STATE OF SABAH

SABAH PORTS AUTHORITY ENACTMENT 1981

(Sabah No. 17 of 1981)

LIST OF AMENDMENTS

Enactment No.	*Sections amended*	*Effective date of amendment*
8/1984	27 (1), (b), (dd), (2)	24-5-1984
2/1987	82, 83	16-4-1987
4/1988	Pt. VIIA	25-8-1988
2/1990	27 (1), (2) *(g)*, (3), 27A, 84A	1-12-1981
5/2005	5 (1) *(c)*, (i)	9-2-2006
8/2019	5	19-12-2019
8/2026	2	3-12-2025

(No. 17 of 1981)

An Enactment to repeal and re-enact the law relating to the establishment of a Sabah Ports Authority and to provide for matters incidental thereto and connected therewith so as to make better provisions respecting the constitution, administration, procedure, functions and finance of the Sabah Ports Authority.

[1st *December* 1981]

ENACTED by the Legislature of the State of Sabah as follows:

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PART I

PRELIMINARY

Short title and commencement.

1. (1) This Enactment may be cited as the Sabah Ports Authority Enactment 1981 and shall come into operation on such date as the Minister may, by notice in the *Gazette,*[*] appoint.

(2) The Minister may appoint different dates for the coming into operation of different parts or provisions of the Enactment.

Interpretation.

2. In this Enactment, unless the context otherwise requires –

"approaches to a port" means any area so declared under section 3 of this Enactment;

"Authority" means the Sabah Ports Authority constituted under section 4;

"Chairman" means Chairman of the Authority;

"charges" means any charges, toll or rent levied or leviable by the Authority under this Enactment but does not include port dues;

"Deputy Chairman" means Deputy Chairman of the Authority;

"dock" includes a dry dock and the entrances thereto, graving dock, gridiron, slip, keel block, inclined planes, and all machinery, works, fixtures and things whatsoever attached or pertaining thereto;

"functions" includes powers and duties;

[*] In force 1st December 1981 – See G.N. 845/82.

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"General Manager" means the General Manager appointed under section 21 of the Enactment and includes any person for the time being so appointed to perform the duties of the General Manager;

"goods" includes animals, carcasses, baggage and any movable property of any kind whatsoever;

"harbour craft" means any vessel which plies within a port for any purpose of trade or business;

"master" includes every person, other than a pilot, having command or charge of any vessel;

"member" means a member of the Authority including the Chairman and Deputy Chairman;

"Minister" means the Minister for the time being charged with responsibility for matters relating to ports;

"owner" when used in relation to goods, includes any consignor, consignee, shipper or agent of the owner for sale, custody, loading, handling, discharge or delivery of such goods; and when used in relation to any vessel, includes any port-owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of any such person;

"port" means any place declared to be a port under section 3 of this Enactment;

"port dues" means any port dues levied under the provisions of section 40 or 41 of this Enactment;

"vessel" includes any ship or boat or other vessel used in navigation;

"wharf" includes a quay, pier, jetty or other landing place.

Declaration of ports, etc..

3. (1) The Minister may, after consultation with the Authority, by notice in the *Gazette* –

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(a) declare any area in Sabah to be a port for the purposes of this Enactment;

(b) declare any area in Sabah adjacent to a port to be the approaches to such port.

(2) Every declaration under this section shall define the limits of the port or of the approaches to the port as the case may be.

PART II

ESTABLISHMENT AND CONSTITUTION OF AUTHORITY

Establishment of Authority.

4. (1) As from the commencement of this Enactment there shall be constituted the Sabah Ports Authority which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with power to purchase or otherwise acquire, hold, and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

(2) The Authority shall have a common seal which shall bear such device as the Authority may approve and such seal may from time to time be broken, changed, altered and made anew by the Authority, as the Authority may think fit.

(3) Until a common seal is provided under subsection (2), a stamp bearing the inscription "The Sabah Ports Authority" may be used as the common seal of the Authority.

Composition of Authority.

5. (1) The Authority shall consist of the following members-

(a) a Chairman;

(b) a Deputy Chairman;

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(c) seven other members, of whom –

(i) five shall be persons who, by reason of their knowledge of or experience or interest in shipping and related matters, are considered by the Minister to be fit and proper persons to be appointed;

(ii) two shall be officers in the public service of the State; and

(d) the person for the time being holding the office of the General Manager:

Provided that the General Manager shall not be entitled to vote at the meeting of the Authority.

(2) The members as specified in paragraphs *(a)*, *(b)* and *(c)* of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) A member who is an officer in the public service of the State may by instrument in writing addressed to the Chairman appoint another officer in the public service of the State as an alternate member who may attend on his behalf any meeting of the Authority which such member is for any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Authority.

(4) Subject to the provisions of section 8 of this Enactment, a member other than the General Manager, shall hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

Resignation and removal.

6. (1) A member other than the General Manager, may at any time resign his office by giving notice in writing to the Chairman.

(2) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri if he thinks it expedient to do so.

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Disqualification from membership.

7. The following persons shall be disqualified from being appointed as, or if appointed remaining a member –

(a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;

(b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;

(c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and

(d) a bankrupt.

Vacation of office.

8. The office of a member other than the General Manager, shall become vacant –

(a) on his death;

(b) if he is absent from three consecutive meetings of the Authority without the special leave of the Chairman or leave of absence granted under this Enactment and the Authority passes a resolution declaring his office vacant;

(c) if he resigns his office;

(d) if he becomes disqualified for membership under section 7 of this Enactment;

(e) if his appointment is revoked by the Yang di-Pertua Negeri.

Leave of absence.

9. The Minister may grant to any member such leave of absence as the Minister may deem fit.

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Casual vacancies and temporary membership.

10. (1) If the office of a member other than the General Manager becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.

(2) Where any member is prevented by illness, absence from the State or other like cause from performing his duties as a member the Yang di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

Remuneration of members of Authority.

11. There shall be paid to the members, or to such of them as the Minister may determine, such salaries, fees and allowances out of the funds of the Authority as the Minister may from time to time approve.

PART III

PROCEDURE OF AUTHORITY

Meetings.

12. (1) The Authority shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Authority be held for any purpose specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

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Procedure of meetings.

13. (1) The quorum necessary for the transaction of the business of the Authority shall be five.

(2) In the absence of the Chairman from any meeting of the Authority, the Deputy Chairman shall preside thereat and, in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside thereat.

(3) Questions arising at any meeting of the Authority shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meeting shall have a second or casting vote.

(4) Subject to the provisions of this Part, the Authority shall have power to make standing orders to regulate its own proceedings.

Members interested not to vote.

