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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 4143]
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नई दिल्ली, शुक्रवार, अक्टूबर 29, 2021/कार्तिक 7, 1943
NEW DELHI, FRIDAY, OCTOBER 29, 2021/KARTIKA 7, 1943

पत्तन, पोत परिवहन और जल मार्ग मंत्रालय
अधिसूचना

नई दिल्ली, 29 अक्टूबर, 2021

का.आ. 4504(अ).—केन्द्रीय सरकार, महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) की धारा 1 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंधों को, 3 नवंबर, 2021 को प्रवृत्त होना नियत करती है।

[फा. सं. पीडी-24015/21/2021-पीडी-1]

विक्रम सिंह, संयुक्त सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS

NOTIFICATION

New Delhi, the 29th October, 2021

S.O. 4504(E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Major Port Authorities Act, 2021 (1 of 2021), the Central Government hereby appoints the 3rd day of November, 2021, as the date on which the provisions of the said Act shall come into force.

[F. No. PD-24015/21/2021-PD-I]

VIKRAM SINGH, Jt. Secy.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

अधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 3] नई दिल्ली, बुधवार, फरवरी 18, 2021/माघ 29, 1942 (शक)
No. 3] NEW DELHI, THURSDAY, FEBRUARY 18, 2021/MAGHA 29, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 18th February, 2021/Magha 29, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 17th February, 2021, and is hereby published for general information:—

THE MAJOR PORT AUTHORITIES ACT, 2021

No. 1 OF 2021

[17th February, 2021.]

An Act to provide for regulation, operation and planning of Major Ports in India and to vest the administration, control and management of such ports upon the Boards of Major Port Authorities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-Second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Major Port Authorities Act, 2021.

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

(3) It shall apply to the Major Ports of Chennai, Cochin, Deendayal (Kandla), Jawaharlal Nehru (Nhava Sheva), Kolkata, Mormugao, Mumbai, New Mangalore, Paradip, V.O. Chidambaram (Tuticorin) and Visakhapatnam.

Short title,
commencement
and
application.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Adjudicatory Board" means the Board constituted by the Central Government under sub-section (1) of section 54;

(b) "Board" means the Board of Major Port Authority constituted by the Central Government in accordance with sub-section (1) of section 3 for each Major Port under this Act;

(c) "capital reserves" for the purpose of this Act, shall mean the total of the reserves excluding the reserves set forth in sub-section (1) of section 43 and the value of the current assets of the Board in the preceding financial year;

(d) "Chairperson" means the Chairperson of the Board appointed under sub-section (1) of section 4;

(e) "Deputy Chairperson" means the Deputy Chairperson of the Board appointed under sub-section (1) of section 4;

(f) "dock" includes all basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slipways, gridirons, moorings, transit-sheds, warehouses, tramways, railways and other works and things appertaining to any dock, and also the portion of the sea enclosed or protected by the arms or groynes of a harbour;

(g) "foreshore", in relation to a Major Port, means the area between the high-water mark and the low-water mark relating to that Major Port;

(h) "goods" includes livestock and every kind of movable property;

(i) "grave emergency" means a condition as determined by the Central Government wherein the Board is unable to discharge its duties appropriately and includes acts of sedition, non-performance, unlawful and illegal actions, negligence and financial misappropriation;

(j) "high-water mark", in relation to a Major Port, means a line drawn through the highest points reached by ordinary spring-tides at any season of the year at that Major Port;

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

(l) "Independent Member" means a Member of the Board appointed under sub-section (2) of section 4;

(m) "Indian Ports Act" means the Indian Ports Act, 1908;

15 of 1908.

(n) "land" includes the bed of the sea or river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

(o) "low-water mark", in relation to a Major Port, means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year at that Major Port;

(p) "Major Port" or "Major Port Authority" means the Major Port as defined in clause (8) of section 3 of the Indian Ports Act;

(q) "Major Port approaches", in relation to a Major Port, means those parts of the navigable rivers and channels leading to the Major Port, where the Indian Ports Act is in force;

(r) "master", in relation to any vessel or any aircraft making use of any Major Port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, assistant harbour master, dock master or berthing master of the Major Port;

(x) "Member" means the Member of the Board appointed under sub-sections (2) and (3) of section 4;

(y) "notification" means a notification published in the Official Gazette and the expression "notify" and "notified" shall be construed accordingly;

(u) "Presiding Officer" means the Presiding Officer of the Adjudicatory Board appointed by the Central Government under section 55;

(v) "owner",—

(i) in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods; and

(ii) in relation to any vessel or any aircraft making use of any Major Port, includes any part-owner, charterer, consignee, or mortgagee in possession thereof;

(w) "pier" includes any stage, stairs, landing place, hard, jetty, floating barge, transhipper or pontoon and any bridges or other works connected therewith.

Explanation.—For the purposes of this clause, the term "transhipper" means a floating craft or vessel, whether dumb or self-propelled, on which gears are provided for discharging cargo from a barge or wharf and loading it into a ship;

(x) "port assets" means any asset within the port limits including land, movable or immovable property or any other property, whether tangible or intangible, owned by or vested with the Board through the Central Government or the State Government, as the case may be;

(y) "port limits" in relation to a Major Port, means the limits including any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels or for the improvement, maintenance or good governance of the Major Port and its approaches whether within or without high-water mark, and subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water mark and the area of such Major Port as may be determined by the Central Government by way of notification from time to time;

(z) "port related use" means any use directly or indirectly related to port operations and activities;

(za) "port securities" means the debentures, bonds or stock certificates issued by the Board in respect of any loan contracted by it under the provisions of this Act or issued by any other Authority for the payment of which the Board is liable under this Act;

(zb) "prescribed" means prescribed by rules made under this Act;

(zc) "Public Private Partnership project" means the projects taken up through a concession contract entered into by the Board under sub-section (1) of section 24;

(zd) "rate" includes any toll, due, rent, rate, fee, or charge leviable under this Act;

(ze) "regulations" means the regulations made by the Board under this Act;

(zf) "vessel" includes anything made for the conveyance, by water, of human beings or of goods; and

(zg) "wharf" includes any wall or stage and any part of the land or foreshore that may be used for loading or unloading goods, or for the embarkation or disembarkation of passengers and any wall enclosing or adjoining the same.

(2) Words and expressions used but not defined in this Act and defined in the Indian Ports Act shall have the same meanings respectively assigned to them in that Act.

CHAPTER II

BOARD OF MAJOR PORT AUTHORITY

Constitution and composition of Board of Major Port Authority.

3. (1) The Central Government shall, within a period of ninety days from the date of commencement of this Act, by notification, in respect of each Major Port, constitute a Board called the Board of Major Port Authority for that Major Port which shall consist of the following Members, namely:—

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) one Member each from the—
 - (i) concerned State Government in which the Major Port is situated;
 - (ii) Ministry of Railways;
 - (iii) Ministry of Defence; and
 - (iv) Customs, Department of Revenue;
- (d) not less than two and not exceeding four Independent Members;
- (e) one Member not below the rank of Director nominated by the Central Government, *ex officio*; and
- (f) two Members representing the interests of the employees of the Major Port Authority;

Provided that until the constitution of the Board of Major Port Authority, the Board of Trustees constituted under section 3 of the Major Port Trusts Act, 1963 shall continue to function and shall cease to exist immediately after the constitution of the Board under this Act.

38 of 1963.

(2) The Board of each Major Port Authority constituted under this Act shall be a permanent body having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

Qualifications of Chairperson, Deputy Chairperson and Members of Board.

4. (1) The Chairperson and Deputy Chairperson of the Board shall be appointed by the Central Government on the recommendation of a Selection Committee consisting of such persons and in such manner, as may be prescribed.

(2) The Members of the Board as mentioned in clauses (c), (d) and (e) of sub-section (1) of section 3 shall possess such qualifications and experiences and shall be appointed by the Central Government in such manner as may be prescribed.

(3) The Members referred to in clause (f) of sub-section (1) of section 3 shall be appointed by the Central Government from amongst serving employees of the Board of Major Port Authority in such manner as may be prescribed after obtaining the opinion of the trade unions, if any, composed of persons employed in the Major Port and registered under the Trade Unions Act, 1926.

16 of 1926.

(4) Every person nominated or appointed to the office of the Chairperson or Deputy Chairperson or Member of the Board, shall, within thirty days of his nomination or appointment, furnish to the Board his consent and a declaration that he is not disqualified or ineligible or has conflict of interest to hold such office.

5. (1) A person shall not be eligible for appointment or to continue as a Chairperson, Deputy Chairperson or Member of the Board, if—

- (a) he has been adjudged as an insolvent;
- (b) he has become physically or mentally incapable of acting as such Chairperson, Deputy Chairperson or Member;
- (c) he has been convicted of an offence, involving moral turpitude;
- (d) he holds an office of profit;
- (e) he has made a false declaration under sub-section (4) of section 4;
- (f) he has been removed or dismissed from the service of a Major Port Authority, Government or a body corporate owned or controlled by the Central Government or the State Government; or
- (g) an order disqualifying him for appointment as a Chairperson, Deputy Chairperson or Member has been passed by a court or tribunal and such order is in force.

Disqualification of Chairperson, Deputy Chairperson, and Member from office in certain circumstances.

(2) The Chairperson, Deputy Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity or in contravention of the provisions of section 7 after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend the Chairperson, Deputy Chairperson or any other Member in respect of whom an inquiry under sub-section (2) is being initiated or pending till the Central Government has passed an order on receipt of the report of the inquiry.

6. (1) The Chairperson and Deputy Chairperson shall hold office for a term not exceeding five years from the date on which they enter upon their office or until they attain the age of superannuation, whichever is earlier.

Term of office of Chairperson, Deputy Chairperson and Members.

(2) Subject to the provisions of this Act, a person appointed as a Member of the Board by virtue of an office under clause (c) of sub-section (1) of section 3 shall continue to be a Member of the Board so long as he continues to hold that office.

(3) An Independent Member shall hold office for a term of three years from the date of his appointment or up to the age of seventy years, whichever is earlier and shall be eligible for re-appointment:

Provided that no Independent Member shall hold office for more than two terms:

Provided further that an Independent Member shall not, during the said period of three years, be appointed to or be associated with any Major Port Authority in any other capacity, either directly or indirectly.

(4) The Member appointed under clause (f) of sub-section (1) of section 3 shall hold office for a term of three years from the date of his appointment or until he attains the age of superannuation, whichever is earlier and shall be eligible for re-appointment:

Provided that no such Member shall hold office for more than two terms.

7. Before appointing any person as a Chairperson, Deputy Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interests as is likely to affect prejudicially his functions as such Chairperson, Deputy Chairperson or Member:

Disclosure of interest.

Provided that where the Chairperson, Deputy Chairperson or any Member who is not so concerned or interested at the time of occupying such office, he shall, if he becomes concerned or interested afterwards, disclose his concern or interest forthwith when he becomes so concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested and resign forthwith.

Resignation of Members.

8. The Chairperson, Deputy Chairperson and Members may, by notice in writing under their hand addressed to the Central Government, resign their office and on such resignation being accepted by that Government, shall be deemed to have vacated their office.

Removal from office of Chairperson, Deputy Chairperson and Members.

9. The Central Government shall remove the Chairperson, Deputy Chairperson or any Member, if he—

(a) becomes subject to any of the disqualifications mentioned in section 5; or

(b) has, in the opinion of the Central Government, ceased to represent the interest by virtue of which he was appointed or elected; or

(c) refuses to act or becomes incapable of acting; or

(d) is, without the previous permission of the Board absent from six consecutive ordinary meetings of the Board; or

(e) is absent from the meetings of the Board for a period exceeding six consecutive months; or

(f) acts in contravention of the provisions of this Act.

Filling of casual vacancies.

10. Any vacancy occurring in the office of the Chairperson, Deputy Chairperson or any other Member whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, shall be filled by the Central Government by making a fresh appointment within a period of three months from the date on which such vacancy occurs and the Member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

Honorarium payable to Independent Members.

11. The Independent Members shall be paid such honorarium as may be prescribed.

Powers and duties of Chairperson, Deputy Chairperson and Members.

12. The Chairperson and in his absence, the Deputy Chairperson or such other person authorised by the Central Government shall have powers of general superintendence and directions in the conduct of affairs of the Major Port Authority and he shall, in addition to presiding over the meetings of the Board, exercise supervision and control over the acts of all employees of the Major Port Authority in matters of executive administration and in matters concerning the accounts and records of such Board.

Meetings of Board.

13. (1) The Board shall meet at such places and times, and shall follow such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings), as may be specified by the regulations.

(2) If the Chairperson for any reason, is unable to attend a meeting of the Board, the Deputy Chairperson and in the absence of such Deputy Chairperson, any other Member chosen by the Members present amongst themselves at the meeting, shall preside at the meeting or any person authorised by the Central Government.

(3) All questions which come up before any meeting of the Board shall be—

(a) decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote;

(b) dealt with as expeditiously as possible and the Board shall dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the Board shall record its reasons in writing for not disposing of the application within that period.

14. (1) A Board may, from time to time, from amongst its Members and any other person, constitute committees for the purpose of discharging such functions as may be delegated to such committee or committees by the Board. Committees of Board.

(2) The committee or committees constituted under this section shall meet at such time and at such places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum) as may be specified by the regulations made under this Act.

15. The Board may, for the purpose of exercising and discharging its powers, functions and duties, by general or special order in writing, specify— Delegation of powers.

(a) the powers and duties conferred or imposed upon the Board by or under this Act, which may also be exercised or performed by the Chairperson; and

(b) the powers and duties conferred or imposed on the Chairperson by or under this Act, which may also be exercised or performed by the Deputy Chairperson or any officer or officers of the Board and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed:

Provided that any powers and duties conferred or imposed upon the Deputy Chairperson or any officer of the Board under this clause shall be exercised and performed by him subject to the supervision and control of the Chairperson.

16. (1) The Chairperson, Deputy Chairperson and other Members, on ceasing to hold office shall not, for a period of one year, accept any employment (including as consultant or otherwise) in any organisation relating to Major Port whose matter has been dealt with by such Chairperson, Deputy Chairperson or Member, as the case may be, or has been before the Board when he held office as such Chairperson, Deputy Chairperson or Member. Restriction of re-employment.

(2) Nothing in sub-section (1) shall prevent the Chairperson, Deputy Chairperson or a Member, as the case may be, to accept any employment in any organisation relating to Major Port controlled or maintained by the Central Government or the State Government.

17. No act or proceedings of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of the Board; or

(b) any defect in the appointment of a person acting as a Member of such Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case. Vacancies, etc., not to invalidate proceedings of Board.

18. (1) The power of appointing any person to any post, whether temporary or permanent shall— Power to make appointments.

(a) in the case of a post—

(i) the incumbent of which is to be regarded as the Head of a Department; or

(ii) to which such incumbent is to be appointed; or

(iii) the maximum of the pay scale of which (exclusive of allowances) exceeds such amount as the Central Government may, by notification in the Official Gazette, fix,

be exercisable by the Central Government after consultation with the Chairperson;

(b) in the case of any other post, be exercisable by the Chairperson or by such authority, as may be specified by the regulations;

Provided that no person shall be appointed as a pilot at any port, who is not for the time being authorised by the Central Government under the provisions of the Indian Ports Act, 1908 to pilot vessels at that or any other port.

15 of 1908.

(2) The Central Government may, by order, specify any post the incumbent of which shall, for the purposes of this Act, be regarded as the Head of a Department.

Authentication
of orders and
other
instruments
of Board.

19. All orders, decisions and other instruments issued by the Board shall be authenticated by the signature of the Chairperson.

CHAPTER III

MANAGEMENT AND ADMINISTRATION

A. STAFF OF MAJOR PORT AUTHORITY

List of staff
of Board.

20. The Board shall after every five years prepare and submit to the Central Government a list of the employees of the Board of Major Port Authority indicating therein the designations and grades of employees, and the salaries, fees and allowances which are proposed to be paid to them.

B. PROPERTY AND CONTRACTS

Board to be
deemed as
successor of
Board of
Trustees of
Major Port.

21. On and from the date of constitution of the Board—

(a) the Board of the Major Port Authority shall be the successor of the Board of Trustees constituted under the Major Port Trusts Act, 1963;

38 of 1963.

(b) all the assets and liabilities of the Board of Trustees shall stand transferred to, and vested in, the Board.

Explanation.—For the purposes of clause (b), the assets of the Board of Trustees shall be deemed to include all rights and powers, all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Board of Trustees and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(c) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees immediately before that date, for or in connection with the purpose of the said Board of Trustees, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Board;

(d) all sums of monies due to the Board of Trustees immediately before that date shall be deemed to be due to the Board;

(e) all suits and other legal proceedings instituted or which could have been instituted by or against the Board of Trustees immediately before that date may be continued or may be instituted by or against the Board;

(f) every employee serving under the Board of Trustees of the Major Port immediately before such date shall become an employee of the Board, shall hold his office or service therein by the same tenure and upon the same terms and conditions of service as he would have held if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until

his tenure, remuneration or terms and conditions of service are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to his disadvantage without the previous sanction of the Central Government; and

38 of 1963.

(g) every person who was receiving any retirement benefit from the Board of Trustees under the Major Port Trusts Act, 1963 immediately before such date, shall continue to receive the same benefit from the Board.

Provided that the retirement benefit of such person shall not be altered by the Board to his disadvantage without the previous sanction of the Central Government.

22. (1) The Board of each Major Port shall be entitled to use its property, assets and funds in such manner and for such purposes as it may deem fit for the benefit of that Major Port.

Usage of port assets by Board.

(2) All port assets shall be used and developed as per the regulations made by the Board in that behalf and to the exclusion of any municipal, local or Government regulation:

Provided that the manner of any contract or arrangement by the Board for sale of land or immovable property, or period and manner for lease of land or immovable property for port related use and non-port related use, shall be in such manner as may be prescribed:

Provided further that the tenure for lease of land or immovable property for Public Private Partnership projects by the Board shall be subject to the policy notified by the Central Government in respect of such Public Private Partnership projects.

(3) The Board of each Major Port may erect, construct or build such civil structures for port development or improving commerce and trade in national interest for which no regulatory license or approval from the State authorities shall be required, unless so mandated by the Central Government.

52 of 1962.

(4) For those port assets that relate to landing places and limits of customs area and which require fresh approval from the Commissioner of Customs under the Customs Act, 1962, the Board of each Major Port Authority shall, by notification, declare the availability and readiness of such port assets after the said approval has been received from the Commissioner of Customs.

