

F. No. 13/35/2015-PPP Cell/PD-I
Government of India
Ministry of Ports, Shipping & Waterways
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Transport Bhawan
Parliament Street, New Delhi – 110001

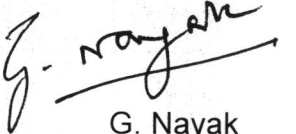
Dated 7 April 2021

Subject:- Draft Rules to be made under Section 71(1) of the Major Port Authorities (MPA) Act 2021

The Major Port Authorities Act 2021 has been published by the Ministry of Law & Justice in the Extra Ordinary Gazette of India on 18.2.2021. To implement the above Act, Rules have to be made under Section 71(1) of the said Act. It is proposed to make 13 Rules under the Act which are attached/ uploaded on the website of the Ministry and the Indian Ports Association [www.shipmin.gov.in and www.ipa.nic.in].

General public, all stakeholders, Unions/ Federations etc may send their comments/ views on the draft Rules by **10 May 2021** on the following E-mail addresses:-

- i) md.ipa@nic.in
- ii) nayak.gn@gov.in


G. Nayak
Under Secretary

Rules under
The Major Ports Authorities Act, 2021

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Rule 1

THE MAJOR PORT AUTHORITIES (ADAPTATION OF REGULATIONS) RULES, 2021

In exercise of the powers conferred by sub-section (2) of section 71 of the Major Port Authorities Act, 2021 and in supersession of the Major Port Trusts (Adaptation of Rules) Regulations, 1964, except as respects things done or omitted to be done before such suppression, the Central Government hereby makes the following Rules, namely:-

1. Short title and commencement

- (1) These rules may be called the Major Port Authorities (Adaptation of Regulations) Rules, 2021.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application

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

3. Definitions.-In these rules, unless the context otherwise requires,-

- (a) “**Act**” means the Major Port Authorities Act, 2021;
- (b) “**appointed day**” means the date on which the Act comes into force;
- (c) “**Board**” shall have the meaning assigned to it in the Act;
- (d) “**existing regulations and orders**” means the regulations and orders made under the erstwhile Major Port Trusts Act, 1963 in connection with the administration of the major ports;
- (e) “**Major Port**” shall have the meaning assigned to it in the Act.

4. Existing regulations to continue

The existing regulations and orders under the erstwhile Major Port Trusts Act, 1963 as applicable to the major ports mentioned under rule 2 on the appointed day shall continue to remain in force, to the extent they are within the scope of the Act and also not inconsistent with the other provisions of the Act or any rules, notifications or directions made there under:

Provided that any amendments to the existing regulations and orders made on or after the appointed day shall not be applied unless the Board has complied with the provisions of Section 72 of the Act.

Rule 2

MAJOR PORT AUTHORITIES (APPOINTMENT OF CHAIRPERSON, DEPUTY CHAIRPERSON AND BOARD MEMBERS) RULES, 2021

In exercise of the power conferred by sub-section (1), (2) and (3) of section 4 and sub-section (2) of section 5 read with sub-section (2) of section 71 of the Major Port Authorities Act, 2021, the Central Government hereby makes the following rules regulating the appointment of the person appointed as Chairperson, Deputy Chairperson and Members of the Major Port Authorities, namely:-

1. Short title and commencement:-

- (1) These rules may be called the Major Port Authorities (Appointment of Chairperson, Deputy Chairperson and Board Members) 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;
 - (b) **“adjudicating officer”** means the adjudicating officer appointed by the Central Government under sub-rule (1) of rule 9;
 - (c) **“Annexure”** means the Annexure appended to these rules;
 - (d) **“Board”** shall have the meaning assigned to it in the Act;
 - (e) **“conflict of interest”** for the purposes of these rules shall mean when the Chairperson, Deputy Chairperson or a Member or a person being considered for appointment or reappointment as the Chairperson, Deputy Chairperson or a Member, has or is deemed to have a competing business or professional or personal interest or a direct or indirect beneficial interest that impairs or is likely to impair the person or the Chairperson, Deputy Chairperson or a Member, as the case may be, from fulfilling his functions;
 - (f) **“inquiry”** means the inquiry referred in sub-section (2) of section 5 of the Act and sub-rule (1) of rule 8 of these rules;
 - (g) **“section”** means the section of the Act;
 - (h) **“trade union”** means a trade union or trade unions, if any, composed of persons employed in the Major Port and registered under the Trade Unions Act, 1926.
- (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. Qualification for appointment of Chairperson, Deputy Chairperson and Members of the Board of Major Port Authority

- (1) A person shall not be qualified for appointment as the Chairperson or the Deputy Chairperson of the Board of a Major Port Authority, unless he is a serving officer in the Central Services or All India Services or is a port officer and meets the qualifying criteria mentioned in that behalf under the guidelines issued by the Central Government from time to time.
- (2) A person shall not be qualified for appointment as a Member under clause (c) of sub-section (1) of section 3 of the Act unless he is a serving Government officer and possesses adequate knowledge and professional experience of not less than fifteen years in the field of management, administration, maritime research or port related operations.
- (3) A person shall not be qualified for appointment as an Independent Member under clause (d) of sub-section (1) of section 3 of the Act unless he is a person of integrity and have adequate knowledge and professional experience of not less than fifteen years in shipping, marine, management or administration.
- (4) A person shall not be qualified for nomination or appointment as a Member under clause (e) of sub-section (1) of section 3 of the Act unless he is a serving Government officer not below the rank of a Director.
- (5) A person shall not be qualified for appointment as a Member under clause (f) of sub-section (1) of section 3 of the Act unless he is a serving employee of the Major Port Authority.
- (6) In addition to grounds mentioned in section 5 of the Act, no person,-
 - (a) who has entered into or contracted a marriage with another person having a spouse living; or
 - (b) who, while having a spouse living, has entered into or contracted a marriage with another person; or
 - (c) who has or is deemed to have a conflict of interest to hold the office of the Chairperson or the Deputy Chairperson or a Member,

shall be eligible for appointment or to continue as the Chairperson or the Deputy Chairperson or a Member of the Board:

Provided that the Central Government may, if satisfied that a marriage under clause (a) or (b) is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of clause (a) or (b), as the case may be.

- (7) No person shall be appointed as the Chairperson, the Deputy Chairperson or a Member of the Board unless he is declared medically fit by a Medical Board to be constituted by the Central Government for the purpose, or unless he has already been declared fit by an equivalent authority.

4. Method of Appointment of Chairperson and Deputy Chairperson of Board of Major Port Authority.-

- (1) The Chairperson and Deputy Chairperson of the Board of each Major Port Authority shall be appointed by the Central Government on the recommendation of a Selection Committee consisting of-
- (a) A nominee of the Minister of Ports,
Shipping and Waterways - Chairperson of Selection Committee
 - (b) Secretary-in-charge of the Ministry of Ports,
Shipping and Waterways - Member of Selection Committee
 - (b) Secretary-in-charge of the Ministry of the
Central Government dealing with the
Department of Personnel and Training - Member of Selection Committee
 - (c) Chairman of Indian Ports Association - Member of Selection Committee
- (2) The Selection Committee shall recommend persons for appointment of Chairperson and Deputy Chairperson of the Board from amongst persons on the list of candidates prepared by it after inviting applications there for by advertisement or on the recommendation of the appropriate authorities.
- (3) The Selection Committee shall, in the process of selection of the first Chairperson and Deputy Chairperson of the Board, also consider the names of the existing chairman and deputy chairman of the concerned Major Port.
- (4) The Selection Committee may devise its own procedure for short-listing suitable candidates for the appointment of Chairperson and Deputy Chairperson of the Board.
- (5) The Central Government shall after taking into consideration the recommendations of the Selection Committee make a list of persons selected for appointment as the Chairperson and Deputy Chairperson of the Board:

Provided that the Central Government shall be entitled to return the names recommended by the Selection Committee along with reasons for reconsideration and submission of fresh names by the Selection Committee.

5. Method of Appointment of Members of the Board of Major Port Authority.-

- (1) The appointment of nominee Members from the State Government, Ministry of Railways, Ministry of Defence and Customs, Department of Revenue as mentioned in clause (c) of sub-section (1) of section 3 of the Act shall be made by the Central Government in the following manner, namely:-
- (a) the Central Government shall by way of a communication in writing require each of the State Government in which the Major Port is situated, Ministry of Railways,

Ministry of Defence and Customs, Department of Revenue to nominate qualified persons as per sub-rule (2) of rule 3 for appointment as Member on the Board of the Major Port Authority;

- (b) the Central Government shall, after satisfying itself with the eligibility of the persons nominated by the respective authorities as mentioned in clause (a), issue an order in respect of persons selected for appointment as the Members under clause (c) of sub-section (1) of section 3 of the Act and share the copy of that order with the concerned Major Port Authority;
 - (c) the persons selected by the Central Government by way of an order under clause (b) shall be deemed to be appointed as Members of the Board of the concerned Major Port Authority from the date mentioned in the said order by the Central Government.
- (2) The appointment of Independent Members under clause (d) of sub-section (1) of section 3 of the Act shall be made by the Central Government in the following manner, namely:-
- (a) the Central Government by itself or through the Board shall invite references and applications from the eligible persons meeting the qualification criteria mentioned in sub-rule (3) of rule 3;
 - (b) on receipt of the applications or recommended names under clause (a), the Central Government shall, after satisfying itself with the eligibility of such persons, select and notify through an order the person(s) selected for appointment as the Independent Members under clause (d) of sub-section (1) of section 3 of the Act;
 - (c) a copy of the order issued by the Central Government under clause (b) shall be shared with the concerned Major Port Authority in respect of which the appointment of Independent Members is made;
 - (d) the persons selected by the Central Government by way of an order under clause (b) shall be deemed to be appointed as Independent Members on the Board of the concerned Major Port Authority from the date mentioned in the said order by the Central Government.
- (3) Subject to the provisions of sub-rule (4) of rule (3), the nomination of the Member under clause (e) of sub-section (1) of section 3 of the Act shall be made by the Central Government by way of a written order which shall be ratified by the Board of the concerned Major Port Authority as soon as the said order is received by the Major Port Authority and the person nominated in the said order shall be deemed as the Member on the Board of the Major Port Authority under clause (e) of sub-section (1) of section 3 of the Act from the date on which the said order is ratified by the Board for such period as mentioned in the said order.
- (4) The appointment of the Members under clause (f) of sub-section (1) of section 3 of the Act shall be made by the Central Government in the following manner, namely:-
- (a) the Central Government shall for the purpose of obtaining the opinion of the trade unions under sub-section (3) of section 4 of the Act, direct the Board of the

concerned Major Port Authority to convene a secret ballot of all serving employees of that Major Port Authority in order to nominate the qualified persons as per sub-rule (5) of rule 3 for their appointment as Members on the Board under clause (f) of sub-section (1) of section 3 of the Act;

- (b) upon the conclusion of the secret ballot, the Board of the concerned Major Port Authority shall forward the nominated name(s) to the Central Government which shall, after satisfying itself with the eligibility of the nominated person, issue an order in respect of person selected for appointment as the Member under clause (f) of sub-section (1) of section 3 and share the copy of the said order with the concerned Major Port Authority in respect of which the said appointment is made;
- (c) the person selected by secret ballot and approved by the Central Government by way of an order under clause (b) shall be deemed to be appointed as the Member under clause (f) of sub-section (1) of section 3 from the date mentioned in the said order by the Central Government;
- (d) in case the person nominated after selection by secret ballot by the trade union under clause (a) is found ineligible by the Central Government or is disqualified on account of the provisions of sub-section (1) of section 5 of the Act read along with sub-rule (6) of rule 3, the Central Government shall communicate its decision to the trade unions and the Board of the concerned Major Port Authority will have to conduct the secret ballot afresh to select the fresh nominee(s);
- (e) for purposes of conducting the secret ballot for the selection of the Members under clause (f) of sub-section (1) of section 3 of the Act, the Board of the concerned Major Port Authority shall conduct the secret ballot in the manner as specified in the regulations that shall not be in derogation to any directives of the Central Government.

6. Resignation of Members.-

- (1) The resignation by any person from the post of the Chairperson, Deputy Chairperson or Member of the Board in terms of section 8 of the Act shall take effect from the date on which such resignation is accepted by the Central Government; where after the said post shall be deemed to have been vacated.
- (2) The communication of acceptance of resignation under sub-rule (1) shall be communicated by the Central Government to the concerned Major Port Authority in which such person was appointed as the Chairperson, Deputy Chairperson or Member, as the case may be.

7. Procedure for Appointment of Members in case of vacancy, etc.-

- (1) In the case of a vacancy in the office of a Chairperson, Deputy Chairperson or Member of the Board caused by the expiration of the term of office of such Chairperson, Deputy Chairperson or Member, the concerned Board of the Major Port Authority shall inform the Central Government and the concerned nominating authority about such vacancy three months prior to the date of expiration of the term of such Member and the appointment to

fill such vacancy shall be made by the Central Government within the said period of three months.

- (2) In the case of a vacancy in the office of a Chairperson, Deputy Chairperson or Member of the Board caused by reason of death, resignation or disqualification of such Chairperson, Deputy Chairperson or Member, the concerned Board of the Major Port Authority shall inform the Central Government about such vacancy within next seven days and the appointment to fill such vacancy shall be made by the Central Government within three months from the date on which such vacancy occurs.

8. Removal of Chairperson, Deputy Chairperson and Members on grounds of misbehavior, incapacity, etc.

- (1) The Chairperson, Deputy Chairperson or any other Member of the Board shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehavior, incapacity or in contravention of the provisions of section 7 of the Act after the Central Government has held an enquiry in accordance with sub-rule (2) and rule 9 and come to the conclusion in accordance with rule 11 that such Chairperson, Deputy Chairperson or Member ought on any such ground to be removed.
- (2) Whenever the Central Government has, either on its own findings or upon receipt of any complaint or reference from the Board or any court, statutory or local authority, reason to believe that there are grounds for making an inquiry into the truth of any imputation of misbehavior, incapacity or contravention of section 7 of the Act against the Chairperson or Deputy Chairperson or any other Member of the Board, it may cause the substance of the imputations to be drawn into distinct articles or charge, and may order a formal inquiry to be made into the truth thereof.

9. Procedure for initiation of inquiry.—

- (1) An inquiry under sub-rule (2) of rule 8 may be committed by the Central Government to any of its officer not below the rank of the Additional Secretary to the Government of India or an equivalent officer of a State Government, who shall be appointed as 'adjudicating officer' for the said purpose.
- (2) In holding an inquiry into the truth of any imputation of misbehavior, incapacity or contravention of section 7 of the Act against the Chairperson or Deputy Chairperson or any other Member of the Board, the adjudicating officer shall in the first instance, issue a notice to such Chairperson, Deputy Chairperson or Member, as the case may be, requiring him to show cause in writing within thirty days as to why an inquiry should not be held against him.
- (3) Every notice issued to the Chairperson, Deputy Chairperson or Member under sub-rule (2) shall indicate the nature of imputation or charge made against him and shall be served on him in the following manner, namely:-
 - (a) by delivering or tendering it to him or his duly authorised representative; or

- (b) by sending it to him by fax or electronic mail or by courier or speed post with acknowledgement due or registered post with acknowledgement due to the address of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain:

Provided that a notice sent by fax shall bear a note that the same is being sent by fax and in case the document contains annexure, the number of pages being sent shall also be mentioned;

- (c) where it cannot be served under clause (a) or (b), by affixing it on the outer door or some other conspicuous part of the premises in which he resides or is known to have last resided, or carried on business or personally works or last worked for gain and the written report thereof shall be witnessed by two persons;
- (d) if it cannot be affixed on the outer door as per clause (c), by publishing the notice in at least two newspapers, one in a English daily newspaper having nationwide circulation, and another in a newspaper having wide circulation published in the language of the region where he was last known to have resided or carried on business or personally worked for gain.
- (4) After considering the cause, if any, shown by the Chairperson, Deputy Chairperson or Member to whom show cause notice is issued under sub-rule (2), if the adjudicating officer is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of such Chairperson, Deputy Chairperson or Member, as the case may be.
- (5) On the date fixed, the Chairperson, Deputy Chairperson or Member, as the case may be, shall appear in person before the adjudicating officer without representation from any agent or authorised legal practitioner and the adjudicating officer shall explain to the Chairperson, Deputy Chairperson or Member proceeded against, the nature of imputation or charge made against him and the potential grounds of his removal from his office.
- (6) The adjudicating officer shall then give an opportunity to the Chairperson, Deputy Chairperson or Member, as the case may be, to produce documents or evidence as he may consider relevant to the inquiry and if necessary, the hearing may be adjourned to a future date and in taking such evidence, the adjudicating officer shall not be bound to observe the provisions of the Evidence Act, 1872 (11of1872).
- (7) If the Chairperson, Deputy Chairperson or Member against whom the inquiry is held under these rules fails, neglects or refuses to appear before the adjudicating officer as required under sub-rule (5), the adjudicating officer may proceed with the inquiry in his absence after recording the reasons for doing so.
- (8) While holding the inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry.

10. Report of adjudicating officer.—

- (1) The adjudicating officer shall complete the inquiry and submit his report to the Central Government within one hundred and eighty days from the date of his appointment under these rules:

Provided that where any such inquiry or report could not be completed within the said period of one hundred and eighty days, the adjudicating officer shall record its reasons in writing for not completing the inquiry or report within that period.

