customs wharves and warehouses, at the risk and expense of the owners of the said goods until such lien is discharged as herein-after mentioned; and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

¹ The words "the Crown" were substituted for the words "His Majesty or the Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

59. Upon the production to any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by whom or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

Discharge of ship-owner's lien for freight.

60. The Board may, after the expiry of two months from the time when any goods have passed into its custody, or in the case of perishable goods after the expiry of such shorter period not being less than 24 hours as the Board may think fit, sell by public auction so much as may be necessary of such goods,

Sale of goods after two months if rates or rents are not paid or lien for freight is not discharged.

(a) if any rates payable to the Board in respect of such goods have not been paid; or

(b) if any rent referred to in section 55 in respect of any place on or in which such goods have been stored has not been paid ; or

(c) if any lien of any shipowner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charges has made an application for such sale.

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

Notice of sale.

62. 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 registered letter; but the title of a *bona fide* purchaser of such goods shall

Notice of sale to owner.

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.

Application
of sale-
proceeds.

63. (1) The proceeds of every such sale shall be applied as follows:—

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities of the liens and claims excepted in section 56 from the priority of the lien of the Board ;

(c) in payment of the rates and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same; provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made; and, in case such application shall not be so made or reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

Recovery of
rates and
charges by
distrain of
vessel.

64. If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any by-laws, rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, it shall be lawful for the Board to distrain or arrest on its own authority such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof; and detain the same until the amount so due is paid ;

and, in case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest has 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, shall satisfy such rates or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

65. If the Board gives to the officer of Government 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 or penalties chargeable under this Act, or under any by-laws, rules or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Grant of port-clearance after payment of rates.

66. Notwithstanding anything contained in the twelve sections last preceding and in sections 111, 112 and 114 the Board may recover by suit any rates, damages, expenses, costs or in case of sale the balance thereof, when the proceeds of sale are insufficient, ^{Alternative remedy by suit.} [.....] payable to, or recoverable by, the Board under this Act or under any by-laws made in pursuance thereof.

CHAPTER VII.

THE BORROWING POWERS OF THE BOARD.

67. (1) The Board may, with the previous sanction of the ^{Power to raise loan.} [State Government], ^{and after due notification in the [Official Gazette],} raise loans for the purposes of this Act.

¹ The words "or any penalties or fines" were omitted by the Adaptation Order of 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ Of the original words "and, in the case of a loan of an amount of not less than five lakhs of rupees, of the Governor-General in Council" the words except those in italics were omitted by the Adaptation Order of 1937 and the words in italics were omitted by section 3 of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1951 (Tamil Nadu Act XIV of 1951).

⁴ These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

(2) Loans may be raised in the open market on Port Trust Securities or obtained from the ¹[State Government] or the ²[Central Government]. The terms of all loans shall be subject to the approval of the ¹[State Government].

Port Trust
Securities.

68. (1) The Board may, with the sanction of the ¹[State Government], prescribe the form in which Port Trust Securities shall be issued, the mode in which and the conditions subject to which they may be transferred.

(2) The right to sue in respect of moneys secured by Port Trust Securities shall be exercisable by the holders thereof for the time being without preference in respect of priority of date.

Indian
Securities
Act
applicable to
Port Trust
Securities.

69. The provisions of sections 4, 5, 8, 9, 10 and 15 of the Indian Securities Act, 1920, shall *mutatis mutandis* apply to all securities issued by the Board ⁴[. . .] subject in the case of sections 10 and 15 to the understanding that the word "prescribed" shall mean "prescribed by the ¹[State Government] or by the Board with the sanction of the ¹[State Government]."

Central
Act X
of 1920.

Central
Act X
of 1920.

Power to
frame rules.

