

FILE NO. 5(5)/2017PD-VII
Government of India
Ministry of Ports, Shipping and Waterways

ANNEXURE- 1

TO BE INTRODUCED IN LOK SABHA

Bill No. _____ Of 2020

INDIAN PORTS BILL, 2020	
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<u>INDIAN PORTS BILL, 2020</u>	
<p>A BILL <i>to consolidate and amend the law relating to ports, take measures to effectively regulate and control ports in India and facilitate the structured growth and development of the port sector, and ensure optimum utilization of the coastline of India; to provide for conservation of ports and safety and security at ports in line with the best trade practices worldwide; to constitute a central regulatory authority, state maritime boards adjudicatory and appellate tribunals for effective administration, control and management of ports in India, for regulatory, planning and developmental purposes for the speedy redressal of port related disputes and to foster coordination between the Union and the States and among States, as may be necessary, and to meet the requirements in the maritime transport sector in the larger interest of the nation; and to provide for matters ancillary and incidental thereto, or connected therewith.</i></p> <p>BE it enacted by the Parliament in the Seventy-First Year of the Republic of India as follows: -</p>	Long title
CHAPTER I PRELIMINARY	
<p>1. Short Title, Commencement And Application: -</p> <p>(1) This Act may be called the Indian Ports Act, 2020. (2) It shall come into force on such date as the Central Government may, by Notification in the Official Gazette, appoint. (3) It applies to-</p> <p style="padding-left: 40px;">(a) all Ports and all Vessels within Port Limits; and (b) to such parts of navigable waters including rivers, waterways and channels as may be notified by the Central Government in the Official Gazette and hereinafter referred to as the appointed date; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.</p> <p>Provided that nothing in this Act shall apply to:</p> <p style="padding-left: 40px;">(c) any Vessel of war, military aircraft or military sea-plane, or (d) any Vessel in the service of the Government during the period when the security of India or any part of territory thereof is threatened by war or external aggression or armed rebellion or during proclamation of</p>	Short Title, Commencement And Application