- (2) Where after taking into consideration the charges and evidence produced before him the adjudicating officer is satisfied that the Chairperson, Deputy Chairperson or Member against whom the inquiry is held under these rules, ought or ought not to be removed from his office, the adjudicating officer shall give his recommendations to that effect in his inquiry report.
- (3) The inquiry report submitted by the adjudicating officer shall specify the reasons for recommending removal or non-removal of the Chairperson, Deputy Chairperson or Member, as the case may be.
- (4) The inquiry report shall be dated and signed by the adjudicating officer and forwarded to the Central Government.

11. Assessment of inquiry report by Central Government.—

- (1) Upon receipt of the inquiry report by the adjudicating officer, the Central Government shall assess the recommendations made in the inquiry report and accordingly pass the order with reasons for removal or non-removal of the Chairperson, Deputy Chairperson or Member against whom the inquiry is held under these rules:

Provided that the recommendations made by the adjudicatory officer in the inquiry report shall not be binding on the Central Government and the Central Government may, if it is not satisfied with the inquiry report, order another inquiry into the imputation or charges made against the Chairperson, Deputy Chairperson or Member under the Act and these rules.

- (2) A copy of the order passed by the Central Government under sub-rule (1) shall be given to the Board and the Chairperson, Deputy Chairperson or Member against whom the inquiry is held under these rules.

12. Communication of removal of Chairperson, Deputy Chairperson and Members to the Major Port Authority.-

The removal of the Chairperson, Deputy Chairperson or Member of the Board in terms of section 9 of the Act shall be communicated by the Central Government to the concerned Major Port Authority in which such person was appointed as the Chairperson, Deputy Chairperson or Member, as the case may be.

13. Oath of office and Secrecy.-

- (1) Every person appointed as the Chairperson, Deputy Chairperson or a Member of the Board of the Major Port Authority shall, before entering upon his office, make and subscribe an oath of office and secrecy, in Form I annexed to these rules.
- (2) The oath of office and secrecy made by the Chairperson, Deputy Chairperson and Members of the Board of the Major Port Authority under sub-rule (1) shall be validated by each of them after expiry of every one year of their respective terms.

14. Declaration of financial or other interest.-

- (1) Every person, on his appointment as the Chairperson, Deputy Chairperson or Member, as the case may be, shall give a declaration in Form II annexed to these rules, to the satisfaction of the Central Government, that he is not disqualified or ineligible to hold the office of Chairperson, Deputy Chairperson or Member, as the case may be, nor does he have any such financial or other interest including conflict of interest as is likely to affect prejudicially his functions as the Chairperson, Deputy Chairperson or Member, as the case may be.
- (2) The declaration given by the Chairperson, Deputy Chairperson and Members of the Board of the Major Port Authority under sub-rule (1) shall be validated by each of them after expiry of every one year of their respective terms.

15. Interpretation.-

If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

16. Power to relax rules.-

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

17. Saving.-

Nothing in these rules shall effect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.

Form - I
(Seerule13)

Form of oath of office for the Chairperson, Deputy Chairperson, or Members of the Board of the Major Port Authority

I, _____, having been appointed as the Chairperson / Deputy Chairperson / Member *[crossout portion not applicable]* of the *[Insert name of the Major Port Authority]* do solemnly affirm and swear in the name of God that I will-

- (a) faithfully and conscientiously discharge my duties as the Chairperson / Deputy Chairperson / Member *[cross out portion not applicable]* to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will;
- (b) not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Chairperson / Deputy Chairperson / Member *[cross out portion not applicable]* of the said Major Port Authority except as may be required for the due discharge of my duties as the Chairperson / Deputy Chairperson / Member *[cross out portion not applicable]*.

Signature: _____

Place: _____

Name: _____

Designation: _____

Date: _____

Form - II
(See rule 14)

Declaration against acquisition of any adverse financial or other interest

I, _____, having been nominated / appointed *[cross out portion not applicable]* as the Chairperson / Deputy Chairperson / Member *[cross out portion not applicable]* of *[Insert name of the Major Port Authority]*, do solemnly affirm and declare that-

- a. I am neither ineligible nor disqualified to hold the office of Chairperson / Deputy Chairperson / Member *[cross out portion not applicable]* of the said Major Port Authority; and
- b. I do not have, nor shall have in future any financial or other interest including conflict of interest which is likely to affect prejudicially my functioning as the Chairperson / Deputy Chairperson / Member *[cross out portion not applicable]*, of the said Major Port Authority.

Signature: _____

Place: _____

Name: _____

Designation: _____

Date: _____

Rule 3

MAJOR PORT AUTHORITIES (SALARY, ALLOWANCES AND OTHER TERMS AND CONDITIONS OF SERVICE OF CHAIRPERSON, DEPUTY CHAIRPERSON AND MEMBERS)

RULES, 2021

In exercise of the power conferred by clause (s) of sub-section (2) of section 71 read with section 11 of the Major Port Authorities Act, 2021, the Central Government hereby makes the following rules regulating the salary and allowances payable to and other terms and conditions of service of Chairperson, Deputy Chairperson and Members of the Major Port Authorities.

1. Short title and commencement-

- (1) These rules may be called the Major Port Authorities (Salary, Allowances and other Terms and Conditions of Service of Chairperson, Deputy Chairperson and Members) 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;
 - (b) “**Board**” shall have the meaning assigned to it in the Act;
 - (c) “**Chairperson**” means the Chairperson of the Board appointed under sub-section (1) of section 4;
 - (d) “**Deputy Chairperson**” means the Deputy Chairperson of the Board appointed under sub-section (1) of section 4;
 - (e) “**Member**” means the Member of the Board appointed under sub-sections (2) and (3) of section 4.
- (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. Salary, allowances and other benefits payable to Chairperson, Deputy Chairperson and Members-

- (1) The salary payable to the Chairperson and Deputy Chairperson of the Board of each Major Port Authority shall be as per the guidelines relating to pay and allowances formulated by the Department of Public Enterprises for Public Sector Enterprise (PSE) Executives.
- (2) Unless specified otherwise at the time of appointment, the Chairperson and the Deputy Chairperson of each Major Port Authority shall be entitled to such allowances and other benefits as are applicable to the officers of the Central Government of the equivalent

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category as per the orders issued by the Central Government from time to time.

- (3) If at the time of his appointment to the Board, a Member other than the Chairperson or Deputy Chairperson who is in service of the Central or State Government or a Union Territory Administration, he shall continue to receive his salary, allowances and other benefits up to the age of superannuation in accordance with the rules applicable to him under that service:
- (4) The salary and allowances of any person holding office as the Chairperson, Deputy Chairperson or Member of the Board shall not be varied to his disadvantage during the period he holds such office.
- (5) An Independent Member, who is not in the service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall not receive any salary and instead shall be eligible to receive such honorarium or benefits as set forth in these Rules.

4. Honorarium, allowances and other terms of service of Independent Members.-

- (1) An Independent Member to the Board who is not in the service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall be paid such honorarium for attending meetings of the Board or any committee thereof or for any other work of the Board as determined and approved by the Board of the Major Port Authority in which he is so appointed:

Provided that the honorarium payable to an Independent Member for attending any meeting of the Board or any committee thereof shall not exceed one lacs rupees per meeting.

- (2) In addition to the honorarium payable to Independent Members under sub-rule (1), every Independent Member shall also be paid or reimbursed by the Board of each Major Port Authority such sum either as fixed allowance or actual as fair compensation for travel, boarding and lodging and incidental or actual out of pocket expenses incurred by such Independent Member for attending meetings of the Board or any committee thereof or for any official tour or other work of the Major Port Authority in which he is so appointed, as the case maybe.
- (3) The Independent Member shall have fiduciary duty towards the Board of the Major Port Authority in which he is so appointed and such Independent Member shall, in performance of such duty and in addition to the provisions of the Act and the rules made there under, abide by the provisions of the code as applicable to the independent directors under Schedule IV of the Companies Act, 2013 (18of2013).

5. Provident fund-

- (1) The Chairperson and Deputy Chairperson of the Board of each Major Port Authority shall be governed by the provisions of the Contributory Provident Fund (India) Rules, 1962 and the Contribution Pension System, as amended from time to time.
- (2) A Member, who on the date of his appointment to the Board is in the service of the Central or State Government or a Union Territory Administration and who has been admitted to

the benefits of General Provident Fund, shall continue to subscribe to that Fund until the date of his superannuation according to the rules applicable to him in that service:

Provided that an Independent Member of the Board who is not in service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall not be entitled to any provident fund benefit.

6. Leave and encashment of leave.-

(1) The Chairperson and Deputy Chairperson of the Board of each Major Port Authority shall be governed in the matters relating to their rights in respect of leave and encashment of leave by the Central Civil Services (Leave) Rules, 1972.

(2) A Member, who on the date of his appointment to the Board is in the service of the Central or a State Government or a Union Territory Administration, shall continue to be governed in matters relating to his rights in respect of leave, leave entitlement and encashment by the provisions of the rules applicable to him in that service:

Provided that an Independent Member of the Board who is not in service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall not be entitled to any leave or leave entitlement and encashment benefit unless specifically determined and approved by the Board of the Major Port Authority as per the orders issued by the Central Government from time to time.

(3) Where the leave benefits in respect of the Independent Members stand approved by the Board under sub-rule (2), the Chairperson, or in his absence the Deputy Chairperson, shall be the authority competent to sanction the leave benefits to such Independent Members.

7. Leave Travel Concession-

(1) The Chairperson and Deputy Chairperson of the Board of each Major Port Authority shall be entitled to leave travel concession at the same rates and at the same scales as are applicable to the officers of the Central Government of equivalent category as per the orders issued by the Central Government from time to time.

(2) A Member, who on the date of his appointment to the Board is in the service of the Central or a State Government or a Union Territory Administration, shall be entitled to leave travel concession in accordance with the rules applicable to him in that service:

Provided that an Independent Member of the Board who is not in service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall not be entitled to the benefit of the leave travel concession.

8. Accommodation-

(1) Every person appointed to the Board as the Chairperson or the Deputy Chairperson shall subject to approval by the Central Government on accommodation, be entitled to the use of an official residence from the Central Government, on the basis of a license fee at the rates prescribed by the Central Government from time to time.

- (2) Where Central Government accommodation is not available, the residential accommodation for the Chairperson or the Deputy Chairperson may be hired on lease by the Central Government subject to such ceiling on hire charges as may be specified by the Central Government from time to time.
- (3) When the Chairperson or the Deputy Chairperson is not provided with or does not avail himself of the accommodation referred in sub-rules (1) and (2), he may be paid every month house rent allowance as may be admissible from time to time to an officer of the equivalent pay scale in the Central Government.
- (4) When the Chairperson or the Deputy Chairperson occupies an official residence beyond the permissible period, he shall be liable to pay such additional license fee or other charges as are livable under the corresponding rules of the Central Government governing allotment of accommodation and in addition, be liable to be evicted in accordance with the rules applicable to the officers drawing equivalent pay in the Central Government.
- (5) A Member, who on the date of his appointment to the Board is in the service of the Central or a State Government or a Union Territory Administration shall be entitled to official residence in accordance with the rules applicable to him in that service:

Provided that an Independent Member to the Board who is not in service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall not be entitled to the benefit of an official residence.

9. Conveyance-

- (1) The Chairperson, Deputy Chairperson and other Members of the Board of each Major Port Authority shall be entitled to the facility of a staff car for journeys for official and private purposes in accordance with the rules for the time being in force governing the use of staff car facilities applicable to officers of the Central Government of equivalent category:

Provided that an Independent Member of the Board who is not in service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, the benefit of conveyance facility to such Independent Member would be granted by the Board in accordance with the provisions of rule 4.

- (2) No new passenger vehicle shall be purchased for the use by the Chairperson, Deputy Chairperson and other Members of the Board of each Major Port Authority unless specifically determined and approved by the Board in accordance with guidelines or orders issued by the Central Government from time to time.

10. Travelling Allowance.-

The Chairperson, Deputy Chairperson and all other Members of the Board of each Major Port Authority, while on tour or on transfer (including the journey undertaken to join the Board or on the expiry of his term with the Board proceeds to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rate as are applicable to the officers of the Central Government of the equivalent category as per the orders issued by

the Central Government from time to time. In the case of Independent Members, the travelling allowance shall be paid in accordance with the provisions of rule 4 of these Rules.

11. Official visits abroad.-

Official visits abroad by the Chairperson, Deputy Chairperson or any other Member of the Board of each Major Port Authority shall be undertaken only in accordance with orders issued by the Central Government and they shall be entitled to draw such allowances and other benefits in respect of such visits as are regulated by the orders issued by the Central Government from time to time:

Provided that in the case of Independent Members, the allowance for travelling abroad shall be paid in the manner as determined and approved by the Board of the Major Port Authority as per the orders issued by the Central Government from time to time.

12. Facilities for medical treatment-

(1) The Chairperson and Deputy Chairperson of the Board of each Major Port Authority shall be entitled to medical treatment and hospital facilities as provided in the Central Government Health Scheme Rules, 1954.

(2) A Member, who on the date of his appointment to the Board is in the service of the Central or a State Government or a Union Territory Administration, shall be entitled to medical treatment and hospital facilities in accordance with the rules applicable to him in that service:

Provided that an Independent Member of the Board who is not in service of the Central or State Government or a Union Territory Administration at the time of his appointment to the Board, shall be entitled to only those medical treatment and hospital facilities as specifically determined and approved by the Board of the Major Port Authority.

13. Service conditions of Chairperson, Deputy Chairperson or Members of special status:-

Without prejudice to any of the provisions in these rules, the Central Government may by an order, if it is considered necessary, sanction specific salaries, allowances and other facilities to the Chairperson, Deputy Chairperson or a Member of the Board in accordance with any special status that may be conferred on the incumbent.

14. Chairperson, Deputy Chairperson and Members of the Board to be deemed as public servants.-

The Chairperson, Deputy Chairperson and other Members of the Board of each Major Port Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

15. Residuary provisions.-

Matters related to the terms and conditions of service of the Chairperson, Deputy Chairperson and other Members of the Board of each Major Port Authority with respect to which no express provision has been made in these rules shall be referred in each case by

the Major Port Authority to the Central Government for its decision and the decision of the Central Government thereon shall be final.

16. Power to relax rules-

The Central Government shall have power to relax the provisions of any of these rules with respect to any class or category of persons.

17. Interpretation-

If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

Rule 4

MAJOR PORT AUTHORITIES (MEETINGS OF BOARD AND ITS POWERS) RULES, 2021

In exercise of the powers conferred by sub-section (2) of section 71 of the Major Port Authorities Act, 2021 and in supersession of the Major Port Trusts (Procedure at Board Meetings) Rules, 1981, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement-

- (1) These Rules may be called the Major Port Authorities (Meetings of Board and its Powers) Rules, 2021.
- (2) They shall come into force on the date of their publication in the official Gazette.
- (3) They shall, subject to the provisions of section 13 of the Major Port Authorities Act, 2021, apply to the business transacted at the meetings of the Boards of Major Port Authorities of Chennai, Cochin, Deendayal (Kandla), Jawaharlal Nehru (Nhava Sheva), Kolkata, Mormugao, Mumbai, New Mangalore, Paradip, V.O. Chidambaranar (Tuticorin) and Visakhapatnam.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires,
 - (a) **“Act”** means the Major Port Authorities Act, 2021;
 - (b) **“Annexure”** means the Annexure appended to these rules;
 - (c) **“Board”** shall have the meaning assigned to it in the Act;
 - (d) **“Chairperson”** means the Chairperson of the Board appointed under sub-section (1) of section 4 of the Act;
 - (e) **“Committee”** means every committee of the Members and any other person constituted by the Board pursuant to the provisions of sub-section (1) of section 14 of the Act;
 - (f) **“Deputy Chairperson”** means the Deputy Chairperson of the Board appointed under sub-section (1) of section 4 of the Act;
 - (g) **“Designated Officer”** means any officer of the Major Port Authority charged with the duty and responsibility of issuance of notice, circulation of agenda, recording, circulation and safe keeping of minutes of the meetings of the Board of Major Port Authority or any Committee thereof.
 - (h) **“Member”** means the Member of the Board appointed under sub-sections(2)and (3) of section 4 of the Act and includes the Chairperson and Deputy Chairperson;
 - (i) **“Quorum”** means the minimum strength of the Members required to convene any meeting of the Board of a Major Port Authority as specified in the regulations

adopted by the Board of such Major Port Authority, in compliance with the provisions of rule 6 of these Rules.

(j) “**section**” means the section of the Act.

(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. Frequency, Date and Venue of Board meetings-

(1) The Board of each Major Port Authority shall hold its first meeting within thirty days of the date of its constitution and thereafter hold a minimum number of four meetings every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board.

(2) The Board of each Major Port Authority shall, from time to time determine, the date and time of its meetings:

Provided that where the Board is unable to do so for any reason, the Chairperson and in his absence the Deputy Chairperson may do so, for reasons to be recorded in writing.

(3) The meetings of the Board of each Major Port Authority shall be held at their respect port premises, except where the Board in advance decides to hold any meeting at any other place for reasons to be recorded in writing.

4. Circulation of Agenda and manner of participation.-

(1) A meeting of the Board shall be called by giving not less than seven days notice in writing to every Member at the address provided by such Member and such notice along with the proposed agenda and all the relevant material for the meeting shall be sent by the Designated Officer by hand delivery or by post or by electronic means:

Provided that a meeting of the Board may be called at shorter notice to transact urgent business subject to the condition that the Member appointed under clause (e) of sub-section (1) of section (3) of the Act shall be present at the meeting:

Provided further that in case of absence of Member appointed under clause (e) of sub-section (1) of section (3) of the Act from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the Members and shall be final only on ratification thereof by the Member appointed under clause (e) of sub-section (1) of section (3) of the Act.