70. (1) The Board may from time to time make rules to provide for all or any of the following matters, viz. :—

(a) the person, if any, authorized to sign, the mode of affixing the corporate seal and of attestation of documents relating to Port Trust Securities ;

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

² These words were substituted for the words " Government of India " by *ibid.*

³ The words " Provincial Government " were substituted for the words " Governor-General in Council " by the Adaptation Order of 1937 and the word " State " was substituted for the word " Provincial " by the Adaptation Order of 1950.

⁴ The words " subject in the case of section 9 to the substitution of the words ' Local Government ' for the words ' Governor-General in Council ' and " were omitted by the Adaptation Order of 1937.

(b) the manner in which payment of interest in respect of Port Trust Securities is to be made and acknowledged ;

(c) the circumstances and the manner in which Port Trust Securities may be renewed ;

(d) the circumstances in which such securities must be renewed before further payment of interest thereon can be claimed ;

(e) the form in which securities delivered for renewal and conversion are to be receipted ;

(f) the proof which is to be produced by persons applying for duplicate securities ;

(g) the form and manner of publication of the notification mentioned in sub-section (2) of section 10 of the Indian Securities Act, 1920, as applied to Port Trust Securities and the manner of publication of the list mentioned in sub-section (3) of that section ;

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

(i) the conditions subject to which Port Trust Securities may be converted ;

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

(k) generally, all matters connected with the grant of duplicate, renewed and converted securities ;

(l) the fees to be paid in respect of the issue^e of duplicate securities and of the renewal and conversion of Port Trust Securities; and

(m) the fees to be levied in respect of the issue of stock certificates.

(2) The power to make rules under sub-section (1) is subject to the following conditions :—

(i) A draft of the rules shall be published in three consecutive issues of the ¹[Official Gazette].

(ii) The same shall have no effect until approved by the ²[State Government] after such publication and until such approval has also been published in the ¹[Official Gazette].

(iii) The ²[State Government] may at any time by notification cancel any rule published under the provisions of this section.

Place and
currency of
loans raised.

71. All loans contracted by the Board, shall be raised in India, and in Indian currency, unless the ²[State Government] ⁴[. . .] shall, by a notification in the ¹[Official Gazette], otherwise direct.

Security for
loans.

72. All loans may be raised on the security of—

(a) the property now vested, or which may hereafter become vested in the Board, other than any sums set a part by the Board as a sinking fund for the purpose of paying off any loan ; and

(b) the tolls, dues, rates, rents and charges leviable under this Act.

¹ These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ The words "with the previous sanction of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

⁴ These words were substituted for the word "Gazette" by *ibid.*

73. The ¹[Government] shall have, in respect of loans made by ²[it] to the Board, or to the Tuticorin Port Conservancy Board, the same remedies as debenture-holders ; and ³[it] shall not be deemed to possess any prior or greater rights in respect of such loans than debenture-holders.

Remedies of the Government in respect of loans made to Board.

74. The Board may apply any sum, not less than ten thousand rupees which can be so applied without prejudicing the security of the other debenture-holders of the Board, in repaying to the ¹[Government] any sum which may remain due to ²[it] in respect of the principal of any loan before the time fixed for the repayment of the same.

Power to repay loans before due date.

On any such repayment being made, the portion of any subsequent instalment which represents interest shall be reduced to such an amount as represents interest on the outstanding principal.

75. In the case of loans raised by the Board which are not repayable before the expiration of one year from the date of the loan, the Board shall set apart half-yearly out of its income as a sinking fund a sum sufficient to liquidate the loan within a period which shall not in any case, unless the previous consent of the ¹[State Government] shall have been obtained, exceed thirty years; but the maximum period shall not in any case exceed sixty years. Provided that a sinking fund need not in the absence of any stipulation to that effect be established in the case of loans taken from the ²[State Government].

Establishment of sinking fund.

¹ This word was substituted by the Adaptation Order of 1950 for the word "Crown" as substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937.

² This word was substituted for the word "him" by the Adaptation Order of 1937.

³ This word was substituted for the word "he" by *ibid.*

⁴ The words "Provincial Government" were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁵ The words "Provincial Government" were substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Investment
of sinking
fund.