14. (1) Any member who has or acquires, directly or indirectly by himself, his partner or agent –

(a) any share or interest in any contract made with or work done for the Authority or in any company or with any person or in respect of any undertaking with which the Authority proposes to contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Authority or which he knows to be affected or to be likely to be affected by any project, scheme or enterprise approved or proposed to be approved by the Authority,

shall, before taking part in any proceedings at a meeting of the Authority, relating to or affecting directly or indirectly any such contract or land, inform the person presiding at such meeting of the nature and extent of such share or interest, and such information shall be recorded in the minutes of such meeting, and such member shall not vote upon any resolution or question relating thereto, or to matters incidental thereto and if the person presiding at the meeting so requests, such member shall withdraw from the meeting during such deliberation or decision:

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Provided that no member shall be deemed to have or acquire any share or interest in a contract with the Authority by reason only that he has or acquires a share in any loan issued by the Authority or in any security for the same:

Provided further that for the purpose of determining whether there is a quorum a member who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he cannot vote or has withdrawn.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit and imprisonment for six months.

Power to appoint committee.

15. (1) Subject to the provisions of this Enactment, the Authority may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as maybe necessary for the effective carrying out of its functions but shall be subject to the general directions of the Authority.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Authority.

(5) Members of a committee may be paid such remuneration or allowance as the Authority may, with the approval of the Minister, determine.

Meetings of a committee.

16. (1) In the absence of the Chairman of a committee from any meeting of the committee such other member of the committee as may be elected by the members present shall preside over the meeting.

(2) The quorum for the meeting of a committee shall be three.

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(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, and in case of an equality of votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meetings any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Authority, a committee shall regulate its own procedure.

Delegation of powers.

17. (1) The Authority may delegate to any committee, member, officer or servant of the Authority, such of its functions, other than the powers to make rules and regulations, and prescribe and levy dues and charges, as it may deem necessary or desirable.

(2) Any functions delegated under this section –

(a) may be so delegated subject to such conditions or restrictions as the Authority may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Authority.

(3) No delegation made under this section shall preclude the Authority itself from exercising or performing at any time any of the functions so delegated.

Power of Chairman to delegate.

18. (1) Subject to the provisions of this Enactment and of any regulations made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Authority the power and authority to carry out on his behalf, such duties, powers or functions as he may determine.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer or servant, or at any time thereafter give directions as

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to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

Execution of documents, etc..

19. (1) The common seal of the Authority shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signatures of such persons and such authentication shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Authority.

(2) All documents, other than those required by law to be under seal, to which the Authority is a party may be signed on behalf of the Authority by the Chairman or any member or by any officer or servant generally or specially authorised in that behalf by the Authority.

Vacancy not to invalidate acts, etc..

20. (1) No act or proceeding of the Authority or any committee thereof shall be questioned on account of any vacancy among the members or on account of the appointment of any member having been defective.

(2) Until the contrary is proved, every meeting of the Authority or of any committee thereof shall be deemed to have been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

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PART IV

ADMINISTRATION

Appointment of General Manager, officers and servants.

21. (1) Subject to section 22, the Authority shall appoint a General Manager with the approval of the Minister, and such other officers and servants as may be necessary for carrying out its functions and duties under the Enactment.

(2) Whenever the General Manager is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of General Manager is vacant, the Authority may appoint one of its officers to perform the duties of General Manager during such period as the General Manager is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Government, the General Manager and other officers and servants of the Authority shall be engaged on such terms and conditions as the Authority may think fit.

Restriction on alteration in establishment.

22. The Authority shall not, without the approval of the Government, make any addition to its established posts.

General Manager as chief executive officer.

23. (1) The General Manager shall be the chief executive officer responsible to the Authority and shall perform such duties and exercise such powers as may be determined or delegated by the Authority.

(2) Subject to the directions and control of the Authority, all officers and servants of the Authority shall be under the administrative control of the General Manager.

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Officer or servant not to be interested in contracts.

24. (1) No person shall be eligible for employment as an officer or servant of the Authority who has, directly or indirectly, by himself or his partner, any share or interest in any contract with or on behalf of the Authority.

(2) Any officer or servant of the Authority who has or acquires any such share or interest shall be liable in the discretion of the Authority to summary dismissal without notice.

(3) No officer or servant shall be deemed to have or acquire any such share or interest by reason only that –

(a) he is or becomes a member of an incorporated company which owns land situated in Sabah or has a contract with or executes work for the Authority; or

(b) he has or acquires a share in any loan, issued by the Authority or in any security for the same.

PART V

FUNCTIONS OF THE AUTHORITY

Duties of Authority.

25. In addition to any other duties imposed upon the Authority by this or any other written law, it shall be the duty of the Authority in respect of every port –

(a) to provide and maintain adequate and efficient port services and facilities;

(b) to co-ordinate all activities of or within such port;

(c) to promote the use, improvement and development of the port;

(d) to execute such works as may be necessary in respect of the foregoing provisions of this section.

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General powers of A**uthority.**

26. (1) Subject to the provisions of this Enactment, the Authority shall, for the purpose of carrying out the duties imposed upon it, have power –

(a) to appoint and employ such persons as it may deem requisite, and fix the terms and conditions of their appointments;

(b) to pay any person in its employ remuneration according to the conditions of his appointments;

(c) to establish, control, manage and maintain, or contribute to, any pension scheme or provident fund approved by the Minister of Finance for the benefit of its staff or the dependants of deceased members of such staff;

(d) to authorise any department of the Government of the Federation or the State or any person or organisation, and to employ any agent, to carry out any work or perform any act in furtherance of the objects of this Enactment which the Authority is competent to perform and which is approved by the Authority;

(e) to appoint such technical advisers as it may deem necessary and to permit such advisers to attend at any meeting of the Authority:

Provided that such advisers shall not vote at any such meeting;

(f) to carry on the businesses of builders and repairers of vessels and machinery, shipbreaking, carriers of passengers or goods by land or sea, stevedores, wharfingers warehouseman, lightermen, dealers in oil or other kinds of fuel, dealers in stores connected with or required in any of the above-mentioned business whether carried on by the Authority or not, and to carry on any other business whatsoever which, in the opinion of the Authority, is desirable for the purposes of the Authority;

(g) to provide services within the limits of any port or the approaches to any port –

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(i) in berthing, towing, mooring, moving slipping or docking any vessel;

(ii) in loading or discharging goods and embarking or disembarking passengers in or from any vessel;

(iii) in sorting, weighing, measuring, storing, warehousing or otherwise handling any goods;

(iv) in providing lighterage;

(h) to appoint, license and regulate weighers and measurers of goods within a port;

(i) to acquire any undertaking providing or intending to provide any services or facilities which the Authority is competent to provide;

(j) to supply fuel or water to vessels;

(k) to provide and use vessels and appliances for the purpose of rendering assistance to any vessel or recovering property lost, sunk or stranded;