(2) The notice of the meeting under sub-rule (1) shall inform the Members regarding the option available to them to participate through video conferencing mode or other audio visual means, and shall provide all the necessary information to enable the Members to participate through video conferencing mode or other audio visual means.

5. Conduct of Meetings of Board

- (1) The participation of Members in a meeting of the Board 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.
- (2) At the commencement of the Board meeting, a roll call shall be taken by the Chairperson or the acting Chairperson of the meeting when every Member participating through video conferencing or other audio visual means shall state, for the record, the following namely:-
 - (a) name;
 - (b) the location from where he is participating;
 - (c) that he has received the agenda and all the relevant material for the meeting; and
 - (d) that no one other than the concerned Member is attending or having access to the proceedings of the meeting at the location mentioned in clause(b).
- (3) (a) After the roll call, the Chairperson or the acting Chairperson, as the case may be, shall inform the Board about the names of persons other than the Members who are present for the said meeting at the request or with the permission of the Chairperson or the acting Chairperson and confirm that the required quorum is complete in accordance with the provisions of sub-rule (1) of rule 6.

Explanation - A Member participating in a meeting through video conferencing or other audio visual means shall be counted for the purpose of quorum, unless he is to be excluded for any items of business under any provisions of the Act or the rules.

 - (b) The Chairperson or the acting Chairperson of the Board meeting shall ensure that the required quorum is present throughout the meeting.
- (4) The Members of the Board present in the meeting may, with the prior consent of the Chairperson or any other person presiding such meeting, consider and discuss additional items in the meeting which were not previously notified in the agenda circulated under sub-rule (1) of rule 4.
- (5) The Board or any officer of the Major Port Authority nominated by the Board in this behalf shall take due and reasonable care-
 - (a) to record proceedings and prepare the minutes of the meeting;
 - (b) the notice of the Board meeting shall be sent to all the Members in the manner stipulated under sub-rule (1) of rule 4.
- (6) The statutory and other records which are required to be placed in the Board meeting as per the provisions of the Act shall be placed at the scheduled venue of the meeting and where such records are required to be signed by the Members, the same shall be deemed to have been signed by the Members participating through electronic mode, if they have given their consent to this effect and it is so recorded in the minutes of the meeting.
- (7) (a) Every participant shall identify himself for the record before speaking on any item of business on the agenda.

- (b) If a statement of a Member in the meeting through video conferencing or other audio visual means is interrupted or garbled, the Chairperson or the acting Chairperson of the Board meeting shall request for a repeat or reiteration by the Member.
- (13) If a motion is objected to and there is a need to put the said agenda item to vote, the Chairperson or the acting Chairperson shall call the roll and note the vote of each Member who shall identify himself while casting his vote.
- (14) From the commencement of the Board meeting and until the conclusion of such meeting, no person other than the Chairperson or the acting Chairperson, Members and any other person whose presence is required by the Board shall be allowed access to the place where any Member is attending the meeting either physically or through video conferencing without the permission of the Board.
- (15) At the end of discussion on each agenda item, the Chairperson or the acting Chairperson of the Board meeting shall announce the summary of the decision taken on such item along with names of the Members, if any, who dissented from the decision taken by majority.
- (16) After completion of the meeting, the minutes shall be entered in the minute book as specified in these rules and signed by the Chairperson or the acting Chairperson, as the case maybe.
- (13) The Board of each Major Port Authority shall observe secretarial standards with respect to the Board meetings specified by the Institute of Company Secretaries of India constituted under Section 3 of the Company Secretaries Act, 1980, and approved as such by the Central Government.

6. Quorum for meetings of the Board.-

- (1) The quorum for any meeting of the Board of the Major Port Authority shall be as per the regulations adopted by the Board of the Major Port Authority subject to the requirement not being less than fifty percent or half of the Board's total strength at the time of such meeting plus one Member:

Provided that the regulations adopted by the Board of the Major Port Authority shall also prescribe that no Board meeting shall be held if the total strength of the Board is less than five Members.

Explanation: For the purposes of this rule, -

- (i) any fraction of a number shall be rounded off as one;
- (ii) "total strength" means the total number of members appointed as Members of the Board from time to time and shall not include Members whose places are vacant.

Illustrations:

- A. *If the Board of the Major Port Authority comprises of eleven Members, the quorum for the meeting of such Board shall be seven Members.*
- B. *If the Board of the Major Port Authority comprises of eight Members, the quorum for the meeting of such Board shall be five Members.*
- C. *If the total strength of Board of the Major Port Authority is twelve and there exists a vacancy of three Members, the quorum for the meeting of such Board shall be six Members.*

(2) The regulations adopted by the Board of the Major Port Authority for the purposes of quorum under sub-rule (1) shall include-

- (a) permissibility to allow participation of the Members in the Board meeting by video conferencing or by other audio visual means; and
- (b) provision for automatic adjournment where a meeting of the Board of the Major Port Authority could not be held for want of quorum, to such date as may be determined by the Members of the Board present and the notice of such adjournment shall be given to all Members and the business which was to have been brought before the original meeting, had there been a proper quorum, shall be brought before the adjourned meeting. Where at the adjourned meeting also, if the required quorum is not present, then the Members present, shall constitute the quorum; and
- (c) procedure for leave of absence of any Member from any particular Board meeting to be approved by the Chairperson or the presiding member of the Board meeting.

7. Expeditious disposal by Board—

All questions at a meeting of the Board shall be -

- (a) dealt with as expeditiously as possible and the Board shall dispose of the same within a period of sixty days from the date of its presentation before the Board:

Provided that where any such question could not be disposed of by the Board within the period specified in sub-rule (a), the Board shall record the reasons in writing for not disposing of the same within the period so specified and the Chairperson or any other person presiding at such meeting may, after taking into account the reasons so recorded, extend the period referred to in sub-rule (a) by such period not exceeding ninety days as the Chairperson or such person may consider necessary;

- (b) decided by a majority of the Members present and voting except that in the case of equality of votes, the Chairperson or in his absence, the person presiding the Board meeting shall have a second or casting vote.

8. Meetings of Board through video conferencing or other audio visual means.-

- (1) The Board of each Major Port Authority shall amend the existing regulations applicable for conducting the Board meetings and incorporate and comply with the following procedure, for convening and conducting the Board meetings through video conferencing or other audiovisual means.
- (2) Every Major Port Authority shall make necessary arrangements to avoid failure of video or audiovisual connection.
- (3) The Board or the Designated Officer shall take due and reasonable care–
 - (a) to safeguard the integrity of the Board meeting by ensuring sufficient security and identification procedures;
 - (b) to ensure availability of proper and appropriate video conferencing or other audio visual equipment or facilities for providing transmission of the communications for effective participation of the Members and other authorised participants at the Board meeting;
 - (c) to store for safekeeping and marking the tape recording(s) or other electronic recording mechanism as part of the records of the Board of the Major Port Authority at least before the time of completion of audit of that particular year;
 - (d) to ensure that no person other than the concerned Member are attending or have access to the proceedings of the Board meeting through video conferencing mode or other audio visual means; and
 - (e) to ensure that participants attending the Board meeting through audio visual means are able to hear and see the other participants clearly during the course of the meeting:

Provided that the persons, who are differently abled, may make request to the Chairperson and in his absence to the Deputy Chairperson to allow a person to accompany him.
- (4)
 - (a) A Member intending to participate through video conferencing or audio visual means shall communicate his intention to the Chairperson at least two days in advance so that the Board of the Major Port Authority is able to make suitable arrangements in this behalf.
 - (b) In the absence of any intimation under clause (a), it shall be assumed that the Member shall attend the meeting in person.
- (5) With respect to every Board meeting conducted through video conferencing or other audio visual means, the scheduled venue of the Board meeting as set forth in the notice convening the Board meeting shall be deemed to be the place of the said meeting and all recordings of the proceedings at the Board meeting shall be deemed to be made at such place.

Explanation - For the purposes of this rule, “video conferencing or other audio visual” means audio-visual electronic communication facility employed which enables all the

persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting.

(6) The following matters shall not be dealt with in any meeting held through video conferencing or other audio visual means in case majority of the Members present in the quorum are participating in the Board meeting through video conferencing or other audio visual means and the relevant material on such matters was not circulated to them along with the proposed agenda under sub-rule (1) of rule 4:

- (a) the approval of the annual financial statements;
- (b) the approval of the Board's report, if any;
- (c) the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover of the major port;
- (d) the matters related to national security and emergency; and
- (e) such other matter as the Central Government may specify from time to time.

9. Sitting fees and Board's Meetings.-

- (1) The Chairperson, Deputy Chairperson and other Members of the Board (except the Independent Members) shall not be entitled to any sitting fees for attending meetings of the Board.
- (2) The sitting fee payable to the Independent Members for attending Board meetings shall be determined and fixed by the Board of the Major Port Authority.

10. Powers of Board-

- (1) In furtherance to the powers specified under the Act, the following powers shall also be exercised by the Board of each Major Port Authority:
 - (a) to approve appointment or removal of any person to the office of the Chairperson, Deputy Chairperson and other Member of the Board;
 - (b) to take note of appointment or removal of Major Port Authority's staff;
 - (c) to determine and fix fees payable to the Independent Members of the Board;
 - (d) to approve quarterly, half yearly and annual financial statements or financial results, as the case may be;
 - (e) to make regulations to provide for all or any of the following matters, namely,-
 - (i) stipulating the term, amount, denomination of and the form and manner in which, and the conditions subject to which the port securities can be issued and transferred;

- (ii) the power of one or two or more joint holders of any port security to grant receipts for any interest payable in respect of such security;
- (iii) the person, if any, authorised to sign, the manner in which his signature may be impressed and the mode of affixing the corporate seal and of attestation of documents relating to port securities issued or to be issued by the Port Authority;
- (iv) the manner in which payment of interest in respect of port securities is to be made, recorded and acknowledged;
- (v) the circumstances, manner, conditions and fee subject to which port securities may be renewed before further payment of interest thereon can be claimed or otherwise;
- (vi) the circumstances, manner, conditions and fee subject to which the duplicate port securities may be issued by the Major Port Authority in case of loss, theft or destruction of such securities and the proof which is to be produced by a person applying for duplicate securities;
- (vii) the nature and amount of indemnity to be given by a person applying for the payment of interest on port securities alleged to have been wholly or partly lost, stolen or destroyed, or for the issue of duplicate port securities;
- (viii) the conversion, consolidation or sub-division of port securities issued by the Major Port Authority, the conditions and the fee subject to which such port securities may be converted, consolidated or sub-divided and the issuance of new security or securities in lieu thereof; and
- (ix) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities.

11. Disclosure by a Member of his interest-

Every Member of the Board who becomes concerned or interested, whether financially or otherwise, which concern or interest is likely to affect prejudicially his functions as such Member, shall disclose his concern or interest to the Board forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested and resign forthwith.

12. Minutes of proceedings of meeting of Board of Port Authority-

- (1) The Board of each Major Port Authority shall cause minutes of the proceedings of every meeting of the Board, to be prepared and signed and kept within thirty days of the conclusion of every such meeting concerned in books kept for that purpose with their pages consecutively numbered.
- (2) Each page of every such book shall be initialed or signed and the last page of the record of proceedings of each meeting in such books shall be dated and signed by the Chairperson or the acting Chairperson of the meeting, as the case may be.

- (3) In no case the minutes of the proceedings of a Board meeting shall be attached to any such book as aforesaid by pasting or otherwise but may be kept on loose-leaf style and bound regularly.
- (4) Notwithstanding anything contained in sub-rule (3), the minutes may also be kept by way of micro films or any other authentic modern means of safe storing and retrieval of records or printed material produced by a computer, if the same is recognised under any law and subject to the conditions, restrictions or safeguards mentioned in such law.
- (5) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.
- (6) The minutes shall disclose the particulars of the Members who attended the meeting through video conferencing or other audio visual means.
- (7) All appointments of Members and other staff of Major Port Authority made at any of the meetings of the Board shall be included in the minutes of the meeting.
- (8) The minutes shall also contain–
 - (a) the names of the Members present at the meeting; and
 - (b) in the case of each decision passed at the meeting, the names of the Members, if any, dissenting from, or not concurring with the decision.
- (9) There shall not be included in the minutes, any matter which, in the opinion of the Chairperson or acting Chairperson of the meeting–
 - (a) is or could reasonably be regarded as defamatory of any person; or
 - (b) is irrelevant or immaterial to the proceedings; or
 - (c) is detrimental to the interests of the Major Port Authority.
- (10) The Chairperson or the acting Chairperson shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in sub-rule (6).
- (11) The Designated Officer shall circulate draft minutes of the Board meeting among all the Members within fifteen days of the meeting either in writing or in electronic mode as may be decided by the Board of the Major Port Authority for the confirmation by the Members; which confirmation shall be furnished by the Members within ten days or some reasonable time as decided by the Board, after receipt of the minutes of meeting.
- (12) Every Member who attended the Board meeting, whether personally or through video conferencing or other audio visual means, shall confirm or give his comments in writing, about the accuracy of recording of the proceedings of that particular meeting in the draft

minutes, within ten days or some reasonable time as decided by the Board, after receipt of the draft minutes failing which his approval shall be presumed.

- (13) The minutes kept in accordance with the provisions of this rule shall be evidence of the proceedings recorded therein.
- (14) Where the minutes have been kept in accordance with sub-rule (1) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the decisions to have been duly passed and in particular, all appointments of Members, shall be deemed to be valid.
- (15) No document purporting to be a report of the proceedings of any meeting of the Board of the Major Port Authority shall be circulated or advertised at the expense of the Major Port Authority, unless it includes the matters required by this rule to be contained in the minutes of the proceedings of such meeting.

13. Copy of minute books of meetings of Board of Port Authority-

- (1) The books containing the minutes of the proceedings of any meeting of the Board of the Major Port Authority, shall be kept at the principal office of the Major Port Authority.
- (2) Any Member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the Major Port Authority with a copy of any minutes of any meeting of its Board, on payment of two rupees for each page or part of any page.

14. Invitees at meeting-

Any person, whose presence at a Board meeting is desired for his advice / consultation, may be invited to attend the meeting by the Chairperson or the acting Chairperson of the meeting.

15. Miscellaneous provisions-

- (1) The provisions of these rules shall apply mutatis mutandis to meetings of Committees of Members.
- (2) The Chairperson may attend any Committee meeting as *ex officio* member and whenever the Chairperson attends any Committee meeting, he shall preside over that meeting.
- (3) No Member, other than the Chairperson or a person specifically authorized by him, shall give information to the press or any other public media on matters related to the working of the Major Port Authority and decision taken at the Board or Committee meetings.

Rule 5

MAJOR PORT AUTHORITIES (PORT ASSETS) RULES, 2021

In exercise of the powers conferred by first proviso to sub-section (2) of section 22, section 25 read with sub-section (2) of section 71 of the Major Port Authorities Act, 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 (Port Assets) 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;
 - (b) “**Adjudicatory Board**” shall have the meaning assigned to it in the Act;
 - (c) “**Board**” shall have the meaning assigned to it in the Act;
 - (d) “**non port related use**” mean any use other than those undertaken for port related use;
 - (e) “**port related use**” shall have the meaning assigned to it in the Act;
 - (f) “**section**” means the section of the Act.
- (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 its port assets 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 of port assets 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 notified by the Central Government in that regard.

4. Master Plan—

- (1) The Board of each Major Port Authority shall be entitled to create specific master plan in respect of any development or infrastructure established or proposed to be established with 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 notified 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 as well as those proposed to be developed under the master plan.
- (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 any local or State Government regulations, 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.

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, 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, port assets for non port related use, subject to the policy notified by the Central Government in that regard.

6. Sale, Lease and Acquisition of immovable property by the Board—

- (1) No contract or arrangement for sale of land or immovable property, or for lease of land or immovable property for port related use for a term exceeding forty years and for non port related use for a term exceeding twenty years, shall be made by the Board of the Major Port Authority without prior approval of the Central Government.
- (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 necessary regulations adopted by the Board, subject to the policy notified by the Central Government in that regard.
- (3) Where any land within the port limits of a Major Port is required by any municipal, State or 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 notified by the Central Government for the time being in force.

7. Reference of disputes arising from usage of port assets to Adjudicatory Board—

- (1) Upon commencement of the Act, any party to the contract entered into by the Board of a Major Port Authority in relation to the usage of port assets, may refer any dispute, difference or claim related to the rights and obligations of such party within the said contract 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 Adjudicatory Board (Procedural) Rules.

Rule 6

MAJOR PORT AUTHORITIES (ACCOUNTS AND AUDIT) RULES, 2021

In exercise of the powers conferred by sub-section (1) of section 44 read with sub-section (2) of section 71 of the Major Port Authorities Act, 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;
 - (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) **“Board”** shall have the meaning assigned to it in the Act;
 - (d) **“books of account”** in relation to a Major Port Authority, includes the records maintained in respect of—
 - (i) all sums of money received and expended 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;
 - (e) **“financial year”** means the financial year of the Central Government starting on first day of April each year and ending on thirty first day of March of the following year or any other date as notified by the Central Government;
 - (f) **“section”** means the section of the Act.
- (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 each Major Port Authority for every 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 form 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 of the Major Port Authority 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 prepared by the Major Port Authority 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 thinks fit.

4. Supplementary Budget—

The Board of each Major Port Authority may, where necessary, forward a supplementary estimate to the Central Government in the same manner as if it were an original annual estimate, not later than the fifteenth of February of the financial year to which it relates.