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<p>emergency under clause (1) of article 352 of the Constitution, or (e) any foreign Vessel of war, or (f) any other Vessel or port which may be notified by the Central Government.</p>	
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<p>2. Definitions- In this Act, unless there is anything repugnant in the subject or context -</p> <p>(1) "Tribunal" means the Maritime Ports Tribunal constituted under Section 9 of this Act;</p> <p>(2) "Appellate Tribunal" means the Maritime Ports Appellate Tribunal established under Section 11 of this Act;</p> <p>(3) "Appointed date" means such date or dates as the Central Government may, by Notification, appoint for purpose of different provisions of this Act;</p> <p>(4) "Area" in relation to any provision of the Act, means such area which may include, any water, any land, or any Port or any part of any navigable river or channel;</p> <p>(5) "Authority" means the Maritime Port Regulatory Authority established under Section 7;</p> <p>(6) "Coastal State" with reference to the mainland of India as well as the individual or composite group or groups of islands constituting part of the territory of India means the States and Union Territories in, or bordering on the territorial waters of India as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 including any creeks and tidal rivers;</p> <p>(7) "Conservator" means a person appointed by the Government under Section 21 of this Act;</p> <p>(8) "Deputy Conservator" means a person appointed by the Government under Section 21 of this Act;</p> <p>(9) "Dock" includes all basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slipways, gridirons, moorings, transit-sheds, warehouses, tramways, railways and other works and things appertaining to any dock, and also the portion of the sea enclosed or protected by the arms or groynes of a harbour;</p> <p>(10) "Foreshore" means the part of a shore between high- and low-water marks;</p> <p>(11) "Convention" means any International Convention or Treaty or Agreement in relation to maritime matters and their protocols to which India is a party and as are adopted by the Central Government or made applicable by the Central Government from time to time;</p>	<p style="text-align: center;">Definitions</p>
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<p>(12) “Government”, unless otherwise provided in this Act, shall mean State Government for Ports other than Major Ports and the Central Government for Major Ports;</p> <p>(13) “Guidelines” mean the guidelines issued by the Government and/ or by the Authority under this Act;</p> <p>(14) "High-water-mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year at the port;</p> <p>(15) “Land” includes the bed of the sea or river, and also things attached to the earth or permanently fastened to anything attached to the earth;</p> <p>(16) "Low-water-mark" means the lowest point reached by the sea, river, lake, water channel or any other water body during ordinary springtime;</p> <p>(17) “Magistrate” means a person exercising powers under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974);</p> <p>(18) “Major Port” means any Port which the Central Government may by Notification in the Official Gazette declare, or may under any law for the time being in force have declared, to be a Major Port;</p> <p>(19) “Master”, when used in relation to any Vessel making use of any Port, includes, any person (except a pilot or harbour-master) having command or charge of a ship;</p> <p>(20) “National Port Policy” means National Port Policy notified under Section 6 by the Central Government;</p> <p>(21) “National Ports Plan” means National Ports Plan issued under Section 6;</p> <p>(22) "Net Ton" means net tonnage as determined or determinable by the Merchant Shipping Act, 1958 (Act No. 44 of 1958) and the rules made therein;</p> <p>(23) “Notification” means a Notification published in the Official Gazette and the expression “notify” shall be construed accordingly;</p> <p>(24) “Obstruction” includes any material including any cargo, bunker or pollutant or such other thing including any Vessel or part of a Vessel, or of any public nuisance in any part of the Port which impedes or is likely to impede port activity or which pollutes or is likely to pollute the environment;</p> <p>(25) “Owner”, —</p> <ul style="list-style-type: none">(i). in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods; and(ii). in relation to any aircraft making use of any Port, means an owner as provided in Section 2(1) of Aircraft Act, 1934 (Act No. of 1934);(iii). in relation to any Vessel making use of any Port, includes any part-owner, charterer, consignee, or mortgagee in possession thereof; <p>(26) “Pier” includes any stage, stairs, landing place, hard, jetty, floating barge, floating storage unit, transhipper or pontoon and any bridges or other works connected therewith;</p> <p>Explanation. —For the purposes of this definition, the term “transhipper” means a floating craft or Vessel, whether dumb or self-propelled, on which</p>	
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gears are provided for discharging cargo from a barge or wharf and loading it into a ship;

(27) “Pilot” means a person for the time being authorised to pilot Vessels in the manner prescribed by the Central Government under this Act or any other Act for the time being in force;

(28) “Port” includes any terminal, offshore terminal, captive jetty, shipyard, repair yard or roadstead or port facility or single buoy mooring which is normally used for the loading, unloading, building or repair or anchoring of Vessels, or any other place at which a vessel can call, or any part of a river or channel;

(29) “Port Activity” is not restricted to and includes

- (i). the movement, mooring, hauling out, maintenance and launching of Vessels;
- (ii). the movement of, and provision of services to passengers of Vessels; and
- (iii). the movement, handling and storage of goods; or
- (iv). any other such activity as may be notified or as may be permitted by any Port;

(30) “Port Assets” is not restricted to and includes any asset within the port limits including land, movable or immovable property or any other property, whether tangible or intangible, owned by the Port or vested with the Port through the Central Government or the State Government, as the case may be;

(31) “Port Facility” or “Port Facilities”, is not restricted to and includes

- (i). unless indicated otherwise in the Act, facilities provided for or in relation to Port activities or the administration of the Port which includes:
 - a) maritime structures and other buildings, structures and enclosures; and
 - b) railways; and
 - c) machinery, equipment, vessels, vehicles and aircraft;
- (ii). For the purposes of Chapter IX and X, port facility means a specific location in a Port where passengers or commodities are transferred between land and water carriers or between two water carriers, including wharves, piers, sheds, warehouses, yards, and docks;

(32) “Port Limits” means the limits notified by the Government as port limits and will include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels or for the improvement, maintenance or good governance of the Port and its approaches, whether within or without high-water-mark, and, subject to any right of private property therein, any portion of the shore or bank within fifty metre of high-water-mark;