(l) to provide such fire services, both within the limits of a port and on the high seas, as may be deemed necessary by the Authority for the purpose of extinguishing fires on land, sea or afloat and of preserving life and property;

(m) to control the erection and use of wharves, docks and any other works, whether above or below high water mark, within the limits of a port or the approaches to a port;

(n) to reclaim, excavate, enclose or raise any part of the land vested in the Authority;

(o) to do anything for the purpose of –

(i) improving the skill of employees of the Authority;

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(ii) improving the efficiency of the equipment of the Authority and the manner in which such equipment is operated;

(iii) the provision by the Authority, and the assisting of the provision by others, of facilities for training, education and research;

(p) to provide houses, hostels and other like accommodation including convalescent or holiday homes, club houses and playing fields for employees of the Authority;

(q) to make and guarantee loans to employees of the Authority for such purposes as the Authority may approve;

(r) to promote generally the welfare of employees of the Authority;

(s) to carry on any other activity which appears to the Authority to be necessary, advantageous or convenient for or in connection with the discharge of its duties.

(2) The powers conferred by subsection (1) of this section shall be in addition to and not in derogation of any other powers conferred upon the Authority by this Enactment or any other written law.

PART VI

FINANCIAL PROVISIONS

Fund of the Authority.

27. (1) There shall be established a Fund to be known as the "Sabah Ports Authority Fund" which shall consist of –

(a) such sums as may from time to time be provided by the State Legislative Assembly out of the general revenues of the State of Sabah or donated by the Government of Sabah, or the Government of Malaysia or of any other State thereof or by any other institution or person for the purposes of the Authority;

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(b) such sums as may from time to time be raised by the Authority by loan or by the issue of shares or stock;

(c) all charges and port dues as may be collected under the provisions of this Enactment;

(d) all rents and proceeds of sale profits and income and other funds derived by the Authority directly or indirectly from the property belonging to the Authority;

(dd) monies earned or arising from any property, investments, mortgages, charges or debentures acquired by or vested in the Authority;

(e) all such other sums as may from time to time be paid to the Authority.

(2) The Fund may be applied in defraying the following charges –

(a) the salaries, fees, allowances, remuneration, pensions, gratuities and other superannuation benefits of members, employees, agents, auditor and technical and other advisors of the Authority;

(b) the interest due on any charge, mortgage, debenture or debenture stock made or issued by, and on any advance or loan made to or raised by the Authority;

(c) the sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of any charge, mortgage, debenture or debenture stock, or for the repayment of advances and loans;

(d) the working and establishment expenses of, the expenditure on, or the provision for the maintenance of, any of the installations of the Authority, and the discharge of the functions of the Authority, properly chargeable to revenue account;

(e) such sums as the Authority may deem appropriate to set aside in respect of depreciation or renewal of the property of the Authority;

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(f) the cost, or any portion thereof, of acquiring land, or of new works, plant, vessels or appliances not being a renewal of property of the Authority, which the Authority may determine to charge to revenue;

(g) any other expenditure authorised by the Authority and properly chargeable to revenue.

(3) The balance of the revenue of the Authority may be applied to the payment of such dividend on shares and stock issued by the Authority as the financial position of the Authority appears, in the opinion of the Authority, to warrant such payment.

Power to issue shares.

27A. The Authority may, from time to time, raise capital by the issue of shares or stock of such class and value and upon such terms as it may deem expedient.

General duties and powers of the Authority in financial matters.

28. It shall be the duty of the Authority so to exercise and perform its functions under this Enactment as to secure that the total revenues of the Authority are sufficient to meet its total outgoings properly chargeable to revenue account, including depreciation and interest on capital, taking one year with another.

Investment of funds.

29. The Authority may, from time to time, invest any of its funds, not immediately required to be expended in the meeting of the obligations or in the discharge of the functions of the Authority in securities authorised for the investment of trust funds by any written law for the time being in force and may place the same on deposit in any bank or banks licensed under the provisions of the Banking and Financial Institutions Act 1989* *[Act 372.]* or, in any undertaking as may be approved by the Minister of Finance.

* "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

Borrowing powers.

30. (1) The Authority may, from time to time, with the approval of the Minister of Finance, borrow money by the issue of debenture stock or otherwise as the Minister of Finance may direct for the purposes of this Enactment.

(2) The Authority may, from time to time, for the purpose of this Enactment, raise loans from the Government, or with the consent of the Minister of Finance, borrow by way of a temporary loan or overdraft from a bank licensed under the provisions of the Banking and Financial Institutions Act 1989* *[Act 372.]* or otherwise.

Loans may be secured by mortgage.

31. The Authority may secure the repayment of any sum borrowed, by the mortgage or charge, legal or equitable, of any property vested in the Authority, or of any revenue receivable by the Authority under this Enactment or any other written law.

Power to make loans.

32. (1) Subject to such conditions as the Minister may deem fit to impose in particular cases, the Authority may, out of the Fund make loans in accordance with the provisions of this Enactment in that behalf, in the execution of its duties or in the discharge of its functions under section 25.

(2) In making loans under the provisions of subsection (1) the Authority may charge such rate of interest as it may deem fit in any particular case.

(3) Every loan shall be repaid to the Authority in accordance with the terms and conditions under which such loan was made and the moneys so paid shall thereupon be taken into the accounts of the Authority.

(4) Every mortgage to secure loan and every instrument or charge under the provisions of this Enactment shall be approved by the Authority, and all costs, charges and expenses incurred in connection therewith shall be paid by the person to whom the loan is made.

* "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

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Powers to guarantee loans.

33. The Authority may, with the written approval of the Yang di-Pertua Negeri, guarantee any loans made by any bank or financial institution to any applicant approved by the Authority for any purpose for which the Authority might itself have granted such loan.

Annual estimates.

34. (1) The Authority shall before the commencement of each financial year cause to be prepared and shall adopt annual estimates of income and expenditure of the Authority for the ensuing year.

(2) Supplementary estimates may be adopted by the Authority at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Authority, be sent forthwith to the Minister for his approval.

(4) No expenditure shall be incurred by the Authority which has not been included in annual estimates or supplementary estimates adopted by the Authority and approved by the Minister.

Accounts.

35. (1) The Authority shall cause-

(a) proper accounts and other records in relation thereto to be kept; and

(b) an annual statement of accounts to be prepared.

(2) The annual statement of accounts of the Authority shall present a true and fair view of the financial position of the Authority, and of the results of the operations of the Authority for the year to which it relates.

(3) The financial year of the Authority shall be the period commencing on the 1st day of January and ending on the 31st day of December in each year.

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Audit and statement of accounts.

36. (1) The accounts of the Authority shall be audited by the Auditor-General.