5. Re-appropriation.—

- (1) If the Chairperson finds in the course of the year that there is likely to be an excess of expenditure over the sanctioned budget estimate under any head or any sum included in some sanctioned estimate of the Board is required for any pressing emergency, the Chairperson shall examine the allotment 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 there-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 of each Major Port Authority 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 specified by the Central Government.

7. Internal Auditor—

- (1) The Board of each Major Port Authority may appoint an internal auditor, who shall either be a chartered accountant or such other professional as may be decided by the Board to

conduct internal audit of books of account, statements and documents concerning the functions and activities of the Major Port.

Explanation - For the purposes of this sub-rule –

- (i) the internal auditor may or may not be an employee of the Major Port Authority;
 - (ii) the term “chartered accountant” shall mean a chartered accountant whether engaged in practice or not.
- (2) The Board or any audit committee appointed by the Board shall, in consultation with the internal auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit.
- (3) The internal auditor shall audit and report on the annual 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.

8. Preparation and submission of annual report and annual statement of accounts—

- (1) The Board of each Major Port Authority shall prepare, as soon as may be after the commencement of each financial year—
- (a) the annual report; and
 - (b) the annual statement of accounts which shall include the profits and loss account, balance sheet and cash flow statement for the previous financial year.
- (2) The annual report prepared under clause (a) of sub-rule (1) shall include an account of the activities of the Major Port Authority during the previous financial year on the following matters, namely:-
- (a) a statement of operational goals and objectives of the Major Port Authority;
 - (b) annual targets and physical and financial terms set for various activities in the background of sub-rule (1) together with a brief review of the actual performance with reference to those targets;
 - (c) an administrative report on the activities of the Major Port Authority during the previous financial year and an account of the activities which are likely to be taken up during the next financial year;
 - (d) a summary of the actual financial results during the previous financial year and year of report, as indicated by way of statement of (i) income and expenditure, (ii) source and applications of funds, and (iii) cash flow;
 - (e) important changes in policy and specific measures either taken or proposed to be taken, which have influenced or are likely to influence the profitability or functioning of the Major Port Authority;

- (f) new projects or expansion schemes contemplated together with their advantage, financial implications and programme for execution;
 - (g) important changes in the organizational set up of the Major Port Authority;
 - (h) report on the employer-employee relations and welfare activities of the Major Port Authority;
 - (i) the details about the policy developed and implemented by the Major Port Authority on corporate social responsibility initiatives taken during the year; and
 - (j) report on such other miscellaneous subjects as deem fit by the Major Port Authority.
- (3) The annual report shall be placed for adoption in the meeting of the Board of the Major Port Authority and shall be signed by the Chairperson or in his absence by two Members authorised for the purpose by the Chairperson and authenticated by fixing the common seal of the Major Port Authority and required copies thereof shall be submitted to the Central Government by the 31st day of December of each year.
- (4) The annual statement of accounts prepared under clause (b) of 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 Central Government:
- 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.
- (5) Without prejudice to sub-rule (4), where the annual statement of accounts of the Major Port Authority do not comply with the accounting standards referred to in sub-rule (4), 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.
- (6) The annual statement of accounts shall be approved by the Board of the Major Port Authority and shall be signed on behalf of the Board by its Chairperson or in his absence by two Members authorised for the purpose by the Chairperson and authenticated by affixing the common seal of the Major Port Authority and shall be forwarded for audit to the Audit Officer not later than 30th day of September of each year.
- (7) The Audit Officer shall audit and report on the annual 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) Every Major Port Authority shall be bound to give information and explanation in its annual report containing *inter-alia* duly audited accounts or in an addendum thereto on every reservation, qualification or adverse remarks contained in the report of the Audit Officer, duly signed by its Chairperson or in his absence by two Members so authorised for the

purpose by the Chairperson and authenticated by affixing the common seal of the Major Port Authority.

- (9) The annual accounts together with the report of the Audit Officer and the annual report shall be forwarded by the Board of the Major Port Authority to the Central Government not later than 31st day of December of the following the close of the financial year to which the accounts relate or by such day as extended by the Central Government:

Provided that if the report of the Audit Officer is not received by 31st day of December following the close of the financial year to which it pertains, the annual accounts together with the report of the Audit Officer thereon shall be submitted to the Central Government separately from the annual report.

9. Cost of Audit—

The Board of the Major Port Authority shall arrange to pay to the internal auditor and the Audit Officer the expenditure 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, as the case may be, the Audit Officer shall submit to the Board of the Major Port Authority a separate statement, 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 of the Major Port Authority 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 of that Port Authority may think fit:

Provided that if there is a difference of opinion between the Board of Major Port Authority 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.

Rule 7

MAJOR PORT AUTHORITIES (APPLICATION OF MONEYS IN SINKING FUND) RULES, 2021

In exercise of the powers conferred by sub-section (3) of section 40 read with sub-section (2) of section 71 of the Major Port Authorities Act, 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 Moneys 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;
 - (b) **“appointed day”** means the date on which the Act comes into force;
 - (c) **“Board”** shall have the meaning assigned to it in the Act;
 - (d) **“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;
 - (e) **“section”** means the section of the Act.
- (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. Establishment of sinking fund.—

- (1) The Board shall establish and set apart out of their income, one or more sinking fund to service or liquidate the loans raised by the Board under the Act and which are not repayable before the expiration of one year from the date of such loans:

Provided that the sinking fund so established shall be to service or liquidate such loans for a period of at least one year.

- (2) Before the appointed day, if any sinking fund or funds 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 the Act; the sinking fund or funds so established by the Board of Trustees shall be deemed to have been established by the Board under the Act.

4. Limits of sinking fund—

The sum that the Board has to set aside into the sinking fund or funds shall be equivalent to ten percent of the total outstanding loans of the Board or equivalent to the amount required to service such loans for a period of one year, whichever is higher.

Provided that the Board shall annually revise the sum so set apart for the sinking fund or funds keeping in mind the increase or decrease in the total outstanding loan of the Board.

5. Contribution to sinking fund-

The Board shall contribute towards sinking fund or funds in accordance with the limits set forth in rule 4 and such contribution shall be undertaken by the Board from its income, on a monthly, quarterly, half-yearly or annual basis.

6. Utilization of sinking fund—

(1) The Board shall hold the sinking fund in trust for the purposes of the Act and the funds thereof shall only be invested in public securities issued by the Central Government or bonds issued by any State Government or in such securities as notified by the Central Government from time to time.

(2) A Board may apply the whole or any part of the sums accumulated in any sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund has been established:

Provided that the Board pays into the sinking fund in each year, and accumulates until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

7. Examination of sinking fund—

(1) The sinking fund or funds 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 or funds under sub-rule (1) shall ascertain whether the cash and current market value of the securities at the credit of the sinking fund or funds 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 or funds are 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 in which case the Members in whose name the sinking fund is invested under rule 6, 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 yearly contributions to the sinking fund under the Act and these rules; or
- (c) Adopt a combination of these measures.

Rule 8

THE MAJOR PORT AUTHORITIES (POLICY AND APPLICATION OF CORPORATE SOCIAL RESPONSIBILITY AND NON PORT RELATED USE FUNDS) RULES, 2021

In exercise of the powers conferred by sub-section (2) of section 71 of the Major Port Authorities Act, 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 (Policy and Application of Corporate Social Responsibility and Non Port Related Use Funds) 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;
 - (b) **“Annexure”** means the Annexure appended to these rules;
 - (c) **“Board”** shall have the meaning assigned to it in the Act;
 - (d) **“Corporate Social Responsibility (CSR)”** means and includes but is not limited to:-
 - (i) projects or programs relating to activities specified in sub-section (1) of section 70 of the Act; and/or
 - (ii) projects or programs relating to activities to be undertaken by the Board in pursuance of recommendations of the CSR Committee as per declared CSR Policy subject to the condition that such policy shall cover subject enumerated in sub-section (1) of section 70 of the Act; and/or
 - (iii) projects or programs relating to activities as referred to in sub-section (1) of section 135 read with Schedule VII of the Companies Act, 2013 (18 of 2013).
 - (e) **“CSR Committee ”** means the Corporate Social Responsibility Committee of the Port Authority constituted under sub-rule (1) of rule 3.
 - (f) **“CSR Policy”** relates to activities to be undertaken by the Port Authority as specified in clause (d) of sub-rule (1) of rule 2 and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of the said Port Authority.

- (g) **“non-port related use”** means any use other than those undertaken for port related use;
 - (h) **“section”** means the section of the Act.
- (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.

PART A
POLICY AND THE MANNER OF UTILISATION OF FUNDS FOR CORPORATE SOCIAL RESPONSIBILITY

3. CSR Committee

- (1) The Board of each Major Port Authority having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee consisting of three or more members of the Board, out of which at least one member shall be an Independent Member.
- (2) The Board of each Major Port Authority which fulfills the criteria specified in sub-rule (1) shall ensure that such Major Port Authority spends, in every financial year, at least two per cent of the average net profits of the Major Port Authority made during the three immediately preceding financial years, in pursuance of its CSR Policy:

Provided that the Major Port Authority shall give preference to the port limits where it operates, for spending the amount earmarked for CSR activities:

Provided further that, if the Major Port Authority fails to spend such amount, the Board shall, in its audit report, specify the reasons for not spending the amount.

Explanation.- For the purposes of this sub-rule, "average net profit" shall be calculated in accordance with the provisions of section 198 of the Companies Act, 2013 (18 of 2013) or as may be prescribed by the Central Government.

- (3) The Board's annual report under sub-section (1) of section 44 of the Act shall disclose the composition of the CSR Committee.
- (4) The Board of the Major Port Authority which ceases to fulfill the criteria in sub-rule (1) for three consecutive financial years shall not be required to constitute a CSR Committee and comply with these rules, till such time it meets the criteria specified in sub-rule (1).

4. Functions of CSR Committee

- (1) The CSR Committee shall,-
 - (a) formulate and recommend to the Board, a CSR Policy for the Major Port Authority 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 CSR Policy;
 - (c) give preference to port limits while recommending projects, programs and activities under the CSR Policy; and
 - (d) monitor the CSR Policy of the Major Port Authority from time to time.
- (2) The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects, programs and activities undertaken by the Major Port Authority.

- (3) The CSR Committee shall assess the importance, legitimacy and the usefulness of each CSR project, program and activity prior to its commencement and execution under the CSR Policy.

5. CSR Policy

- (1) The CSR Policy shall, inter-alia, include the following, namely:-
 - (a) a list of CSR projects or programs which a Major Port Authority plans to undertake falling within the purview of clause (d) of sub-rule (1) of rule 2, 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 CSR activities does not include the activities undertaken in pursuance of normal course of business of a Major Port Authority.

- (2) The CSR Policy of the Major Port Authority shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of the Major Port Authority.

- (3) The Board of each Port Authority referred to in sub-rule (1) of rule 3 shall,-

- (a) after taking into account the recommendations made by the CSR Committee, approve the CSR Policy for the Major Port Authority with required amendments, if any, and disclose contents of such CSR Policy to the Central Government and also on the Port Authority's website, if any; and

- (b) ensure that the activities as are included in CSR Policy are related to the activities included in clause (d) of sub-rule (1) of rule 2 and the same are undertaken by the Major Port Authority.

6. Meetings of CSR Committee

- (1) The CSR Committee shall hold a minimum number of four meetings every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the CSR Committee.

- (2) The participation of members in a CSR 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.

- (3) The procedure, for convening and conducting the meetings of CSR Committee through video conferencing or other audio visual means shall be same as applicable to the conduct of meetings of the Board through video conferencing or other audio visual means under the Act.

- (4) Every member of the CSR 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 CSR project, program or activity recommended or to be recommended in the CSR Policy; shall disclose the nature of his concern or interest at the meeting of the CSR committee, in which such CSR 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 CSR project, program or activity in the CSR Policy, he shall, if he becomes concerned or interested after the CSR 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 CSR committee held after he becomes so concerned or interested.

- (5) Where any member is absent from the meeting of the CSR Committee, the Chairperson and in his absence, the senior most Member of the Board shall participate in place of the absentee member.

7. CSR Activities

- (1) The CSR activities shall be undertaken by the Major Port Authority, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.
- (2) The Board of a Major Port Authority may decide to undertake the CSR activities approved by the CSR Committee, through-
- (a) A company established under section 8 of the Companies Act, 2013(18 of 2013) or a registered trust or a registered society, established by the Major Port Authority, either singly or along with any other Major Port Authority or registered entity, or
 - (b) A company established under section 8 of the Companies Act, 2013(18 of 2013) or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature:

Provided that if the Board of a Major Port Authority decides to undertake the CSR activities through a company established under section 8 of the Companies Act, 2013 (18 of 2013) or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects; and the Major Port Authority has specified the projects or programs to be undertaken, the modalities of utilization of funds of such projects and programs and the monitoring and reporting mechanisms.

- (3) A Major Port Authority covered under these rules may also collaborate with the other Major Port Authorities for undertaking CSR projects, programs or activities in such a manner that the CSR Committees of respective Major Port Authorities are in a position to report separately on such projects or programs in accordance with these rules.
- (4) Subject to the provisions of sub-rule(2) of rule 3, the CSR projects or programs or activities undertaken in India only shall amount to CSR expenditure.

- (5) The projects, programs or activities undertaken by the Board of any Major Port Authority that are not in accordance with section 70 of the Act or activities included in clause (d) of sub-rule(1) of rule 2, shall not be considered as CSR related activities.
- (6) The Major Port Authorities may build CSR capacities of their own personnel as well as those of their implementing agencies through institutions with established track records of at least three financial years but such expenditure including expenditure on administrative overheads shall not exceed five percent of total CSR expenditure of the Major Port Authority in one financial year.
- (7) No Major Port Authority shall, directly or indirectly, contribute any amount under the CSR activity to any political party.

8. CSR Expenditure and Reporting

- (1) CSR expenditure shall include all expenditure including contribution to corpus, for projects or programs relating to CSR activities approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of clause (d) of sub-rule (1) of rule2.
- (2) The audit report of a Major Port Authority covered under these rules pertaining to a financial year commencing on or after the first day of April shall include an annual report on CSR containing particulars as per the Format specified in the Annexure.

9. Display of CSR activities on its website

The Board of each Major Port Authority covered under these rules shall disclose the contents of the CSR Policy in its audit report and the same shall be displayed on the Major Port Authority's website, if any, as per the particulars specified in the Annexure.

PART B

POLICY AND THE MANNER OF APPLICATION OF MONEYS RECEIVED FROM NON PORT RELATED USE

10. Policy for non port related use—

Pursuant to the master plan made under section 25 of the Act, the Board of each Major Port Authority shall formulate a policy for non port related use and such policy shall not be inconsistent with any Central, State Government or local authority regulations notified in this regard.

11. Application of moneys received from non-port related use.—

- (1) The moneys 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 all or any of the following purposes, namely:-

- (a) capital investment for any activity specified under section 26 of the Act;
 - (b) towards contribution to any provident or welfare or special fund established by the Major Port for its employees or for specific purposes under directions from the Central Government, provided that such contribution shall not exceed twenty five percent of the total moneys received from non-port related use.
- (2) Notwithstanding anything contained in sub-rule (1), the Board shall, in application of moneys received from non-port related use, be bound by such directions as the Central Government may give in writing from time to time.

ANNEXURE

FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED IN THE BOARD'S REPORT
(see rule 9)

1. A brief outline of the Major Port Authority's CSR policy, including overview of projects or programs or activities proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The composition of the CSR Committee.
3. Average net profit of the Major Port Authority for last three financial years.
4. Prescribed CSR expenditure (two percent of the amount as in item 3 above).
5. Details of CSR expenditure incurred during the financial year:
 - (a) Total amount to be spent for the financial year;
 - (b) Amount spent, if any;
 - (c) Manner in which the amount spent during the financial year is detailed below:

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S. No.	CSR project or activity identified	Sector in which the project is covered	Projects or programs (1) Local area or other (2) Specify the State and district where projects or programs was undertaken	Amount outlay (budget) project or programs wise	Amount spent on the projects or programs Sub-heads: (1) Direct expenditure on projects or programs (2) Overheads:	Cumulative expenditure upto the reporting period	Amount spent: Direct or through implementing agency
1.							
2.							
3.							
	TOTAL						

Give details of implementing agency:

6. In case the Major Port Authority has failed to spend the two percent of the average net profit of the last three financial years or any part thereof, the Major Port Authority shall provide the reasons for not spending the amount in its audit report.
7. A responsibility statement of the CSR Committee that the implementation and monitoring of the CSR Policy, is in compliance with the CSR objectives and policy of the Major Port Authority.

Sd/ (Chairperson or Deputy Chairperson)	Sd/ (Chairperson of CSR Committee)
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Rule 9

MAJOR PORT AUTHORITIES (APPOINTMENT, POWERS AND FUNCTIONS OF PRESIDING OFFICER AND MEMBERS OF ADJUDICATORY BOARD) RULES, 2021

In exercise of the powers conferred by sub-section (3) of section 56, sub-section (5) of section 57 read with sub-section (2) of section 71 of the Major Port Authorities Act, 2021, the Central Government hereby makes the following rules, namely:-

PART A PRELIMINARY

1. Short title and commencement.-

- (1) These rules may be called the Major Port Authorities (Appointment, Powers and Functions of Presiding Officer and Members of Adjudicatory Board) 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;
 - (b) “**Adjudicatory Board**” shall have the meaning assigned to it in the Act;
 - (c) “**adjudicating officer**” means the adjudicating officer appointed by the Central Government under sub-rule (1) of rule 6;
 - (d) “**member**” means the member of the Adjudicatory Board appointed by the Central Government under section 55 of the Act;
 - (e) “**Presiding Officer**” means the Presiding Officer of the Adjudicatory Board appointed by the Central Government under section 55 of the Act;
 - (f) “**section**” means the section of the Act;
- (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.