76. (1) The sums so set apart shall be invested in securities of the ¹[Central or the State Government], or in Port Trust Securities, and shall be held in trust for the purposes of the Act by two trustees, one being the Board and the other a person appointed by the ²[State Government].

Application
of sinking
fund.

(2) 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 it pays into the fund in each year, and accumulates 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.

Examina-
tion of
sinking
fund.

77. The sinking fund established for the liquidation of any loans shall be subject to annual examination by the ³[Accountant-General, Tamil Nadu], who shall ascertain whether the cash and the current 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.

Power to
raise loans
on short-
term bills.

78. 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.

Central
Act IX
of 1914,

¹ The words "Central or the Provincial Government" were substituted for the words "Government of India" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

³ This expression was substituted for the expression "Accountant-General, Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

CHAPTER VIII.

EXPENDITURE.

79. (1) Subject to the provisions of section 99 and to any other law for the time being in force, the rents, income, and other proceeds of any property vested in, or acquired by, the Board under this Act, and all moneys acquired by the Board under or by virtue of this Act shall be applied by the Board as follows and in the following order, namely:—

Objects on which Board may spend money.

(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the Chairman, Vice-Chairman, officers and servants appointed under this Act, and the contributions, if any, authorized to be made to any provident fund established for the benefit of the said officers and servants;

(b) the cost of repairs to and the maintenance of the property vested in the Board, and all charges upon the same and all working expenses ;

(c) the payment of any interest which is from time to time owing by the Board ;

(d) payments to sinking funds and the repayment of the principal of loans as they fall due ;

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

(f) the remuneration of the members of the Board ; and

(g) generally for the purposes of this Act.

(2) The Board may, with the special sanction of the ¹[State Government], incur expenditure on the provision of amenities for the recreation of its employees, or otherwise for the promotion of their well-being.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 937 and the word "State" was substituted for "Provincial" by the daptation Order of 1950.

Establishment of reserve fund.

80. (1) The Board may, from time to time, set aside such sums out of its revenue surplus, as it thinks fit, as a reserve fund or funds for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, shipwreck or other accident, or for any other emergency arising in the ordinary conduct of its work under this Act :

Provided that the sums set aside as a reserve fund or funds shall not exceed such amount, annual or in the aggregate as may from time to time be fixed by the ¹[State Government].

(2) Such reserve fund or funds may be invested only in the promissory notes and other securities of the ²[Central or the State Government] or in Port Trust Securities.

Prior sanction of State Government to charge expenditure to capital.

81. No expenditure shall be charged by the Board to capital without the previous sanction of the ¹State Government].

Works requiring sanction of Board or State Government.

82. Before any new work or appliance, the estimated cost of which exceeds two thousand rupees, is commenced or provided by the Board, or any contract in respect of any such new work or appliance is entered into by the Board, a plan of and estimate for such work or appliance shall be submitted to, and approved by the Board ; and, if the estimated cost of such new work or appliance exceeds twenty-five thousand rupees, the sanction of the ¹[State Government] to the plan and estimate shall be obtained before such work is commenced, or appliance provided.

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

² The words " Central or the Provincial Government " were substituted for the words " Government of India " by the Adaptation Order of 1937 and the word " State " was substituted for the word " Provincial " by the Adaptation Order of 1950.

83. Save in a case requiring immediate action, the Board shall not, without the assent of the [State Government], spend on any item of expenditure any greater sum than shall have been allotted for that item in an estimate approved by the [State Government] and for the time being in force. Restriction of expenditure to budget grant.

84. (1) In a case requiring immediate action the Board may, without the assent of the [State Government], spend on any item of expenditure on which the Board is empowered to spend money under this Act— Limit to excess of expenditure over budget grant.

(i) any sum not exceeding five thousand rupees in excess of any sum which may have been allotted for that item in an estimate approved by the [State Government] and for the time being in force ;

(ii) any sum not exceeding five thousand rupees on any item for which no funds have been allotted in any such estimate.