(2) The Authority shall not later than the 31st day of July of each year submit the accounts of the Authority for the preceding financial year to the Auditor-General for the purpose of audit.

(3) The Authority shall, when required by the Auditor-General, produce and lay before him all books and accounts of the Fund concerned, together with all vouchers in support thereof, and relating thereto, and the Auditor-General shall be entitled to require from the Authority, or any member, officer, servant, or agent of the Authority such information and explanation as he may deem necessary for the performance of his duties as an auditor.

(4) After the end of each financial year, as soon as the accounts of the Authority have been audited, the Authority shall cause a copy of the statement of accounts, together with a copy of any report made by the Auditor-General on that statement on the accounts of the Authority, to be sent to the Minister who shall lay the same before the Legislative Assembly and cause a copy thereof to be published in the *Gazette.*

Annual report.

37. The Authority shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Authority during such year, and the Minister shall cause a copy of such report to be laid before the Legislative Assembly.

Bank account.

38. (1) All moneys paid to the Authority shall be paid into an account in such bank or banks licensed under the provisions of the Banking and Financial Institutions Act 1989* *[Act 372.]* as may be approved by the Authority.

* "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

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(2) All orders against the said account shall be signed by the General Manager and countersigned by another officer of the Authority authorised in writing in that behalf by the Authority.

When tenders to be called.

39. Tenders for the executions of any work or duty, or for the supply of any materials or for other things necessary for the purposes of the Authority whereby the expenditure of the Authority is involved shall be called in such cases and in such manner as the Government may generally or in any particular case direct.

PART VII

DUES AND CHARGES

Dues payable in respect of vessels.

40. (1) Subject to the provisions of this Enactment, the master or owner of every vessel, other than a vessel exempted under the provisions of subsection (2) of this section, which enters a port or the approaches to a port shall pay to the Authority port dues according to such scale as may be prescribed.

(2) There shall be exempted from port dues under this section –

(a) any harbour craft required to pay port dues under the provisions of section 41 of this Enactment;

(b) any vessel discharging cargo or disembarking passengers solely for the purpose of effecting repairs or of determining whether such repairs are necessary, whether or not such cargo is loaded or such passengers are re-embarked; and

(c) any vessel or harbour craft belonging to the Government of Malaysia or to the Government of any of the States of Malaysia or to any Commonwealth or foreign government, other than such vessel loading, or discharging cargo or embarking or disembarking passengers carried for freight or fares.

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Dues payable in respect of harbour craft.

41. The master or owner of every harbour craft shall pay to the Authority annual port dues according to such scale as may be prescribed.

Remission of dues.

42. The Authority may, if it thinks fit, remit the whole of any part of any port dues.

Levy of charges.

43. (1) Subject to the provisions of this Enactment, the Authority may levy such charges at such rates as may be prescribed for the use of premises, works or appliances belonging to, and for services or facilities provided by the Authority, and without prejudice to the generality of the foregoing for any of the following purposes –

(a) the landing, shipping, wharfage, lighterage, cranage, storage or carriage of goods;

(b) the carriage of passengers;

(c) the use by any vessel or person of any premises, wharf, pier or dock under the control of the Authority;

(d) the use of any gear, tackle, instruments, tools, utensils, staging or materials supplied by the Authority for the purpose of any vessel using or any person working in any premises, wharf, pier or dock under the control of the Authority;

(e) the use of any vessel or engine belonging to or maintained by the Authority for the extinction of fire;

(f) the towing of, and rendering assistance to any vessel being within or without a port under the control of the Authority;

(g) the supplying of water, fuel, electricity and other forms of energy by the Authority.

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(2) The Authority may, instead of levying the charges prescribed, enter into a special agreement with any person in respect of any of the matters specified in subsection (1) of this section.

(3) The Authority may levy such charges as may be prescribed in respect of any cargo shipped or discharged within a port or the approaches to a port otherwise than over any wharf belonging to the Authority.

(4) The Authority may, if it thinks fit, remit the whole or any part of any charges leviable under this Enactment.

Power of entry into vessel.

44. Any duly authorised representative of the Authority may enter into any vessel within the limits of any port or the approaches to any port in order to ascertain the amount of port dues and charges payable in respect of the vessel.

Payment of charges.

45. (1) Charges in respect of goods to be landed shall become payable immediately on the landing of goods.

(2) Charges in respect of goods to be shipped shall be payable before such goods are shipped.

(3) Charges in respect of goods to be removed from the premises of the Authority shall be payable before such goods are removed.

Power to all goods.

46. (1) Subject to the provisions of this section, if any goods which have been placed in or on the premises of the Authority are not removed therefrom within a period of twenty-one days from the time when the goods were placed in or on such premises, the Authority may, at the expiration of the said period of twenty-one days, sell by public auction all or any of such goods:

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Provided that –

(a) in the case of goods for which a through bill of lading has been issued there shall be substituted a period of forty-two days for the period of twenty-one days referred to in this subsection; and

(b) if the goods are of a perishable nature the Authority may direct their removal within such shorter period not being less than twenty-four hours after the landing thereof, as the Authority may think fit, and if not so removed, the Authority may sell, by public auction or otherwise, or dispose of such goods in such manner as it may think fit.

(2) For the purposes of subsection (1) of this section, a sale shall not be rendered invalid by reason only that it takes place in or on premises or in an area to which the public is not admitted except on presentation of a pass.

(3) Before making a sale under this section, the Authority shall give at least three days notice thereof by advertisement in two local newspapers circulating in the State, unless the goods are of so perishable a nature as in the opinion of the Authority, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case requires.

(4) If the address of the owner of the goods or his agent has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Authority, or is otherwise known, and such address is in the State, notice shall also be given to the owner of the goods by letter delivered at such address or sent by post and notice shall in like manner be given to the agent of the discharging vessel.

(5) The proceeds of any sale under this section shall be applied by the Authority as follows and in the following order –

(a) firstly, in payment of any duty owing to the Government of Malaysia or the State;

(b) secondly, in payment of the expenses of the sale;

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(c) thirdly, in payment of the charges and expenses due to the Authority in respect of the goods; and

(d) fourthly, in payment of freight and other claims or liens of which notice has been given under the provisions of any law.

(6) The surplus of the proceeds of sale, if any, after making the payments set forth in subsection (5) of this section, shall be paid to the person entitled thereto on demand, and, in case no such demand is made within one year from the date of the sale of the goods, by paying the surplus to the account of the Authority, whereupon all rights to the same by such person shall be extinguished.

Port clearance to be withheld until dues or rates are paid.

47. If the Authority gives to any public officer whose duty it is to grant the port clearance of any vessel a notice stating that an amount therein specified is due in respect of dues, charges or penalties chargeable under this Enactment or the regulations against such vessel or the owner or master of such vessel, such officer shall not grant such port clearance until the amount so chargeable has been paid or security has been given to the satisfaction of the Authority for the amount thereof.