PART B PROCEDURE FOR APPOINTMENT AND REMOVAL OF PRESIDING OFFICER AND MEMBERS OF ADJUDICATORY BOARD

3. Method of Appointment of Presiding Officer and members of Adjudicatory Board.-

- (1) 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-

- (a) Chief Justice of India or his nominee - Chairperson of Selection Committee
 - (b) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of Ports, Shipping and Waterways - Member of Selection Committee
 - (c) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of Personnel and Training - Member of Selection Committee
- (2) The Selection Committee shall determine its own procedure for short listing and recommending persons under sub-rule (1).
- (3) The Selection Committee shall satisfy itself that the persons recommended for the appointment of the Presiding Officer or a member of the Adjudicatory Board meets the qualifications prescribed in the Act and does not have any conflicting or financial or other interest which is likely to affect prejudicially his or her functions as the Presiding Officer or a member of the Adjudicatory Board, as the case may be.
- (4) The Central Government shall after taking into consideration the recommendations of the Selection Committee make a list of persons selected for appointment as the Presiding Officer and members of the Adjudicatory Board:
- Provided that the Central Government shall be entitled to return the names recommended by the Selection Committee along with reasons for reconsideration and submission of fresh names by the Selection Committee.
- (5) No appointment of the Presiding Officer and members of the Adjudicatory Board shall be invalid merely by reason of any vacancy or any defect in the constitution of the Selection Committee.

4. Resignation.-

The Presiding Officer or any member of the Adjudicatory Board may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Provided that the Presiding Officer or the member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

5. Removal of Presiding Officer and members of Adjudicatory Board.-

- (1) The Central Government may, in consultation with the Chief Justice of India or his nominee, remove the Presiding Officer from his office in accordance with the provisions set forth in section 57 of the Act.
- (2) The Central Government may, remove from office of the member of the Adjudicatory Board, who,-
 - (a) has been adjudged as an insolvent;

- (b) has become physically or mentally incapable of acting as such 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 member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that a member of the Adjudicatory Board shall not be removed on any of the grounds specified in clauses (b) to (e) without giving him a reasonable opportunity of being heard.

- (3) Without prejudice to the provisions of sub-rule (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 misbehavior or incapacity, after the Central Government has held an inquiry in accordance with sub-rule (3) and rule 6 and come to the conclusion in accordance with rule 8 that such member ought on any such ground be removed.
- (4) Whenever the Central Government has, either on its own findings or upon receipt of any complaint or reference from the Adjudicatory Board or any court, statutory or local authority, reason to believe that there are grounds for making an inquiry into the truth of any imputation of misbehavior or incapacity against any member of the Adjudicatory Board, it may cause the substance of the imputations to be drawn into distinct articles or charge, and may order a formal inquiry to be made into the truth thereof.

6. Procedure for initiation of inquiry.-

- (1) An inquiry under sub-rule (2) of rule 5 may be committed by the Central Government to any of its officer not below the rank of Secretary¹ to the Government of India or an equivalent officer of a State Government, who shall be appointed as 'adjudicating officer' for the said purpose.
- (2) In holding an inquiry into the truth of any imputation of misbehavior or incapacity against any member of the Adjudicatory Board, the adjudicating officer shall in the first instance, issue a notice to such member requiring him to show cause in writing within thirty days as to why an inquiry should not be held against him.
- (3) Every notice issued to the member under sub-rule (2) shall indicate the nature of imputation or charge made against him and shall be served on him in the following manner, namely:-
 - (a) by delivering or tendering it to him or his duly authorised representative; or
 - (b) by sending it to him by fax or electronic mail or by courier or speed post with acknowledgement due or registered post with acknowledgement due to the address

¹ Since the qualification of persons to be appointed as members of the Adjudicatory Board are not below the rank of a retired Secretary of the Government of India or a retired Chief Secretary of a State Government, the person holding an inquiry against such members under rule 6(1) should not be below the rank of Secretary to the Government of India or an equivalent officer of the State Government.

of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain:

Provided that a notice sent by fax shall bear a note that the same is being sent by fax and in case the document contains annexure, the number of pages being sent shall also be mentioned;

- (c) where it cannot be served under clause (a) or (b), by affixing it on the outer door or some other conspicuous part of the premises in which he resides or is known to have last resided, or carried on business or personally works or last worked for gain and the written report thereof shall be witnessed by two persons;
 - (d) if it cannot be affixed on the outer door as per clause (c), by publishing the notice in at least two newspapers, one in a English daily newspaper having nationwide circulation, and another in a newspaper having wide circulation published in the language of the region where he was last known to have resided or carried on business or personally worked for gain.
- (4) After considering the cause, if any, shown by the member to whom show cause notice is issued under sub-rule (2), if the adjudicating officer is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of such member.
 - (5) On the date fixed, the member shall appear in person before the adjudicating officer without representation from any agent or authorised legal practitioner and the adjudicating officer shall explain to the member proceeded against, the nature of imputation or charge made against him and the potential grounds of his removal from his office.
 - (6) The adjudicating officer shall then give an opportunity to the member to produce documents or evidence as he may consider relevant to the inquiry and if necessary, the hearing may be adjourned to a future date and in taking such evidence, the adjudicating officer shall not be bound to observe the provisions of the Evidence Act, 1872 (11of1872).
 - (7) If the member against whom the inquiry is held under these rules fails, neglects or refuses to appear before the adjudicating officer as required under sub-rule (5), the adjudicating officer may proceed with the inquiry in his absence after recording the reasons for doing so.
 - (8) While holding the inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry.

7. Report of adjudicating officer.—

- (1) The adjudicating officer shall complete the inquiry and submit his report to the Central Government within one hundred and eighty days from the date of his appointment under these rules:

Provided that where any such inquiry or report could not be completed within the said period of one hundred and eighty days, the adjudicating officer shall record its reasons in writing for not completing the inquiry or report within that period.

- (2) Where after taking into consideration the charges and evidence produced before him the adjudicating officer is satisfied that the member of the Adjudicatory Board against whom the inquiry is held under these rules, ought or ought not to be removed from his office, the adjudicating officer shall give his recommendations to that effect in his inquiry report.
- (3) The inquiry report submitted by the adjudicating officer shall specify the reasons for recommending removal or non-removal of the member against whom the inquiry is held under these rules.
- (4) The inquiry report shall be dated and signed by the adjudicating officer and forwarded to the Central Government.

8. Assessment of inquiry report by Central Government.—

- (1) Upon receipt of the inquiry report by the adjudicating officer, the Central Government shall assess the recommendations made in the inquiry report and accordingly pass the order with reasons for removal or non-removal of the member against whom the inquiry is held under these rules:

Provided that the recommendations made by the adjudicatory officer in the inquiry report shall not be binding on the Central Government and the Central Government may, if it is not satisfied with the inquiry report, order another inquiry into the imputation or charges made against such member under the Act and these rules.

- (2) A copy of the order passed by the Central Government under sub-rule (1) shall be given to the Adjudicatory Board and the member against whom the inquiry is held under these rules.

9. Procedure for appointment of Presiding Officer and members in case of vacancy, etc.-

- (1) In the case of a vacancy in the office of the Presiding Officer or member of the Adjudicatory Board caused by the expiration of the term of office of such Presiding Officer or member, the Adjudicatory Board shall inform the Central Government about such vacancy three months prior to the date of expiration of the term of such Presiding Officer or member and the appointment to fill such vacancy shall be made by the Central Government within the said period of three months.
- (2) In the case of a vacancy in the office of the Presiding Officer or member of the Adjudicatory Board caused by reason of death, resignation or disqualification of such Presiding Officer or member, the Adjudicatory Board shall inform the Central Government about such vacancy within next seven days and the appointment to fill such vacancy shall be made by the Central Government within three months from the date on which such vacancy occurs.

10. Appointment to be final and not to invalidate proceedings.-

No order of the Central Government appointing any person as the Presiding Officer or a member of the Adjudicatory Board shall be called in question in any manner, and no act or proceedings of the Adjudicatory Board shall be invalid merely by reason of-

- (a) any vacancy in, or any defect in the constitution of the Adjudicatory Board; or
- (b) any defect or irregularity in the appointment of a person acting as the Presiding Officer or a member of the Adjudicatory Board; or
- (c) any irregularity in the procedure of the Adjudicatory Board not affecting the merits of the case.

PART C

POWERS AND FUNCTIONS OF PRESIDING OFFICER AND MEMBERS OF ADJUDICATORY BOARD

11. Financial and Administrative Powers of Presiding Officer.-

The Presiding Officer shall have the same powers as are conferred on a Head of the Department of the Central Government in respect of the Delegation of Financial Power Rules, 1978, the General Financial Rules, 1963, the Fundamental and Supplementary Rules, the Central Civil Services (Leave) Rules, 1972, the Central Civil Services (Joining Time) Rules, 1979, the Central Civil Services (Conduct) Rules, 1964, the Central Civil Service (Classification, Control and Appeal) Rules, 1965, and the General Provident Fund (Central Services) Rules, 1960:

Provided that the Presiding Officer may delegate such of his financial and administrative powers, as he may think fit, to any member or officer of the Adjudicatory Board subject to the conditions that such member or officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Presiding Officer.

Provided further that the exercise of the financial powers shall be subject to any procedural or other instructions issued from time to time by the Central Government:

Provided further that in respect of matters not within the competence of the Presiding Officer, concurrence of the Ministry of Finance or any other authority shall be obtained by the Presiding Officer through the Ministry of Ports, Shipping and Waterways.

12. Functions of the Presiding Officer.-

The Presiding Officer shall exercise the following functions, namely:-

- (a) preside over the consideration of applications, complaints and references made to the Adjudicatory Board under the Act;
- (b) exercise general superintendence and control over the acts of all employees of the Adjudicatory Board in matters of executive administration and in matters concerning the accounts and records of the Adjudicatory Board;
- (c) perform such other functions as may be relevant to carry out the functions as the head of the Adjudicatory Board:

13. Functions of the members of the Adjudicatory Board.—

A member of the Adjudicatory Board shall perform all functions specified or as stipulated by the Presiding Officer including attending hearing of cases allocated, hearing applications that come up for adjudication before such member and perform allocated administrative functions unless prevented by sickness or reasonable cause.

**PART D
MISCELLANEOUS**

14. Oath of office and Secrecy.-

- (1) Every person appointed as the Presiding Officer or a member of the Adjudicatory Board shall, before entering upon his office, make and subscribe an oath of office and secrecy, in Form I annexed to these rules.
- (2) The oath of office and secrecy made by the Presiding Officer and members of the Adjudicatory Board under sub-rule (1) shall be validated by each of them after expiry of every one year of their respective terms.

15. Declaration of financial or other interest.-

- (1) Every person, on his appointment as the Presiding Officer or member of the Adjudicatory Board, shall give a declaration in Form II annexed to these rules, to the satisfaction of the Central Government, that he is not disqualified or ineligible to hold the office of the Presiding Officer or member, as the case may be, nor does he have any such financial or other interest including conflict of interest as is likely to affect prejudicially his functions as the Presiding Officer or member, as the case may be.
- (2) The declaration given by the Presiding Member and members of the Adjudicatory Board under sub-rule (1) shall be validated by each of them after expiry of every one year of their respective terms.

16. Presiding Officer and members of Adjudicatory Board to be public servants.-

The Presiding Officer and members of the Adjudicatory Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

17. Interpretation.-

If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

18. Power to relax rules.-

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

19. Saving.-

Nothing in these rules shall effect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.

Form – I
(Seerule14)

Form of oath of office for the Presiding Officer or members of the Adjudicatory Board

I, _____, having been appointed as the Presiding Officer/ member **[cross out portion not applicable]** of the Adjudicatory Board do solemnly affirm and swear in the name of God that I will –

- (a) faithfully and conscientiously discharge my duties as the Presiding Officer/ member **[cross out portion not applicable]** of the Adjudicatory Board to the best of my ability, knowledge and judgment, without fear or favor, affection or ill-will;
- (b) not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Presiding Officer/ member **[cross out portion not applicable]** of the Adjudicatory except as may be required for the due discharge of my duties as such Presiding Officer / member **[cross out portion not applicable]**.

Signature: _____

Place: _____

Name: _____

Designation: _____

Date: _____

**Form - II
(See rule 15)**

Declaration against acquisition of any adverse financial or other interest

I, _____, having been appointed as the Presiding Officer / member **[cross out portion not applicable]** of the Adjudicatory Board, do solemnly affirm and declare that-

- a. I am neither ineligible nor disqualified to hold the office of Presiding Officer / member **[cross out portion not applicable]** of the Adjudicatory Board; and
- b. I do not have, nor shall have in future any financial or other interest including conflict of interest which is likely to affect prejudicially my functioning as the Presiding Officer / member **[cross out portion not applicable]**, of the Adjudicatory Board.

Signature: _____

Place: _____

Name: _____

Designation: _____

Date: _____

Rule 10

MAJOR PORT AUTHORITIES (ADJUDICATORY BOARD POWERS, FUNCTIONS AND PROCEDURAL) RULES, 2021

In exercise of the powers conferred by section 32, sub-section (2) and clause (d) of sub-section (3) of section 58, sub-section (1) of section 60 read with sub-section (2) of section 71 of the Major Port Authorities Act, 2021, the Central Government hereby makes the following rules, namely:-

PART A PRELIMINARY

1. Short title and commencement.-

- (1) These rules may be called the Major Port Authorities (Adjudicatory Board Powers, Functions and Procedural) 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;
 - (b) **“Adjudicatory Board”** shall have the meaning assigned to it in the Act;
 - (c) **“application”** mean an application or representation made to the Adjudicatory Board in respect of any matter stipulated under section 32 and clause (b), (c) and of sub-section (1) section 58 of the Act;
 - (d) **“applicant”** means the person making a case or application to the Adjudicatory Board;
 - (e) **“case”** means a case in respect of matters stipulated under clause (a) of sub-section of section 58 of the Act;
 - (f) **“legal practitioner”** shall have the same meaning as assigned to it in the Advocates Act, 1961 (25 of 1961);
 - (g) **“member”** means the member of the Adjudicatory Board appointed by the Central Government under section 55 of the Act;
 - (h) **“party”** means a person who prefers a case or an application before the Adjudicatory Board and includes the respondent;
 - (i) **“Presiding Officer”** means the Presiding Officer of the Adjudicatory Board appointed by the Central Government under section 55 of the Act;
 - (j) **“private operator”** means a person or body corporate who or which operates one or more berths on a lease or license basis or otherwise in the major port;

- (k) **“reference”** means a reference made by the Central Government or the Board of the Major Port Authority to the Adjudicatory Board under clause (e) of sub-section (1) of section 58 of the Act;
 - (l) **“Registrar”** means the Registrar of the Adjudicatory Board appointed under sub-rule (1) of rule 4 and includes an officer of the Adjudicatory Board who is authorised by the Presiding Officer to function as Registrar;
 - (m) **“regulations”** means the regulations made by the Adjudicatory Board under these rules;
 - (n) **“respondent”** means such person including the Board of Major Port Authority to whom the notice of case or application or any other related document is served under these rules;
 - (o) **“Secretary”** means the Secretary of the Adjudicatory Board appointed under sub-rule (1) of rule 4 and includes an officer of the Adjudicatory Board who is authorised by the Presiding Officer to function as Secretary;
 - (p) **“section”** means the section of the Act;
 - (q) **“Tariff Authority for Major Ports”** means the Tariff Authority for Major Ports constituted under section 47A of the Major Port Trusts Act, 1963 (38of1963);
 - (r) **“port user”** means a person who, either directly or through agents, avails of the services or facilities offered by any Major Port Authority and includes representative bodies of such port users.
- (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.

PART B
POWERS AND FUNCTIONS OF ADJUDICATORY BOARD AND ITS OFFICIALS

3. Powers and functions of Adjudicatory Board.-

- (1) The Adjudicatory Board shall exercise the powers and perform the functions as stipulated in section 58 of the Act and shall receive, review and adjudicate upon the following category of matters, namely:—
 - (a) **Category A**—Cases in respect to matters stipulated under clause (a) of sub-section (1) of section 58 of the Act;
 - (b) **Category B** – Any dispute, difference or claim related to the rights and obligations of Major Ports and Public Private Partnership concessionaires or captive users for dedicated berth within the framework of their concession agreements under clause (b) of sub-section (1) of section 58 of the Act;

- (c) **Category C** – Stressed Public Private Partnership projects as referred by the Central Government or the Board of the Major Port Authority to the Adjudicatory Board under clause (c) of sub-section (1) of section 58 of the Act;
 - (d) **Category D** – Complaints received from port users under clause (d) of sub-section (1) of section 58 of the Act;
 - (e) **Category E** – References under clause (e) of sub-section (1) of section 58 of the Act;
 - (f) **Category F** – Applications made under section 32 of the Act.
- (2) The Adjudicatory Board shall not entertain any case or application including public interest litigations from unrelated parties on any matter specified in sub-rule(1).
- (3) In performance of functions under sub-rule(1), the Adjudicatory Board shall be entitled to-
- (a) formulate the procedure and regulations for acceptance and hearing of cases relating to matters and functions of the erstwhile Tariff Authority for Major Ports under clause (a) of sub-section (1) of section 58 of the Act;
 - (b) formulate the procedure and regulations for acceptance and hearing of applications in respect of any matter stipulated under section 32 and clause (b), (c) and (d) of sub-section (1) section 58 of the Act; and
 - (c) formulate the procedure and regulations for acceptance of and dealing with the references made by the Central Government or the Board of the Major Port Authority under clause (e) of sub-section (1) of section 58 of the Act.
- (4) In formulation of the procedures and regulations under clauses (a), (b) and (c) of sub-rule (3), the Adjudicatory Board shall be entitled to seek such assistance of the Secretary and the Registrar as the Adjudicatory Board may deem appropriate.
- (5) The Adjudicatory Board shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of the Act, and these rules, the Adjudicatory Board shall have powers to lay down and regulate its own procedure.
- (6) The Adjudicatory Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for the purposes of discharging its functions under these rules or any regulation made hereunder, in respect of the following matters, namely:—
- (a) the discovery and production of books of account and other documents and receiving evidence on affidavits, at such place and at such time as may be specified by the Adjudicatory Board;
 - (b) summoning and enforcing the attendance of any person and examining him on oath;
 - (c) issuing commissions for the examination of witnesses or documents;

- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;
- (h) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made under the Act and these rules; and
- (i) such other matters as may be specified by the Central Government.