(2) Whenever the Board sanctions any expenditure under sub-section (1), the Chairman shall forthwith report to the [State Government] the circumstances of the case and the manner in which the Board proposes to meet the expenditure.

CHAPTER IX.

ACCOUNTS, ESTIMATES AND CONTRACTS.

85. The accounts of the receipts and expenditure of the Board shall, once in every year, be laid before the [State Government] and shall be audited and examined by such auditors as shall, from time to time, be appointed by the [State Government]. For the purposes of any such audit and examination of accounts, the auditors may by summons in writing, require the production before them of all books, deeds, contracts, Audit and examination of accounts.
Power of auditors to call for books, etc.

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

vouchers and all other documents and papers which they deem necessary; and may require any person holding or accountable for any such books, deeds, contracts, vouchers, documents, or papers to appear before them at any such audit and examination or adjournment thereof, and to answer all questions which may be put to him with respect to the same, or to prepare and submit any further statement which such auditors may consider necessary in explanation thereof.

Publication
of audit
report.

86. Within fourteen days after the audit and examination have been completed, the auditors shall report upon the accounts audited and examined, and shall forward copies of their report to the ¹[State Government] and to the Board. The Board shall cause the report and an abstract of the accounts to be published in the ²[Official Gazette] and the *Tinnevely District Gazette*.

Auditors'
remunera-
tion.

87. The auditors shall be paid by the Board such remuneration as the ¹[State Government] may determine.

Submission
to Board
of annual
estimate of
income and
expenditure.

88. The Chairman shall, at a special meeting to be held on or before the twentieth day of January in each year, lay before the Board an estimate of the income and expenditure of the Board for the financial year then next ensuing. Every such estimate shall be in such form as the ¹[State Government] may prescribe.

Regulation
of estimate
by trustees.

89. Such estimate shall be printed, and a copy thereof sent by post or otherwise to each Trustee not less than ten clear days prior to the day appointed for the special meeting before which the estimate is to be laid under section 88.

Resolution
of the Board
on the
estimate.

90. It shall be in the discretion of the Board, at such meeting, to pass or to reject the estimate, or to modify or alter it, and to pass it as so modified or altered.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

91. (1) Every such estimate, when so passed by the Board, shall be submitted to the ^{Approval of} ^{estimate by} ^{State} ^{Government.} ^{Government]} not later than the tenth day of February; and the ^{State} ^{Government]} may either approve the estimate, or may return it with remarks and may call for such additional information as they may deem necessary; and the Board shall forthwith proceed to reconsider the estimate with reference to such remarks, and shall furnish such additional information as the ^{State} ^{Government]} may call for and shall, if necessary, modify or alter the estimate and shall re-submit it to the ^{State} ^{Government]}.

(2) The ^{State} ^{Government]} shall then pass, reject or modify all or any of the items entered in the estimate or add thereto any items. Provided that no such modification, rejection or addition be inconsistent with the provisions of this Act or involve the raising of a loan.

92. The Board may, in the course of any year for which an estimate has been approved by the ^{State} ^{Government]}, cause one or more supplemental estimates for the residue of such year to be prepared and laid before the Board; the procedure prescribed by sections 89, 90 and 91 shall, so far as it may be applicable, be followed in the case of such supplemental estimates. ^{Preparation} ^{of supple-} ^{mental} ^{estimates.}

93. (1) Subject to the provisions of sub-section (2) the Board may enter into any contract for carrying ^{Power to} ^{enter into} ^{contracts} into effect the purposes of this Act.

(2) Where the sum payable under any such contract exceeds twenty-five thousand rupees, the Board shall enter into the contract only with the assent of the ^{State} ^{Government]}.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

of
cutting
contract.

94. Subject to such restrictions or conditions as the Board may determine, every contract for and on behalf of the Board shall be executed by the Chairman or Vice-Chairman in such manner and form as if such contract were on his own behalf.

power to
compound
comprom-
ise claims.