01 of 2013.

23. Where any immovable property is required for the purposes of the Board, the Central Government, or as the case may be, the State Government may, at the request of the Board, procure the acquisition thereof under the provisions of the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act, 2013 or any other law for the time being in force, and on payment by the Board, the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board.

Procedure when immovable property cannot be acquired by agreement.

24. (1) The Board of each Major Port shall be competent to enter into and perform any contract necessary for discharging of its functions under this Act.

Contracts by Board.

(2) Every contract shall, on behalf of the Board of each Major Port, be made by the Chairperson or by any such officer of the Board as the Chairperson may by general or special order, authorise in this behalf and shall be sealed with the common seal of the Board.

(3) The form and manner in which any contract shall be made under this Act, shall be such as may be specified by regulations.

C. PLANNING AND DEVELOPMENT

25. Subject to the rules made under this Act, the Board of each Major Port shall be entitled to create specific master plan in respect of any development or infrastructure established or proposed to be established within the port limits and the land appurtenant

Master Plan.

thereto and such master plan shall be independent of any local or State Government regulations of any authority whatsoever:

Provided that in case of any conflict between the master plan created by the Board and any local authority, the master plan created by the Board shall prevail.

Powers of Board in respect of planning and development.

26. (1) For the purposes of planning and development of the Major Port, the Board in relation to that Major Port shall have the power to make regulations, not inconsistent with the Customs Act, 1962 or any rules made thereunder, to—

52 of 1962.

(a) undertake, execute and perform such works and provide such services at or within the port limits and Major Port approaches on such terms and conditions as it may deem necessary or expedient;

(b) declare availability of the port assets at the Major Port or Major Port approaches for port related activities and services subject to such limits, conditions and restrictions as it may deem necessary or expedient;

(c) develop and provide infrastructure facilities including setting up of new ports, jetties, navigational channels, dry ports and such other infrastructure in furtherance of the interest of the Major Port;

(d) take charge of the goods from the concerned owner for the purpose of performing any port related services;

(e) order, in case of emergency or for any other reason, the master or owner or agent of any sea-going vessel, not to bring any vessel alongside of, or to remove such vessel from, any dock, berth, wharf, quay, stage, jetty or pier belonging to or under the control of the Board;

(f) permit construction and development by itself or through any person, to make, erect, fix or remove within the port limits or Major Port approaches any wharf, dock, quay, stage, jetty, pier, building or structure, erection or mooring or undertake any reclamation of foreshore within the said limits and buildings and amenities required for the residence and welfare of the employees of the Board, subject to such limits, conditions and restrictions as it may deem necessary or expedient;

(g) provide exemption or remission from payment of any rate or charge leviable on any goods or vessels or class of goods or vessels under this Act;

(h) provide any other services or amenities in respect of vessels, passengers, goods or employees;

(i) undertake, execute and perform such works, activities and studies to promote maritime education, training skill development of coastal communities, seafarers welfare and Major Port related development; and

(j) make or construct or erect within the port limits such structures, buildings, drains, roads, fences, tube-wells, in-take wells, storage facilities, warehouses, pipelines, telephone lines, communication towers, electricity supply or transmission equipment and such other works and conveniences as the Board of each Major Port thinks proper.

(2) The power of the Board to make regulations under sub-section (1) shall be independent of powers of any local authority to make regulations in respect of Major Port:

Provided that in case of conflict between the regulations made by the local authority and those made by Board, the regulations made by Board shall prevail.

D. IMPOSITION OF RATES

Scale of rates for assets and services available at Major Port.

27. (1) The Board of each Major Port Authority or the committee or committees constituted in this behalf by the Board in accordance with section 14, may,—

(a) frame scale of rates at which, and a statement of conditions under which, any services shall be performed or made available;

(b) frame scale of rates at which, and a statement of conditions under which, the access to and usage of the port assets may be allowed by the Board;

(c) frame consolidated scale of rates for any combination of services specified in clause (a) or for any combination of such service or services with any user or permission to use or access to any port assets as specified in clause (b);

(d) pass an order for refund of any amount overcharged by the Board in relation to the services provided to any person;

(e) pass an order for recovery of any rate or charge which is short-levied or erroneously refunded by the Board to any person under this Act; and

(f) frame different scales, fees, rates and conditions for different classes of goods and vessels under this section:

Provided that the fixation and implementation of such scales, fees, rates and conditions shall be in consonance with the norms as may be prescribed and shall—

(i) not be with retrospective effect;

(ii) not be in derogation with the rules made by or directives of the Central Government in this behalf;

(iii) not be inconsistent with the provisions of the Competition Act, 2002; and

(iv) not be inconsistent with the provisions of any other law for the time being in force:

Provided that in case of Public Private Partnership projects after the commencement of this Act, concessionaire shall fix the tariff based on market conditions and on such other conditions as may be notified:

Provided further that the revenue share and other conditions would be as per the provisions of the specific concession agreement between the Board and the Public Private Partnership concessionaire appointed under the Public Private Partnership project.

(2) Notwithstanding anything contained in clause (b) of sub-section (1), the Board may, by auction or by inviting tenders, lease any port asset belonging to or in its possession or occupation at a rate higher than that provided under clause (b) of sub-section (1).

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

Board's lien for rates.

(2) The right of lien referred to in sub-section (1) shall have priority over all other liens and claims, except for general average and for ship owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner provided in sub-section (1) of section 29, and for monies payable to the Central Government under any law for the time being in force relating to customs, other than by way of penalty or fine.

(3) The right of lien referred to in sub-section (1) shall also vest with any concessionaire appointed by the Board with whom a concession contract under a Public Private Partnership project for operating any berth or terminal within the port limits has been executed by the said Board.

29. (1) If the master or owner of any vessel or his agent, at or before the time of landing from such vessel or any goods at any port asset belonging to or in the occupation of the Board of the Major Port, gives to such Board a notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an

Ship-owner's lien for freight and other charges.

amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

(2) The goods shall be retained in the custody of the Board at the Board's designated storage or godown or warehouse stations at the risk and expense of the owners of the goods until such lien is discharged 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.

(3) Upon the production, before any officer appointed by the Board in that behalf, of a document purporting to be a receipt for, or 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.

Sale of goods and application of sale proceeds in certain cases.

30. (1) The Board may, after expiry of such time and in such manner as stipulated in section 48 of the Customs Act, 1962, sell any goods that have passed or placed into the custody of the Board upon landing thereof— 52 of 1962.

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

(b) if any rent payable to the Board 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 ship-owner or Container Freight Station or Inland Container Depot 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 charge has made to the Board an application for such sale; or

(d) if such goods are not removed by the owner or the person entitled thereto from the premises of the Board;

Provided that the Board may authorise any concessionaire appointed by it under the Public Private Partnership project for operating any berth or terminal within the port limits to sell such goods:

Provided further that any such authorisation by the Board shall be subject to the terms and conditions of the concession agreement entered into by the Board with such concessionaire.

(2) The proceeds of sale of goods under sub-section (1) shall be applied in the manner as provided in section 150 of the Customs Act, 1962. 52 of 1962.

(3) Notwithstanding anything contained in this section, controlled goods may be sold at such time and in such manner as the Central Government may direct.

Explanation.—For the purposes of this section, the expression "controlled goods" means the goods, the price or disposal of which is regulated under any law for the time being in force.

Recovery of rates and charges by distraint of vessel

31. (1) If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any regulations or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Board on its own or on request of the concessionaire appointed by the Board under the Public Private Partnership project, may distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Board or such concessionaire, together with such further amount as may accrue for any period during which the vessel is under distraint or arrest, is paid.

(2) 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 fifteen days next after any such distress or arrest has been so made, the Board on its own or on request of such

concessionaire 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.

32. Any person aggrieved by any action of the Board while exercising its powers under sections 22 to 31 (except section 29), may approach the Adjudicatory Board constituted under section 54 by filing an application before it in such form, manner and on payment of such fee, as may be prescribed.

Application to Adjudicatory Board.

CHAPTER IV

POWERS OF BOARDS OF MAJOR PORT AUTHORITIES IN RESPECT OF LOANS AND SECURITIES

A. FINANCIAL POWERS OF BOARDS OF MAJOR PORT AUTHORITIES

33. (1) The Board may for the purposes of its capital expenditure and working capital requirements raise loans in any currency or currencies from any—

Power to raise loans and issue securities.

(a) scheduled bank or financial institution located within India; or

(b) financial institution in any country outside India in compliance with the laws for the time being in force:

Provided that no loan or loans exceeding a sum equivalent to fifty per cent. of the capital reserves of the Board shall be raised by the Board without the previous sanction of the Central Government.

(2) The loans may be raised by Board in the open market within India and in any country outside India on port securities including but not limited to debentures, bonds and stock certificates issued by the Board or may be obtained from the Central Government or a State Government:

Provided that no loans shall be raised from and no securities shall be issued to any person resident outside India without complying with the Foreign Exchange Management Act, 1999, the circulars and guidelines issued by the Reserve Bank of India, the Foreign Direct Investment Policy issued by the Central Government and any other law for the time being in force.

42 of 1999

(3) The holder of any port security in any form may obtain in exchange thereof, upon such terms as the Board may from time to time determine, a port security in such form as may be specified by the regulations made by the Board.

36 of 1963

(4) The right to sue in respect of monies secured by port securities shall be exercisable by the holders thereof subject to the provisions of the Limitation Act, 1963.

9 of 1914.

(5) Nothing contained in this Act shall be deemed to affect the power of the Boards of Major Port Authorities to raise loans under the Local Authorities Loans Act, 1914.

(6) Notwithstanding anything contained in this Act, the Board may borrow monies by means of temporary overdraft or otherwise by pledging the securities held by the Board in its reserve funds or on the security of the fixed deposits of the Board in its banks:

Provided that such temporary overdrafts or other loans shall not be taken, without previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds a sum equivalent to fifty per cent. of the capital reserves of the Board.

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

20 of 1881

34. Notwithstanding anything contained in section 15 of the Negotiable Instruments Act, 1881, no endorsement of a port security, which is transferable by endorsement, shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

Endorsements to be made on security itself.

Endorser of security not liable for amount thereof.

35. Notwithstanding anything contained in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having endorsed any port security be liable to pay any monies due, either as principal or as interest thereon. 26 of 1881.

Recognition as holder of port securities in certain cases and legal effect thereof.

36. (1) The person to whom a duplicate or new security has been issued under the regulations made by the Board shall be deemed for the purposes of sub-section (2) to have been recognised by the Board as the holder of the security; and a duplicate security or a new security so issued to any person shall be deemed to constitute a new contract between the Board and such person and all persons deriving title thereafter through him.

(2) No recognition by the Board of a person as the holder of a port security shall be called in question by any court so far as such recognition affects the relations of the Board with the person recognised by it as the holder of a port security or with any person claiming an interest in such security; and any such recognition by the Board of any person shall operate to confer on that person a title to the security or securities subject only to a personal liability to the rightful owner of the security for money had and received on his account.

Discharge in certain cases.

37. Notwithstanding anything contained in the Limitation Act, 1963— 36 of 1963.

(a) on payment of the amount due on a port security on or after the date on which payment becomes due; or

(b) when a duplicate security has been issued under the regulations made by the Board under sub-section (1) of section 36; or

(c) when a new security has been issued upon conversion, consolidation or sub-division under the regulations made by the Board,

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

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

(ii) in the case of a duplicate security after the lapse of six years from the date of the issue thereof or from the date of the last payment of interest on the original security, whichever date is later;

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

Security for loans taken out by Boards of Major Port Authorities.

38. If a loan is raised by the Board of any Major Port and a security other than the port security is required to be furnished to secure such loan, the Board of that Major Port may secure such loan against—

(a) the port assets other than—

(i) any sum set apart by the Board—

(A) as the sinking fund for the purpose of paying off any loan; or

(B) for the payment of pension to its employees, or

(ii) the provident or pension fund established by the Board; and

(b) income of the Board from the port assets and services.

Power of Board to repay loans to Government before due date.

39. The Board may apply any sums, out of monies which may come into its hands under the provisions of this Act and which can be so applied without prejudicing the security of the other holders of port securities, in repaying to the Government any sum which may remain due to it in respect of the principal account of any loan although the time fixed for the repayment of the same may not have arrived.

40. (1) In respect of loans raised by the respective Board of the Major Port Authorities under this Act, which are not repayable before the expiration of one year from the date of such loans, such Boards shall set apart out of their income enough sinking fund or funds to service or liquidate such loans for a period of at least one year.

Establishment and application of sinking fund.

58 of 1963.

(2) Before the commencement of this Act, if any sinking fund had been established by the Board of Trustees constituted under the Major Port Trusts Act, 1963 in respect of a loan raised by it for which loan, the Board is liable under this Act and the sinking fund so established by that Board of Trusts shall be deemed to have been established by the Board under this Act.

(3) The sums so set apart by the Board under sub-section (1) and the sums forming part of any sinking fund referred to in sub-section (2) shall be applied in such manner as may be prescribed.

(4) The Board may apply the whole or any part of the sums accumulated in any sinking fund in or towards the discharge of the monies borrowed for the repayment of which the fund has been established:

Provided that the Board pays into the fund in each year, and accumulates until the whole of the monies 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.

48 of 1963.

41. Notwithstanding anything contained in this Act, all loans raised or borrowed and all securities issued or pledged in relation to a Major Port prior to the commencement of this Act shall continue to be governed in accordance with the provisions of the Major Port Trusts Act, 1963.

Existing loans and securities to continue.

B. GENERAL ACCOUNTS OF MAJOR PORT AUTHORITIES

42. All monies received by or on behalf of the Board under the provisions of this Act shall be credited to such general account or accounts of the Board which the Board may from time to time generally open with any Nationalised Bank or any Scheduled Bank as per the guidelines of the Ministry of Finance, Government of India.

General accounts of Board.

43. (1) The monies credited to the general account or accounts under section 42, shall be applied by the Board in payment of the following charges, namely:—

Application of money in general accounts.

(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other monies due to—

(i) the Members of the Board except Members appointed under clauses (d), (e) and (f) of sub-section (1) of section 3;

(ii) the serving and retired employees of the Board; and

(iii) the surviving relatives, if any, of such employees;

(b) the cost and expenses, if any, incurred by the Board in the conduct and administration of any provident or welfare fund or loan or special fund established by the Board;

(c) the maintenance, development, security and protection of the Board and the docks, warehouses and other port assets;

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

(e) the costs, expenses, sums, payments and contributions to be made or incurred by the Board for the purposes provided under sections 25 and 26; and

(f) any other charge or expenditure for which the Board may be legally liable.

(2) All monies standing to the credit of the Board which cannot immediately be applied in the manner or for the purposes specified in sub-section (1) may be used for such lawful purposes as the Board may from time to time decide.

(3) Notwithstanding anything contained in section 42 and sub-sections (1) and (2), monies received by or on behalf of the Board from non-port related use except those falling under section 70 shall be credited to a designated account and shall be applied by the Board for capital investment or for such purposes as may be prescribed.

C. ACCOUNTS AND AUDIT

Accounts and
audit.

44. (1) The Board shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India or such other person as may be appointed by him in this behalf and any amount payable to him by the Board in respect of such audit shall be debitable to the general account of the Board.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board under this Act shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Board, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Board and the Central Government shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

SUPERVISION OF CENTRAL GOVERNMENT

Administration
report

45. As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the Board during the preceding year ending on the thirty-first day of March, in such form as the Central Government may direct.

Power of
Central
Government
to order
survey or
examination
of works of
Board.

46. The Central Government may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof and the cost of such survey and examination shall be borne and paid by the Board from and out of the monies credited to its general account.

Power of
Central
Government
to restore or
complete
works at cost
of Board.

47. (1) If, at any time, the Central Government is of the opinion that the inaction by any Board in repairing, completing, restoring, carrying out or providing any work or appliance mentioned in sub-section (2) has led to a grave emergency, the Central Government may cause such work to be restored or completed or carried out, or such repairs to be carried out or such appliance to be provided and the cost of any such restoration, completion, construction, repair or provision shall be paid by the concerned Board from and out of the monies credited to its general account.

(2) The following actions or omissions may be considered to have led to grave emergency under sub-section (1), if any Board—

(a) allows any work or appliance constructed or provided by, or vested in, the Board to fall into disrepair; or

(b) does not, within a reasonable time, complete any work commenced by the Board or included in any estimate sanctioned by the Central Government; or

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

48. (1) If, at any time, the Central Government is of the opinion—

(a) any Board is unable to perform the duties imposed on it by or under the provisions of this Act or of any other law for the time being in force; or

(b) that any Board has persistently made defaults in performance of the duties imposed upon it by or under the provisions of this Act or of any other law for the time being in force and as a result of such default, the financial position or the administration of that Board has greatly deteriorated,

Power of Central Government to take over management of Board

the Central Government may, by notification, take over the management of that Board for such period, not exceeding twelve months at a time, as may be specified in the notification:

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

(2) Upon the publication of a notification under sub-section (1) for taking over the management of the Board,—

(a) all the Members of the Board shall, as from the date of taking over, stand removed from their respective office or position in the Board;

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

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

(3) On the expiration of the period of taking over specified in the notification issued under sub-section (1) or at any time prior to such expiration, the Central Government may, by notification,—

(a) extend the period of taking over the management of the Board for such further term, not exceeding twelve months, as it may consider necessary; or

(b) re-constitute the Board by making fresh appointment to all posts of the Board on such terms and conditions as the Central Government may consider necessary, and in such case, any person who stand removed from their offices under clause (a) of sub-section (2) shall be deemed disqualified for appointment.

49. For any action or actions taken under sections 47 and 48 and any notification issued under section 48, the Central Government shall prepare and cause a full report of any such action or actions and notification and the circumstances leading to such action to be laid before each House of Parliament.

Laying of report.

50. Notwithstanding anything contained in this Act, the Central Government may, in the interest of security of the nation or on account of a grave emergency, by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or classes of goods, at such place in a Major Port or within the Major Port approaches, in such manner, during such period and subject to such payments to the concerned Board in relation to such Major Port or such Major Port approaches and on such conditions as the Central Government may think fit.

Power of Central Government to exempt from obligation to use port assets.

Board not to sell, alienate or divest its assets, properties, rights, powers and authorisations without sanction of Central Government.

51. The Board shall not sell, alienate or divest its assets, properties, rights, powers and authorisations vested in it under this Act without the prior sanction of the Central Government.