4. Appointment of Registrar, Secretary, officers and other employees of the Adjudicatory Board.-

- (1) The Adjudicatory Board may, with the previous approval of the Central Government, appoint a Registrar, Secretary and such other officers and employees as it considers necessary for the efficient performance of its functions under the Act and these rules.
- (2) The Registrar, Secretary, officers and other employees of the Adjudicatory Board shall discharge their functions under the general superintendence of the Presiding Officer.
- (3) The salaries and allowances payable to and other terms and conditions of service of the Registrar, Secretary, officers and other employees of the Adjudicatory Board shall be such as may prescribed by the Central Government.

5. Functions of Registrar.-

- (1) Subject to the general superintendence and control of the Presiding Officer, the Registrar shall:-
 - (a) perform administrative functions in respect of applications made under section 32 and any matter pertaining to clause (b), (c) and (d) of sub-section (1) section 58 of the Act;
 - (b) receive and undertake scrutiny of all applications and other documents as per the regulations made by the Adjudicatory Board in that behalf;
 - (c) decide all questions arising out of the scrutiny of the applications before they are admitted for adjudication by the Adjudicatory Board;
 - (d) receive applications for amendment of the application;

- (e) subject to the directions of the Presiding Officer to fix date of hearing of the applications or other proceedings and issue notices thereof;
 - (f) direct any formal amendment of records;
 - (g) order grant of copies of documents to parties to proceedings;
 - (h) grant leave to inspect the records of the Adjudicatory Board;
 - (i) dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for filing such applications and to grant time, not exceeding thirty days, for filing a reply or rejoinder, if any, and to place the matter before the Adjudicatory Board for appropriate orders after the expiry of the aforesaid period;
 - (j) take necessary steps for requisition of records from the custody of any court, office, department or other authority; and
 - (k) exercise such other functions as are assigned to him under these rules or by the Presiding Officer by a separate order in writing.
- (2) In the absence of Registrar, any other officer to whom the powers and functions of the Registrar are delegated by the Presiding Officer may exercise the powers and functions of the Registrar.

6. Functions of the Secretary.—

- (1) Subject to the general superintendence and control of the Presiding Officer, the Secretary shall:-
- (a) perform administrative functions in respect of cases and references under clause (a) and (e) of sub-section (1) of section 58 of the Act, respectively;
 - (b) receive and undertake scrutiny of all cases, references and related documents as per the regulations made by the Adjudicatory Board in that behalf;
 - (c) decide all questions arising out of the scrutiny of the cases and references before they are admitted or placed for adjudication by the Adjudicatory Board;
 - (d) receive applications for amendment in the case or reference;
 - (e) subject to the directions of the Presiding Officer or the concerned member hearing any case or reference to fix date of hearing of such case or reference and issue notice thereof;
 - (f) be in charge of the long term projects and initiatives of the Adjudicatory Board;

- (g) supervise the divisions and sections of the human resources within the Adjudicatory Board;
 - (h) prepare, monitor and manage budgetary allocations and financial managements of the Adjudicatory Board;
 - (i) provide all necessary support in the day to day operations of the Adjudicatory Board;
 - (j) manage and supervise the facilities and administrative services of the Adjudicatory Board;
 - (k) coordinate with authorised representatives and other professionals in the smooth functioning of the Adjudicatory Board;
 - (l) oversee information and communication technology and other technological facilities in the Adjudicatory Board;
 - (m) manage and facilitate communication and services of the Adjudicatory Board;
 - (n) manage, monitor and administer the public affairs and public safety provisions within the premises of the Adjudicatory Board; and
 - (o) exercise such other functions as are assigned to him under these rules or by the Presiding Officer by a separate order in writing.
- (2) In the absence of Secretary, any other officer to whom the powers and functions of the Secretary are delegated by the Presiding Officer may exercise the powers and functions of the Secretary.

PART C
PROCEDURE FOR FILING APPLICATION BEFORE THE ADJUDICATORY BOARD AND OTHER RELATED MATTERS

7. Procedure for filing cases.—

- (1) Every case shall be invariably filed before the Adjudicatory Board by the applicant for any formal, final or substantive decision on such case.
- (2) The case under sub-rule (1) may be filed by the applicant in person or through an authorised representative or a duly authorised legal practitioner to the Secretary or sent by registered post with acknowledgement due addressed to the Secretary.
- (3) Any case sent by post under sub-rule (2) shall be deemed to have been filed on the day on which it is received in the office of the Secretary.

8. Endorsement and scrutiny of cases.—

- (1) The Secretary shall immediately on receipt of case affix the date stamp of the Adjudicatory Board thereon and return the acknowledgement to the party filing the same and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.
- (2) If, on scrutiny, the case is found to be defective, such case shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Secretary who may pass appropriate orders.
- (3) The Secretary may for sufficient cause return the case for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.
- (4) Where the party concerned fails to take any step for the removal of the defect within the time fixed for the same, the Secretary may, for reasons to be recorded in writing, decline to register the case or other document.

9. Hearing of cases.—

- (1) For hearing cases, the Adjudicatory Board shall adopt a consultative process so as to promote the greatest participation of the greatest number of interested parties including Major Port Authorities, private operators and port users.
- (2) The hearings under sub-rule (1) shall be organized on behalf of the Adjudicatory Board by the Presiding Officer or any member or members authorised by the Presiding Officer.

10. Procedure for filing application.—

- (1) Every application with respect to matters specified in Category B, C, D and F under clause (b), (c), (d) and (f) of sub-rule (1) of rule 3 shall be filed in such form and in such manner as may be specified by the regulations¹.
- (2) The application under sub-rule (1) may be filed by the applicant in person or through an authorised representative or a duly authorised legal practitioner to the Registrar or sent by registered post with acknowledgement due addressed to the Registrar.
- (3) Any application sent by post under sub-rule (2) shall be deemed to have been filed on the day on which it is received in the office of the Registrar.

11. Endorsement and scrutiny of applications.—

- (1) The Registrar shall immediately on receipt of application under clause (b), (c), (d) or (f) of sub-rule(2)ofrule10affixthedatastampoftheAdjudicatoryBoardthereonandreturn

¹ Generally, the forms for filing applications and cases are prescribed within the rules itself. However, given the position that TAMP has presently no specific formats to receive applications and there is no clarity as to what procedure would be followed by the Members of the Adjudicatory Board in dealing with the applications, it is proposed that the forms for filing applications under rule 10 should be specified by the Adjudicatory Board through regulations.

the acknowledgement to the party filing the same and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.

- (2) If, on scrutiny, the application is found to be defective, such application shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.
- (3) The Registrar may for sufficient cause return the application for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.
- (4) Where the party concerned fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the application or other document.

12. Filing of case, applications, etc.—

- (1) Every case, application, review or any document related thereto shall be filed to the Adjudicatory Board in any vernacular language along with an English translated copy thereof and shall be fairly and legibly type written, lithographed or printed.
- (2) Every case, application, review or related document shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point.
- (3) The address for service of notice shall be filed with every case, application, review or any document related thereto and shall as far as possible contain the following items namely:-
 - (a) the name of the road, street, lane and Municipal Division or Ward, Municipal Door and other number of the house, office or premises, as the case may be;
 - (b) the name of the town or village;
 - (c) the post office, postal district and pin code, and
 - (d) any other particulars necessary to locate and identify the addressee such as fax number, mobile number, valid e-mail address, if any.
- (4) Every case, application and review shall be filed in triplicate by the applicant or respondent, as the case may be, in person or by his duly authorised representative or by a legal representative duly appointed in this behalf in the prescribed form with stipulated fee.
- (5) Every case, application or review may be accompanied by documents duly certified by the authorised representative or legal practitioner filing the case or application or review duly verified from the originals.
- (6) All the documents filed in the Adjudicatory Board shall be accompanied by an index containing their details and the amount of fee paid thereon.
- (7) Every interlineations, eraser or correction or deletion in any case or application or document shall be installed by the party or his authorised representative presenting it.

13. Fee.—

- (1) Every case or application or review filed under these rules shall be accompanied with the fee² as may be specified by the regulations.
- (2) The fee shall be remitted either in the form of crossed demand draft drawn on a scheduled bank or remitted through a crossed Indian Postal Order, payable at Mumbai, in favour of-
 - (a) the Registrar, in case the fee is to be paid in reference to an application;
 - (b) the Secretary, in case the fee is to be paid in reference to a case.

14. Quorum for hearing by Adjudicatory Board.—

- (1) The quorum for hearing any case shall constitute the Presiding Officer or any member or members of the Adjudicatory Board as authorised by the Adjudicatory Board in this behalf.
- (2) The quorum for hearing any application shall constitute the Presiding Officer and at least one Member of the Adjudicatory Board.

15. Notice of case or application to the respondent.—

- (1) A copy of any case filed under these rules shall be served by the Secretary on the concerned Board of the Major Port Authority and any other respondent named in the said case.
- (2) A copy of the application shall be served by the Registrar on the concerned Board of the Major Port Authority and any other respondent named in the said application.
- (3) The service under sub-rule (1) and (2) may be done by hand delivery, registered post, speed post or e-mail.

16. Filing of reply and other documents by the respondent.—

- (1) Each respondent may file his reply to the case or the application and copies of related documents on which it relies, in such form³ and manner as may be specified by the regulations, before the date of hearing and such reply and copies of documents shall form part of the record.

² Generally, the fee for filing applications and cases are prescribed within the rules itself. However, given the position that TAMP has presently no specific fee structure to receive applications and there is no clarity as to what fee structure would be followed by the Members of the Adjudicatory Board in admitting the applications, it is proposed that the fee for filing applications under rule 13 should be specified by the Adjudicatory Board through regulations.

³ Generally, the form and manner for filing reply are prescribed within the rules itself. However, given the position that TAMP has presently no specific formats to receive replies and there is no clarity as to what procedure would be followed by the Members of the Adjudicatory Board in receiving replies, it is proposed that the form and manner for filing replies under rule 16 should be specified by the Adjudicatory Board through regulations.

- (2) The reply under sub-rule (1) may be filed by the respondent in person or through an authorised representative or a duly authorised legal practitioner to—
 - (a) the Secretary, if the reply pertains to a case; and
 - (b) the Registrar, if the reply pertains to an application, by registered post with acknowledgement due addressed to the Secretary or the Registrar, as the case may be.
- (3) Any reply sent by post under sub-rule (2) shall be deemed to have been filed on the day on which it is received in the office of the Secretary or the Registrar, as the case maybe.
- (4) A copy of the reply shall be forthwith served on the applicant by the respondent.
- (5) To the reply filed under sub-rule (1), the respondent shall specifically admit, deny or rebut the facts stated by the applicant in his case or application and state such additional facts as may be found necessary in his reply.

17. Filing of Rejoinder.—

Where the respondent states such additional facts as may be necessary for the just decision of the case or the application, the Adjudicatory Board may allow the applicant to file a rejoinder to the reply filed by the respondent, with an advance copy to be served upon the respondent.

18. Power of Adjudicatory Board to call for further information or evidence.-

- (1) The Adjudicatory Board may, before passing orders on any case or application require the applicant or respondent or both of them, to produce such further documentary or other evidence as it may consider necessary:-
 - (a) for the purpose of satisfying itself as to the truth of the allegations made in such case or application; or
 - (b) for ascertaining any information which, in the opinion of the Adjudicatory Board, is necessary for the purpose of enabling it to pass orders in such case or application.
- (2) Without prejudice to sub-rule (1), the Adjudicatory Board may, for the purpose of inquiry or investigation, as the case may be, admit such documentary and other mode of recordings in electronic form including e-mails, books of accounts, book or paper, written communications, statements, contracts, electronic certificates and such other similar mode of transactions as may legally be permitted to take into account of those as admissible as evidence under the relevant laws.

19. Date and place of hearing to be notified.—

- (1) Notice for hearing in any case or application shall be issued by the Adjudicatory Board or any other officer authorised in this regard by the Adjudicatory Board.

- (2) Where at any stage prior to the hearing of any case or application, the applicant desires to withdraw such case or application, he shall make an application to that effect to the Adjudicatory Board, and the Adjudicatory on hearing the applicant and if necessary, such other party arrayed as opposite parties in such case or application or otherwise, may permit such withdrawal upon imposing such costs as it may deem fit and proper for the Adjudicatory Board in the interests of the justice.

20. Action on case or application for applicant's default.—

- (1) Where on the date fixed for hearing of the case or application or any other date to which such hearing may be adjourned, the applicant does not appear when the case or application is called for hearing, the Adjudicatory Board may, in its discretion, either dismiss the case or application for default or hear and decide it on merits.

- (2) Where the case or application has been dismissed for default and the applicant files an application within thirty days from the date of dismissal and satisfies the Adjudicatory Board that there was sufficient cause for his non-appearance when the case or application was called for hearing, the Adjudicatory Board shall make an order setting aside the order dismissing the said case or application and restore the same:

Provided that, where the case or application has been disposed of on merits, the same shall not be reopened except by way of review.

21. Ex parte hearing and disposal of case or application.—

- (1) Where on the date fixed for hearing the case or application or any other date to which such hearing may be adjourned, the applicant appears and the respondent does not appear when the case or application is called for hearing, the Adjudicatory Board may, in its discretion, adjourn the hearing or hear and decide the case or application *ex parte*.

- (2) Where a case or an application has been heard *ex-parte* against a respondent or respondents, such respondent or respondents may apply within thirty days from the date of order of the Adjudicatory Board for an order to set aside and if such respondent or respondents satisfy the Adjudicatory Board that the notice was not duly served, or that he or they were prevented by any sufficient cause from appearing when the case or application was called for hearing, the Adjudicatory Board may make an order setting aside the *ex parte* hearing as against him or them upon such terms as it thinks fit, and shall appoint a day for proceeding with the said case or application:

Provided that where the *ex parte* hearing of the case or application is of such nature that it cannot be set aside as against one respondent only, it may be set aside as against all or any of the other respondents also.

22. Power to regulate the procedure.—

The Adjudicatory Board may regulate its own procedure in accordance with the rules of natural justice and equity, for the purpose of discharging its functions under these rules.

23. Substitution of legal representatives.—

- (1) Where a party to a proceeding pending before the Adjudicatory Board dies or is adjudged insolvent or, in the case of a company, being wound up, the proceeding shall not abate and may be continued by or against the executor, administrator or other legal representative of the parties or by or against the assignee, receiver or liquidator, as the case maybe.
- (2) In the case of death of a party during the pendency of the proceedings before the Adjudicatory Board, the legal representative of the deceased party may apply within ninety days of the date of such death for being brought on record.
- (3) Where no petition or application is received from the legal representatives within the period specified in sub-rule (2), the proceedings shall abate:

Provided that for good and sufficient reasons shown, the Adjudicatory Board may allow substitution of the legal representatives of the deceased at any time before disposing the application on merits.

24. Adjournment of hearing.—

- (1) The Adjudicatory Board may, if sufficient cause is shown at any stage of proceedings, grant time to the parties or any of them and adjourn the hearing of the case or application.
- (2) The Adjudicatory Board may make such order as it deems fit with respect to the costs occasioned by the adjournment.
- (3) All adjournments shall be to a day certain and no case or application shall be adjourned *sine die* except for reasons recorded in writing.
- (4) The Adjudicatory Board shall have the power to decline an adjournment and also to limit the time for oral arguments:

Provided that where the Adjudicatory Board deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

25. Expeditious disposal by Adjudicatory Board.—

- (1) Any case, application or review filed before the Adjudicatory Board under these rules shall be dealt with and disposed by it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced and every endeavor shall be made by the Adjudicatory Board for the disposal of such case, application or review within four months from the date of its presentation before the Adjudicatory Board:

Provided that where the Adjudicatory Board deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

- (2) Where any case, application or review is not disposed of within the period specified in sub-rule (1), the Adjudicatory Board shall record the reasons for not disposing of the case, application or review, as the case may be, within the period so specified; and the Presiding Officer may, after taking into account the reasons so recorded, extend the period referred to

in sub-rule (1) by such period not exceeding ninety days as the Presiding Officer may consider necessary.