95. The Board may compound or compromise any claim or demand arising out of any contract entered into by the Board or any action or suit instituted by or against the Board.

CHAPTER X.

PILOTS AND HARBOUR-MASTERS.

stage fees.

96. The Board shall have the right and privilege of maintaining pilots or harbour-masters for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board.

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97. No person shall be appointed as pilot or harbour-master who is not for the time being authorized by the ¹[State Government] under the provisions of the Indian Ports Act, 1908, to pilot vessels.

Central
Act XV
of 1908.

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lations
ding

98. (1) Notwithstanding anything contained in sections 24, 25 and 27, the Board may make special regulations for regulating the behaviour and conduct of pilots or harbour-masters, and may provide that any breach thereof shall render the person committing it liable to a penalty not exceeding two hundred rupees in addition to such punishment in the form of suspension, dismissal or the like as the Board may deem expedient to inflict.

(2) Such regulations shall have no effect until they have been approved by the ¹[State Government] and published in the ²[Official Gazette].

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

99. In the accounts of the Board, a pilotage account shall be kept separate from the general account. All fees for pilotage and all fines and penalties levied under this Act from pilots or harbour-masters or other persons employed in the pilot service ¹[other than fines and penalties imposed by a Court], shall be credited to the pilotage account. Pilotage account.

100. All sums credited to the pilotage account under section 99 may be applied, in such proportions as the Board may from time to time direct, to the following purposes only, namely :— Expenditure on pilotage.

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board may deem it necessary to maintain or supply for the efficiency of the pilot service ;

(2) the payment of the salaries and allowances of pilots or harbour-masters and other officers and servants of the Board employed in the pilot service or in the supervision thereof ;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots or harbour-masters and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any provident fund ;

(4) the payment of pensions, gratuities, and compassionate allowances granted by the Board to pilots or harbour-masters and other officers and servants engaged in the pilot service, who have been injured in the execution of their duty and to the surviving relatives of pilots or harbour-masters, officers and servants so engaged, who may die in the service of the Board.

¹ These words were inserted by the Adaptation Order of 1937.

CHAPTER XI.

BY-LAWS.

101. The Board may, from time to time, make by-laws not inconsistent with the provisions of this Act or of the Indian Ports Act, 1908—

(1) for the guidance of persons employed by the Board under this Act ;

Central
Act XV
of 1908.

(2) for the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, railways, tramways and other works constructed by or vested in the Board under this Act ;

(3) for the use of the public landing places constructed by or vested in the Board ;

(4) for the reception, portorage, storage and removal of goods brought within the premises of the Board and for the exclusive conduct of these operations by the Board or persons employed by the Board ;

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

(6) for the mode of the payment of the rates leviable under this Act ;

(7) for regulating, declaring and defining the docks, wharves, quays, jetties, stages, and piers vested in the Board on which goods shall be landed from vessels and shipped on board vessels ;

(8) for regulating the lighterage of cargo between ships, or between ships and shore or between shore and ships ;

(9) for the exclusion from its premises of disorderly or other undesirable persons and of trespassers ; and

(10) generally for carrying out the purposes of this Act.

102. No by-law, or alteration or revocation of a by-law, shall have effect until the same has been published in three successive issues of the ¹[Official Gazette] and one issue of the *Tinnevelly District Gazette* and has been approved by the ²[State Government].

Validity of by-laws.

103. The Board may provide that a breach of any by-law shall be punishable with fine which may extend to one hundred rupees and in case of a continuing breach with fine which may extend to fifty rupees for every day during which the breach continues after conviction for the first breach.

Penalties for infringement of by-laws.

104. The Board shall cause the said by-laws and the scales of rates leviable by the Board together with a statement of the conditions under which it is prepared to render services or to provide for services to be rendered to be hung up at the several wharves, docks and piers and other convenient places on the premises of the Board.