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<p>(33) "Port Officer" is an officer of the Port who is appointed by the Government;</p> <p>(34) "Port Operation" is not restricted to, and includes,</p> <ul style="list-style-type: none">a) the carrying out of port activities or port works; orb) the provision of port services; orc) the provision, management or operation of port facilities; <p>(35) "Port Operator" means a person who carries out port operations under this Act.</p> <p>(36) "Port Service" is not restricted to and includes:</p> <ul style="list-style-type: none">(a) carrying out Port activities;(b) dredging, engineering, marine civil construction, pollution management, security, pilotage, towage, vessel movement control, emergency response, shore stabilization and waste management services; and(c) supplying provisions or equipment to vessels; and(d) supplying water, fuel or electricity; and(e) providing for the use or hire of port facilities; and(f) providing labour for any purpose;(g) port terminal services;(h) handling, storage and transportation of goods on land adjoining the Port and for the handling of passengers carried by vessels;(i) embarking or disembarking of master, crew and other personnel;(j) any other services notified for the purposes of this definition; <p>(37) "Port Service Provider" means a person who carries out port services in accordance with this Act;</p> <p>(38) "Port Works" are not restricted to and includes works for port purposes and includes</p> <ul style="list-style-type: none">(a) designing, constructing, extending, maintaining, removing or demolishing: -<ul style="list-style-type: none">(i). maritime structures and other buildings, structures, machineries, equipment and enclosures; and(ii). railways, roads, bridges, and embankments; and(b) reclaiming land from the sea or a river; <p>(39) "Prescribed" means prescribed by the rules made under this Act;</p> <p>(40) "Reception Facilities", in relation to a Port means facilities for enabling vessels using the Port, terminal shipyard, ship repair facility, ship breaking facility, or ship recycling facility to discharge or deposit any substance subject to control by relevant and applicable pollution prevention Conventions;</p> <p>(41) "Regulations" means the regulations made by the Government and/or by the Authority under this Act;</p> <p>(42) "Schedule" means a Schedule to this Act;</p> <p>(43) "Scheduled Port" means a Port which is listed or deemed to be listed under the First Schedule;</p>	
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| <p>(44) “Specification” means a description of goods, article, process, system, port service, or port operations, as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or processing, consistency and reliability of service delivery or other characteristics to distinguish it from any other goods, article, process, system, port service or port operations;</p> <p>(45) “Specify” means as specified by the regulations made under this Act;</p> <p>(46) “Standards” means in relation to goods, article, process, system, port service or port operations means the standards specified by the authority under this Act;</p> <p>(47) “State Government”, unless provided otherwise, shall mean the Government in Coastal states; and in relation to the State Maritime Board, shall mean the State Governments within the territory of which the Ports administered by the State Maritime Board are located;</p> <p>(48) “State Maritime Board” means the State Maritime Board constituted under Section 33 of this Act;</p> <p>(49) “Table” means table for classification of offences provided in the third Schedule to this Act;</p> <p>(50) “Ton” means a ton as determined or determinable by the Merchant Shipping Act, 1958 (Act No. 44 of 1958) and the rules made therein, for regulating the measurement of the gross tonnage of ships;</p> <p>(51) “Vessel” includes any ship, boat, sailing vessel or other description of vessel used or constructed for use in navigation by water, whether it is propelled or not, and includes a barge, lighter or other floating vessel, a hovercraft, an off-shore industry mobile unit, a vessel that has sunk or is stranded or abandoned and the remains of such a vessel;</p> <p>Explanation. — A vessel shall not be deemed to be a vessel for the purposes of this clause, when it is broken up to such an extent that it cannot be put into use for navigation, as certified by a surveyor;</p> <p>(52) “Wharf” includes any wall or stage and any part of the Land or Foreshore that may be used for loading or unloading goods, or for the embarkation or disembarkation of passengers and any wall enclosing or adjoining the same.</p> | |
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CHAPTER II DECLARATION OF A PORT AND ITS PORT LIMIT	
<p>3. Power to extend or withdraw the Act or certain portions thereof. —</p> <p>(1) The Government may, after obtaining prior recommendation from the Maritime Port Regulatory Authority (hereinafter, “Authority”) in such a manner as provided under this Act, declare by way of notification in the Official Gazette, that—</p> <p>(a) This Act shall be extended to any port in which this Act is not in force or to any part of any navigable river or channel which leads to any port and in which this Act is not in force;</p> <p>(b) Specially extend the provisions of this Act to any port to which they have not been so extended;</p> <p>(c) Withdraw this Act or any part thereof in which it is for the time being in force.</p> <p>(2) A notification under clause (a) and (b) of sub-section (1) shall define the limits of the Area to which it refers.</p> <p>(3) The port so notified under sub-section (1) shall be deemed to be a Scheduled Port from the date on which such notification comes into force;</p> <p>(4) Anything done or any action taken or purported to have been done or taken, including any act, order, rule, regulation, by-law, Notification, policy made or issued or any operation undertaken or any direction given by the State Government or any person authorised by the State Government, to the extent that they are inconsistent with this Section or any Notification issued under this Section, will stand repealed on such date as the Central Government may, by Notification in the Official Gazette, appoint.</p>	<p>Power to extend or withdraw the Act or certain portions thereof</p>
<p>4. Alteration of Port Limits -</p> <p>(1) Notwithstanding anything contained in any other law, or any notification issued under the Indian Ports Act, 1908, the Government may, after obtaining prior recommendation from the Authority in such a manner as may be provided under this Act, by notification, in the Official Gazette, subject to any right of a person of his private property, alter the port limits of Scheduled Ports.</p> <p>Explanation. — For the removal of doubts, it is hereby declared that the power conferred on the Government under this sub-section includes the power to alter the port limits by uniting such port with any other port or any part of any other port.</p> <p>(2) The Notification under sub-section (1), shall declare or describe the precise distance between two Scheduled Ports or the precise extent of such limits, as the case may be, by notification in the Official Gazette and</p>	<p>Alteration of Port Limits of Ports</p>