Remedies of Government in respect of loans made to Board.

52. (1) The Central Government or a State Government, from the date of commencement of this Act, shall have, in respect of loans made by it to the Board or of loans made to any other authority for the repayment of which the Board is legally liable on such commencement, the same remedies and priority as applicable under the Major Port Trusts Act, 1963 as if this Act had not been passed.

38 of 1963.

(2) For prospective loans by the Central or State Governments or of loans made by any other authority, the remedies would be the same as available to the holders of port securities issued by the Board unless priority or greater rights are granted by the Board in respect of such loans within the respective loan agreements.

Power of Central Government to issue directions.

53. (1) Without prejudice to the foregoing provisions of this Chapter, the Board shall in discharge of its functions under this Act, be bound by such directions on question of policy as the Central Government may give in writing from time to time:

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government on whether a question is one of the policy or not shall be final and binding on the Board.

CHAPTER VI

CONSTITUTION OF ADJUDICATORY BOARD

Constitution of Adjudicatory Board.

54. (1) The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Board to be known as the Adjudicatory Board to exercise the jurisdiction, powers and authority conferred on such Adjudicatory Board by or under this Act:

Provided that until the constitution of the Adjudicatory Board, the Tariff Authority for Major Ports constituted under section 47A of the Major Port Trusts Act, 1963 shall discharge the functions of the Adjudicatory Board under this Act and shall cease to exist immediately after the constitution of the Adjudicatory Board under this Act:

38 of 1963.

Provided further that on and from the date of constitution of the Adjudicatory Board—

(a) all the assets and liabilities of the Tariff Authority for Major Ports shall stand transferred to, and vested in, the Adjudicatory Board.

Explanation.—For the purposes of this clause, the assets of the Tariff Authority for Major Ports shall be deemed to include all rights and powers, all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Tariff Authority for Major Ports, and all books of account and other documents relating to the same, and liabilities, shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Tariff Authority for Major Ports before that date, for or in

connection with the purpose of the said Tariff Authority for Major Ports, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Adjudicatory Board;

(c) all sums of money due to the Tariff Authority for Major Ports immediately before that date shall be deemed to be due to the Adjudicatory Board;

(d) all suits and other legal proceedings instituted or which might have been instituted by or against the Tariff Authority for Major Ports immediately before that date may be continued or may be instituted by or against the Adjudicatory Board;

(e) every employee serving under the Tariff Authority for Major Ports immediately before such date shall become an employee of the Adjudicatory Board and shall hold his office or service therein by the same tenure without any change or derogation of the terms and conditions of service held with the Tariff Authority for Major Ports;

Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to their disadvantage without the previous sanction of the Central Government;

(f) every person who was receiving any retirement benefits from the Tariff Authority for Major Ports immediately before such date, shall continue to receive the same benefit from the Adjudicatory Board;

Provided that the retirement benefits of such person shall not be altered by the Adjudicatory Board to his disadvantage without the previous sanction of the Central Government.

(2) The head office of the Adjudicatory Board shall be at such a place as may be notified by the Central Government;

Provided that the Adjudicatory Board may hold its sittings at such other places as the Presiding Officer may decide from time to time, having taken into consideration the convenience to decide the disputes referred to it.

55. The Adjudicatory Board shall consist of a Presiding Officer and two other members, as may be appointed by the Central Government.

Composition of Adjudicatory Board.

56. (1) A person shall not be qualified for appointment as the Presiding Officer of the Adjudicatory Board unless he is—retired Judge of the Supreme Court of India or a retired Chief Justice of a High Court.

Qualifications, terms and conditions of service of Presiding Officer and members of Adjudicatory Board.

(2) A person shall not be qualified for appointment as a member of the Adjudicatory Board unless he is—

(a) a retired Chief Secretary of a State Government or equivalent; or

(b) a retired Secretary of the Government of India or equivalent,

and has an experience of not less than twenty years in the field of finance, commerce, administration, maritime, shipping or port related matters.

(3) The Presiding Officer and members of the Adjudicatory Board shall be appointed by the Central Government on the recommendation of a Selection Committee consisting of the Chief Justice of India or his nominee, the Secretary of the Department dealing with Shipping and such other persons, and in such manner as may be prescribed.

(4) The Presiding Officer and members of the Adjudicatory Board shall hold office for a term not exceeding five years from the date on which they enter upon their office or until they attain the age of seventy years, whichever is earlier.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Presiding Officer and members of the Adjudicatory Board shall be such as may be prescribed:

Provided that neither the salary and allowance nor other terms and conditions of service of the Presiding Officer or members of the Adjudicatory Board shall be varied to their disadvantage after their appointment.

Removal and suspension of Presiding Officer and members of Adjudicatory Board.

57. (1) The Central Government may, in consultation with the Chief Justice of India or his nominee, remove from office of the Presiding Officer, who—

(a) has been adjudged as an insolvent;

(b) has become physically or mentally incapable of acting as such Presiding Officer or member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such Presiding Officer or member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Without prejudice to the provisions of sub-section (1), the Presiding Officer shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of India or his nominee on a reference made to him by the Central Government in which such Presiding Officer has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, with the concurrence of the Chief Justice of India suspend from office, the Presiding Officer in respect of whom reference has been made to the Chief Justice of India under sub-section (2) until the Central Government has passed orders on receipt of the report of the Chief Justice of India on such reference.

(4) The Central Government shall, after consultation with the Supreme Court, make rules to regulate the procedure for the inquiry on the ground of proved misbehaviour or incapacity referred to in sub-section (2).

(5) Without prejudice to the provisions of sub-section (1), a member of the Adjudicatory Board shall not be removed from his office except by an order made by the Central Government on the ground of his proved misbehaviour or incapacity, after an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the member ought to be removed on any such ground referred to in sub-section (1).

(6) The Central Government may suspend any member of the Adjudicatory Board in respect of whom an inquiry under sub-section (5) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

Powers and functions of Adjudicatory Board.

58. (1) The Adjudicatory Board referred to in section 54 shall perform the following functions, other than tariff setting, namely:—

(a) the functions envisaged to be carried out by the erstwhile Tariff Authority for Major Ports arising from the Tariff Guidelines of 2005, 2008, 2013, 2018 and 2019 and tariffs orders issued by the said Authority;

(b) to receive and adjudicate reference on any dispute or differences or claims relating to rights and obligations of Major Ports and Public Private Partnership concessionaires or captive users for dedicated berth within the framework of their concession agreements and to pass orders after considering and hearing all the parties involved in the dispute;

(c) to appraise, review the stressed Public Private Partnership projects as referred by the Central Government or the Board, and to suggest measures to revive such projects;

(d) to look into the complaints received from port users against the services and terms of service rendered by the Major Ports or the private operators operating in the Major Ports and to pass necessary orders after hearing the parties concerned; and

(e) to look into any other matter relating to the operations of the Major Port, as may be referred to it by the Central Government or the Board, and to pass orders or give suggestions, as the case may be.

(2) The procedure to be adopted by the Adjudicatory Board, while discharging its functions referred to in sub-section (1), as well as other matters related to funding, accounts and audit of such Board shall be such as may be prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Adjudicatory Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

(a) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Adjudicatory Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) issuing commissions for the examination of witnesses or documents; and

(d) any other matter which may be prescribed.

(4) Any proceeding before the Adjudicatory Board, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, and the Adjudicatory Board shall be deemed to a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

59. No other court shall have jurisdiction to entertain any suit for proceeding in respect of any matter falling within the scope of the Adjudicatory Board under this Act:

Bar of jurisdiction of any court.

Provided that the provisions of this section shall not apply to matters stated in section 58 that are referred to arbitration by the concerned parties within the framework of their respective contracts or concession agreements.

60. (1) Any party aggrieved by any decision or order of the Adjudicatory Board under this Act, from which an appeal is allowed under sub-section (2), but from which no appeal has been preferred, may apply for a review of such decision before the Adjudicatory Board, in such form and manner and within such time, as may be prescribed, and the said Board may make such order thereon, as it thinks fit.

Review and appeal.

(2) Any party aggrieved by any decision or order of the Adjudicatory Board, may file an appeal to the Supreme Court of India, within sixty days from the date of communication of such decision or order to him:

Provided that no appeal shall lie from a decision or order passed by the Adjudicatory Board with the consent of parties:

Provided further that the Supreme Court may, entertain any appeal after the expiry of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

61. (1) The Adjudicatory Board may, with the previous approval of the Central Government, appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

Officers and employees of Adjudicatory Board.

5 of 1908.

45 of 1860,
2 of 1974.

(2) The salaries and allowances payable to and other terms and conditions of service of the officers and employees of the Adjudicatory Board, shall be such as may be prescribed.

CHAPTER VII

PENALTIES

General provision for punishment of offences.

62. Any person who contravenes any of the provisions of this Act or any rule, regulation or order made thereunder, shall be punishable with fine which may extend to one lakh rupees.

Offences by companies.

63. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section, the expressions—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER VIII

MISCELLANEOUS

Cognizance of offences.

64. No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try any offence punishable under this Act or any rule or regulation made thereunder.

Protection of action taken in good faith.

65. No suit or other legal proceeding shall lie against the Board or any Member or employee thereof or the Adjudicatory Board or the Presiding Officer or any member or employee thereof in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder, or for any deficiency of service or any consequential losses on account of deficiency in services.

Employees of Board or Adjudicatory Board to be public servants.

66. Every person employed by the Board or the Adjudicatory Board under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Application of other laws not barred.

67. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

68. (1) Notwithstanding anything contained in any other law for the time being in force, the Board in exercise of the powers conferred on it by regulations made under this Act or by invoking the contractual remedies available to the Board may cancel the allotment of any premises made to any employee of the Board or any other person or evict an employee of the Board or any person in occupation of any port asset or premises or area in the port limits, by notice in writing, addressed to such allottee or employee or other person who may be in occupation or possession thereof in violation of the regulations specified or formulated by the Board;

Power to evict certain persons from premises of Board.

Provided that such notice shall indicate the reasons for cancellation of allotment or eviction or removal along with the period within which the removal or eviction is sought and recovery of the sums of dues in arrears and also for the extended unauthorised use of such premises.

(2) If any allottee or employee or other person is aggrieved by the order made under sub-section (1), then the said allottee or employee or other person may appeal against the order with the compensation officer so appointed by the Board within thirty days from the receipt of the order under sub-section (1).

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

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

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

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

(c) by registered post; or

(d) by publishing in the local newspaper having circulation in the area.

Explanation.—For the purposes of this section, the expression “premises” means any land, building or part of a building which is part of port assets and includes—

(i) areas such as canteens, gardens, grounds and out-houses, if any, appertaining to such building or part of a building;

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

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

69. Without prejudice to any other action that may be taken under this Act, 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, or any penalties payable to, or recoverable by, the Board under this Act or under any regulations made in pursuance thereof.

Alternate remedy by suit.

70. (1) The Board may use its funds for providing social benefits including development of infrastructure in areas of education, health, housing, accommodation, skill development, training and recreational activities for its own employees, customers, business partners, Government and Non-Government Organisation, local communities, environment and society at large.

Corporate Social Responsibility and development of infrastructure by Board.

(2) The manner of utilisation of funds for the Corporate Social Responsibility shall be such, as may be prescribed.

Explanation.—For the purposes of this section, the expression “Corporate Social Responsibility” means the activities, to be undertaken by the concerned Major Port, as referred to in sub-section (1) and section 135 of the Companies Act, 2013.

18 of 2013.

Power of
Central
Government
to make rules.

71. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

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

(a) the composition of the Selection Committee and the manner of appointment of the Chairperson and Deputy Chairperson of the Board under sub-section (1) of section 4;

(b) the manner of appointment of Members of the Board under sub-sections (2) and (3) of section 4;

(c) the procedure for conducting any inquiry made under sub-section (2) of section 5;

(d) the honorarium payable to the Independent Members under section 11;

(e) the parameters for creation of Master Plan under section 25;

(f) the norms for fixation and implementation of scales, fees, rates and conditions under sub-section (1) of section 27;

(g) the form, manner and fees for filing application before the Adjudicatory Board under section 32;

(h) the manner of applying the sums under sub-section (3) of section 40;

(i) the purposes for which the monies received by the Board shall be applied under sub-section (3) of section 43;

(j) the form in which the Board shall prepare an annual report under sub-section (1) of section 44;

(k) the manner of appointment of the Presiding Officer and members of the Adjudicatory Board under sub-section (3) of section 56;

(l) the salaries and allowances payable to and other terms and conditions of services of the Presiding Officer and members of the Adjudicatory Board under sub-section (5) of section 56;

(m) the procedure for conducting an inquiry under sub-section (5) of section 57;

(n) the procedure to be adopted by the Adjudicatory Board under sub-section (2) of section 58;

(o) other functions of the Adjudicatory Board under clause (d) of sub-section (3) of section 58;

(p) the form and manner for applying of a review before the Adjudicatory Board under sub-section (1) of section 60;

(q) the salaries and allowances payable to and the other terms and conditions of service of officers and employees of the Adjudicatory Board under sub-section (2) of section 61;

(r) the manner of utilisation of funds for Corporate Social Responsibility under sub-section (2) of section 70; and

(s) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Power of
Board to
make
regulations.

72. (1) The Board may, with the previous approval of the Central Government and after previous publication, by notification, shall make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

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

(a) rules of procedure for transaction of business under sub-section (1) of section 13;

(b) rules of procedure for transaction of business under sub-section (2) of section 14;

(c) the appointment of employees under clause (b) of sub-section (1) of section 18;

(d) the use and development of the port assets under sub-section (2) of section 22;

(e) the form and manner in which contracts shall be made by the Board under sub-section (3) of section 24;

(f) the purposes of planning and development of Major Port under sub-section (1) of section 26;

(g) the form of port security under sub-section (3) of section 33;

(h) the issuance of duplicate or new security under sub-section (1) of section 36; and

(i) any other matter which is required to be, or may be, specified by the regulations or in respect of which provision is to be made by the regulations.

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

Laying of rules and regulations.

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

Power to remove difficulties.

Provided that no such order shall be made in respect of a Major Port after the expiry of a period of three years from the date on which this Act is made applicable to that Major Port.

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

38 of 1963.

75. (1) The Major Port Trusts Act, 1963 is hereby repealed.

Repeal and savings.

38 of 1963.

(2) Notwithstanding the repeal of the Major Port Trusts Act, 1963 under sub-section (1),—

38 of 1963.

(a) anything done primarily by the Board of Trustees and Tariff Authority for Major Ports under the Major Port Trusts Act, 1963 in respect of any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the Major Port Trusts Act, 1963, shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, trust, special purpose vehicle, joint venture, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of the repealed Major Port Trusts Act, 1963, shall, if in force at the commencement of this Act and not inconsistent with the provisions of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;

38 of 1963

(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed Major Port Trusts Act, 1963;

38 of 1963.

(d) any person appointed to any office under or by virtue of the repealed Major Port Trusts Act, 1963 shall be deemed to have been appointed to that office under or by virtue of this Act;

38 of 1963.

(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;

(f) any documents and any funds constituted and established under the repealed enactments shall be deemed to be documents and funds constituted or established under the corresponding provisions of this Act;

(g) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court;

(h) any inspection, investigation or inquiry ordered to be done under the repealed Major Port Trusts Act, 1963 shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act; and

38 of 1963.

(i) the application of this Act to the port of Mumbai, the Bombay Port Trust Act, 1879 and the port of Kolkata, the Calcutta Port Act, 1890, in so far as the said Acts apply to municipal assessment of the properties of the port of Mumbai and port of Kolkata and matters connected therewith, shall continue to so apply.

6 of 1879.
3 of 1890.

(j) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the Major Port Trusts Act, 1963.

10 of 1897.

38 of 1963.

Transitional
provision.