Exhibition of by-laws and scales of rates and charges.

105. The ²[State Government] may, by an order published in the ¹[Official Gazette] and the *Tinnevelly District Gazette* at any time, annul any such by-law.

Cancellation of by-laws.

CHAPTER XII.

PENALTIES.

106. Any person who, being a Trustee or an officer or servant of the Board, shall, in any case not covered by clause (e) of sub-section (1) of section 8, 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 an offence punishable under section 168 of the Indian Penal Code.

Penalty for being interested in contracts with Board.

Central Act XLV of 1860.

¹ These words were substituted for the words "*Fort St. George Gazette*" by paragraph 4 (1) of the Government of India (Amendment of Indian Laws) Order, 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Amendment Order of 1937 and the word "State" was substituted for "Provincial" by the Amendment Order of 1950.

Penalty for obtaining illegal gratification.

107. Any officer or servant of the Board, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do, any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person; or for rendering or attempting to render any service or disservice to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

Central Act XLV of 1860.

Central Act XLV of 1860.

Penalty for refusing or neglecting to appear before an auditor of accounts, etc.

108. Any person who, when duly required so to do by any auditor of accounts under section 85, shall refuse or neglect to appear before such auditor or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to answer any question or prepare and submit any statement, shall be punishable for every such neglect or refusal with fine which may extend to one hundred rupees.

Penalty for infringement of section 34, 35 or 37.

109. Whoever infringes any order issued under section 34 or 35 or violates any condition imposed under section 37 shall be punished with fine which may extend from ten to one hundred rupees; if the infringement or violation be continuing with a further fine which may extend to one hundred rupees for every day during which such infringement or violation continues.

Penalty for depositing filth, etc., on the wharves or foreshore.

110. Any person who without licence of competent authority wilfully deposits, or permits his servants to deposit any dust, dirt, dung, ashes, refuse or filth of any kind, or broken glass, earthenware, or rubbish, in or upon any wharf, dock or pier in the possession of the Board, or in or upon any part of the foreshore of the port shall be punishable with fine which may extend to ten rupees for each offence.

111. (1) Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of the ¹[State Government] to his so doing, make, set up or fix, within the limits of the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punishable 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.

Penalty for setting up wharves, quays, etc., without permission.

(2) Any such wharf, quay, pier, mooring or other erection within the limits of the port may be removed by the Board and the person who made, set up, or fixed the same, shall be liable to pay all expenses which may be incurred by the Board in the removal thereof. Such expenses shall, on the application of the Board, be recoverable under a Magistrate's warrant as if the amount were a fine inflicted by such Magistrate.

112. 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 weight, quantity or description of such goods has been understated or incorrectly given in any document presented to any officer of the Board for the purpose of enabling him to determine the rates payable in respect of the said goods, the owner of such goods shall be liable to pay to the Board such sum not exceeding twice the proper rates on the whole weight or quantity of the consignment of goods so understated or incorrectly described, as may be determined by the Board and the said sum shall, on the application of the Board, be recoverable under a Magistrate's warrant as if it were a fine inflicted by such Magistrate.

Penalty for understating quantity or weight of goods, or incorrectly describing them.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Penalty for
evading
rates, etc.

113. Any person who removes or attempts to remove, or abets the removal of, any vessel or goods, with the intention of evading payment of the rates lawfully due in respect thereof to the Board, shall be punishable with fine which may extend to fifty rupees.

Recovery of
value of
damage to
property of
Board.

114. 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 Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel : Provided that no Magistrate shall issue such a warrant until the master of the vessel has been summoned to appear before him and, 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 servant of the Board or officer in the pilot service of the port unless the damage caused was in no way attributable to the order, act or improper omission of such servant or officer.

Cognizance
of offences
against Act
or by-laws.

115. Save as otherwise provided, no Magistrate other than a *Magistrate of the first or second class shall try any offence against this Act or against any by-law published under section 102.