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<p>by such other means, if any, as it thinks fit.</p> <p>(3) The port limit of Scheduled Ports as notified under sub-section (1) and (2) shall be deemed to be applicable with respect to the Scheduled Ports from the date on which such Notification comes into force;</p> <p>(4) Anything done or any action taken or purported to have been done or taken, including any act, order, rule, regulation, by-law, Notification, policy made or issued or any operation undertaken or any direction given by the State Government or any person authorised by the State Government, to the extent that they are inconsistent with this Section or any Notification issued under this Section, will stand repealed, on such date as the Central Government may, by Notification in the Official Gazette, appoint.</p>	
<p>5. Commencement of Operations by Scheduled Ports:</p> <p>(1) All Scheduled Ports shall make an application to the Authority for its registration under this Act, in such form and in such manner as specified in this Act and shall be accompanied by such fee as may be prescribed by the Authority by regulations which may be issued under the rule-making powers of this Act.</p> <p>(2) The Authority may, after making such enquiry and subject to such terms and conditions as it may specify, grant a certificate of registration to the Scheduled Port allowing commencement of port operations.</p> <p>(3) The Authority may, by order, suspend or cancel a certificate of registration granted under sub-section (2) in such manner as may be determined by regulations:</p> <p>PROVIDED THAT no order under this sub-section shall be made unless the concerned Scheduled Port has been given a reasonable opportunity of being heard.</p> <p>(4) No Port other than Scheduled Ports registered under sub-section (1) shall commence operations for the purposes of this Act after the appointed date:</p> <p>PROVIDED THAT all Scheduled Ports notified by the Government under Section 3 of this Act, shall commence operations, within such port limits and in such manner as set out in the Notification;</p> <p>(5) The Government shall notify, within a period of one year, all the ports which have commenced operation prior to the appointed date; under Section 3 of this Act;</p> <p>PROVIDED THAT all ports operating prior to the appointed date, will continue to operate, for a period not exceeding two (2) years from the date of this Act coming into force and not thereafter, unless such port is specifically permitted by</p>	<p>Commencement of Operations by Ports under this Act</p>