Remedy by civil proceedings.

48. Notwithstanding anything contained in section 46, 47 and 49, the Authority may recover by civil proceedings any dues, charges, expenses, costs or, in case of sale, the balance thereof when the proceeds of such sale are insufficient.

Time, place and manner of payment of dues and rates.

49. The Authority may determine the times, places and manner at or in which dues and charges shall be paid under this Enactment.

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PART VIIA

LIABILITY OF THE AUTHORITY

Limitation of Authority's liability in other cases.

49A. (1) The Authority shall not where, without its actual fault or privity, any loss or damage, in not being a loss or damage provided for by this Part, is caused to any vessel or vessels, or to any train, vehicle, animals, goods, or other things whatsoever on board any vessel or vessels, be liable to damages beyond an aggregate amount not exceeding in the currency of Malaysia the equivalent of eight pounds sterling for each ton of the tonnage of the vessel.

(2) For the purposes of this Part, the tonnage of vessels shall be ascertained in accordance with the law relating to merchant shipping providing for the ascertaining of tonnage of vessels for the purpose of registration and the register of any vessel shall be sufficient evidence that the gross tonnage and the deduction therefrom and the registered tonnage are as therein stated.

Liability in respect of loading or discharging operations.

49B. The Authority shall not, without its actual fault or privity, be liable to damages –

(i) in respect of personal injury or death caused to any person;

(ii) for loss or damage to any goods, merchandise or other things whatsoever,

where such injury, death, loss or damage is caused to, by or arises out of the operation of loading onto or discharging from a vessel of goods or any work incidental thereto.

Goods deposited for lighterage or shipment.

49C. Any goods, merchandise or other things, deposited with or placed in the custody of the Authority for the purpose of lighterage or shipment shall remain in the custody or control of the Authority at the sole risk and expense of the owner thereof.

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Loss or destruction of or damage to goods other than transhipment goods deposited with the Authority.

49D. (1) The Authority and any person duly authorised by it shall, in respect of any goods other than transhipment goods deposited with or placed in the custody or control of the Authority for the purpose of delivery, be deemed to be the agent of the owner of the vessel discharging such goods irrespective of whatsoever pays or is liable to pay any rates or duties in respect of such goods.

(2) Neither the Authority nor any person duly authorised by it shall, in acting as an agent under the provisions of subsection (1), be liable –

(a) either in damages or in any other respect for any loss caused to any person by reason of short delivery of any goods deposited with or placed in the custody or control of the Authority or any failure by the Authority to deliver or account for the same; or

(b) for damage to, or destruction of, such goods in a sum of more than one thousand ringgit per package or unit unless the nature and value of the goods contained therein have, prior to delivery to the Authority been declared in writing to the Authority by the person delivering or causing the same to be delivered, and the Authority shall not in any event be liable therefor where the value of any such goods has been misstated or where there prevails any of the circumstances set out in section 49F.

(3) For the purposes of this section and of section 49E, the expression "transhipment goods" means goods landed from a vessel and placed in the custody of the Authority for the purposes of shipment on another vessel on a through bill of lading at the port of loading of such goods and showing that the destination is via the por t under the control and management of the Authority with the ultimate port of destination marked on each package or unit containing such goods and declared on a transhipment manifest lodged with the Authority prior to or at the time such goods are placed in its custody.

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Loss or destruction or damage to transhipment goods deposited with the Authority.

49E. In respect of any transhipment goods delivered by any person to, or placed by any person in the custody of the Authority, the Authority shall, from time of acknowledgement of the receipt of such goods and until delivery of such goods alongside the on-carrying vessel for loading, be liable, subject to the provisions of section 49D for the loss or destruction of, or damage to such goods:

Provided that the Authority shall not be liable for any such loss, destruction or damage in a sum of more than one thousand ringgit per package or unit unless the nature and value of the goods contained there have, prior to delivery to the Authority, been declared in writing to the Authority by the person delivering or causing the same to be delivered, and the Authority shall not in any event be liable therefor where the value of any such goods has been misstated.

Force Majeure, etc..

49F. The provisions of paragraph (*b*) *of* subsection (2) of section 49D and of section 49E shall not impose on the Authority or any person duly authorised by it any liability for the loss or destruction of, or damage to, any goods arising from –

(a) fire or flood, unless caused by the actual fault or privity of the Authority;

(b) an act of God;

(c) an act of war or *of* public enemies;

(d) seizure under any legal process;

(e) quarantine restrictions;

(f) any act, omission or default of the owner or carrier of such goods;

(g) strikes, lockouts or stoppages or restraints of labour from whatever cause, whether partial or general;

(h) riots and civil commotion;

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(i) saving or attempting to save life or property;

(j) insufficient or improper packing, defective or insufficient marks or leakage from defective drums, containers or packages;

(k) any inherent liability to wastage in bulk or weight, latent or inherent defect or natural deterioration;

(l) any deficiency in the contents of unbroken packages; or

(m) the dangerous nature of such goods.

Limitation of liability in respect of any one occasion.

49G. The limitation of liability under this Part shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such losses or damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any written law and notwithstanding anything contained in such written law.

Power of High Court to consolidate claims.

49H. Where any liability is alleged to have been incurred by the Authority in respect of loss of life, personal injury or loss of or damage to vessels, trains, vehicles, animals, goods or other things whatsoever, and several claims are made or apprehended in respect of that liability, then the Authority may apply to the High Court, and that Court may determine the amount of the Authority's liability and may distribute that amount rateable among the several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the Authority, and as to payment of any costs as the Court thinks just.

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Liability for loss under contract.

49I. (1) Notwithstanding the provisions of this Part, the Authority shall, on application made to it by the owner of any vessel, enter into a contract with such owner whereby the Authority shall accept liability for any loss caused by reason of short delivery by the Authority of any goods deposited with or placed in the custody or control of the Authority or any failure by the Authority to deliver or account for the same, and for the purposes of this section, the Authority may prescribe the terms and conditions of such contract and may, with the approval of the Minister, from time to time prescribe the rates to be levied:

Provided that the Authority may in its discretion refuse to enter into such contract unless such contract is in respect of all of the goods to be loaded into or discharged from a vessel, as the case may be.

(2) Nothing in this Part shall affect the liability of the Authority under any written law relating to compensation to workmen.

PART VIII

REGULATIONS AND OFFENCES

Regulations.