76. Notwithstanding anything contained in this Act, the Board of Trustees functioning as such immediately before the commencement of this Act shall continue to so function until the Board for each Major Port is constituted under this Act, but on the constitution of such Board, under this Act, the Members of the Board of Trustees holding office before such constitution shall cease to hold office.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र

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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

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पत्तन, पोत परिवहन और जलमार्ग मंत्रालय

अधिसूचना

नई दिल्ली, 22 नवम्बर, 2021

सा. का. नि. 820(अ).—केंद्रीय सरकार, महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) की धारा 71 की उपधारा (1) के साथ पठित धारा 44 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित नियम बनाती है, अर्थात् :--

1. संक्षिप्त नाम और प्रारंभ--- (1) इन नियमों का संक्षिप्त नाम महापत्तन प्राधिकरण (लेखा और संपरीक्षा) नियम, 2021 हैं।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं—(1) इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,--

(क) "अधिनियम" से महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) अभिप्रेत है ;

(ख) "संपरीक्षा अधिकारी" से भारत का नियंत्रक और महालेखापरीक्षक अभिप्रेत है और इसके अंतर्गत महापत्तन प्राधिकरण के लेखाओं की संपरीक्षा से संशक्त उसके द्वारा नियुक्त कोई व्यक्ति भी सम्मिलित है ;

(ग) महापत्तन प्राधिकरण के संबंध में "लेखा बही" के अंतर्गत निम्नलिखित के संबंध में रखे गए अभिलेख सम्मिलित हैं—

(i) महापत्तन प्राधिकरण द्वारा प्राप्त की गई या प्राप्त होने योग्य और व्यय की गई या व्यय होने योग्य सभी धनराशियां और उससे संबंधित ऐसे विषय, जिससे प्राप्तियां और व्यय किए गए हैं ;

(ii) महापत्तन प्राधिकरण द्वारा माल और सेवाओं के सभी विक्रय और क्रय ; और

(iii) महापत्तन प्राधिकरण की आस्तियां और दायित्व ;

(घ) "वित्तीय वर्ष" से 1 अप्रैल से प्रारंभ होने वाला वर्ष अभिप्रेत है।

(2) उन शब्दों और पदों के, जो इसमें प्रयुक्त हैं और इस नियमों में परिभाषित नहीं हैं, किन्तु अधिनियम में परिभाषित हैं, वही अर्थ होंगे जो उस अधिनियम में हैं।

3. बजट को तैयार करना और प्रस्तुत करना—(1) आगामी वित्तीय वर्ष के लिए प्रत्येक महापत्तन प्राधिकरण की आय और व्यय का बजट प्राक्कलन केंद्रीय सरकार द्वारा ऐसी रीति में, जो समय-समय पर नियत किया जाए, इस निमित्त उसके द्वारा प्राधिकृत उक्त महापत्तन प्राधिकरण के अध्यक्ष या ऐसे कर्मचारी द्वारा तैयार की जाएगी।

(2) इस प्रकार तैयार किए गए बजट प्राक्कलन की एक प्रति बोर्ड की बैठक के कम से कम सात दिन पूर्व बोर्ड के प्रत्येक सदस्य को भेजी जाएगी, जिससे उस प्राक्कलन पर विचार किया जा सके।

(3) बोर्ड, ऐसे परिवर्तन के साथ, जो वह उचित समझे, बजट प्राक्कलन पर विचार करेगा और उसकी मंजूरी देगा या किसी अन्य बैठक के लिए बजट प्राक्कलन पर विचार करने के लिए अस्थगित की जाएगी।

(4) उपनियम (3) के अधीन महापत्तन प्राधिकरण द्वारा मंजूर किया गया बजट प्राक्कलन महापत्तन प्राधिकरण के बोर्ड द्वारा केंद्रीय सरकार को भेजा जाएगा जो वित्तीय वर्ष के पूर्व वित्तीय वर्ष के 31 दिसंबर के बाद का न हो, जिससे बजट प्राक्कलन पर किया गया विचार संबंधित है।

(5) केंद्रीय सरकार बजट प्राक्कलन का पुनर्विलोकन करेगी और उसे वित्तीय वर्ष के प्रारंभ से पूर्व, जो तीस दिनों के बाद का न हो, बोर्ड को सुझावों के साथ या उसके बिना वापस भेजेगी।

(6) उपनियम (5) के अधीन बजट प्राक्कलन की प्राप्ति पर बोर्ड, केंद्रीय सरकार द्वारा दिए गए सुझावों पर विचार करेगा, यदि कोई हो और ऐसे परिवर्तनों के साथ, जो वह ठीक समझे, बजट प्राक्कलन को अनुमोदित करेगा।

4. अनुपूरक बजट—बोर्ड, नियम 4 के अधीन पूर्व में अनुमोदित किए गए किसी बजट प्राक्कलन के लिए किसी वित्तीय वर्ष के दौरान ऐसे वर्ष के अवशिष्ट अवधि के लिए एक या एक से अधिक अनुपूरक बजट प्राक्कलन तैयार करेगा और नियम 4 के उपबंध ऐसे प्राक्कलन के लिए ऐसे लागू होंगे, जैसे किसी मूल बजट प्राक्कलन में थे।

5. पुनर्विनियोग—(1) यदि उसके द्वारा प्राधिकृत अध्यक्ष या कोई व्यक्ति, वर्ष के दौरान यह पाता है कि किसी शीर्ष के अधीन मंजूर किए गए बजट प्राक्कलन (जिसके अंतर्गत कोई पुनरीक्षित बजट प्राक्कलन भी सम्मिलित है) व्यय से अधिक होने वाला है या उक्त मंजूर की गई या पुनरीक्षित बजट प्राक्कलन में सम्मिलित कोई राशि किसी अत्यावश्यक आपात के कारण अपेक्षित हैं, तो अध्यक्ष या उसके द्वारा प्राधिकृत कोई व्यक्ति किसी अन्य शीर्ष के अधीन अधिसंभाव्य बचत के पता चलने पर बजट प्राक्कलन के प्रत्येक शीर्ष के अधीन किए गए आबंटन की परीक्षा करेगा और इसके प्रस्ताव को बोर्ड के समक्ष पुनर्विनियोग को प्रभावी करने के लिए प्रस्तुत करेगा।

(2) जहां ऐसा पुनर्विनियोग साध्य है, बोर्ड इस निमित्त जो उचित समझे, ऐसी शर्तों के अध्यक्षीन रहते हुए पुनर्विनियोग की मंजूरी दे सकेगा।

6. लेखाओं को रखना—बोर्ड, प्रत्येक वित्तीय वर्ष के लिए लेखा बहियां और अन्य संबंधित पुस्तकें तैयार करेगा और रखेगा जो महापत्तन प्राधिकरण के कार्यकलाप की स्थिति का सही और ऋजु चित्र देता है और ऐसी पुस्तक ऐसी रीति में रखी जाएगी, जो केंद्रीय सरकार द्वारा विनिर्दिष्ट किया जाए।

7. आंतरिक लेखापरीक्षक—(1) बोर्ड, एक आंतरिक लेखापरीक्षक नियुक्त कर सकेगा, जो महापत्तन के कृत्यों और कार्यकलापों से संबंधित लेखाओं, विवरणों और दस्तावेजों की आंतरिक संपरीक्षा करने के लिए बोर्ड द्वारा विनिश्चित किया गया कोई चार्टर्ड अकाउंटेंट या लागत और प्रबंध लेखापरीक्षक या ऐसे अन्य वृत्तिक होगा।

स्पष्टीकरण—इस उपनियम के प्रयोजनों के लिए, “चार्टर्ड अकाउंटेंट या लागत और प्रबंध लेखापरीक्षक या ऐसे अन्य वृत्तिक” शब्दों से व्यवसाय में लगे हुए किसी चार्टर्ड अकाउंटेंट या लागत और प्रबंध लेखापरीक्षक या ऐसे अन्य वृत्तिक अभिप्रेत है।

(2) उपनियम (1) के अधीन किसी आंतरिक लेखापरीक्षक की नियुक्ति बोर्ड द्वारा भारत के नियंत्रक और महालेखापरीक्षक या भारतीय रिजर्व बैंक द्वारा बनाए गए वृत्तिकों के पैनल से की जाएगी।

(3) बोर्ड या बोर्ड द्वारा नियुक्त कोई संपरीक्षा समिति आंतरिक लेखापरीक्षा को संचालित करने के लिए परिधि, कृत्य, आवर्तिता और कार्य प्रणाली निश्चित करेगा।

(4) उपनियम (3) पर प्रतिकूल प्रभाव डाले बिना, आंतरिक लेखापरीक्षक महापत्तन प्राधिकरण के संव्यवहारों और मासिक लेखाओं की परीक्षा करेगा और रिपोर्ट देगा और यह प्रमाणित करेगा कि क्या उसकी राय में ऐसे संव्यवहार और लेखा समय-समय पर बोर्ड द्वारा यथा अनुमोदित लेखा नीतियों के अनुसार उचित रूप से किए गए हैं।

8. लेखाओं के वार्षिक विवरण को तैयार करना और प्रस्तुत करना—(1) बोर्ड, केंद्रीय सरकार द्वारा नियत किए गए ऐसे समय के भीतर पूर्व वित्तीय वर्ष के लेखाओं का कोई वार्षिक विवरण प्रत्येक वित्तीय वर्ष के प्रारंभ के पश्चात् तैयार करेगा।

(2) उपनियम (1) के अधीन तैयार किए गए लेखाओं के वार्षिक विवरण में ऐसी सूचना और विशिष्टियां सम्मिलित होंगी जो केंद्रीय सरकार द्वारा भारत के नियंत्रक और महालेखापरीक्षक के परामर्श से विनिर्दिष्ट की जाए।

(3) उपनियम (1) के अधीन तैयार किए गए लेखाओं का वार्षिक विवरण महापत्तन प्राधिकरण के कार्यकलापों की स्थिति का सही और ऋजु चित्र देगा और ऐसे लेखा मानकों का अनुपालन करेगा जो समय-समय पर भारत के चार्टर्ड अकाउंटेंट संस्थान द्वारा विनिर्दिष्ट किया जाए :

परंतु केवल इन तथ्यों के कारण लेखाओं का वार्षिक विवरण महापत्तन प्राधिकरण के कार्यकलाप की स्थिति का सही और ऋजु चित्र न प्रकट करने वाला नहीं समझा जाएगा कि ऐसे विषयों को प्रकट नहीं करते हैं जो तत्समय प्रवृत्त किसी विधि द्वारा प्रकट करने के लिए अपेक्षित न हो ।

(4) उपनियम (3) पर प्रतिकूल प्रभाव डाले बिना, जहां महापत्तन प्राधिकरण के वार्षिक विवरण उपनियम (3) में निर्दिष्ट लेखा मानकों का अनुपालन नहीं करता है, तो ऐसा महापत्तन प्राधिकरण ऐसे विचलन से उद्भूत लेखा मानकों से विचलन, ऐसे विचलन का कारण और वित्तीय प्रभाव, यदि कोई हो, लेखाओं का वार्षिक विवरण प्रकट करेगा ।

(5) लेखाओं का वार्षिक विवरण बोर्ड द्वारा अनुमोदित किया जाएगा और महापत्तन प्राधिकरण के अध्यक्ष (उसकी अनुपस्थिति में उपाध्यक्ष द्वारा) और महापत्तन में वित्त विभाग के प्रमुख द्वारा बोर्ड की ओर से हस्ताक्षरित किया जाएगा ।

(6) उपनियम (5) के अधीन स्वीकृत और हस्ताक्षरित लेखाओं का वार्षिक विवरण को महापत्तन प्राधिकरण की सामान्य मुहर द्वारा प्रमाणीकृत किया जाएगा और ऐसे समय के भीतर, जो केंद्रीय सरकार द्वारा भारत के नियंत्रक और महालेखापरीक्षक की सलाह से नियत किया जाए, प्रत्येक वर्ष महापत्तन द्वारा संपरीक्षा अधिकारी को भेजा जाएगा ।

(7) संपरीक्षा अधिकारी महापत्तन प्राधिकरण के लेखाओं के वार्षिक विवरण की रिपोर्ट देगा और संपरीक्षा करेगा तथा यह प्रमाणित करेगा कि क्या उसकी राय में तुलनपत्र और लाभ तथा हानि लेखे, जिसमें सभी विशिष्टियां सम्मिलित हैं, और महापत्तन प्राधिकरण के कार्यकलाप की स्थिति का सही और ऋजु चित्र प्रदर्शित करते हैं और महापत्तन प्राधिकरण या उसके किसी अधिकारी से कोई सूचना प्राप्त करने की दशा में क्या उसे दी गई है और वह संतोषजनक हैं ।

(8) संपरीक्षा अधिकारी महापत्तन प्राधिकरण के लेखाओं के वार्षिक विवरण की संपरीक्षा पूर्ण करेगा और संपरीक्षा रिपोर्ट को ऐसे समय के भीतर ऐसे महापत्तन प्राधिकरण के बोर्ड को भेजेगा जो भारत सरकार द्वारा भारत के नियंत्रक और महालेखापरीक्षक के परामर्श से नियत किया जाए ।

(9) संपरीक्षा अधिकारी की रिपोर्ट के साथ संपरीक्षा अधिकारी द्वारा यथा प्रमाणित लेखाओं का वार्षिक विवरण बोर्ड द्वारा केंद्रीय सरकार को ऐसे समय के भीतर जो आगामी वित्तीय वर्ष की समाप्ति पर, जो केंद्रीय सरकार द्वारा नियत किए गए लेखाओं से संबंधित है, वार्षिक रूप से भेजा जाएगा :

परंतु यदि संपरीक्षा अधिकारी की रिपोर्ट केंद्रीय सरकार द्वारा इस निमित्त नियत किए गए समय के भीतर प्राप्त नहीं की जाती है तो लेखाओं का वार्षिक विवरण संपरीक्षा अधिकारी की रिपोर्ट के बिना केंद्रीय सरकार को भेजा जाएगा ।

9. संपरीक्षा फीस और वास्तविक व्यय का संदाय—बोर्ड, ऐसी तारीख से, जो उनके द्वारा कोई मांग की गई है, तीन मास के भीतर उसके लेखाओं के वार्षिक विवरण से संबंधित विवरण उनमें से प्रत्येक द्वारा उपगत संपरीक्षा फीस और वास्तविक व्यय आंतरिक संपरीक्षक और संपरीक्षा अधिकारी को संदत्त करेगा ।

10. लेखाओं का अनौचित्य या अनियमितता—(1) यथास्थिति, आंतरिक संपरीक्षक या संपरीक्षा अधिकारी बोर्ड को निम्नलिखित से संबंधित यदि आवश्यक हो, एक पृथक् विवरण प्रस्तुत करेगा—

(क) कोई तात्त्विक अनौचित्यता, अनियमितता या त्रुटियां, जो वह महापत्तन प्राधिकरण के व्यय या बकाए रकम की वसूली में या लेखाओं में देख सकेगा ; या

(ख) महापत्तन द्वारा स्वामित्वाधीन या उसमें निहित कोई धन या अन्य संपत्ति का दुर्व्यय, जो उपेक्षा या अवचार द्वारा कारित की गई है, जो ऐसे व्यक्ति के नाम से, जो उसकी राय में प्रत्यक्ष रूप से या अप्रत्यक्ष रूप से ऐसी हानि या दुर्व्यय के लिए दायी है ।

(2) उपनियम (1) के अधीन विवरण की प्राप्ति पर बोर्ड ऐसी किसी त्रुटि या अनियमितता पर तुरंत विचार करेगा जो आंतरिक संपरीक्षक या संपरीक्षा अधिकारी की अपनी संपरीक्षा रिपोर्ट में ऐसी त्रुटियों या अनियमितताओं के बारे में बताया जाएगा और उस पर ऐसी कार्रवाई करेगा, जो बोर्ड उचित समझे :

परंतु यदि संपरीक्षा रिपोर्ट में सम्मिलित किसी पक्ष पर बोर्ड और संपरीक्षा अधिकारी के बीच राय में कोई मतभेद है और बोर्ड सुझावों को लागू करने में या उसे स्वीकार करने में, यदि कोई हो, अक्षम है, तो ऐसे पक्ष पर संपरीक्षा अधिकारी द्वारा वह विषय केंद्रीय सरकार को तुरंत निर्दिष्ट किया जाएगा, जो उस पर अंतिम आदेश पारित करेगी और बोर्ड ऐसे आदेशों को प्रभावी करने के लिए बाध्य होगा ।

[फा.सं. पीडी-24015/21/2021-पीडी-1]

विक्रम सिंह, संयुक्त सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS**NOTIFICATION**

New Delhi the 22nd November, 2021

G.S.R. 820(E).—In exercise of the powers conferred by sub-section (1) of section 44 read with sub-section (1) of section 71 of the Major Port Authorities Act, 2021 (1 of 2021), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.— (1) These rules may be called the Major Port Authorities (Accounts and Audit) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— (1) In these rules, unless the context otherwise requires,—

(a) “Act” means the Major Port Authorities Act, 2021 (1 of 2021);

(b) “Audit Officer” means the Comptroller and Auditor General of India and includes any person appointed by him in connection with the audit of accounts of the Major Port Authority;

(c) “books of account” in relation to a Major Port Authority, includes the records maintained in respect of—

(i) all sums of money received or receivable and expended or expendable by the Major Port Authority and matters in relation to which the receipts and expenditure takes place;

(ii) all sales and purchases of goods and services by the Major Port Authority; and

(iii) the assets and liabilities of the Major Port Authority;

(d) “financial year” means the year commencing on the first day of April;

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Preparation and submission of budget.— (1) The budget estimate of income and expenditure of each Major Port Authority for the next financial year shall be prepared by the Chairperson or such employee of the said Major Port Authority as may be authorised by him in this behalf, in such manner as the Central Government may, from time to time, specify.

2) A copy of the budget estimate so prepared shall be sent to each Member of the Board at least seven days before the meeting of the Board at which such estimate is to be considered.

(3) The Board shall consider and sanction the budget estimate with such changes as it thinks fit at the meeting fixed for the purpose or at any other meeting to which the consideration of the budget estimate is adjourned.

(4) The budget estimate sanctioned by the Major Port Authority under sub-rule (3) shall be forwarded by the Board of that Major Port Authority to the Central Government not later than 31st day of December of the financial year preceding the financial year to which the consideration of the budget estimate relate.

(5) The Central Government shall review the budget estimate and shall return it with or without suggestions to the Board not later than thirty days prior to the commencement of the financial year.

(6) Upon receipt of the budget estimate under sub-rule (5), the Board shall consider the suggestions, if any, made by the Central Government thereon and shall approve the budget estimate with such changes as it may think fit.

4. Supplementary Budget.— The Board may, in the course of any financial year for which a budget estimate has already been approved under rule (4), prepare one or more supplementary budget estimates for the residual period of such year and the provisions of rule (4) shall, so far as may be, apply to such estimate as if it were an original budget estimate.

5. Re-appropriation.— (1) If the Chairperson or any person authorised by him finds in the course of the year that there is likely to be an excess of expenditure over the sanctioned budget estimate (including any revised budget estimate) under any head, or any sum included in the said sanctioned or revised budget estimate is required for any pressing emergency, the Chairperson or any person authorised by him shall examine the allocation under each head of budget estimate with the object of discovering probable savings under any other head and submit its proposal to the Board to effect the re-appropriation.

(2) Where such re-appropriation is feasible, the Board may sanction the re-appropriation subject to such conditions as it may deem appropriate in that behalf.

6. Maintenance of accounts.— The Board shall prepare and keep books of account and other relevant books and papers for every financial year which gives a true and fair view of the state of affairs of the Major Port Authority and such books shall be kept in such manner as may be specified by the Central Government.

7. Internal Auditor.— (1) The Board may appoint an internal auditor, who shall either be a chartered accountant or cost and management accountant or such other professional as may be decided by the Board to conduct internal audit of the accounts, statements and documents concerning the functions and activities of the Major Port.

Explanation - For the purposes of this sub-rule, the term “chartered accountant or cost and management accountant or such other professional” shall mean a chartered accountant or cost and management accountant or such other professional, engaged in practice.

(2) The appointment of an internal auditor under sub-rule (1) shall be done by the Board from the panel of professionals maintained by the Comptroller and Auditor General of India or the Reserve Bank of India.

(3) The Board or any audit committee appointed by the Board shall formulate the scope, functioning, periodicity and methodology for conducting the internal audit.

(4) Without prejudice to sub-rule (3), the internal auditor shall examine and report on the transactions and monthly accounts of the Major Port Authority and certify whether in his opinion such transactions and accounts are properly drawn up in accordance with the accounting policies as approved by the Board from time to time.

8. Preparation and submission of annual statement of accounts.— (1) The Board shall, within such time as may be fixed by the Central Government, prepare after the commencement of each financial year an annual statement of accounts for the previous financial year.

(2) The annual statement of accounts prepared under sub-rule (1) shall include such information and particulars as may be specified by the Central Government in consultation with the Comptroller and Auditor General of India.