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<p>the Central Government.</p> <p>(6) Notwithstanding anything contained in sub-section (3) herein, all Ports operating prior to the appointed date shall be governed by the provisions of this Act, from the date that this Act comes into force, that being, the appointed date.</p>	
<p>6. National Port Policy and Plan: -</p> <p>(1) The Central Government shall, from time to time, prepare and publish the National Port Policy, in consultation with the State Governments and the Maritime Port Regulatory Authority in order to create a framework for the sustainable development of ports based on an optimum utilisation of the coastline of India</p> <p>(2) The Central Government may, from time to time, in consultation with the State Governments and the Authority, review or revise, the National Port Policy referred to in sub-section (1).</p> <p>(3) The Authority, shall prepare a National Port Plan in accordance with the National Port Policy and issue such plan within such time and in such manner as shall be notified by the Central Government:</p> <p>PROVIDED THAT the Authority, while preparing the National Port Plan shall publish the draft National Port Plan and invite suggestions and objections thereon from the State Maritime Boards, port operators, port officials, employees, dock workers and members of the public within such time as may be notified;</p> <p>PROVIDED FURTHER THAT the Authority shall-</p> <p>(a) publish the plan after obtaining the approval of the Central Government;</p> <p>(b) revise the plan incorporating therein the directions, if any, given by the Central Government while granting approval under clause (a).</p> <p>(4) The Authority, from time to time, may review or revise the plan notified under sub-section (3) in accordance with the National Port Policy.</p>	<p style="text-align: center;">Preparation of National Port Policy and Plan</p>

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CHAPTER III

CONSTITUTION OF MARITIME PORT REGULATORY AUTHORITY, MARITIME PORTS TRIBUNAL AND MARITIME PORTS APPELLATE TRIBUNAL

7. Constitution of Authority: -

(1) With effect from such date as the Central Government may by notification in the Official Gazette specify in this behalf, there shall be established for the purposes of this Act, a body called the Maritime Port Regulatory Authority, hereinafter "Authority", to exercise such functions and perform such duties as are assigned to it under this Act.

(2) The Authority shall consist of the following members namely

- (a) a Chairperson to be appointed by the Central Government; and
- (b) two members to be appointed by the Central Government as full-time members which shall include one Member (Legal); and
- (c) two members to be appointed by rotation in alphabetical order from such persons as may be nominated by the concerned Coastal State Government to represent the Coastal States as part-time members for a term of two years from the date on which they enter upon their office or until they attain the age of seventy years, whichever is earlier;

PROVIDED THAT no person shall be appointed as Member (Legal) unless he—

- (d) is eligible to be a Judge of a High Court; or
- (e) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years;

PROVIDED THAT the Chairperson, full time members and the nominees of the concerned Coastal States shall be such persons of eminence, having adequate knowledge, or experience in, or shown capacity in, dealing with matters relating to ports, maritime, shipping, management, finance, economics, port policy, law, administration and operation of ports;

PROVIDED THAT no act done by the Authority shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Authority.

(3) The Central Government shall, for the purposes of selecting the Chairperson and other members of the Authority, constitute a Selection Committee consisting of—

- (i). Secretary to the Government of India, Ministry of Ports, Shipping and

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Waterways- Chairperson;

- (ii). Secretary to the Government of India, Ministry of Finance- Member;
- (iii). Secretary to the Government of India in charge of Commerce, Ministry of Commerce and Industry-Member; and
- (iv). Secretary to the Government of India, Department of Legal Affairs, Ministry of Law and Justice-Member.

PROVIDED THAT before appointing any person as the Chairperson or other member, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or such other member;

PROVIDED FURTHER THAT any person so appointed who is, prior to appointment, in the service of the Central Government, State Government or an undertaking, corporation or company owned or controlled by the Central Government or any State Government or from any other non-Governmental or corporate body shall resign or retire from such service before joining as the Chairperson or other member, as the case may be.