50. (1) The Authority may, with the approval of the Minister, make regulations for the maintenance, control and management of, and for the maintenance of good order in, any port and the approaches thereto and generally for carrying out the purposes of this Enactment, and in particular and without prejudice to the generality of the foregoing power, may make regulations for or in respect of all or any of the following matters in any port or the approaches thereto –

(a) regulating traffic and preventing and removing obstructions or impediments to navigation;

(b) enforcing and regulating the use of navigation lights, signals and signal lights by vessels and the steps to be taken by vessels for the avoidance of collisions;

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(c) regulating the berths to be occupied by vessels, and the removal of vessels from one berth to another berth or from one berth to another station or anchorage, and the time within which such removal shall be effected;

(d) regulating, declaring and defining the wharves, docks, piers and places on and from which goods shall be landed from and shipped in vessels;

(e) regulating the manner in which and the conditions under which the loading and discharging of vessels shall be carried out, and for varying the positions of vessels loading and discharging;

(f) regulating the safe and convenient use of docks, wharves, piers, landing places, warehouses, sheds and places, of any ferry service maintained by the Authority;

(g) regulating the reception, storage and removal of goods, within and from the premises of the Authority and declaring the procedure to be followed for taking charge of goods which have been damaged before landing or are alleged to have been so damaged;

(h) regulating the anchoring, fastening, mooring and unmooring, and warping of all vessels and the use of warps, mooring buoys, chain and other moorings and the granting of permission on such conditions as the Authority may think fit, for the keeping or placing of private moorings or buoys;

(i) regulating traffic, preventing obstruction and keeping order on wharves and docks and for ensuring the safety of the same and any cargo thereon;

(j) regulating the use of fires and lights and the signals to be used and measures to be taken in case of fires in any port;

(k) the information to be supplied by the masters, owners and other persons in respect of vessels arriving and departing and of goods

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loaded or discharged at the wharves and premises of the Authority and the time and manner in which such information shall be supplied;

(l) regulating the use by vessels of whistles, sirens and other like instruments;

(m) prohibiting clipping, scaling or noisy repairs on vessels or the breaking up of vessels except at such places and at such times as may be prescribed;

(n) keeping clean the basins, works and premises of the Authority and the waters adjacent thereto and for preventing oil, filth, rubbish or other thing being thrown or entering therein or thereon;

(o) settling the mode of payment of dues or charges leviable under this Enactment, facilitating their collection and preventing their evasion;

(p) prohibiting any operation which in the opinion of the Authority is undesirable;

(q) otherwise for the more effectual carrying out of the provisions of this Enactment.

(2) The Authority shall, with the approval of the Minister, make regulations for the conveyance, discharging and storage of dangerous goods within the limits of a port and in particular and without prejudice to the generality of the foregoing for all or any of the following matters –

(a) classifying goods as dangerous goods;

(b) regulating the navigation and place of berthing of vessels carrying dangerous goods;

(c) regulating the mode of storing and keeping dangerous goods on board vessels;

(d) regulating and controlling the lighterage, landing, loading and discharging of dangerous goods;

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(e) prohibiting or subjecting to conditions and restrictions the conveyance of any kind of dangerous goods with any other kind of goods, articles or substances;

(f) prohibiting the loading or discharging of dangerous goods at any place where such loading or discharging appears specially dangerous to the public;

(g) fixing the places and times at which dangerous goods are to be loaded or discharged at any one time;

(h) regulating the mode of, and the precautions to be observed in, conveying or keeping dangerous goods and in the loading or discharging of the same;

(i) fixing the times at which lights or fires are to be allowed or not allowed on board vessels carrying dangerous goods;

(j) generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

(3) The Authority may, in making any regulations under this section, provide that any contravention of or failure to comply with any such regulation shall be an offence and may prescribe as a penalty for any such offence a fine of one thousand ringgit, and in the case of a continuing offence a fine of fifty ringgit, for every day or part of a day during which such offence is continued after the date of a conviction therefor.

Power of Authority in relation to vessels.

51. Notwithstanding the provisions of the regulations, the Authority may –

(a) direct where any vessel shall be berthed, moored or anchored, and the method of anchoring, within a port or the approaches to a port;

(b) direct the removal of any vessel from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected within a port or the approaches to a port; and

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(c) regulate the mooring of vessels within a port or the approaches to a port.

Penalty for disobedience of directions lawfully given.

52. (1) Any person who, without lawful excuse, refuses or neglects to obey any direction lawfully given under this Enactment or the regulations shall be guilty of an offence and shall, unless some other penalty is specifically prescribed, be liable to a fine of five hundred ringgit and, in the case of a continuing offence, to a fine of one hundred ringgit for every day or part of a day during which he wilfully continues to disobey such direction.

(2) In case of any refusal, neglect or failure to comply with this Enactment or the regulations, the Authority may, whether any proceedings have been instituted against any person for such offence or not, do or cause to be done all such acts as are in its opinion reasonable or necessary for the purpose of carrying out such compliance and may hire and employ such persons as it considers proper and necessary for such purpose, and all expenses incurred in doing such acts shall be paid and borne by the person or person so offending.

Fire on board vessel.

53. (1) In the event of fire breaking out on board any vessel in a port, the Authority may order one of its officers to board such vessel with such assistance and persons as to him seem fit, and may give such orders as seem to him necessary for scuttling such vessel, or for removing such vessel or any other vessel, to such place as to him seems proper to prevent in either case danger to other vessels and for the taking of any other measures that appear to him expedient for the protection of life and property.

(2) If such orders are not forthwith carried out by the master of such vessel, the Authority's officer may himself proceed to carry them into effect.

(3) Any expenses incurred in the exercise of the powers conferred by subsections (1) and (2) of this section shall be recoverable by the Authority from the master or owner of the vessel concerned as a civil debt.

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Exemption.

54. The Authority may, after informing the Minister, exempt any vessel or any class or description of vessel from any of the foregoing provisions of this Part of this Enactment.

Damage, etc., to property.

55. (1) If any person wilfully removes, destroys or damages any property belonging to the Authority, or hinders or prevents such property from being used or opera ted in the manner in which it is intended to be used or operated, he shall be guilty of an offence and liable to a fine of five hundred ringgit.

(2) Nothing in this section shall prevent the Authority from taking any legal proceedings open to it at law before any court having jurisdiction for the recovery of the full amount of the damage caused by such person.

Master, owner or person in charge of vessel, etc., answerable for damage.

56. In every case in which any damage is done to any property of the Authority by any vessel or float of timber or by any person employed in or about the same, the cost of making good such damage may be recovered by the Authority from the master, owner or person in charge of such vessel of float of timber.

Penalty for obstructing the Authority in the performance of its duty.

57. Any person who at any time hinders, obstructs or molests the Authority or any of its employees, agents or contractors in the performance and execution of their duty or of anything which they are respectively empowered or required to do by virtue or in consequence of this Enactment, or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Enactment shall be guilty of an offence.

Offences in connection with safety of vessels, etc..