(3) The annual statement of accounts prepared under sub-rule (1) shall give a true and fair view of the state of affairs of the Major Port Authority and comply with such accounting standards as specified by the Institute of Chartered Accountants of India from time to time:

Provided that the annual statement of accounts shall not be treated as not disclosing a true and fair view of the state of affairs of the Major Port Authority, merely by reason of the fact that they do not disclose any matters which are not required to be disclosed by any law for the time being in force.

(4) Without prejudice to sub-rule (3), where the annual statement of accounts of the Major Port Authority do not comply with the accounting standards referred to in sub-rule(3), such Major Port Authority shall disclose in its annual statement of accounts, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

(5) The annual statement of accounts shall be approved by the Board and signed on behalf of the Board by the Chairperson (or in his absence, by the Deputy Chairperson) and the Head of Finance department in the Major Port.

(6) The annual statement of accounts adopted and signed under sub-rule (5) shall be authenticated by affixing the common seal of the Major Port Authority and shall be submitted by the Major Port to the Audit Officer each year within such time as may be fixed in this behalf by the Central Government in consultation with the Comptroller and Auditor General of India.

(7) The Audit Officer shall audit and report on the annual statement of accounts of the Major Port Authority and certify whether in his opinion the balance sheet and profit and loss account contain all particulars and are properly drawn up so as to exhibit a true and fair state of affairs of the Major Port Authority and in case he has called for any information from the Major Port Authority or any of its officers, whether it has been given and whether it is satisfactory.

(8) The Audit Officer shall complete the audit of the annual statement of accounts of the Major Port Authority and submit the audit report to the Board of such Major Port Authority within such time as may be fixed by the Central Government in consultation with the Comptroller and Auditor General of India.

(9) The annual statement of accounts as certified by the Audit Officer, together with the report of the Audit Officer shall be forwarded annually to the Central Government by the Board within such time following the close of the financial year to which the accounts relate as may be fixed by the Central Government:

Provided that if the report of the Audit Officer is not received by the Board within such time as may be fixed in this behalf by the Central Government, the annual statement of accounts shall be submitted to the Central Government without the report of the Audit Officer.

9. Payment of audit fee and out of pocket expenses.— The Board shall pay to the internal auditor and the Audit Officer the audit fee and out of pocket expenses incurred by each of them in connection with the annual audit of its accounts, within three months from the date of which any demand is made by them.

10. Impropriety or irregularity in accounts.— (1) The internal auditor or the Audit Officer, as the case may be, shall submit a separate statement to the Board, if necessary, in regard to-

- (a) any material impropriety, irregularity or defects which he may observe in the expenditure, or in the recovery of moneys due to, or in the accounts of the Major Port Authority; or
- (b) any loss or waste of money or other property owned by or vested in the Major Port Authority which has been caused by neglect or misconduct, with the names of the persons who in their opinion are directly or indirectly responsible for such loss or waste.

(2) The Board upon receipt of statement under sub-rule (1) shall forthwith take into consideration any defects or irregularities that may be pointed out by the internal auditor or the Audit Officer in its audit report and shall take such action thereon as the Board may think fit:

Provided that if there is a difference of opinion between the Board and the Audit Officer on any point included in the audit report, and the Board is unable to accept or implement the recommendations, if any, made by the Audit Officer on such point, the matter shall forthwith be referred to the Central Government which shall pass final orders thereon and the Board shall be bound to give effect to such orders.

[F. No. PD-24015/21/2021-PD-I]

VIKRAM SINGH, Jt. Secy.



भारत का राजपत्र The Gazette of India

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भाग II—खण्ड 3—उप-खण्ड (i)
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पत्तन, पोत परिवहन और जलमार्ग मंत्रालय

अधिसूचना

नई दिल्ली, 22 नवंबर, 2021

सा.का.नि. 823(अ).—केंद्रीय सरकार, महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) की धारा 71 की उपधारा (2) के खंड (द) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात् :--

1. संक्षिप्त नाम, प्रारंभ और लागू होना--(1) इन नियमों का संक्षिप्त नाम महापत्तन प्राधिकरण (कारपोरेट सामाजिक उत्तरदायित्व) नियम, 2021 (2021 का 1) है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

(3) ये नियम महापत्तन प्राधिकरण अधिनियम, 2021 की धारा 1 की उपधारा (3) में उल्लिखित महापत्तनों को लागू होंगे।

2. परिभाषाएं—इन नियमों में, जब तक संदर्भ से अन्यथा अपेक्षित न हो,--

(क) "अधिनियम" से महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) अभिप्रेत है ;

(ख) "कारपोरेट सामाजिक उत्तरदायित्व" से निम्नलिखित अभिप्रेत है और उसमें सम्मिलित है, किंतु यह इन तक ही सीमित नहीं है,--

- (i) अधिनियम की धारा 70 में विनिर्दिष्ट क्रियाकलापों से संबंधित परियोजनाएं या कार्यक्रम ; और
- (ii) केंद्रीय सरकार द्वारा समय-समय पर जारी कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में यथाविनिर्दिष्ट क्रियाकलापों से संबंधित परियोजनाएं या कार्यक्रम ;
- (ग) “कारपोरेट सामाजिक उत्तरदायित्व समिति” से महापत्तन द्वारा गठित कारपोरेट सामाजिक उत्तरदायित्व समिति अभिप्रेत है ;
- (घ) “कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांत” से महापत्तनों के लिए कारपोरेट सामाजिक उत्तरदायित्व संबंधी ऐसे मार्गदर्शी सिद्धांत अभिप्रेत हैं, जो केंद्रीय सरकार द्वारा समय-समय पर जारी किए जाएं ;
- (ङ) “कारपोरेट सामाजिक उत्तरदायित्व योजना” से महापत्तन द्वारा आरंभ किए जाने वाले क्रियाकलापों को सूचीबद्ध करने वाली योजना और उस पर व्यय अभिप्रेत है, जिसके अंतर्गत उक्त महापत्तन के कारबार के सामान्य अनुक्रम के अनुसरण में आरंभ किए गए क्रियाकलाप नहीं हैं ;

(2) उन शब्दों और पदों के, जो इन नियमों में प्रयुक्त हैं और परिभाषित नहीं किए गए हैं, किंतु अधिनियम में परिभाषित किए गए हैं, वहीं अर्थ होंगे जो अधिनियम में क्रमशः उनके हैं।

3. कारपोरेट सामाजिक उत्तरदायित्व समिति—(1) प्रत्येक महापत्तन प्राधिकरण का बोर्ड, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में यथा उपवर्णित पात्रता मानदंड को पूरा करता है, ऐसी रीति में और ऐसे व्यक्तियों से, जो उक्त मार्गदर्शी सिद्धांतों में विनिर्दिष्ट हो, मिलकर बनने वाली कारपोरेट सामाजिक उत्तरदायित्व समिति का गठन करेगा :

परंतु महापत्तन प्राधिकरण के बोर्ड से, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में उपवर्णित पात्रता मानदंडों को पूरा नहीं करता है या पूरा करने के लिए पात्र नहीं रह जाता है, इन नियमों का उस समय तक अनुपालन किए जाने की अपेक्षा नहीं की जाएगी, जब तक कि वह मानदंड पूरा नहीं कर लिया जाता है :

परंतु यह और कि महापत्तन प्राधिकरण के बोर्ड से, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों के मानदंडों को पूरा नहीं करता है, ऐसी अन्य अपेक्षाओं का पालन करने की अपेक्षा की जाएगी, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में उपवर्णित हैं।

(2) कारपोरेट सामाजिक उत्तरदायित्व समिति का प्रत्येक सदस्य, जो किसी भी रूप में, चाहे स्वयं के द्वारा या अपने नातेदारों में से किसी नातेदार या फर्म, निगमित निकाय या व्यष्टियों के अन्य संगम के माध्यम से, जिसमें वह या उसके नातेदारों में से कोई नातेदार, किसी कारपोरेट सामाजिक उत्तरदायित्व योजना में सिफारिश किए गए या सिफारिश किए जाने वाली किसी कारपोरेट सामाजिक उत्तरदायित्व परियोजना में कार्यक्रम क्रियाकलाप से संबंधित है या उसमें हितबद्ध है, भागीदार, निदेशक या सदस्य है, कारपोरेट सामाजिक उत्तरदायित्व समिति की बैठक में अपने सरोकार या हित की प्रकृति को प्रकट करेगा, जिसमें ऐसी कारपोरेट सामाजिक उत्तरदायित्व परियोजना, कार्यक्रम या क्रियाकलाप पर चर्चा की जाती है और ऐसी बैठक में भी तब भाग नहीं लेगा, जब ऐसी परियोजना, कार्यक्रम या क्रियाकलाप से संबंधित कार्यसूची पर चर्चा की जाती है :

परंतु जहां ऐसा कोई सदस्य, जिसका कारपोरेट सामाजिक उत्तरदायित्व योजना में ऐसे कारपोरेट सामाजिक उत्तरदायित्व परियोजना, कार्यक्रम या क्रियाकलाप की सिफारिश करने के समय इस प्रकार का संबंध नहीं है या वह उसमें हितबद्ध नहीं है, वहां वह यदि उसका संबंध कारपोरेट सामाजिक उत्तरदायित्व परियोजना, कार्यक्रम या क्रियाकलाप की

सिफारिश किए जाने के पश्चात् उसका सरोकार होता है या वह हितबद्ध होता है, उसके उससे सरोकार होने या उसमें हितबद्ध होने पर या उसका उससे इस प्रकार सरोकार होने या उसमें हितबद्ध होने के पश्चात् हुई कारपोरेट सामाजिक उत्तरदायित्व समिति की पहली बैठक में तुरंत अपना सरोकार या हित प्रकट करेगा।

4. कारपोरेट सामाजिक उत्तरदायित्व बजट और आबंटन—प्रत्येक महापत्तन प्राधिकरण का बोर्ड, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में दिए गए पात्रता मानदंड को पूरा करता है, प्रत्येक वित्तीय वर्ष के आरंभ पर ऐसी रीति में, और ऐसे विस्तार तक, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में विनिर्दिष्ट किए जाएं, कारपोरेट सामाजिक उत्तरदायित्व बजट सृजित करेगा और कारपोरेट सामाजिक उत्तरदायित्व परियोजनाओं, कार्यक्रमों या क्रियाकलापों को निधियां आवंटित करेगा।

5. कारपोरेट सामाजिक उत्तरदायित्व समिति के कृत्य--कारपोरेट सामाजिक उत्तरदायित्व समिति,--

- (क) कारपोरेट सामाजिक उत्तरदायित्व योजना तैयार करेगी और बोर्ड को उसकी सिफारिश करेगी, जो इन नियमों के अनुसार होगी ;
- (ख) कारपोरेट सामाजिक उत्तरदायित्व योजना में सम्मिलित क्रियाकलापों पर उपगत होने वाले व्यय की रकम की बोर्ड को सिफारिश करेगी ;
- (ग) कारपोरेट सामाजिक उत्तरदायित्व क्रियाकलापों को आवधिक रूप से मानीटर करेगी ;
- (घ) ऐसे कृत्यों का पालन करेगी, जो कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों में विनिर्दिष्ट किए जाएं।

6. कारपोरेट सामाजिक उत्तरदायित्व योजना--कारपोरेट सामाजिक उत्तरदायित्व योजना में, अन्य बातों के साथ-साथ, निम्नलिखित सम्मिलित होंगे, अर्थात् :--

- (क) कारपोरेट सामाजिक उत्तरदायित्व परियोजनाओं, कार्यक्रमों या क्रियाकलापों, जिन्हें महापत्तन, नियम 3 के उपनियम (1) के खंड (ग) के कार्यक्षेत्र के भीतर आरंभ करने की योजना बनाती है, की सूची, जिसमें ऐसी परियोजनाओं या कार्यक्रमों के क्रियान्वयन तथा उनके लिए कार्यान्वयन अनुसूचियों के सिद्धांतों को विनिर्दिष्ट किया है ; और

- (ख) ऐसी परियोजनाओं या कार्यक्रमों के लिए प्रक्रिया को मानीटर करना :

परंतु कारपोरेट सामाजिक उत्तरदायित्व योजना में महापत्तन के कारबार के सामान्य अनुक्रम के अनुसरण में आरंभ किए गए क्रियाकलाप नहीं हैं।

(2) कारपोरेट सामाजिक उत्तरदायित्व योजना यह विनिर्दिष्ट करेगी कि कारपोरेट सामाजिक उत्तरदायित्व परियोजनाओं, कार्यक्रमों या क्रियाकलापों से उद्भूत होने वाला अधिशेष महापत्तन के कारबार लाभ का भाग नहीं होगा।

7. कारपोरेट सामाजिक उत्तरदायित्व समिति की बैठकें—(1) कारपोरेट सामाजिक उत्तरदायित्व समिति, प्रत्येक वर्ष ऐसी संख्या में बैठकें करेगी, जो वह इन नियमों के अधीन अपने कृत्यों का पालन करने के लिए ठीक समझे।

(2) कारपोरेट सामाजिक उत्तरदायित्व समिति की बैठक में सदस्यों की सहभागिता या तो व्यक्तिगत रूप से या वीडियो कान्फ्रेंसिंग या अन्य श्रव्य-दृश्य साधनों के माध्यम से हो सकेगी, जो सदस्यों की सहभागिता को अभिलिखित या मान्य ठहराने तथा तारीख और समय के साथ ऐसी बैठकों की कार्यवाहियों की रिकार्डिंग तथा भंडारित करने में समर्थ है।

8. कारपोरेट सामाजिक उत्तरदायित्व नियोजन, कार्यान्वयन, वित्त पोषण, मानीटरी और रिपोर्टिंग—बोर्ड, कारपोरेट सामाजिक उत्तरदायित्व मार्गदर्शी सिद्धांतों के अनुसार कारपोरेट सामाजिक उत्तरदायित्व परियोजनाओं, कार्यक्रमों या क्रियाकलापों की योजना बनाने, उनके कार्यान्वयन, वित्त पोषण, मानीटरी और रिपोर्टिंग संबंधी प्रक्रिया का अनुसरण करेगा।

[फा. सं. पी.डी.-24015/21/2021-पी.डी.1]

विक्रम सिंह, संयुक्त सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS

NOTIFICATION

New Delhi, the 22nd November, 2021

GSR. 823(E).—In exercise of the powers conferred by clause (r) of sub-section (2) of section 71 of the Major Port Authorities Act, 2021 (1 of 2021), the Central Government hereby makes the following rules, namely:—

1. Short title, commencement and application.—(1) These rules may be called the Major Port Authorities (Corporate Social Responsibility) Rules, 2021 (1 of 2021).

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) These rules shall apply to the Major Ports mentioned in sub-section (3) of section 1 of the Major Port Authorities Act 2021.

2. Definitions.—(1) In these rules, unless the context otherwise requires, -

(a) “Act” means the Major Port Authorities Act, 2021 (1 of 2021);

(b) “Corporate Social Responsibility” means and includes but is not limited to:—

(i) projects or programs relating to activities specified in section 70 of the Act; and

(ii) projects or programs relating to activities as specified in the Corporate Social Responsibility guidelines issued by the Central Government from time to time;

(c) “Corporate Social Responsibility Committee” means the Corporate Social Responsibility Committee constituted by the Major Port;

(d) “Corporate Social Responsibility Guidelines” means the guidelines on Corporate Social Responsibility for major ports that may be issued by the Central Government from time to time;

(e) “Corporate Social Responsibility Plan” means the plan listing the activities to be undertaken by the Major Port and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of the said Major Port.

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the same meanings respectively assigned to them in the Act.

3. Corporate Social Responsibility Committee.—(1) The Board of each Major Port Authority that fulfills the eligibility criteria as set forth in the Corporate Social Responsibility guidelines shall constitute a Corporate Social Responsibility Committee in such manner and consisting of such persons as specified in the said guidelines:

Provided that the Board of the Major Port Authority which does not fulfill or ceases to fulfill the eligibility criteria set forth in the Corporate Social Responsibility guidelines shall not be required to comply with these rules, till such time that the criteria is met:

Provided further that the Board of the Major Port Authority which does not fulfill the criteria of the Corporate Social Responsibility guidelines may be required to adhere to such other requirements that are set forth within the Corporate Social Responsibility guidelines.

(2) Every member of the Corporate Social Responsibility Committee who is in any way, whether by himself or through any of his relatives or firm, body corporate or other association of individuals in which he or any of his relatives is a partner, director or a member, concerned or interested in any Corporate Social Responsibility project, program or activity recommended or to be recommended in the Corporate Social Responsibility Plan shall disclose the nature of his concern or interest at the meeting of the Corporate Social Responsibility committee, in which such

Corporate Social Responsibility project, program or activity is discussed or considered and shall also not participate in such meeting when the agenda relating to such project, program or activity is discussed:

Provided that where any member who is not so concerned or interested at the time of recommending such Corporate Social Responsibility project, program or activity in the Corporate Social Responsibility Plan, he shall, if he becomes concerned or interested after the Corporate Social Responsibility project, program or activity is recommended, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Corporate Social Responsibility committee held after he becomes so concerned or interested.

4. Corporate Social Responsibility budget and allocation.- The Board of each Major Port Authority that fulfills the eligibility criteria given in the Corporate Social Responsibility guidelines shall, at the beginning of each financial year, create a Corporate Social Responsibility budget and allocate funds to the Corporate Social Responsibility projects, programs or activities in such manner and to such extent as may be specified in the Corporate Social Responsibility guidelines.

5. Functions of Corporate Social Responsibility Committee.- The Corporate Social Responsibility Committee shall, -

- (a) formulate and recommend to the Board, a Corporate Social Responsibility Plan which shall be in accordance with these rules;
- (b) recommend to the Board the amount of expenditure to be incurred on the activities included in the Corporate Social Responsibility Plan;
- (c) periodically monitor the Corporate Social Responsibility activities; and
- (d) perform such other functions as may be specified in the Corporate Social Responsibility guidelines.

6. Corporate Social Responsibility Plan.- (1) The Corporate Social Responsibility Plan shall, inter-alia, include the following, namely:-

- (a) a list of Corporate Social Responsibility projects, programs or activities which a Major Port plans to undertake falling within the purview of clause (c) of sub-rule (1) of rule 3, specifying modalities of execution of such projects or programs and implementation schedules for the same; and
- (b) monitoring process for such projects or programs:

Provided that the Corporate Social Responsibility Plan shall not include the activities undertaken in pursuance of normal course of business of a Major Port.