- (4) The Chairperson and full - time members of the Authority shall hold office for a term not exceeding five years from the date on which they enter upon their office or until they attain the age of seventy years, whichever is earlier.
- (5) The salary, allowances and the other terms and conditions of service of the Chairperson and other Members, shall be such as may be prescribed by the appropriate authority.

PROVIDED THAT neither the salary and allowances nor the other terms and conditions of service of the Chairperson or any other member shall be varied to his disadvantage after appointment.

- (6) The Chairperson or any other member may resign their office by giving notice thereof in writing to the Central Government and on such resignation being accepted, the Chairperson or such other member shall be deemed to have vacated office.
- (7) The Chairperson or any other member, upon ceasing to hold office as such, —
 - (a) Shall be ineligible for further employment under the Central Government or any State Government; and
 - (b) Shall not accept any commercial employment for a period of two years from the date they cease to hold such office.

Explanation.—For the purposes of this section, “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes

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also a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an advisor or a consultant.

- (8) The Chairperson shall have the powers of general superintendence and directions in the conduct of the affairs of the Authority and shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions of the Authority, as may be assigned to him by the Authority.
- (9) The Central Government may remove from office the Chairperson or any other member, who—
- (a) has been adjudged as insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
 - (c) has become physically or mentally incapable of acting as a member; or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

PROVIDED THAT no Chairperson or other member shall be removed from office under clause (d) or clause (e) unless the Central Government Central Government has satisfied itself that such person ought to be removed on such ground or grounds, after holding an inquiry in accordance with procedure so prescribed on this behalf by any person appointed or authority constituted for the purpose.

- (10) The head office of the Authority shall be at such place as the Central Government may notify.

PROVIDED THAT the Authority may hold its sittings at such other places as the Chairperson may decide from time to time having taken into consideration the convenience to decide the matters referred to it.

- (11) All questions which come up before any sitting of the Authority shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.
- (12) All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by the Chairperson in this behalf.
- (13) The Authority may, with the approval of the Central Government, determine the number, nature, categories and salaries of other officers and employees required to assist the Authority in the efficient discharge of its functions.

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8. Functions of the Authority	Functions of the Authority
<p>(1) The functions of the Authority shall be: -</p> <p>(a) to advise the Central Government on matters relating to the National Port Policy and Plan, formulate short-term and perspective plans for development of the Port Sector and co-ordinate the activities of the planning agencies for optimal utilization of the Coastline of India to sub serve the interest of the national economy;</p> <p>(b) to make recommendations, either <i>suomoto</i> or on a request from the Central Government or the State Government or from any other authority under this Act, on the following matters, namely: -</p> <p>(i). Assessing the necessity, feasibility and viability of new and/ or existing ports;</p> <p>(ii).Assessing efficiency, economy, capacity and competitiveness of the existing ports/ facilities;</p> <p>(iii). Determining measures to facilitate competition and promote efficiency in the operation of ports and to facilitate growth of the port sector;</p> <p>(iv). Determining measures for promotion of investment in the port sector;</p> <p>(v).Determining the implementation of technological advancements in the port sector;</p> <p>(vi). Determining measures for the development of the port sector and any other matter in relation to ports in general;</p> <p>(vii).Determining measures for the efficient and optimum utilisation of the available coastline;</p> <p>(viii). Provide recommendations on any other matter referred to the Authority by the Central Government or State Government, as the case maybe;</p> <p>(ix). Provide recommendations on any other matter, if, in the opinion of the Authority, such recommendation would help in improving the management or administration of ports or promote growth of the port sector.</p> <p>PROVIDED that the Government shall seek the advice or recommendations of the Authority in respect of matters provided in clause (a) and (b) of sub-section (1) and the Authority shall forward its advice or recommendations within a period of sixty days from the date on which that Government sought the advice or recommendations;</p> <p>PROVIDED also that the Government, after having considered that a recommendation of the Authority under clause (b) of sub-section (1), comes to a <i>prima facie</i> conclusion that such a recommendation cannot be accepted or needs modifications, it shall refer the recommendation back to the Authority for its reconsideration, and the Authority may, within fifteen days from the date of receipt of such reference, forward its recommendations to the Government after considering the reference made by that Government. After receipt of further recommendation if any, the Government shall take a final decision.</p>	