58. Any person who in any port or the approaches to a port –

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(a) willfully and without lawful excuse loosens or of vessels, removes from its moorings or from its fastenings alongside any wharf or dock, any vessel without leave or authority from the master or owner of such vessels or person in charge of such wharf or dock;

(b) without any lawful excuse discharges any gun except for the purpose of making a signal of distress or for such other purpose as may be allowed under any written law;

(c) moves, damages or otherwise interferes any navigation mark;

(d) graves, breams or smokes any vessel, or boils or heats any pitch, tar, resin, dammar, turpentine oil or other such combustible matter on board any vessel at any time or within any limits at or within which such act is prohibited by any order or directions of the Authority or the master of such vessel; or

(e) uses a naked light when drawing off spirits, turpentine oil or other inflammable oils or liquids of any kind on board any vessel,

shall be guilty of an offence.

Evasion of dues and rates.

59. (1) Any master or owner of any vessel, or any owner, consignee or consignor of any goods who, by any means whatsoever, evades or attempts to evade payment of any port dues or charges shall be guilty of an offence and liable to a fine of one thousand ringgit and to imprisonment for six months and shall in addition be liable to pay to the Authority as further penalty double the amount of the port dues or charges he evaded or attempted to evade.

(2) The tender to or acceptance by the Authority or any of its officers of any port dues or charges, the payment of which has been previously evaded or left unpaid, shall not release or discharge any person from any liability for any damages or penalty consequent upon such evasion or non-payment.

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False returns.

60. Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is requested or authorised to be made by or under the provisions of this Enactment, shall be guilty of an offence.

Penalty for giving false information as to draught of vessels.

61. Any master of a vessel entering or leaving or intending to enter or leave any dock, or come alongside or depart from any wharf, pier or jetty, in a port who gives false information of the draught, length or beam of such vessel to any employee of the Authority whose duty it is to ascertain the same, shall be guilty of an offence and liable to a fine of one thousand ringgit.

Penalty for disobeying orders of officers in charge of wharves.

62. (1) If the master of any vessel in a port, without permission of the Authority –

(a) brings in his vessel, or causes it to be placed alongside any wharf or dock entrance;

(b) acts contrary to the directions, or fails to comply with the order, of the competent Authority's officer in relation to the time and manner –

(i) of coming into or going out of any dock; or

(ii) of coming alongside any wharf or pier; or

(iii) as to the berth allotted for his vessel to occupy; or

(c) disobeys any order to remove his vessel from any berth,

such master shall be guilty of an offence.

(2) Where the master of any vessel in a port which has finished loading or discharging or is waiting for cargo or ballast fails to comply with a notice given to him or to the officer in charge of such vessel by an officer or servant of the Authority directing

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such vessel to leave the wharf, pier or dock, such master or the owner of such vessel shall, without prejudice to any prosecution in respect of such failure and in addition to any penalty imposed upon any conviction therefor, pay a sum assessed at the rate of one-quarter cent per gross registered ton for every hour that such vessel remains at the wharf after the time for departure required by such notice has expired, and such sum may be recovered by the Authority as a civil debt.

Vessel to be kept ready to move.

63. Every vessel lying alongside a wharf, pier or dock entrance, or within any dock, in a port shall be kept so equipped, provided and loaded or ballasted as to enable her to be removed with safety whenever it is required by the Authority, and the master of any vessel who fails to comply with the provisions of this section shall be guilty of an offence.

Penalty for throwing ballast, etc., overboard in port area.

64. Any person who throws or empties any oil, ballast, rubbish, dust, ashes, stores or any other refuse or things overboard within the limits of a port or does any act to the prejudice of any of the works of the Authority shall be guilty of an offence.

General penalty.

65. Any person guilty of an offence under this Enactment for which no other penalty is provided shall be liable to a fine of one thousand ringgit and to imprisonment for six months and, in the case of a continuing offence, to a fine not exceeding fifty ringgit for every day or part of a day during which the offence is continued after the date of a conviction therefor.

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PART IX

GENERAL

Auxiliary Police force.

66. The Authority may, subject to the provisions of the Police Act 1967 *[*Act 344.]*, employ port police within the limits of any port.

Bonded warehouses.

67. (1) If any warehouse of the Authority is approved and appointed as a bonded warehouse under any written law for the time being in force, the Authority may give general security by bond or otherwise for payment of the import duty payable in respect of goods stored in such bonded warehouse or for the due exportation of such goods.

(2) Any person being or having the powers of a revenue officer under any written law for the time being in force shall at all times be admitted to all parts of premises approved and appointed as a bonded warehouse, and shall be permitted to inspect the books kept in connection therewith and stock therein.

Exemption of certain vehicles and animals from taxes and licence fees.

68. The provisions of any State law relating to licences or permit in respect of vehicles or animals shall not apply to any vehicle or animal kept or used solely within any land vested in the Authority.

Power to compromise.

69. The Authority may compound or compromise, for or in respect of any claim or demand made by or against it, for such sum of money or other compensation as it deems sufficient.

* Police Act 1967 (No. 41 of 1967) has been superseded by Police Act 1967 (Act 344.).

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Employee of the Authority that require evidence of identity in certain cases.

70. (1) Any officer or servant of the Authority who reasonably believes that any person has committed an offence under this Enactment or the regulations may require such person to furnish evidence of his identity and such person shall thereupon furnish such evidence of his identity as may be required by such employee.

(2) Any person who refuses to furnish any information required of him under the provisions of this section or who wilfully mis-states such information shall be guilty of an offence and liable to a fine of fifty ringgit.

Powers of arrest.

71. (1) Any officer or servant of the Authority authorised in writing by the General Manager generally or in any particular case, may arrest any person committing within this view or who he has reason to believe has committed any offence punishable under this Enactment or the regulations –

(a) if the name and address of the person are unknown to him; and

(b) if the person declines to give his name and address; or

(c) if there is reason to doubt the accuracy of the name and address given.

(2) A person arrested under this section shall forthwith be taken to the nearest police station.

Authority to provide free landing places.

72. The Authority shall provide such number of public landing places as it may, from time to time, consider necessary or expedient for the use, free of charge, by the public.

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Powers of Minister to give directions.

73. (1) The Minister may give to the Authority directions of a general character, not inconsistent with the provisions of this Enactment, as to the exercise and performance by the Authority of its functions, and the Authority shall give effect to any direction so given.

(2) The Authority shall furnish the Minister with such information with respect to its property and activities as he may from time to time require.

Land acquired compulsorily.

74. (1) Where any immovable property, not being State land, is needed for the purposes of the Authority and cannot be acquired by agreement, the Authority may request and the Yang di-Pertua Negeri, may if he thinks fit, direct the acquisition of such property, and in such case, such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose and any declaration required under any such law that such land is so needed may be made notwithstanding that compensation is to be paid out of funds of the Authority, and such declaration shall have effect as if it were a declaration that such land is needed for a public purpose made in accordance with such written law.