(2) The Corporate Social Responsibility Plan shall specify that the surplus arising out of the Corporate Social Responsibility projects, programs or activities shall not form part of the business profit of the Major Port.

7. Meetings of Corporate Social Responsibility Committee.- (1) The Corporate Social Responsibility Committee shall hold such number of meetings every year as it may deem fit to perform its functions under these rules.

(2) The participation of members in a Corporate Social Responsibility Committee meeting may be either in person or through video conferencing or other audio visual means, which are capable of recording and recognising the participation of the members and of recording and storing the proceedings of such meetings along with date and time.

8. Corporate Social Responsibility planning, implementation, funding, monitoring and reporting.- The Board shall follow the procedure for planning, implementation, funding, monitoring and reporting of Corporate Social Responsibility projects, programs or activities in accordance with the Corporate Social Responsibility guidelines.

[F. No. PD-24015/21/2021-PD-I]

VIKRAM SINGH, Jt. Secy.



भारत का राजपत्र The Gazette of India

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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
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NEW DELHI, TUESDAY, NOVEMBER 23, 2021/AGRAHAYANA 2, 1943

पत्तन, पोत परिवहन और जलमार्ग मंत्रालय

अधिसूचना

नई दिल्ली, 22 नवंबर, 2021

सा.का.नि. 821(अ).—केंद्रीय सरकार, महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) की धारा 25, धारा 43 की उपधारा (3) और धारा 71 की उपधारा (1) के साथ पठित धारा 22 की उपधारा (2) के पहले परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात् :--

1. संक्षिप्त नाम और प्रारंभ—(1) इन नियमों का संक्षिप्त नाम महापत्तन प्राधिकरण (महा योजना और गैर-पत्तन से संबंधित उपयोग के लिए निधियों का उपायोजन) नियम, 2021 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं—(1) इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,--

(क) “अधिनियम” से महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) अभिप्रेत है ;

(ख) “अनुलग्न भूमि” से बोर्ड की या बोर्ड के कब्जे या अधिभोग की भूमि अभिप्रेत है और इसके अंतर्गत नगरी के लिए पहचानी गई भूमि या मुद्रीकरण के माध्यम से बोर्ड द्वारा किसी अन्य राजस्व सृजन के कार्यकलाप भी सम्मिलित हैं ;

(ग) "गैर-पत्तन से संबंधित उपयोग" से ऐसे उपयोग से भिन्न उपयोग अभिप्रेत हैं, जो पत्तन से संबंधित उपयोग से भिन्न हैं ;

(2) उन शब्दों और पदों के, जो प्रयुक्त हैं और इन नियमों में परिभाषित नहीं हैं किन्तु अधिनियम में परिभाषित हैं, क्रमशः वही अर्थ होंगे, जो उनका अधिनियम में है।

3. बोर्ड द्वारा पत्तन आस्तियों का उपयोग—(1) प्रत्येक महापत्तन प्राधिकरण का बोर्ड उससे अनुलग्न भूमि का ऐसी रीति में और ऐसे प्रयोजनों के लिए उपयोग कर सकेगा, जो वह महापत्तन के फायदे के लिए उचित समझे।

(2) प्रत्येक महापत्तन प्राधिकरण के बोर्ड को पत्तन आस्तियों के उपयोग और विकास तथा उससे अनुलग्न भूमि के पत्तन से भिन्न उपयोग के लिए विनियम बनाने की शक्ति होगी और ऐसे विनियम किसी नगरपालिक, स्थानीय या राज्य सरकार के विनियमों से स्वतंत्र होंगे :

परंतु बोर्ड द्वारा बनाए गए ऐसे विनियम केंद्रीय सरकार द्वारा इस संबंध में जारी किसी नीति से असंगत नहीं होंगे।

4. बोर्ड द्वारा स्थावर संपत्ति का विक्रय, पट्टा और अर्जन—(1) बोर्ड द्वारा भूमि या स्थावर संपत्ति की संविदा या प्रबंधन या पट्टा या भूमि या स्थावर संपत्ति की अनुज्ञप्ति पत्तन से संबंधित और पत्तन से भिन्न उपयोग के लिए समय-समय पर इस निमित्त केंद्रीय सरकार द्वारा जारी नीति के अनुसार होगा।

(2) जहां कोई स्थावर संपत्ति विनिर्दिष्टतः भूमि का बोर्ड द्वारा महापत्तन प्राधिकरण के प्रयोजनों के लिए अर्जन या क्रय किया जाना है तो बोर्ड द्वारा ऐसी स्थावर संपत्ति का अर्जन अधिनियम की धारा 23 में परिकल्पित रीति में किया जाएगा। किसी अन्य स्थावर संपत्ति के लिए बोर्ड उसका अर्जन बोर्ड द्वारा इस संबंध में केंद्रीय सरकार द्वारा जारी नीति के अधीन रहते हुए अंगीकृत विनियमों के अनुसार किया जा सकेगा।

(3) जहां किसी महापत्तन की पत्तन सीमाओं के भीतर किसी भूमि की केंद्रीय सरकार द्वारा अपेक्षा है तब भी जब वह बोर्ड द्वारा बनाई गई महा योजना या अंगीकृत महा योजना का भाग हो, उसका अर्जन, भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता अधिकार अधिनियम, 2013 के उपबंधों या अन्य भूमि अर्जन विधियां या तत्समय प्रवृत्त केंद्रीय सरकार द्वारा जारी नीतियों के अनुसार होगा।

5. पत्तन आस्तियों का विकास—(1) प्रत्येक महापत्तन प्राधिकरण का बोर्ड पत्तन सीमाओं और उससे अनुलग्न भूमि, पत्तन आस्तियों में ऐसे सिविल ढांचे, भवन, जल निकास, सड़क, बाड, नलकूप, इंटेककूप, भंडारण सुविधाएं, भांडागार, पाईपलाइन, टेलीफोन लाइन, संचार टावर, विद्युत आपूर्ति, पारेषण लाइन और उपस्कर बनाने, विकास करने, संनिर्माण करने, खड़ा करने या निर्माण करने और ऐसे अन्य संकर्म और सुविधाएं जैसा कि बोर्ड पत्तन से संबंधित उपयोग, पत्तन विकास या राष्ट्रहित में वाणिज्य और व्यापार में सुधार करने के लिए आवश्यक समझे, का हकदार होगा, जिसके लिए राज्य प्राधिकारियों से कोई विनियामक अनुज्ञप्ति या अनुमोदन की तब तक अपेक्षा नहीं होगी, जब तक केंद्रीय सरकार द्वारा आज्ञापक न किया जाए।

(2) उपनियम (1) पर प्रतिकूल प्रभाव डाले बिना प्रत्येक महापत्तन प्राधिकरण का बोर्ड पत्तन सीमाओं के भीतर और उससे अनुलग्न भूमि को परिवर्तित करने, विकसित करने, संनिर्माण करने, परिनिर्मित करने या निर्माण करने के लिए पत्तन आस्तियों को गैर पत्तन से संबंधित उपयोग करने के लिए इस निमित्त केंद्रीय सरकार द्वारा समय समय पर जारी नीति के अधीन रहते हुए हकदार होगा।

6. पत्तन आस्तियों के उपयोग और विकास से उद्भूत विवादों को सुलह और समझौता समिति को निर्दिष्ट करना—(1) इस अधिनियम के प्रारंभ होने पर बोर्ड द्वारा पत्तन आस्तियों और उससे अनुलग्न भूमि के उपयोग और विकास के संबंध में किए गए किसी संविदा से उद्भूत विद्वमान या भावी विवाद, मतभेद या दावे को उपनियम (2) के अधीन बोर्ड द्वारा गठित समिति को सुलह के लिए निर्दिष्ट किया जाएगा:

परंतु तत्कालीन महापत्तन न्यास अधिनियम, 1963 के अधीन न्यासी बोर्ड द्वारा की गई किसी संविदा से संबंधित विवादों, मतभेदों या दावों और जो पहले से ही किसी न्यायालय या न्यायनिर्णयन प्राधिकरण के समक्ष लंबित हैं, को ऐसी समिति को तब तक निर्दिष्ट नहीं किया जाएगा जब तक कि समिति को ऐसा निदेश विवादकारी पक्षकारों द्वारा पारस्परिक सहमति से और संबंधित न्यायालय या न्यायनिर्णयन प्राधिकरण, जहां ऐसा विवाद, मतभेद या दावा लंबित है, की लिखित सहमति से न किया जाए।

(2) उपनियम (1) के अधीन किसी विवाद, मतभेद या दावे की सुलह के प्रयोजन के लिए बोर्ड एक सुलह और समझौता समिति का गठन करेगा और ऐसी समिति के कार्यकरण की प्रक्रिया और अन्य निबंधनों और शर्तों का इस निमित्त समय-समय पर केन्द्रीय सरकार द्वारा जारी दिशा-निर्देशों के अनुसार अनुमोदन करेगा।

(3) उपनियम (2) के अधीन गठित सुलह और समझौता समिति एक सौहार्द्रपूर्ण समझौता कराने के लिए मध्यकता करेगी और विवादकारी पक्षकारों की सहायता करेगी तथा वह विवादकारी पक्षकारों के बीच विवादों, मतभेदों या दावों के समझौते के लिए बोर्ड को अपनी सिफारिशें भी दे सकेगी।

7. पत्तन आस्तियों के उपयोग और विकास से उद्भूत विवादों का न्यायनिर्णयन बोर्ड को निर्देश- (1) यदि किसी विवाद, मतभेद या दावे में कोई पक्षकार नियम 7 के अधीन सुलह और समझौता समिति की उक्त समिति को की गई सिफारिशों से सहमत नहीं है या विवादकारी पक्षकारों के बीच समझौता नियम 7 के अधीन सुलह कार्यवाहियों के पश्चात् असफल हो जाता है, तो ऐसा पक्षकार ऐसे विवाद, मतभेद या दावे को न्यायनिर्णयन बोर्ड को न्यायनिर्णयन के लिए निर्दिष्ट कर सकेगा:

परंतु निम्नलिखित मामलों को न्यायनिर्णयन के लिए न्यायनिर्णयक बोर्ड को निर्दिष्ट नहीं किया जाएगा :

(क) तत्कालीन महापत्तन न्यास अधिनियम, 1963 के अधीन न्यासी बोर्ड द्वारा की गई किसी संविदा के संबंध में विवाद, दावे या विधि कार्यवाहियां, जो पहले से ही किसी न्यायालय या न्यायनिर्णयन प्राधिकरण के समक्ष लंबित हैं; और

(ख) महापत्तन प्राधिकरण की किसी स्थावर संपत्ति के विक्रय और अर्जन से संबंधित मामले।

(2) उपनियम (1) के अधीन निर्देश, महापत्तन (न्यायनिर्णयन बोर्ड) नियम, 2021 में विहित प्रक्रिया के अनुसार किसी आवेदन को भरकर न्यायनिर्णयन बोर्ड को किया जाएगा।

8. महा योजना—(1) प्रत्येक महापत्तन प्राधिकरण का बोर्ड विनिर्दिष्ट महायोजन सृजित करने का हकदार होगा, जिसके अंतर्गत पत्तन सीमाओं या उससे अनुलग्न भूमि के भीतर स्थापित होने के लिए किसी विकास या स्थापित या प्रस्तावित अवसंरचना के संबंध में योजना के व्ययों के लिए भूमि भी सम्मिलित है :

परंतु बोर्ड द्वारा बनाई गई ऐसी कोई महा योजना इस संबंध में केन्द्रीय सरकार द्वारा जारी किए गए किन्हीं नियमों या नीति से असंगत नहीं होगी।

(2) प्रत्येक महा योजना को दस वर्ष की अवधि के लिए तैयार किया जाएगा और वह गैर-पत्तन से संबंधित और पत्तन से संबंधित उपयोग को विद्यमान पत्तन आस्तियों और उससे अनुलग्न भूमि के साथ महा योजना के अधीन विकास प्रस्तावित है को तैयार करेगी :

परंतु बोर्ड ऐसी महा योजना का कारणों को लेखबद्ध करते हुए दस वर्ष की अवधि के दौरान किसी भी समय पुनर्विलोकन और उपांतरण करने का हकदार होगा।

(3) उपनियम (1) के अधीन बोर्ड द्वारा तैयार की गई महा योजना किसी राज्य सरकार या स्थानीय प्राधिकरण विनियमों से स्वतंत्र होगी और बोर्ड द्वारा तैयार की गई महा योजना और राज्य सरकार या किसी स्थानीय प्राधिकरण की मास्टर योजना के बीच विभेद होता है तो बोर्ड द्वारा तैयार की गई महा योजना अविभावी होगी:

परंतु कोई भावी महा योजना उक्त महा योजना की अधिसूचना से पूर्व बोर्ड द्वारा निष्पादित विद्यमान संविदाओं का उन संविदाओं के संबंध में अधिक्रमण नहीं करेगी जिनकी बाबत बोर्ड से संबंधित राज्य सरकार या स्थानीय प्राधिकरण से अनुमोदन अभिप्राप्त करने की अपेक्षा है या अनुमोदन पहले ही अभिप्राप्त कर लिया गया है।

9. गैर-पत्तन से संबंधित उपयोग के लिए प्राप्त धन का उपयोजन- बोर्ड द्वारा या उसके निमित्त गैर-पत्तन से संबंधित उपयोग के लिए प्राप्त धन को किसी पदाभिहित खाते में जमा किया जाएगा और बोर्ड द्वारा उसका उपयोग पूंजी विनिधान या ऐसे अन्य प्रयोजनों के लिए किया जाएगा जो बोर्ड ठीक और उचित समझे:

परंतु गैर-पत्तन से संबंधित उपयोग के लिए प्राप्त धन का उपयोजन करने के लिए बोर्ड ऐसे दिशा-निर्देशों का अनुसरण करेगा जो केन्द्रीय सरकार इस निमित्त समय-समय पर जारी करे।

[फा. सं.पीडी-24015/21/2021-पीडी-1]

विक्रम सिंह, संयुक्त सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS

NOTIFICATION

New Delhi, the 22nd November, 2021

GSR. 821(E).—In exercise of the powers conferred by first proviso to sub-section (2) of section 22, read with section 25, sub-section (3) of section 43, sub-section (1) of section 71 of the Major Port Authorities Act, 2021 (1 of 2021), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.— (1) These rules may be called the Major Port Authorities (Master Plan and Application of Funds from Non Port related Use) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— (1) In these rules, unless the context otherwise requires,-

(a) “Act” means the Major Port Authorities Act, 2021 (1 of 2021);

(b) “land appurtenant” means the land belonging to or in the possession or occupation of the Board and includes the land identified for township or for any other revenue generation activity by the Board through monetisation;

(c) “non port related use” mean any use other than those undertaken for port related use;

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Usage of port assets by the Board.— (1) The Board of each Major Port Authority may use the land appurtenant thereto in such manner and for such purposes as it may deem fit for the benefit of the Major Port.

(2) The Board of each Major Port Authority shall have the power to make regulations for usage and development of port assets and the land appurtenant thereto for port related use and non port related use and such regulations shall be independent of any municipal, local or State Government regulations:

Provided that any such regulations made by the Board shall not be inconsistent with any policy issued by the Central Government in that regard.

4. Sale, Lease and Acquisition of immovable property by the Board.— (1) The contract or arrangement by the Board for sale of land or immovable property or for lease or license of land or immovable property for port related use and non port related use shall be in accordance with the policy issued by the Central Government in this behalf from time to time.

(2) Where any immovable property, more specifically land, is to be acquired or purchased by the Board for the purposes of the Major Port Authority, the acquisition of such immovable property by the Board shall be undertaken in the manner stipulated in section 23 of the Act. For any other immovable property, the Board may acquire the same in accordance with the regulations adopted by the Board, subject to the policy issued by the Central Government in that regard.

(3) Where any land within the port limits of a Major Port is required by the Central Government even though the same may be part of a master plan made or adopted by the Board, the acquisition thereof shall take place in accordance with the provisions of the Right to Fair Compensation and Transparency in Rehabilitation and

Resettlement Act, 2013 or any other land acquisition laws or policy issued by the Central Government for the time being in force.

5. Development of port assets.— (1) The Board of each Major Port Authority shall be entitled to make, develop, construct, erect or build within the port limits and the land appurtenant thereto, port assets such as civil structures, buildings, drains, roads, fences, tube-wells, in-take wells, storage facilities, warehouses, pipelines, telephone lines, communication towers, electricity supply, transmission lines and equipment and such other works and conveniences as the Board may think fit and proper for port related use, port development or improving commerce and trade in national interest, for which no regulatory license or approval from the State authorities shall be required, unless so mandated by the Central Government.

(2) Without prejudice to sub-rule (1), the Board of each Major Port Authority shall be entitled to convert, develop, construct, erect or build within the port limits and the land appurtenant thereto, port assets for non port related use, subject to the policy issued by the Central Government in this behalf from time to time.

6. Reference of disputes arising from usage and development of port assets to Conciliation and Settlement Committee.— (1) Upon commencement of the Act, any existing or future dispute, difference or claim arising out of any contract entered into by the Board in relation to the usage and development of port assets and the land appurtenant thereto shall be referred for conciliation by a committee set up by the Board under sub-rule (2):

Provided that the disputes, differences or claims relating to any contract entered into by the Board of Trustees under the erstwhile Major Port Trusts Act, 1963 and already pending before any court or adjudicating authority shall not be referred to such committee, unless such reference is made to the committee by the mutual consent of the disputing parties and upon prior written approval of the concerned court or adjudicating authority where such dispute, difference or claim is pending.

(2) For the purpose of conciliation of any dispute, difference or claim under sub-rule (1), the Board shall constitute a Conciliation and Settlement Committee and approve the procedure for the functioning and other terms and conditions of such Committee, in accordance with the guidelines issued in this behalf by the Central Government from time to time.

(3) The Conciliation and Settlement Committee constituted under sub-rule (2) shall mediate and assist the disputing parties in arriving at an amicable settlement and may also give its recommendations for settlement of the dispute, difference or claim between the disputing parties to the Board.