* According to clauses (a) and (b) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), which came into force on the 1st April 1974, any reference to a magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Magistrate of the second class or of the third class shall be construed as a reference to a Judicial Magistrate of the second class.

CHAPTER XIII

MISCELLANEOUS.

116. Nothing in this Act shall affect any power vested in the Chief Officer of Customs under any law for the time being in force.

Saving of power of Customs Collector under existing law.

117. 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 until the expiration of one month after notice in writing has been given to him stating the cause of action or after the expiration of six months from the date on which the cause of action for such suit or proceeding arose.

Limitation of proceedings in respect of things done under the Act.

118. (1) The Board shall not be liable for any act or default of any officer or servant appointed under this Act, or under the Indian Ports Act, 1908, if the Board be appointed by Government under the Indian Ports Act to be Conservator of the Port, or of any person acting under the authority or direction of any such officer unless such act or default is done or made under the direction of the Board;

Saving of liability of Board for acts of officers or servants

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 ;

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

(2) Notwithstanding anything contained in subsection (1), the Board may, in any special case, with the sanction of the ¹[State Government], award compensation to any person for any act done, default made or damage caused by the Board or any of its employees.

¹ The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for the word " Provincial " by the Adaptation Order of 1950.

Power of
State Gov-
ernment
to make
rules under
the Act.

119. (1) The ¹[State Government] may make rules to carry out the purposes of this Act.

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

(a) the qualifications of persons to be elected as Trustees of the Board ;

(b) the salary and allowances to be paid to the Chairman, Vice-Chairman and persons appointed to act during their absence on leave and the conditions and restrictions upon and under which the same are payable ;

(c) the fees payable to the Chairman, Vice-Chairman and other Trustees of the Board for attendance at meetings and the conditions and restrictions upon and under which such fees are payable ;

(d) the enquiry into and decision of objections referred to in section 19 ;

(e) the conditions subject to which the Board may relinquish the performance of any of the services specified in clauses (a) and (b) of sub-section (1) of section 40 or enter into any agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 41 ;

(f) the form of the receipt to be given under sub-section (3) of section 40 by the Board, or under sub-section (1) of section 43 by a person to whom any services have been relinquished ; and

(g) the form of annual estimates of income and expenditure to be laid before the Board under section 88.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

(3) The power to make rules under this section is subject to the following conditions :—

(a) a draft of the rules shall be published in the ¹[Official Gazette] and the *Tinnevely District Gazette* ;

(b) such draft shall not be further proceeded with until one month after such publication ;

(c) all rules made under this section shall be published in the ¹[Official Gazette] and the *Tinnevely District Gazette*, and upon such publication shall have effect as if enacted in this Act.

120. The Chairman shall supply such returns and information as may be called for by the ²[State Government] for the purposes of this Act.

Submission of returns and information to State Government.

121. If, at any time, it appears to the ²[State Government] that the works intended to be executed by the Board under this Act have not been, and are not likely to be properly carried out or maintained by the Board, the ²[State Government] may give six months' notice, by order published in the ¹[Official Gazette], that unless, within that period, the Board take measures to the satisfaction of the ²[State Government] for the carrying out or maintenance of the said works the powers by this Act conferred on the Board shall, at the end of such period, be withdrawn or revoked. If, at the end of such period, the Board has not taken such measures, the ²[State Government], may assume possession and management of the works already constructed, and may, by a like notification, declare the powers of the Board to be withdrawn or revoked and upon publication of such notification, all immovable and movable property,

Power of State Government to take possession of works and cancel of powers of Board.

¹ These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

all rights of levying and recovering rates and penalties, all benefit of contracts, and all rights of suit which at the time are vested in the Board shall be transferred to, and vested in the ¹[State Government]; and the rights of all creditors of the Board under this Act shall continue as against the ²[State Government] to the extent of the property so transferred to and vested in ³[them].

SCHEDULE I.

(See section 29.)

The properties vested in the Board.