(2) When any land is acquired compulsorily by the Government at the request and for the purposes of the Authority under the provisions of any written law for the time being in force relating to such acquisition –

(a) the Authority shall indemnify the Government against all costs, charges and expenses incurred by the Government in relation to such acquisition;

(b) the Authority shall not, without the written consent of the Minister, sell, exchange or otherwise dispose of such land or any interest therein.

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Transfer of property to Authority.

75. (1) The Yang di-Pertua Negeri may at any time by order vest any State land or movable property of the Government in the Authority where it appears desirable to do so to enable the Authority to carry out its duties and responsibilities.

(2) Property vested in the Authority under this section may be so vested absolutely or subject to such terms and conditions as the Yang di-Pertua Negeri may think fit to impose.

(3) Where any land is vested in the Authority under this section a delivery of a copy of the order concerned shall, notwithstanding any provision of any State law to the contrary, be sufficient authority to any public officer charged with the responsibility for registering dealings with land or the issue of title thereto, and any such officer shall thereupon, without payment of fee, take all necessary steps to perfect the title of the Authority to such land.

Emergency powers of General Manager.

76. In any case of emergency, the General Manager may direct the execution of any work or the doing of any act which the Authority is empowered to execute and do and which he is not by the provisions of this Enactment or the regulations expressly empowered to execute or do and the immediate execution or doing of which is in his opinion necessary and he may direct that the expense of executing the work or doing the act shall be paid from the funds of the Authority:

Provided that –

(a) the Genera] Manager shall not take any step under this section in contravention of any resolution of the Authority duly passed at a meeting; and

(b) he shall report anything done under this section to the next following meeting of the Authority.

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Power of suspension of executive functions.

77. Notwithstanding any other provisions of this Enactment the Yang di-Pertua Negeri may be order suspend all or any of the executive functions of the Board or of any member or of any officer or servant thereof and assign the same to any person or persons for such period as he may deem fit.

Secrecy and penalty.

78. (1) Except for the purposes of this Enactment or of any criminal proceedings under this Enactment, no member, or officer or servant of the Authority shall disclose any information with respect to any individual business, which has been obtained, by him in the course of his duties and which is not published in pursuance of this Enactment.

(2) Any person knowingly contravening the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year.

Protection against legal proceedings.

79. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority or against the officer or servan t appointed by the Authority in respect of any act done or statement made *bona-fide* in pursuance or execution or intended execution of this Enactment.

(2) Where a person is exempted from liability by reason only of the provision of this section the Authority is liable to the extent that it would be if such person were a servant or agent of the Authority.

Public servants.

80. All members, officers, and servants of the Authority shall be deemed to be public servants within the meaning of the Penal Code *[Act 574.]*.

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The Public Authorities Protection Act 1948.

81. The Public Authorities Protection Act 1948 *[Act 198]* shall apply to any action, suit, prosecution or proceeding against the Authority or against any member, officer, servant or agent of the Authority in respect of any act, neglect, or default done or committed by the Authority or such person in such capacity.

Person authorised to prosecute.

82. Any prosecution for an offence under this Enactment may be conducted by any person employed by the Authority or by any public officer authorised in writing in that behalf by the State Attorney-General.

Sanction for prosecution.

83. No prosecution for any offence punishable under this Enactment shall be instituted except by or with the previous sanction in writing of the State Attorney-General.

Non-application of other laws.

84. (1) With effect from the date upon which any declaration under section 3 of this Enactment comes into operation, the provisions of Chapter 29 of the Merchant Shipping Ordinance 1960 *[Ord. No. 11 of 1960]* and of any regulations made in respect of matters referred to in paragraph (*c*) of subsection (1) of section 277 of that Ordinance, shall cease to apply to the port, or the approaches to a port, in respect of which such declaration is made (other than the provisions set out in the Schedule hereto).

(2) Notwithstanding any of the provisions of the Local Government Ordinance 1961 *[Ord. No. 11 of 1960]*, the Minister of Local Government and Housing may, at the request of the Authority, by notice in the *Gazette,* declare that any of the provisions of the said Ordinance or of any by-laws made thereunder shall not apply to a port and such non-application may be absolute or subject to such restrictions or conditions as the said Minister may deem fit to impose.

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Power to make rules in connection with shares, etc..

84A. The Authority may make rules not inconsistent with the provisions of this Enactment to provide for such matters in connection with shares, stock, debentures or debenture stock issued under this Enactment as may appear necessary or expedient to the Authority and, in particular, for regulating the method of issue, transfer, redemption, or other dealing with such shares, stock, debentures or debenture stock.

Repeal and saving.

85. (1) The Sabah Ports Authority Enactment 1967 *[En. No. 9 of 1967.]* is hereby repealed.

(2) Notwithstanding the repeal of the Enactment specified in subsection (1) –

(a) the corporate body constituted under the repealed Enactment shall continue to exist as if the same had been constituted under this Enactment;

(b) any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed Enactment shall continue to be valid as if the same had been acquired, accrued or incurred under this Enactment;

(c) any property of whatever nature possessed by or vested in the corporate body constituted under the repealed Enactment shall continue to be possessed by or vested in the Authority;

(d) any deed, bond, agreement, instrument and working arrangement subsisting immediately before the commencement of this Enactment shall continue to be in force and effect against or in favour of the Authority;

(e) any appointment made under the repealed Enactment or any subsidiary legislation made thereunder shall continue to be in force and have effect as if the same had been made under this Enactment;

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(f) any subsidiary legislation made under the repealed Enactment shall insofar as such subsidiary legislation is not inconsistent with the provisions of this Enactment continue to be in force and have effect as if the same had been made under this Enactment and may be repealed, extended, varied or amended accordingly;

(g) any person's liability to be prosecuted or punished for offences committed under the repealed Enactment or any proceedings brought in respect of such offence before the commencement of this Enactment shall not be affected;

(h) any proceedings, whether civil or criminal, or cause of action pending or existing immediately before the commencement of this Enactment by or against the corporate body constituted under the repealed Enactment may be continued or instituted by or against the Authority; and

(i) any person who, immediately before the commencement of this Enactment, was employed as an officer or servant of the body corporate constituted under the repealed Enactment shall continue to be employed by the Authority as an officer or servant, as the case may be upon the same terms and conditions of service.

SCHEDULE

(Section 84 (1))

Merchant Shipping (Ports, Harbours and Dues) Regulations 1961.	Regulations 9, 10, 15, 16, 17, 29 and 35 and Third and Fourth Schedules.
Merchant Shipping (Government Wharves) Regulation 1961.	The proviso to paragraph 3 (*a*) of the Second Schedule in so far as it relates to cigarettes and tobacco.

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