7. Reference of disputes arising from usage and development of port assets to Adjudicatory Board.— (1) In the event any party to the dispute, difference or claim referred to the Conciliation and Settlement Committee under rule 7 is not satisfied with the recommendations made by the said Committee or the settlement between the disputing parties fails to conclude after the conciliation proceedings under rule 7, then such party may refer such dispute, difference or claim for adjudication to the Adjudicatory Board:

Provided that the following matters shall not be referred for adjudication by the Adjudicatory Board:

- (a) disputes, claims or legal proceedings relating to any contract entered into by the Board of Trustees under the erstwhile Major Port Trusts Act, 1963 and already pending before any court or adjudicating authority; and
- (b) matters relating to sale of and acquisition of, any immovable property of the Major Port Authority.

(2) The reference under sub-rule (1) shall be made to the Adjudicatory Board by filing an application in accordance with the procedure prescribed in the Major Ports (Adjudicatory Board) Rules, 2021.

8. Master plan.— (1) The Board of each Major Port Authority shall be entitled to create specific master plan including the land use plan in respect of any development or infrastructure established or proposed to be established within the port limits and the land appurtenant thereto:

Provided any such master plan made by the Board shall not be inconsistent with any rules or policy issued by the Central Government in that regard.

(2) Each master plan shall be prepared for a period of ten years and shall demarcate the port related use and non port related use in respect of the existing port assets and the land appurtenant thereto as well as those proposed to be developed under the master plan:

Provided that the Board shall be entitled to review and modify such master plan at any time during the currency of the ten year period for reasons to be recorded in writing.

(3) The master plan prepared by the Board under sub-rule (1) shall be independent of any State Government or local authority regulations and in case of any conflict between the master plan made by the Board and the master plan of the State Government or any local authority, the master plan made by the Board shall prevail.

Provided that no prospective master plan shall supersede the existing contracts executed by the Board prior to the notification of the said master plan in respect of which the Board was otherwise required to obtain or has already obtained the approval of the concerned State Government or the local authority.

9. Application of money received from non-port related use.— The money received by or on behalf of the Board from non-port related use shall be credited to a designated account and shall be applied by the Board for capital investment or such other purposes as the Board may deem fit and proper:

Provided that in application of money received from non-port related use, the Board shall follow such guidelines as may be issued by the Central Government in this behalf from time to time.

[F. No. PD-24015/21/2021-PD-I]

VIKRAM SINGH, Jt. Secy.



भारत का राजपत्र The Gazette of India

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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
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पत्तन, पोत परिवहन और जलमार्ग मंत्रालय

अधिसूचना

नई दिल्ली, 22 नवम्बर, 2021

सा.का.नि. 825(अ).—केंद्रीय सरकार, महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) की धारा 40 की उपधारा (3) के साथ पठित धारा 71 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित नियम बनाती है, अर्थात् :-

1. संक्षिप्त नाम और प्रारंभ – (1) इन नियमों का संक्षिप्त नाम महापत्तन प्राधिकरण (निक्षेप निधि में धन उपयोजन) नियम, 2021 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं :- इन नियमों में, जब तक संदर्भ से अन्यथा अपेक्षित न हो, अर्थात्:-

(क) “अधिनियम” से महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) अभिप्रेत है;

(ख) “नियत दिन” से वह दिन अभिप्रेत है जिसको अधिनियम, प्रवृत्त होता है;

(ग) “निक्षेप निधि” से अधिनियम की धारा 40 की उपधारा (1) के अधीन उसके ऋणों के समापन या बोर्ड की

सेवा हेतु पृथक रखी गई राशि या राशियां, जिसके अंतर्गत अधिनियम की धारा 40 की उपधारा (2) में निर्दिष्ट किसी निक्षेप निधि का भाग बनने वाली राशियां भी हैं, अभिप्रेत हैं ।

(2) उन शब्दों और पदों को जो इन नियमों में प्रयुक्त हैं और परिभाषित नहीं हैं, किंतु अधिनियम में परिभाषित हैं, वहीं अर्थ होंगे जो उनके उस अधिनियम में है ।

3. निक्षेप निधि को अभिदाय – अधिनियम की धारा 40 की उपधारा (1) के अधीन निक्षेप निधि के रूप में बोर्ड द्वारा पृथक रखी गई राशि या राशियां मासिक, तिमाही, अर्द्धवार्षिक या वार्षिक आधार पर पृथक रखी जाएंगी ।

4. निक्षेप निधि का उपयोग – बोर्ड, अधिनियम के प्रयोजनों के लिए न्यास में निक्षेप निधि रखेगा और उसकी निधियां लोक प्रतिभूतियों में या ऐसी अन्य प्रतिभूतियों या विनिधान विकल्पों जो समय-समय पर केंद्रीय सरकार द्वारा अनुमोदित किए जा सकेंगे, निक्षेप किया जाएगा ।

5. निक्षेप निधि की परीक्षा – (1) किसी ऋण के समापन हेतु स्थापित निक्षेप निधि भारत के नियंत्रक और महालेखा परीक्षक या ऐसा अन्य व्यक्ति जो इस निमित्त उसकी ओर से नियुक्त किया जा सके, द्वारा वार्षिक परीक्षा की शर्त के अधीन होगा ।

(2) भारत का नियंत्रक और महालेखा परीक्षक या उसके द्वारा उपनियम (1) के अधीन निक्षेप निधि की परीक्षा के संबंध में नियुक्त किया गया कोई व्यक्ति यह सुनिश्चित करेगा कि निक्षेप निधि में जमा प्रतिभूतियों का चालू बाजार मूल्य और नकद नियमित रूप से किए गए विनिधान द्वारा संक्षिप्त रकम के वस्तुतः बराबर है और उस पर मूलतः प्राकथित व्याज की दर अभिप्राप्त की गई थी ।

(3) बोर्ड निक्षेप निधि या निधियों की वार्षिक परीक्षा संचालन हेतु उपनियम (1) के अधीन भारत के नियंत्रक महालेखापरीक्षक या उसके द्वारा नियुक्त किसी व्यक्ति द्वारा अधिप्रमाणित कम रकम का संदाय तुरंत निक्षेप निधि में करेगा।

(4) यदि निक्षेप निधि में जमा प्रतिभूतियों का चालू बाजार मूल्य और नकद उस रकम से अधिक है जो उसके खाते में जमा होना चाहिए था, भारत का नियंत्रक महालेखापरीक्षक या उपनियम (1) के अधीन उसके द्वारा नियुक्त कोई व्यक्ति इस अधिक रकम का अधिप्रमाणन करेगा और बोर्ड, --

- (क) नियम 5 के अधीन विनिधान की गई अधिप्रमाणित अधिक संपूर्ण रकम या उसके किसी भाग को अंतरित कर सकेगा या बोर्ड को अपेक्षित चालू बाजार मूल्य की प्रतिभूतियों को तुरंत अंतरित कर सकेगा या बोर्ड को अपेक्षित वर्तमान बाजार मूल्य की प्रतिभूतियां और नकद अंतरित करेगा; या
- (ख) अधिनियम या इन नियमों के अधीन निक्षेप निधि में मासिक या तिमाही या अर्द्धवार्षिक या वार्षिक अभिदायों को बंद या कटौती कर सकेगा; या
- (ग) इन नियमों के किसी समूह को अपनाएगा ।

[फा. सं. पीडी-24015/21/2021-पीडी-1]

विक्रम सिंह, संयुक्त सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS**NOTIFICATION**

New Delhi, the 22nd November, 2021

GSR. 825(E).—In exercise of the powers conferred by sub-section (3) of section 40 read with sub-section (1) of section 71 of the Major Port Authorities Act, 2021 (1 of 2021), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Major Port Authorities (Application of Money in Sinking Fund) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—(1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Major Port Authorities Act, 2021 (1 of 2021);
- (b) “appointed day” means the date on which the Act comes into force;
- (c) “sinking fund” means the sum or sums set apart by the Board to service or liquidate its loans under sub-section (1) of section 40 of the Act and include the sums forming part of any sinking fund referred to in sub-section (2) of section 40 of the Act;

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Contribution to sinking fund.— The sum or sums to be set apart by the Board as sinking fund under sub-section (1) of section 40 of the Act shall be set apart on a monthly, quarterly, half-yearly or annual basis.

4. Utilisation of sinking fund.— The Board shall hold the sinking fund in trust for the purposes of the Act and the funds thereof shall be invested in public securities or in such other securities or investment options as the Central Government may approve from time to time.

5. Examination of sinking fund.— (1) The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Comptroller and Auditor General of India or such other person as may be appointed by him in this behalf.

(2) The Comptroller and Auditor General of India or any person appointed by him in connection with the examination of sinking fund under sub-rule (1) shall ascertain whether the cash and current market value of the securities at the credit of the sinking fund are actually equal to the amount which would have been accumulated had investment been regularly made and had the rate of interest as originally estimated been obtained thereon.

(3) The Board shall pay forthwith into the sinking fund any amount which the Comptroller and Auditor General of India or any person appointed by him under sub-rule (1) to conduct the annual examination of the sinking fund or funds may certify to be deficient.

(4) If the cash and the current market value of the securities at the credit of the sinking fund is in excess of the amount which should be at its credit, the Comptroller and Auditor General of India or any person appointed by him under sub-rule (1) shall certify the amount of this excess, and the Board may –

- (a) withdraw the whole or any part of the certified excess amount invested under rule 5, shall forthwith transfer securities of the requisite current market value, or cash and securities of the requisite current market value, to the Board; or
- (b) reduce or discontinue the monthly or quarterly or half yearly or yearly contributions to the sinking fund under the Act and these rules; or
- (c) adopt a combination of these measures.

[F. No. PD-24015/21/2021-PD-I]

VIKRAM SINGH, Jt. Secy.



भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

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पत्तन, पोत परिवहन और जलमार्ग मंत्रालय

अधिसूचना

नई दिल्ली, 22 नवम्बर, 2021

सा.का.नि. 824(अ).—केंद्रीय सरकार, महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) की धारा 71 की उपधारा (2) के खंड (च) के साथ पठित धारा 27 की उपधारा (1) के पहले परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात् :-

1. संक्षिप्त नाम और प्रारम्भ – (1) इन नियमों का संक्षिप्त नाम महापत्तन प्राधिकरण (दरों, फीस के परिमाण और शर्तों का नियतन और कार्यान्वयन) नियम, 2021 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. परिभाषाएं - (1) इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, -

(क) “अधिनियम” से महापत्तन प्राधिकरण अधिनियम, 2021 (2021 का 1) अभिप्रेत है

(ख) “सेवाओं” से निम्नलिखित अभिप्रेत है और इसके अन्तर्गत है

- महापत्तन या महापत्तन पहुंच में जलयानों के बीच यात्रियों या मालों का अन्तर पोत परिवहन;
- बोर्ड के या उसके कब्जे या अधिभोग में अथवा महापत्तन या महापत्तन पहुंच की सीमाओं के भीतर

किसी स्थान पर यात्रियों या मालों की ऐसे जलयानों को या घाट, जहाजी घाट, जेटी, पोतघाट, डोक, गोदी, नौबन्ध, मंच या उत्थापन को उतरायी और पोत परिवहन;

- (iii) ऐसे किसी स्थान पर मालों की क्रेनेज या पोटरेज;
- (iv) ऐसे किसी स्थान पर कार्गो, आघान का हथालन या भंडारण;
- (v) पत्तन आस्तियों, पत्तन सीमाओं या महापत्तन पहुंच के भीतर लाए गए माल को प्राप्त करना, हटाना, अन्तरित करना, परिवहन करना, भंडारण करना या परिदान करना;
- (vi) महापत्तन या महापत्तन पहुंच की सीमाओं के भीतर रेल या अन्य साधनों से यात्रियों को ले जाना;
- (vii) रेल अधिनियम, 1989 (1989 का 24) के अधीन रेल प्रशासन के रूप में महापत्तन में जलयानों में उद्गम होने वाले तथा निकटवर्ती रेल मार्ग द्वारा या विपर्ययेन ले जाने के लिए माल को प्राप्त करना और परिदान करना, परिवहन करना तथा बुक और प्रेषण करना;
- (viii) जलयानों अथवा जलयानों के संबंध में किसी अन्य सेवा की जहाजरानी, खिंचाई, लंगरगाह, गोदी, अन्तरण, कर्षण, नौबन्ध, पुनःनौबन्ध, अंकुश या मापन;
- (ix) महापत्तन के लिए अवसंरचना सुविधाओं का विकास और उन्हें प्रदान करना;
- (x) किसी भी रीति में उनसे संबद्ध पत्तन सागर खंड, पत्तन हस्तियों और भूमि का उपयोग जिसके अन्तर्गत वाणिज्यिक या प्रचालन प्रयोजनों के लिए उपयोग भी है;
- (xi) जलयानों, यात्रियों या माल के संबंध में कोई अन्य सेवा, जिसके अन्तर्गत महापत्तन के प्रचालनों की अनुपंगी सेवाएं भी हैं।

(2) इन नियमों में प्रयुक्त और परिभाषित नहीं किए गए किन्तु अधिनियम में परिभाषित किए गए शब्दों और पदों के वही अर्थ होंगे जो क्रमशः उनके अधिनियम में हैं।

3. महापत्तन पर उपलब्ध आस्तियों और सेवाओं के लिए दरों के परिमाण – (1) प्रत्येक महापत्तन प्राधिकरण का बोर्ड समय-समय पर, दरों के परिमाण और शर्तों का कथन विरचित करेगा जो निम्नलिखित के लिए लागू होंगे –

- (क) सेवाएं जो महापत्तन या महापत्तन पहुंच पर या उनके संबंध में बोर्ड द्वारा निष्पादित की जाएंगी या उपलब्ध करवायी जाएंगी ;
- (ख) बोर्ड की या उसके कब्जे या अधिभोग में अथवा पत्तन की सीमाओं के भीतर किसी स्थान पर या महापत्तन पहुंच में पत्तन आस्तियों तक पहुंच या उपयोग अनुज्ञात करना;
- (ग) महापत्तन पर या पत्तन की सीमाओं के भीतर कोई अन्य राजस्व सृजन करने वाला क्रियाकलाप या प्रचालन।

(2) उपनियम (1) के अधीन क्रियाकलापों के भीतर विभिन्न प्रवर्गों या वर्गों के लिए बोर्ड द्वारा भिन्न-भिन्न परिमाण और शर्तें विरचित की जा सकेंगी।

(3) बोर्ड, समय-समय पर सेवा या सेवाओं के किसी संयोजन के लिए उपयोक्ता से या बोर्ड की या उसके कब्जे या अधिभोग में किसी पत्तन आस्ति का उपयोग करने के लिए अनुज्ञा हेतु दरों का समेकित परिमाण विरचित कर सकेगा।

(4) उपनियम (1) के अधीन विरचित दरों के परिमाण तथा शर्तों का कथन अधिनियम के प्रारम्भ के पूर्व दिए गए पब्लिक प्राइवेट भागीदारी परियोजनाओं या ऐसे पब्लिक प्राइवेट भागीदारी परियोजनाओं के परिमाण के पुनरीक्षण के लिए लागू नहीं होंगे, जिनके लिए सरकार से पृथक् निदेश लागू होंगे।

4. दरों, फीस के परिमाण तथा शर्तों के अवधारण हेतु समिति गठित करने की बोर्ड की शक्ति – (1) बोर्ड नियम (3) के अधीन दरों, फीस के परिमाण और शर्तों के अवधारण के प्रयोजन के लिए समिति का गठन कर सकेगा।

(2) उपनियम (1) के अधीन बोर्ड द्वारा गठित प्रत्येक समिति निम्नलिखित सदस्यों से मिलकर बनेगी, अर्थात् :-

(क) बोर्ड का एक सदस्य जो समिति का अध्यक्ष होगा;

(ख) महापत्तन में वित्त प्रमुख; और

(ग) महापत्तन में विभाग प्रमुख की रैंक से अन्यून महापत्तन के दो से अन्यून और चार से अनधिक ज्येष्ठ पदधारी।

(3) उपनियम (1) के अधीन बोर्ड द्वारा गठित प्रत्येक समिति का कार्यकाल उस तारीख से जिसको इसका गठन किया गया है, तीन वर्ष होगा :

परन्तु बोर्ड, किसी भी समय ऐसे सदस्य की मृत्यु, बीमारी, क्षति, निर्योग्यता या सेवानिवृत्ति से संबंधित कारणों की वजह से या किसी अन्य कारण से जिसे बोर्ड ठीक और उचित समझे, किसी अन्य अर्ह व्यक्ति से समिति के सदस्य को बदल सकेगा।

(4) उपनियम (1) के अधीन गठित समिति ऐसे समय और ऐसे स्थानों पर बैठक करेगी तथा इसकी बैठकों में, जिसके अन्तर्गत गणपूर्ति भी है, कारबार के संब्यवहार के संबंध में ऐसे विनियमों का पालन करेगी जो बोर्ड द्वारा विनिर्दिष्ट किए जाएं।

(5) बोर्ड उपनियम (1) के अधीन गठित समिति को नियम 3 के अधीन दरों के परिमाण और शर्तों के अवधारण के लिए ऐसे विशेषज्ञों, वृत्तिकों या महापत्तन के अन्य अधिकारियों (विभाग के प्रमुख की रैंक से अन्यून) से परामर्श करने के लिए अनुज्ञात कर सकेगा जो बोर्ड ऐसी शर्तों के साथ जो वह ठीक और उचित समझे, लिखित में आदेश द्वारा विनिर्दिष्ट करे।

5. बोर्ड द्वारा गठित समिति के कृत्य – (1) नियम 4 के उपनियम (1) के अधीन बोर्ड द्वारा गठित समिति ऐसी अवधि के भीतर और ऐसी शर्तों के अधीन रहते हुए जो बोर्ड द्वारा विनिर्दिष्ट की जाएं, नियम 3 के अधीन दरों, फीस के परिमाण तथा शर्तों अवधारित करेगी तथा अपनी सिफारिशों को लिखित में बोर्ड को अनुमोदन के लिए भेजेगी।

(2) दरों, फीस के परिमाण और शर्तों का अवधारण संबंधित समिति द्वारा निम्नलिखित कारकों पर विचार करने के पश्चात् किया जाएगा :

(क) उस निमित्त केन्द्रीय सरकार द्वारा जारी किए गए मार्गदर्शी सिद्धांत या निदेश;

(ख) बाजार की स्थितियां तथा प्रतिस्पर्धात्मक कीमत निर्धारण; और

(ग) पणधारियों से प्राप्त प्रतिपुष्टि।

(3) उपनियम (2) के अधीन रहते हुए, उपनियम (1) के अधीन की गई सिफारिशें समिति द्वारा दरों, फीस के परिमाण और शर्तों के अवधारण में अनुप्रयुक्त कार्यपद्धति, मानदंडों और प्रक्रियाओं को स्पष्ट रूप से समझाएंगी।