26. Issuance of orders.—

- (1) On receipt of any case or application, the Adjudicatory Board may, after giving the applicant and the respondent, if any, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order or action challenged.
- (2) Every order shall contain the name of the Presiding Officer and members of the Adjudicatory Board who have taken part in the decision and shall be signed and dated by the Presiding Officer and such members.
- (3) The Adjudicatory Board shall send a copy of every order made by it to the applicant and the respondent.

27. Award of costs in the proceedings.—

- (1) Whenever the Adjudicatory Board deems fit, it may award cost for meeting the legal expenses of the respondent of defaulting party.
- (2) The Adjudicatory Board may in suitable cases direct applicant or respondent to bear the cost of litigation of the other side, and in case of abuse of process of the Adjudicatory Board, impose exemplary costs on defaulting party.

28. Publication of orders.—

The orders of the Adjudicatory Board as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Adjudicatory Board may lay down.

29. Communication of orders to the parties.—

- (1) Every interim order, granting or refusing or modifying interim relief and final order shall be communicated to the applicant and to the concerned respondent or to their legal practitioner either by hand delivery or by registered post free of cost:

Provided that unless otherwise ordered by the Adjudicatory Board, a copy of the final order need not be sent to any respondent who has not entered appearance.

- (2) If the applicant or the respondent to any proceeding requires a copy of any document or proceeding, the same shall be supplied to him on such terms and conditions and on payment of such fee as may be fixed by the Presiding Officer by general or special order.

30. Preservation of Record.—

- (1) All necessary documents and records relating to the cases and applications dealt with by the Adjudicatory Board shall be stored or maintained in a record room and shall be preserved for a period of five years after the passing of the final order.

- (2) On the expiry of the period for preservation of the records specified under sub-rule (1), the Registrar shall weed out the record.

31. Application for review.—

- (1) No application for review of any order shall be entertained by the Adjudicatory Board unless it is filed by an aggrieved party in such form and manner as may be specified by the regulations, within thirty days from the date of receipt of copy of the order sought to be reviewed and the review is filed on account of some mistake or error apparent on the face of the record only.
- (2) Unless otherwise ordered by the Adjudicatory Board, an application for review shall be disposed of by circulation where the Adjudicatory Board may either dismiss the application or direct notice to be issued to the opposite party.
- (3) Where an application for review of any order has been disposed of, thereafter no application for further review shall lie.
- (4) No application for review shall be entertained unless it is supported by a duly sworn affidavit indicating the mistake or error apparent on the face of the record.

PART D

PROCEDURE FOR MAKING REFERENCE BEFORE THE ADJUDICATORY BOARD AND OTHER RELATED MATTERS

32. Procedure to make reference.-

- (1) Any reference to the Adjudicatory Board shall be presented to the Secretary or to an officer authorised in this behalf by the Secretary, in person or sent by registered post or courier service or facsimile transmission addressed to the Secretary or to such authorized officer.
- (2) The reference under sub-rule (1) shall be made in English language in a “paper book” form along with supporting documents which must be serially numbered and prefaced by an index and shall be fairly and legibly type written, lithographed or printed.
- (3) A reference sent by post or courier service or facsimile transmission under sub-rule (1) shall be deemed to have been made to the Secretary or to the officer authorised by the Secretary, on the day on which it is received in the office of the Secretary or the authorised officer, as the case may be.

33. Contents of reference.-

- (1) The reference shall, inter alia, separately and categorically state the following:-
- (a) legal name of the person making the reference;
 - (b) complete postal address in India along with postal index number (PIN) code for delivery of information or response by the Adjudicatory Board;
 - (c) telephone number, fax number and also electronic mail address, if available; and
 - (d) mode of service of communication or documents preferred.

- (2) The reference referred to in sub-rule (1) shall contain-
- (a) the specific proposition of law or fact or specific issue or policy or any other matter relating to the operations of the major port on which the suggestion or order is solicited;
 - (b) background and historical data relevant for the determination of the proposition or the issue or the policy or any other matter;
 - (c) duly authenticated copies of the relevant statutes including the rules, the regulations, the notifications, the orders as considered necessary, if applicable;
 - (d) duly authenticated and updated list of the parties involved with their complete addresses, telephone numbers, fax numbers, e-mail addresses; and
 - (e) where applicable, proof of having informed the parties concerned about the matter having been referred to the Adjudicatory Board for suggestion or order under clause (e) of sub-section (1) of section 58 of the Act, if applicable.
- (3) The contents of the reference mentioned under sub-rules (1) and (2), along with the appendices and attachments thereto, shall be complete and duly signed and authenticated by an officer not below the rank of:
- (a) a Joint Secretary to the Government of India, if the reference has been made by the Central Government;
 - (b) the Chairperson or the Deputy Chairperson of a Major, if the reference has been made by the Board of a Major Port Authority.

34. Procedure for scrutiny of reference.-

- (1) Each reference received in the Adjudicatory Board shall be scrutinised by the Secretary to check whether it conforms to these rules and the defects, if any, shall be communicated to the Central Government or the Board of a Major Port Authority, as the case may be, within a reasonable time not exceeding fifteen days of the receipt of such reference.
- (2) The Central Government or the Board of a Major Port Authority, as the case may be, shall, within fifteen days of receiving the communication about the defects under sub-rule (1), remove the said defects.
- (3) In case the defects are not removed by the Central Government or the Board of a Major Port Authority, as the case may be, as per the provision of sub-rule (2), the reference connected therewith shall be treated as invalid:

Provided that the Central Government or the Board of a Major Port Authority, as the case may be, shall be entitled to file fresh reference for consideration by the Adjudicatory Board.

35. Powers and functions of the Secretary pertaining to reference.-

- (1) The Secretary shall have the custody of records of the reference and shall exercise such other functions as may be assigned by the Presiding Officer.
- (2) The Secretary shall be the nodal officer on behalf of the Adjudicatory Board for receiving all references under clause (e) of sub-section (1) of section 58 of the Act.
- (3) Without prejudice to the generality of the foregoing, the Secretary shall have the following powers and functions:-
 - (a) to receive, endorse and categorise all the references and related documents;
 - (b) to scrutinise all references so received to find out whether they are in conformity with these rules;
 - (c) to point out defects in such references to the concerned parties requiring them to rectify such defects;
 - (d) to serve copy of the information, reference or document along with the enclosures to the concerned parties;
 - (e) to serve the notice of the date of the ordinary meeting of the Adjudicatory Board to consider the reference or document and to convey the directions of the Adjudicatory Board in that regard, if any;
 - (f) to compile and preserve record of any proceeding during an ordinary meeting;
 - (g) to ensure confidentiality of reference and related documents by keeping them in safe custody; and
 - (h) to place the reference before the Adjudicatory Board for its consideration, in accordance with these rules.

36. Proceedings on reference and suggestion or order by Adjudicatory Board.-

- (1) The Secretary, after scrutiny and removal of defects, if any, in a reference, shall place such reference during an ordinary meeting of the Adjudicatory Board for its consideration and seek necessary instructions regarding the parties to whom notice of meeting is to be issued.
- (2) The Secretary shall give at least fifteen days prior written notice of the ordinary meeting to the concerned parties to take part in the proceedings.
- (3) The parties to whom the notices are issued under sub-rule (2), may file comments or reply to the notice after having served a copy thereof to each party at least seven days prior to the date of the ordinary meeting, if applicable.
- (4) The Adjudicatory Board may call upon a representative of the Central Government or the Board of a Major Port Authority or an expert in the field for discussion or evidence as it may consider necessary in the matter.
- (5) The Adjudicatory Board may collect particulars and information from any person or enterprise or Central Government or the Board of a Major Port Authority, which in its opinion is relevant to the reference received by the Adjudicatory Board.
- (6) The Adjudicatory Board may form an opinion and send the same to the concerned parties and seek their objections and/or suggestions thereon within the time decided by it and after considering such objections or suggestions it shall, within thirty days, give its final opinion

or pass an order, as the case may be, and communicate the same in writing to the Central Government or the Board of a Major Port Authority, as the case may be.

PART E INSPECTION OF RECORDS

37. Inspection of the records.—

- (1) Inspection of records of a pending or decided case or application before the Adjudicatory Board shall be allowed only under the orders of the Registrar.
- (2) The parties to any case or application or their authorised representative may be allowed to inspect the record of the case on making an application in writing to the Registrar.
- (3) Subject to the terms and conditions as may be specified by the Presiding Officer by a general or special order, a person who is not a party to the proceedings, may also be allowed to inspect the record after obtaining the permission of Registrar in writing.

38. Application for grant of inspection.—

- (1) Application for inspection of record under sub-rule (2) and (3) of rule 37, shall be presented to the Registrar or any other person authorised in that behalf between 10.30 AM and 3.00 PM on any working day and at least two days before the date on which inspection is sought, unless otherwise permitted by the Registrar.
- (2) On receipt of the application under sub-rule (1), the Registrar shall consider the said application and pass appropriate orders.
- (3) Inspection of records of a pending case shall not ordinarily be permitted on the date fixed for hearing of the case or on the preceding day.

39. Mode of inspection.—

- (1) On grant of permission for inspection of the records, the Registrar or any other person authorised in that behalf shall arrange to procure the records of the case and allow inspection of such records on the date and time fixed by the Registrar between 10.30 AM and 12.30 PM and between 2.30 PM and 4.30 PM in the immediate presence of an officer authorised in that behalf by the Registrar.
- (2) The person inspecting the records shall not in any manner cause dislocation, mutilation, tampering or damage to the records in the course of inspection.
- (3) The person inspecting the records shall not make any marking on any record or paper so inspected and taking notes, if any, of the documents or records inspected may be done only in pencil.
- (4) The person supervising the inspection, may at any time prohibit further inspection, if in his opinion, any of the records are likely to be damaged in the process of inspection or the person inspecting the records has violated or attempted to violate the provisions of these

rules and shall immediately make a report about the matter to the Registrar and seek further orders from the Registrar and such notes shall be made in the inspection register.

40. Maintenance of register of inspection.—

The Registrar shall cause to maintain a register for the purpose of inspection of documents or records and shall obtain therein the signature of the person making such inspection on the register on the conclusion of inspection.

**PART F
APPEARANCE OF AUTHORISED REPRESENTATIVE**

41. Appearance of authorized representative.—

Subject to as hereinafter provided, no legal practitioner or authorised representative shall be entitled to appear and act, in any proceeding before the Adjudicatory Board unless he files into the Adjudicatory Board Vakalatnama or Memorandum of Appearance as the case may, in such form as may be specified by the regulations and duly executed by or on behalf of the party for whom he appears.

42. Consent for engaging another legal practitioner.—

A legal practitioner proposing to file a Vakalatnama or Memorandum of Appearance as the case may be, in any pending case or proceeding before the Adjudicatory Board in which there is already a legal practitioner or authorised representative on record, shall do so only with the written consent of the legal practitioner or the authorised representative on record or when such consent is refused, with the permission of the Adjudicatory Board after revocation of Vakalatnama or Memorandum of Appearance as the case may be, on an application filed in this behalf, which shall receive consideration only after service of such application on the counsel already on record.

43. Restrictions on appearance.—

A legal practitioner or the authorised representative as the case may be, who has tendered advice in connection with the institution on any matter or other proceeding before the Adjudicatory Board or has drawn pleadings in connection with any such matter or has during the progress of any such matter acted for a party, shall not, appear in such matter or proceeding or other matter arising there from or in any matter connected therewith for any person whose interest is opposed to that of his former client, except with the prior permission of the Adjudicatory Board.

**PART G
MISCELLANEOUS**

44. Powers of Adjudicatory Board with regards to certain orders and directions.—

Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Adjudicatory Board to make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

45. Language of the Adjudicatory Board.—

The language of the Adjudicatory Board shall be English.

46. Working hours of the Adjudicatory Board.—

- (1) Except on Saturdays, Sundays and other public holidays, the office of the Adjudicatory Board shall, subject to any other order made by the Presiding Officer, remain open daily from 10 AM to 6.00 PM but no work, unless of an urgent nature, shall be admitted after 4.30 PM on any working day.
- (2) Subject to any order made by the Presiding Officer, the sitting hours of the Adjudicatory Board shall ordinarily be from 10.30 AM to 1.00 PM and 2.00 PM to 4.30 PM.

47. Holiday.—

- (1) The office of the Adjudicatory Board shall observe such public and other holidays as observed by the offices of the Central Government in the locality where the office of the Adjudicatory Board is situated.
- (2) Where the last day for doing any act falls on a day on which the office of the Adjudicatory Board is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which the office opens.

48. Seal and emblem.—

- (1) The official seal and emblem of the Adjudicatory Board shall be such as the Presiding Officer may from time to time direct and shall be kept in the custody of the Registrar.
- (2) Subject to any general or special direction by the Presiding Officer, the seal of the Adjudicatory Board shall not be affixed to any order, summons or other process, save under the authority in writing from the Registrar.
- (3) The seal of the Adjudicatory Board shall not be affixed to any certified copy issued by the Adjudicatory Board save under the authority in writing of the Registrar.

49. Dress regulations for Presiding Officer, Members, staff and other persons.—

- (1) The dress for the Presiding Officer, Members and the staff of the Adjudicatory Board shall be such as the Presiding Officer may specify by order in writing.
- (2) Every authorised representative, other than a relative or regular employee of the party shall appear before the Adjudicatory Board in his professional dress if any, and if there is no such dress, any other sober dress.
- (3) All other persons appearing before the Adjudicatory Board shall be properly dressed.

50. Assistance to Adjudicatory Board

The Adjudicatory Board may, at any time, take the assistance of any Major Port or other institutions, consultants, experts, including a legal expert, chartered accountants, surveyor and such other technical and professional persons, as it may consider necessary on payment, if any, of reasonable fee and ask them to submit reports or furnish any information.

51. Delegation of powers.—

The Adjudicatory Board may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person authorised by it to inquire into any matter connected with any proceeding and to report to it in such manner as may be specified in the order.

52. Grants by Central Government.—

The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Adjudicatory Board grants of such sums of money as that Government may think fit for being utilised by the Adjudicatory Board for performance of its functions under the Act.

53. Fund.—

(1) There shall be constituted a Fund to be called the Major Port Authorities (Adjudicatory Board) General Fund and there shall be credited thereto-

- (a) all grants, fees and charges received by the Adjudicatory Board under the Act;
- (b) all sums received by the Adjudicatory Board from such other sources as maybe decided upon by the Central Government.

(2) The Fund shall be applied for meeting-

- (a) thesalaries,allowancesandotherremunerationofthePresidingOfficer,Members, officers and other employees of the Adjudicatory Board;
- (b) the expenses of the Adjudicatory Board in the discharge of its functions under the Act and these rules.

54. Bank accounts of Adjudicatory Board

(1) The Adjudicatory Board shall be entitled to open bank account or accounts for deposit of moneys received by or on behalf of the Adjudicatory Board under these rules and the regulations made here under.

(2) The bank accounts of the Adjudicatory Boar shall be operated by such officer or officers of the Adjudicatory Board as the Adjudicatory Board may from time to time authorise in this behalf.

55. Accounts and Audit.—

- (1) The accounts of the Adjudicatory 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 Adjudicatory Board in respect of such audit shall be debitable to the general account of the Adjudicatory Board.
- (2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Adjudicatory Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General 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 Adjudicatory Board.
- (3) The accounts of the Adjudicatory 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 Adjudicatory Board.

56. Power of Adjudicatory Board to make regulations.—

Without prejudice to any power to make regulations contained elsewhere in these rules, the Adjudicatory Board may make regulations consistent with these rules for all or any of the following purposes, namely:-

- (a) procedure for acceptance and hearing of cases under clause (a) of sub-rule (2) of rule 3;
- (b) procedure for acceptance and hearing of applications under clause (b) of sub-rule (2) of rule 3;
- (c) procedure for acceptance and dealing with references under clause (c) of sub-rule (2) of rule 3;
- (d) procedure to undertake scrutiny of applications and other documents under clause (b) of sub-rule (1) of rule 5;
- (e) procedure to undertake scrutiny of cases and related documents under clause (b) of sub-rule (1) of rule 6;
- (f) the form and manner in which applications shall be filed under sub-rule (1) of rule 10;
- (g) fee in respect of filing any case, application or review under sub-rule (1) of rule 13;
- (h) the form and manner in which reply shall be filed under sub-rule (1) of rule 16;
- (i) the form and manner in which review shall be filed under sub-rule (1) of rule 31;

- (j) the form in which Vakalatnama or Memorandum of Appearance shall be filed under rule 41;
- (k) any other matter which is required to be, or may be, specified by these rules or in respect of which provision is to be made by regulations.

57. Limitation.—

The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to the cases and applications made to the Adjudicatory Board under these rules.

58. Presiding Officer, Members and staff of Adjudicatory Board to be public servants.—

The Presiding Officer, Members and other officers and employees of the Adjudicatory Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

59. Residuary Powers.—

Any matter with regards to the powers, functions and procedure of the Adjudicatory Board with respect to which no express provision is made in these rules shall be referred in each case to the Central Government for its decision and the decision of the Central Government thereon shall be final and binding.

60. Power to relax.—

The Central Government shall have the power to relax the provisions of any of these rules in respect of any class or category or persons.