1. All that piece or parcel of land between the Imperial Bank of India buildings to the south and the beach opposite to Messrs. Ralli Brothers' buildings to the north enclosed by fencing, with the buildings, structures and appliances thereon excepting the covered goods shed, combustible shed and passengers baggage shed belonging to the Customs Department and the plague disinfection shed of the Port Health Department.

2. Resurvey Nos. 392/2 and 392/3 of Tuticorin village, comprising an area of 128.43 acres.

3. Resurvey No. 394 of Tuticorin village, comprising an area of 105.59 acres.

4. Resurvey Nos. 347 to 369 and 790 of Mulla-kad village, comprising an area of 949.26 acres.

¹ These words were substituted by the Adaptation (Amendment) Order of 1950 for the words "Crown for the purposes of the Province" as substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937.

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ This word was substituted by the Adaptation (Amendment) Order of 1950 for the word "it" as substituted for the word "him" by the Adaptation Order of 1937.

5. Old Survey No. 393 of Tuticorin village, comprising an area of 0.30 acre.

6. All the unsurveyed and swampy land between Resurvey Nos. 349, 350, 354, 355, 790 and 369 of Mullakad village and the sea.

7. All the unsurveyed and swampy land south of the Travellers' bungalow, east of Kuthalalingam Chettiyar's salt factory and north of the Uppar Odai mouth.

8. All the unsurveyed and swampy land lying to the south of the Uppar Odai and east of Milavittan village.

¹[TAMIL NADU] ACT No. XXXII OF 1949 ².

[THE TUTICORIN PORT TRUST (AMENDMENT) ACT, 1949.]

(Received the assent of the Governor on the 20th December 1949; first published in the Fort St. George Gazette on the 27th December 1949.)

An Act further to amend the Tuticorin Port Trust Act, 1924.

WHEREAS it is expedient further to amend the Tuticorin Port Trust Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows:— ³[Tamil Nadu] Act II 1924.

Short title and commencement. 1. (1) This Act may be called the Tuticorin Port Trust (Amendment) Act, 1949.

(2) It shall come into force on such ⁴date as the ⁵[State] Government may, by notification in the ⁶Fort St. George Gazette, appoint.

⁷2-4. [* * *]

Continuance in office of existing Trustees. 5. Notwithstanding anything contained in this Act or in the said Act as amended by this Act—

(a) every Trustee holding office at the commencement of this Act shall, subject to the provisions of sections 8 and 15 of the said Act, be entitled to continue as a Trustee for the remainder of his term of office;

(b) every acting trustee holding office as such at the commencement of this Act under section 15, sub-section (1) of the said Act, shall, subject to the provisions of sections

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated the 16th August 1949, Part IV-A, page 353.

³ Came into force on the 5th January 1950.

⁴ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁵ Repealed by Tamil Nadu Act XXXVI of 1955.

⁶ * Now the *Tamil Nadu Government Gazette*.

8 and 15 of the said Act, be entitled to continue as an acting trustee for the period specified in the said section 15, sub-section (1) ;

(c) any person who is an absent Trustee at the commencement of this Act shall be entitled to resume his office as Trustee under the said Act in accordance with the provisions of section 15, sub-section (1) thereof.

6. (1) Each of the bodies referred to in items (iv) to (vi) of section 6, sub-section (2) (a) of the said Act as amended by this Act, shall elect a trustee in the manner provided in that sub-section within one month of the commencement of this Act. First election and appointment of certain Trustees.

(2) If any such body does not elect a Trustee within the period aforesaid, the ¹[State] Government may appoint any person they think fit to be a trustee ; and such person shall be deemed to be a Trustee elected by such body.

(3) For the purpose of appointing the first trustee under section 6, sub-section (3) of the said Act as amended by this Act, the provisions of section 12, sub-section (2) of the said Act as amended by this Act shall apply as if a vacancy in the office of the trustee had occurred at the commencement of this Act.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.