(4) नियम 4 के उपनियम (1) के अधीन बोर्ड द्वारा गठित समिति इन नियमों के अधीन अपने कृत्यों का निर्वहन सम्यक् सावधानी से करेगी।

6. बोर्ड द्वारा दरों के परिमाण का अनुमोदन, नियतन और प्रकाशन – (1) नियम 5 के उपनियम (1) के अधीन समिति या समितियों द्वारा की गई सिफारिशों की प्राप्ति पर, बोर्ड परिवर्तनों के साथ या उनके बिना ऐसी सिफारिशों का अनुमोदन कर सकेगा और तदनुसार नियम 3 में विनिर्दिष्ट प्रयोजनों के लिए दरों, फीस के परिमाण तथा शर्तों को नियत और विरचित कर सकेगा :

परन्तु समिति या समितियों द्वारा की गई सिफारिशों से किसी विचलन के लिए कारण बोर्ड द्वारा लिखित में लेखबद्ध किए जाएंगे :

परन्तु यह और कि इन नियमों के अधीन बोर्ड द्वारा दरों, फीस के परिमाण और शर्तों का नियतन और कार्यान्वयन—

- (क) भूतलक्षी प्रभाव से नहीं होगा; और
- (ख) केन्द्रीय सरकार द्वारा इस निमित्त जारी किए गए मार्गदर्शी सिद्धांतों या निदेशों के अल्पीकरण में नहीं होगा; और
- (ग) प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) या तत्समय प्रवृत्त किसी अन्य विधि के उपबंधों से असंगत नहीं होगा; और
- (घ) बाजार दशाओं, प्रतिस्पर्धात्मक कीमत निर्धारण के मूल्यांकन तथा पणधारियों से प्राप्त प्रतिपुष्टि के पश्चात् नियत किया जाएगा।

(2) उपनियम (1) के अधीन बोर्ड द्वारा नियत किए गए दरों, फीसों के परिमाण और शर्तों राज्य के राजपत्र में बोर्ड द्वारा प्रकाशित किए जाएंगे और वे ऐसी तारीख से प्रवृत्त होंगे जो बोर्ड द्वारा उक्त राजपत्र में अधिसूचित की जाए।

(3) उपनियम (1) के अधीन बोर्ड द्वारा नियत किए गए दरों, फीसों के परिमाण और शर्तों उपनियम (2) में उल्लिखित राज्य के राजपत्र में उनकी अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए वैध रहेंगे।

7. दरों के प्रथम परिमाण को नियत करना – बोर्ड, अधिनियम के प्रारम्भ की तारीख से एक सौ अस्सी दिन की अवधि के भीतर दरों, फीसों के प्रथम परिमाण तथा शर्तों नियत और प्रकाशित करेगा अथवा ऐसे दरों, फीसों के परिमाण तथा शर्तों को अंगीकार करेगा जो अधिनियम के प्रारम्भ के ठीक पूर्व विद्यमान थे।

8. दरों या प्रभारों के परिमाण से छूट और विप्रेषण – बोर्ड, विशेष मामलों में तथा ऐसी शर्तों के अधीन रहते हुए जो वह समय-समय पर नियत करे तथा लिखित में लेखबद्ध किए जाने वाले कारणों से या तो पूर्णतया या भागतः अधिनियम के अधीन प्रवृत्त दर या प्रभार के किसी परिमाण के अनुसार उनके संबंध में उद्ग्रहणीय किसी दर या किसी प्रभार के संदाय से किसी माल, सेवाओं या जलयानों या माल, सेवाओं या जलयानों के वर्ग को छूट दे सकेगा अथवा इस प्रकार उद्ग्रहीत ऐसी दर या प्रभार को पूर्णतः या उसके किसी भाग को विप्रेषित कर सकेगा।

9. दरों, फीसों के परिमाण तथा शर्तों का पुनर्विलोकन और पुनरीक्षण – (1) दरों, फीसों के परिमाण और शर्तों के पुनरीक्षण की प्रक्रिया क्रमशः उनकी अवसान की तारीख के कम-से-कम तीन मास पहले बोर्ड द्वारा आरम्भ की जाएगी।

परन्तु यदि बोर्ड यथापूर्वोक्त पुनरीक्षण करने में असमर्थ है तो बोर्ड, लागू अंतिम दरों, फीसों के परिमाण और शर्तों को छह मास से अनधिक ऐसी अवधि के लिए विस्तारित करेगा तथा लिखित में ऐसे विस्तार के कारण लेखबद्ध करेगा।

(2) उपनियम (1) पर प्रतिकूल प्रभाव डाले बिना, बोर्ड महापत्तन के कारबार तथा वित्तीय निष्पादन के आधार पर इन नियमों के अधीन नियत दरों, फीस के परिमाण तथा शर्तों का वार्षिक पुनर्विलोकन कर सकेगा तथा यदि वह आवश्यक समझे तो उस प्रभाव हेतु सुधारात्मक कार्रवाई कर सकेगा।

(3) विधि में परिवर्तन होने की स्थिति में जिसके परिणामस्वरूप इन नियमों के अधीन बोर्ड द्वारा अंगीकृत या प्रकाशित किन्हीं दरों, फीसों के परिमाण या शर्तों में पुनरीक्षण होता है तो, यथास्थिति, पुनरीक्षित दरों, फीसों के परिमाण या शर्तों को बोर्ड द्वारा अंगीकृत और कार्यान्वयन के लिए अधिसूचित किया जाएगा।

10. कतिपय मामलों में रियायती दरें उद्ग्रहीत करने की शक्ति – (1) इन नियमों के किन्हीं पूर्वगामी उपबंधों के अधीन दरों का परिमाण विरचित करने में बोर्ड निम्नलिखित किन्हीं परिस्थितियों में रियायती दर विहित कर सकेगा:

- (क) यदि यह राष्ट्रीय हित या आकस्मिकता का विषय है जैसा केन्द्रीय सरकार द्वारा अवधारित किया जाए;
- (ख) यदि केन्द्रीय सरकार ने इस प्रभाव का आदेश लिखित में किया है; या

(ग) यदि यह उस राज्य के लिए जहां महापत्तन स्थित है, सामाजिक महत्व का विषय है; या

(घ) यदि यह बाजार की दशाओं या प्रतिस्पर्धात्मक कीमतों के कारण वांछित है।

(2) उपनियम (1) के अधीन रियायती दर विहित करने में बोर्ड इसके समक्ष रखे गए रियायत के लिए प्रस्ताव, यदि कोई हो, पर विचार करेगा तथा रियायती दर विहित करने, इसकी वैधता और ऐसी शर्तें जो ऐसी रियायती दर का फायदा लेने में पूर्ण की जाएंगी, के लिए लिखित में कारण लेखबद्ध करेगा।

11. केन्द्रीय सरकार की दरों के परिमाण के उपांतरण या रद्दकरण की अपेक्षा करने की शक्ति – (1) जब कभी केन्द्रीय सरकार लोक हित में ऐसा करना आवश्यक समझे, तो वह कारणों के कथन के साथ लिखित में आदेश द्वारा ऐसी अवधि के भीतर जैसा वह सरकार आदेश में विनिर्दिष्ट करे, तथा बोर्ड को प्रवृत्त दरों के परिमाण को रद्द करने या उसमें उपांतरण करने के लिए निदेश दे सकेगी।

(2) यदि बोर्ड विनिर्दिष्ट अवधि के भीतर उपनियम (1) के अधीन निदेश का पालन करने में असफल रहता है या उसकी अवहेलना करता है, तो केन्द्रीय सरकार दरों के ऐसे किसी परिमाण को रद्द कर सकेगी या उसमें ऐसे उपांतरण कर सकेगी जो वह ठीक समझे:

परन्तु दरों के किसी परिमाण के ऐसे रद्द या उपांतरित करने के पूर्व केन्द्रीय सरकार किसी आक्षेप या सुझाव पर विचार करेगी जो विनिर्दिष्ट अवधि के भीतर बोर्ड द्वारा किया जाए।

(3) यदि केन्द्रीय सरकार द्वारा उपनियम (2) के अधीन दरों का कोई परिमाण रद्द या उपांतरित किया गया है तो ऐसा रद्दकरण या उपांतरण केन्द्रीय सरकार द्वारा राजपत्र में प्रकाशित किया जाएगा तथा उसका तदनुसार प्रभाव होगा।

12. प्रकीर्ण – (1) बोर्ड का अध्यक्ष किसी भी समिति की बैठक में पदेन सदस्य के रूप में उपस्थित हो सकेगा और जब कभी अध्यक्ष किसी समिति की बैठक में उपस्थित होता है तो वह उस बैठक की अध्यक्षता करेगा।

(2) बोर्ड के अध्यक्ष या उसके द्वारा विनिर्दिष्ट रूप से प्राधिकृत व्यक्ति से भिन्न कोई समिति सदस्य समिति की बैठकों में किए गए विनिश्चय से संबंधित विषयों पर प्रैस या किसी अन्य पब्लिक मीडिया को सूचना नहीं देगा।

[फा. सं.पीडी-24015/21/2021-पीडी-1)]

विक्रम सिंह, संयुक्त सचिव

MINISTRY OF PORTS, SHIPPING AND WATERWAYS

NOTIFICATION

New Delhi, the 22nd November, 2021

GSR. 824 (E).—In exercise of the powers conferred by first proviso to sub-section (1) of section 27 read with clause (f) of sub-section (2) of section 71 of the Major Port Authorities Act, 2021 (1 of 2021), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.— (1) These rules may be called the Major Port Authorities (Fixation and Implementation of Scale of Rates, Fees and Conditions) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— (1) In these rules, unless the context otherwise requires,—

(a) “Act” means the Major Port Authorities Act, 2021 (1 of 2021);

(b) “services” shall mean and include the following services:

(i) transshipping of passengers or goods between vessels in the major port or major port approaches;

(ii) landing and shipping of passengers or goods from or to such vessels to or from any wharf, quay, jetty, pier, dock, berth, mooring, stage or erection, land or building belonging to or in the

possession or occupation of the Board or at any place within the limits of the major port or major port approaches;

- (iii) crannage or portorage of goods on any such place;
- (iv) cargo, container handling or storage on any such place;
- (v) receiving, removing, shifting, transporting, storing or delivering goods brought within the port assets, port limits or major port approaches;
- (vi) carrying passengers by rail or by other means within the limits of the major port or major port approaches;
- (vii) receiving and delivering, transporting and booking and despatching goods originating in the vessels in the major port and intended for carriage by the neighbouring railways, or vice versa, as a railway administration under the Railways Act, 1989 (24 of 1989);
- (viii) piloting, towage, anchorage, berthing, shifting, hauling, mooring, re-mooring, hooking or measuring of vessels or any other service in respect of vessels;
- (ix) developing and providing infrastructure facilities for major port;
- (x) use of port waters, port assets and land appurtenant thereto in any manner including for commercial or operational purposes;
- (xi) any other service in respect of vessels, passengers or goods including services ancillary to the operations of the major port.

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Scale of rates for assets and services available at major port.- (1) The Board of each Major Port Authority may from time to time, frame a scale of rates and a statement of conditions that would apply for—

- (a) services that shall be performed or made available by the Board at or in relation to the major port or major port approaches;
- (b) allowing access to or usage of port assets belonging to, or in the possession or occupation of, the Board, or any place within the port limits or the major port approaches;
- (c) any other revenue generating activity or operation at the major port or within the port limits.

(2) Different scales and conditions may be framed by the Board for different categories or classes within the activities under sub-rule (1).

(3) The Board may, from time to time frame a consolidated scale of rates for any combination of service or services with any user or permission to use any port asset belonging to or in the possession or occupation of the Board.

(4) The scale of rates and statement of conditions framed under sub-rule (1) shall not apply to public private partnership projects awarded prior to the commencement of the Act or for the revision in the scale of rates of such public private partnership projects, for which separate directions from the Government shall apply.

4. Power of Board to constitute committee for determination of scale of rates, fees and conditions.- (1) The Board may constitute committee for the purpose of determining the scale of rates, fees and conditions under rule 3.

(2) Each committee constituted by the Board under sub-rule (1) shall consist of the following members, namely:-

- (a) one Member of the Board, who shall be the chairperson of the committee;
- (b) finance head in the major port; and
- (c) not less than two and not exceeding four senior officials of the major port not below the rank of Head of Department in the major port.

(3) Each committee constituted by the Board under sub-rule (1) shall have a tenure of three years from the date on which it is constituted.

Provided that the Board may, at any time, replace any member of the committee by another qualified person on account of reasons pertaining to the death, sickness, injury, disability or retirement of such member or for any other reason as the Board may deem fit and proper.

(4) The committee constituted under sub-rule (1) shall meet at such time and at such places, and shall observe such regulations in regard to the transaction of business at its meetings including the quorum as may be specified by the Board.

(5) The Board may allow the committee constituted under sub-rule (1) to consult such experts, professionals or other officers of the major port (not below the rank of Head of Department) for determination of the scale of rates and conditions under rule 3, as the Board may specify by order in writing along with such conditions as it may deem fit and proper.

5. Functions of committee constituted by the Board.- (1) The committee constituted by the Board under sub-rule (1) of rule 4 shall, within such period and subject to such conditions as may be specified by the Board, determine the scale of rates, fees and conditions under rule 3 and submit its recommendations in writing to the Board for approval.

(2) The determination of the scale of rates, fees and conditions shall be done by the concerned committee after considering the following factors:

- (a) guidelines or directions issued by the Central Government in that behalf;
- (b) market conditions and competitive pricing; and
- (c) feedback received from stakeholders.

(3) Subject to sub-rule (2), the recommendations made under sub-rule (1) shall clearly explain the methodology, norms and procedures applied by the committee in determining the scale of rates, fees and conditions.

(4) The committee constituted by the Board under sub-rule (1) of rule 4 shall discharge its functions under these rules with due diligence.

6. Approval, fixation and publication of scale of rates by the Board.- (1) Upon receipt of recommendations made by the committee or committees under sub-rule (1) of rule 5, the Board may, with or without any changes, approve such recommendations and accordingly fix and frame the scale of rates, fees and conditions for the purposes specified in rule 3:

Provided that the reasons for any deviation from the recommendations made by the committee or committees shall be recorded by the Board in writing:

Provided further that the fixation and implementation of the scale of rates, fees and conditions by the Board under these rules shall—

- (a) not be with retrospective effect; and
- (b) not be in derogation with the guidelines or directions issued by the Central Government in this behalf; and
- (c) not be inconsistent with the provisions of the Competition Act, 2002 (12 of 2003) or any other law for the time being in force; and
- (d) have been fixed after evaluating the market conditions, competitive pricing and feedback received from stakeholders.

(2) The scale of rates, fees and conditions fixed by the Board under sub-rule (1) shall be published by the Board in the State Gazette and the same shall come into force from such date as may be notified by the Board in the said Gazette.

(3) The scale of rates, fees and conditions fixed by the Board under sub-rule (1) shall remain valid for a period of three years from the date of their notification in the State Gazette mentioned in sub-rule (2).

7. Fixation of first scale of rates.- The Board shall, within a period of one hundred eighty days from the date of commencement of the Act, fix and publish the first scale of rates, fees and conditions or adopt such scale of rates, fees and conditions that were existing immediately prior to the commencement of the Act.

8. Exemption from and remission of scale of rates or charges.- The Board may, in special cases and subject to such conditions as it may fix from time to time, and for reasons to be recorded in writing, exempt either wholly or partially any goods, services or vessels or class of goods, services or vessels from the payment of any rate or of any charge leviable in respect thereof according to any scale of rate or charge in force under the Act or remit the whole or any portion of such rate or charge so levied.

9. Review and revision in scale of rates, fees and conditions.- (1) The process for revision in the scale of rates, fees and conditions shall be initiated by the Board at least three months prior to their respective date of expiry:

Provided that if the Board is unable to undertake revision as aforesaid, the Board shall extend the last applicable scale of rates, fees and conditions for such period not exceeding six months and record the reasons for such extension in writing.

(2) Without prejudice to sub-rule (1), the Board may conduct an annual review of the scale of rates, fees and conditions fixed under these rules based on the business and financial performance of the major port and if deemed necessary, take corrective actions to that effect.

(3) In the event of change in law that results in the revision of any scale of rates, fees or conditions adopted or published by the Board under these rules, the revised scale of rates, fees or conditions, as the case may be, shall be adopted by the Board and notified for implementation.

10. Power to levy concessional rates in certain cases.- (1) In framing scale of rates under any of the foregoing provisions of these rules, the Board may prescribe a concessional rate in any of the following circumstances:

- (a) if it is a matter of national interest or emergency as determined by the Central Government;
- (b) if the Central Government has made an order in writing to that effect; or
- (c) if it is a matter of social importance for the State where the major port is situated; or
- (d) if it is warranted on account of market conditions or competitive pricing.

(2) In prescribing the concessional rate under sub-rule (1), the Board shall consider the proposal for concession, if any, placed before it and record the reasons in writing for prescribing the concessional rate, its validity and such conditions that shall be fulfilled in availing the benefit of such concessional rate.

11. Power of Central Government to require modification or cancellation of scale of rates.- (1) Whenever the Central Government considers it necessary in the public interest so to do, it may, by order in writing together with a statement of reasons therefor, direct the Board to cancel any of the scale of rates in force or modify the same, within such period as that Government may specify in the order.

(2) If the Board fails or neglects to comply with the direction under sub-rule (1) within the specified period, the Central Government may cancel any of such scale of rates or make such modifications therein as it may think fit:

Provided that before so cancelling or modifying any scale of rates the Central Government shall consider any objection or suggestion which may be made by the Board during the specified period.

(3) If any scale of rates has been cancelled or modified by the Central Government under sub-rule (2), such cancellation or modification shall be published by the Central Government in the Official Gazette and shall thereupon have effect accordingly.

12. Miscellaneous.- (1) The Chairperson of the Board may attend any committee meeting as *ex-officio* member and whenever the Chairperson attends any committee meeting, he shall preside over that meeting.

(2) No committee member, other than the Chairperson of the Board or a person specifically authorized by him, shall give information to the press or any other public media on matters related to any decision taken at the committee meetings.

[F. No. PD-24015/21/2021-PD-I]

VIKRAM SINGH, Jt. Secy.