Rule 11

MAJOR PORT AUTHORITIES (SALARY, ALLOWANCES AND OTHER TERMS AND CONDITIONS OF SERVICE OF PRESIDING OFFICER AND MEMBERS OF ADJUDICATORY BOARD) RULES, 2021

In exercise of the power conferred by sub-section (5) of section 56 read with sub-section (2) of section 71, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Major Port Authorities (Salary, Allowances and other Terms and Conditions of Service of Presiding Officer and Members of Adjudicatory Board) 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;
 - (b) **“Adjudicatory Board”** shall have the meaning assigned to it in the Act;
 - (c) **“member”** means the member of the Adjudicatory Board appointed by the Central Government under section 55 of the Act;
 - (d) **“Presiding Officer”** means the Presiding Officer of the Adjudicatory Board appointed by the Central Government under section 55 of the Act;
 - (e) **“section”** means the section of the Act;
- (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. Salary, allowances and other benefits payable to Presiding Officer and members.-

- (1) When a retired Judge of the Supreme Court of India is appointed as Presiding Officer of the Adjudicatory Board, he shall be entitled to salary, allowances and other perquisites as are available to the sitting Judge of the Supreme Court, and as provided in the Supreme Court Judges (Salaries and Conditions of Services) Act, 1958 (51 of 1958), and these shall apply *mutatis mutandis* alongwith rules made there under as amended from time to time.

Provided that in case the retired Judge of the Supreme Court at the time of his appointment as the Presiding Officer of the Adjudicatory Board, is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other forms of retirement benefits in respect of any previous service under the Government of the Union or Government of a State, the pay of such Presiding Officer shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement

benefits, if any (except pension equivalent of retirement gratuity), drawn or availed of or to be drawn or availed of by him.

- (2) When a retired Chief Justice of a High Court is appointed as Presiding Officer of the Adjudicatory Board, he shall be entitled to salary, allowances and other perquisites as are available to the sitting Chief Justice of a High Court and as provided in the High Court Judges (Salaries and Conditions of Services), Act 1954 (28 of 1954), and these shall apply *mutatis mutandis* alongwith rules made there under as amended from time to time:

Provided that in case the retired Chief Justice of a High Court at the time of his appointment as the Presiding Officer of the Adjudicatory Board, is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other forms of retirement benefits in respect of any previous service under the Government of the Union or Government of a State, the pay of such Presiding Officer shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent of retirement gratuity), drawn or availed of or to be drawn or availed of by him.

- (3) When a retired Secretary of the Government of India or equivalent or a retired Chief Secretary of the State Government or equivalent is appointed as the member of the Adjudicatory Board, he shall be entitled to salary, allowances and other perquisites as are admissible to a serving Secretary to the Government of India:

Provided that if any such person is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such person shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent of retirement gratuity), drawn or to be drawn by him.

4. Leave and encashment of leave.-

- (1) The Presiding Officer and members of the Adjudicatory Board shall be entitled to a leave as follows:

- (a) Earned Leave at the rate of thirty (30) days for every completed calendar year of service:

Provided that the leave account shall be credited with earned leave in advance in two instalments of fifteen (15) days each from the first day of January and July of every calendar year;

Provided further that the earned leave at the credit at the close of previous half year shall be carried forward to the next half year, subject to the condition that the leave so carried forward plus credited for half year do not exceed two hundred forty (240) days.

- (b) Half pay leave on medical certificate or on private affairs at the rate of twenty (20) days in respect of each completed year of service to be credited in advance in two installments of ten days each on 1st January and 1st July of every calendar year and leave salary for half pay leave shall be equivalent to half of the leave salary admissible during he earned leave;

- (c) Leave on half pay may be commuted to full pay leave at the discretion of the Presiding Officer or a member, if it is taken on medical grounds and is supported by a medical certificate by a competent medical authority;
 - (d) Causal Leave at the rate of twelve days in a calendar year;
 - (e) Extra - ordinary leave without pay and allowances up to a maximum period of 180 days in one term of office;
 - (f) Extra-Ordinary leave without pay and allowances in a calendar year out of the holidays notified by the Central Government.
- (2) On the expiry of his term of office in the Adjudicatory Board, the Presiding Officer and members shall be entitled to receive case equivalent of leave salary in respect of earned leave standing to his credit subject to the condition that the maximum of leave encashed under this sub-rule shall not exceed 240 days.

5. Leave Sanctioning Authority.-

The Presiding Officer shall be the authority competent to sanction leave to a member of the Adjudicatory Board and the Central Government shall be the authority competent to sanction leave to the Presiding Officer.

6. Travelling Allowance.-

- (1) The Presiding Officer, while on tour or on transfer (including the journey undertaken to join the Adjudicatory Board or on the expiry of his term with the Adjudicatory Board proceeds to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rate as are admissible to the officers of the Central Government in the equivalent grade or scale.
- (2) A member of the Adjudicatory Board while on tour or on transfer (including the journey undertaken to join the Board or on the expiry of his term with the Board proceeds to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rates as are applicable to officers of the Central Government in the equivalent grade or scale.

7. Leave Travel Concession.-

The Presiding Officer and members of the Adjudicatory Board shall be entitled to leave travel concession at the same rates and at the same scales as are applicable to the officers of the Central Government of equivalent category as per the orders issued by the Central Government from time to time.

8. Other conditions of service.-

- (1) When a retired Judge of the Supreme Court is appointed as the Presiding Officer, the conditions of service relating to provision of rent free accommodation, conveyance facilities, medical facilities and such other conditions of services as are, for the time being applicable to

a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 (51 of 1958) and the rules made there under shall so far as may apply to the Presiding Officer.

- (2) When a retired Chief Justice of a High Court is appointed as the Presiding Officer, the conditions of service relating to provision of rent free accommodation, conveyance facilities, medical facilities and such other conditions of services as are, for the time being applicable to a Chief Justice of a High Court under Chapter IV of the High Court Judges (Salaries and Conditions of Services), Act 1954 (28 of 1954) and the rules made there under shall so far as may apply to the Presiding Officer.
- (3) The conditions of service relating to provision of rent free accommodation, conveyance facilities, medical facilities and such other conditions of services as are, for the time being applicable to a serving Secretary to the Government of India shall so far as may apply to the members of the Adjudicatory Board.

9. Residuary Provision.-

Matters related to the terms and conditions of service of the Presiding Officer and members of the Adjudicatory Board with respect to which no express provision has been made in these rules shall be referred in each case by the Adjudicatory Board to the Central Government for its decision and the decision of the Central Government thereon shall be final.

10. Powers to relax rules.-

The Central Government shall have power to relax any provision of these rules in respect of any class or category of persons.

11. Interpretation.-

If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

Rule 12

MAJOR PORT AUTHORITIES (SALARY, ALLOWANCES AND OTHER TERMS AND CONDITIONS OF SERVICE OF OFFICERS AND EMPLOYEES OF ADJUDICATORY BOARD) RULES, 2021

In exercise of the power conferred by sub-section (2) of section 61 read with sub-section (2) of section 71, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Major Port Authorities (Salary, Allowances and other Terms and Conditions of Service of Officers and Employees of Adjudicatory Board) 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;
 - (b) **“Adjudicatory Board”** shall have the meaning assigned to it in the Act;
 - (c) **“Schedule”** means the Schedule annexed to these rules.
 - (d) **“section”** means the section of the Act;
 - (e) **“Tariff Authority for Major Ports”** means the Tariff Authority for Major Ports constituted under section 47A of the erstwhile Major Port Trusts Act, 1963 (38 of 1963).

- (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. **Application.-**

These rules shall apply to the nature and categories of officers and employees of the Adjudicatory Board as specified in the Schedule annexed to these rules.

4. **Initial employees of Adjudicatory Board.-**

The officers and employees serving under the Tariff Authority for Major Ports immediately before the constitution of the Adjudicatory Board shall, on and from the date of constitution of the Adjudicatory Board, be deemed to be the officers and employees of the Adjudicatory Board and they shall hold their office or service in the Adjudicatory Board by the same tenure without any change or derogation of the terms and conditions of service previously held with the Tariff Authority for Major Ports.

5. **Change in designation and scope of service of officers and employees of Adjudicatory Board.-**

Subject to the provisions of rule 4, the Adjudicatory Board may, for the purpose of exercising and discharging its powers, functions and duties under the Act or any rules made there under, by general or special order in writing, change or revise the designation and scope of service of officers and employees of the Adjudicatory Board in accordance with the organisational structure approved and adopted for the Adjudicatory Board in accordance with rule 6.

6. **Organisational structure of Adjudicatory Board**

- (1) The Central Government may, for the purpose of establishing the organizational structure of the Adjudicatory Board, constitute a committee comprising of one chairperson not below the rank of Additional Secretary and two members not below the rank of _____.
- (2) The committee constituted under sub-rule (1) shall immediately upon the date of constitution and in consultation with the Adjudicatory Board, decide the number of post of the officers and

Comment [D1]: The rank of the chairperson and members of the Committee may be defined by the IPA / MoS after getting feedback from the concerned stakeholders.

employees of the Adjudicatory Board, their classification, pay band and grade pay:

Provided that the pay band and grade pay of the officers and employees of the Adjudicatory Board shall not be in derogation of, but consistent with the rules and regulations as are for the time being applicable to officers and employees of the corresponding scale of pay of the Central Government.

- (3) After the preparation of the first organization structure after the date of constitution of the Adjudicatory Board, the committee constituted under sub-rule (1) shall hold discussions with the Adjudicatory Board every 2 (two) years to review, assess and amend the organizational structure keeping in mind the changed requirements, if any, of the Adjudicatory Board.

7. Power of Adjudicatory Board to make regulations.-

The Adjudicatory Board may, with the previous approval of the Central Government, make regulations consistent with the Act and these rules for appointment, allowances, leave, conduct, joining time, joining time pay, deputation, age of superannuation, travelling allowance, leave travel concession, pension, retirement benefits, medical facilities and other conditions of service of the officers and employees of the Adjudicatory Board:

Provided that such regulations made by the Adjudicatory Board shall not be in derogation of, but consistent with the regulations as are applicable to officers and employees of the Central Government belonging to Group 'A', Group 'B', Group 'C' and Group 'D', as the case may be and drawing the corresponding scales of pay:

Provided further that every person, who was receiving any retirement benefits from the Tariff Authority for Major Ports immediately before the constitution of the Adjudicatory Board shall, on and from the date of constitution of the Adjudicatory Board, continue to receive the same benefit from the Adjudicatory Board.

8. Continuity of regulations made by Tariff Authority for Major Ports:

Until the regulations on matters specified under rule 7 are made by the Adjudicatory Board and approved by the Central Government, the corresponding regulations made by the Tariff Authority for Major Ports would continue to apply in respect of the officers and employees of the Adjudicatory Board and the same shall cease to have effect from the date on which the regulations made by the Adjudicatory Board under rule 7 comes into force.

9. Deputation and Deputation allowance.-

- (1) The officers and employees serving under the Tariff Authority for Major Ports on a deputation basis immediately before the constitution of the Adjudicatory Board shall, on and from the date of constitution of the Adjudicatory Board, have their respective deputation to be deemed to be with the Adjudicatory Board and they shall hold their office or service in the Adjudicatory Board by the same tenure as was under deputation, without any change or derogation of the terms and conditions of service, previously held with the Tariff Authority for Major Ports.
- (2) The officers and employees of the Adjudicatory Board selected or appointed on deputation immediately after the constitution of the Adjudicatory Board, shall have the option to either opt for the pay scale and other service benefits of the Adjudicatory Board or to retain the pay scales of their parent Ministry, department or organization and get deputation allowance as per the existing rules and orders issued the Central Government on the subject.
- (3) In matters relating to Provident Fund Scheme, Group Insurance or any other Insurance Scheme, age of superannuation, pension and retirement benefits, the officers and employees of the Adjudicatory Board appointed on deputation shall continue to be governed by the relevant rules as applicable to them in their parent Ministry or department or organisation.
- (4) The Adjudicatory Board shall recover contributions toward such schemes from their salary and remit the amount immediately to the lending Ministry or department or organisation and any loss of interest on account of late remittance shall be borne by the Adjudicatory Board.

- (5) The officers and employees of the Adjudicatory Board appointed on deputation shall have the option to avail medical facilities as per their entitlement in the parent organisation or as specified by regulations made by the Adjudicatory Board from time to time.

10. Accommodation.-

The officers and employees of the Adjudicatory Board shall have the option of claiming house rent allowance in accordance with the rate prescribed by the Central Government as applicable to officers and employees of the corresponding scales of pay of the Central Government:

Provided that they shall not be eligible for house rent allowance in case they are declared eligible for general pool residential accommodation and occupies such a Government accommodation allotted to them.

11. Officials visits abroad.-

- (1) Official visits abroad by the officers and other employees of the Adjudicatory Board shall be undertaken with the prior approval of the Presiding Officer of the Adjudicatory Board or any other member or officer of the Adjudicatory Board authorised by the Presiding Officer in that be half.
- (2) Instructions issued by the Ministry of External Affairs and Ministry of Finance as amended from time to time shall be applicable.

12. Employees of the Adjudicatory Board to be public servants.-

The officers and other employees of the Adjudicatory Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

13. Residuary provision.-

Matters relating to the terms and conditions of service of officers and employees of the Adjudicatory Board with respect to which no express provision has been made in these rules or the

Adjudicatory Board has not received approval of the Central Government to make regulations thereof; shall be referred by the Adjudicatory Board to the Central Government for its decision and necessary directions.

14. Power to relax.-

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, in consultation with the Presiding Officer of the Adjudicatory Board by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

15. Saving.-

Nothing in these rules shall affect reservation, relaxation of age-limit and other concessions required to be provided for the scheduled castes, scheduled tribes, other backward classes, economically weaker sections, ex-servicemen, and other special categories of persons in accordance with the rules and orders issued by the Central Government from time to time in this regard.

16. Interpretation.-

If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

Schedule 1
(See rule 3)

1. Registrar
2. Secretary
3. Director
4. Deputy Director
5. Assistant Director
6. Administrative
Officer
7. Private Secretary
8. Section Officer
9. Cashier
10. Assistant
11. Librarian
12. Accounts Officer
13. Hindi Translator
14. Stenographer /
Typist
15. Lower Divisional
Clerk(LDC)
16. Upper Divisional
Clerk(UDC)
17. Staff Car driver(SCD)
18. Peon

¹ This is an indicative list. The IPA / Ministry of Ports, Shipping and Waterways may (after receiving feedback from stakeholders) add more posts / positions in the Schedule.

Rule 13

MAJOR PORT AUTHORITIES (FIXATION AND IMPLEMENTATION OF SCALE OF RATES, FEES AND CONDITIONS) RULES

In exercise of the powers conferred by first proviso to sub-section (1) of section 27 read with sub-section (2) of section 71 of the Major Port Authorities Act, 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;

(b) “**Board**” shall have the meaning assigned to it in the Act;

(c) “**port assets**” shall have the meaning assigned to it in the Act;

(d) “**change in law**” means the adoption, promulgation, modification, reinterpretation or repeal after the commencement of the Act by any Government Authority of any statute, rule, ordinance, regulation or order, treaty, convention, directive, guideline, policy having force of law;

(e) “**Government Authority**” means the Central Government, any state government or any governmental department, commission, board, body, bureau, agency, authority, instrumentality, administrative body, at central, state, or local level, having jurisdiction over the major port, the port assets, services or any portion thereof;

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

- (i) Transporting of passengers or goods between vessels in the port or 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 in the possession or occupation of the Board or at any place within the limits of the port or port approaches;
- (iii) craning or portering of goods on any such place;
- (iv) wharfage, storage or demurrage of goods on any such place;
- (v) receiving, removing, shifting, transporting, storing or delivering goods brought within the port assets;
- (vi) carrying passengers by rail or by other means within the limits of the port or port approaches;

- (vii) receiving and delivering, transporting and booking and despatching goods originating in the vessels in the port and intended for carriage by the neighbouring railways, or vice versa, as a railway administration under the Indian Railways Act, 1890 (9 of 1890);
- (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 ports;
- (x) any other service in respect of vessels, passengers or goods including services ancillary to the operations of the port.

(g) “**section**” means the section of the Act.

(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.

(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. Power of Board to constitute committee or committees for determination of scale of rates, fees and conditions.-

(1) The Board may constitute a committee or committees 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; and

(b) not less than two and not exceeding four senior officials of the major port not below the rank of General Manager.

(3) Each committee constituted by the Board under sub-rule (1) shall have a tenure of two 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 or committees 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 in that behalf.

(5) The Board may allow the committee or committees constituted under sub-rule (1) to consult such experts, professionals or other officers of the major port (not below the rank of Manager) 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 or committees constituted by the Board.-

(1) The committee or committees 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 or committees constituted by the Board under sub-rule (1) of rule 4 shall not be influenced by any vested or interest party in discharge of its functions under these rules.

6. Approval, fixation and publication of scale of rates, etc. 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 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 concerned stakeholders.

(2) The scale of rates, fees and conditions fixed by the Board under sub-rule (1) shall come into force from such date as may be stipulated and published by the Board by way of an order in writing and the same shall remain valid for a period of two years from the said date.

(3) The scale of rates, fees and conditions fixed under sub-rule (1) shall be published in such mode as may be specified by the Board by an order in writing.

7. Fixation of first scale of rates, etc.-

Notwithstanding anything contained herein and until the first scale of rates, fees and conditions are approved and published by the Board under these rules, the Board shall, for the purposes mentioned in rule 3, adopt such scale of rates, fees and conditions that were existing prior to the constitution of the Board under the Act.

8. 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) 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 become effective from the date on which such change in law occurs, without any need by the Board to issue any order or publication to that effect.

9. 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.

(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.

10. 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 there for, 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) When in pursuance of this rule any of the scale of rates has been cancelled or modified, such cancellation or modification shall be published by the Central Government in the Official Gazette and shall thereupon have effect accordingly.

11. 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.

(3) If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.