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<p>(c) discharge the following functions: -</p> <ul style="list-style-type: none">(i). Registration of Scheduled Ports and further empowered to renew, withdraw, suspend or cancel such registrations;(ii). Specify the model terms and conditions for different types of contracts entered into for the purpose of executing port activities, port operations, port services or port works for the Scheduled Ports, including those contracted out to third parties;(iii). Specifying the standards, specifications, and quality of services to be provided by the Scheduled Ports and to ensure compliance thereof by the Scheduled Ports;(iv). Passing of an order that groups any number of ports (not being Major Ports) in the State to be regarded as constituting a single port for the purposes as may be provided in the order so passed;(v). To promote the development of ports and to regulate the functioning and practices of Scheduled Ports;(vi). To monitor the performance of the Scheduled Ports and pass any directions as may be required for compliance with the provisions of this Act and the regulations issued hereunder;(vii). To conduct periodical studies and performance audits of the Scheduled Ports at such intervals as may be determined by the Authority;(viii). Specify the manner of collecting and storing data by ports and for providing access to such data;(ix). To collect and maintain any information, records, data, research studies and other information with respect to ports and the port sector, the execution of the National Port Policy, and the National Ports Plan as may be prescribed under the relevant provision of this Act;(x). To publish such information, data, research studies, reports and other information as may be specified by regulations issued by the appropriate and relevant authority from time to time;(xi). To maintain a register which shall be called the Maritime Ports Register and which shall be kept at the head office of the Authority containing such details of ports, as may be specified from time to time.(xii). To allow public access to the data and to the Maritime Ports Register maintained by the Authority in such manner and on payment of such fee as may be determined by the Authority, by regulations;(xiii). To maintain websites and such other universally accessible repositories of electronic information as may be necessary;(xiv). To enter into Memorandum of Understanding (MoU) with any other statutory authorities established under any other law for the time being in force;(xv). To promote and assist in the timely completion of schemes and projects for the purpose of developing the port sector;(xvi). To submit such reports as may be required by the Central Government, from time to time;(xvii). To review the draft of concession agreements and advise the State	
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Maritime Board on whether any provisions thereof may be incompatible with the promotion of competition, may amount to an anticompetitive practice or may result in an abuse of a dominant position;

(d) To discharge such other functions as may be provided in this Act;

- (2) The Authority may, for the discharge of its functions under clause (c) and clause (d) of sub-section (1), make such regulations or guidelines or directions, as it may consider necessary, which shall be binding on the ports, port-officers, port operators, port service providers, State Maritime Boards and on any other authority constituted under any law in force, unless otherwise provided by the Authority.
- (3) The Authority may request the Government or ports, port-officers, port operators, port service providers, or any Authority vested with administration, control or management of ports, in writing, to furnish such information or documents as may be necessary for the purpose of discharging its functions under sub-section (1) and such information shall be supplied by the persons Specified by the Authority within the period Specified by the Authority in such a request.
- (4) While discharging its functions under this Act, the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.
- (5) The Authority shall ensure transparency while exercising its powers and discharging its functions.
- (6) In discharge of its functions, the Authority shall be guided by the National Port Policy and by such directions in matters of policy involving public interest as the Central Government may give to it in writing.
- (7) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

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<p>9. Powers regarding complaints and resolution of disputes by the Authority—</p> <p>(1) If any dispute arises, in respect of matters referred to in sub-section (2), such dispute shall be decided by a Bench consisting of the Member (Legal) and one or more members nominated by the Chairperson or the Chairperson himself:</p> <p>PROVIDED THAT if the members of the Bench differ on any point or points, they shall state the point or points on which they differ and refer the same to a full-time member other than a member of the Bench for hearing on such point or points and such point or points shall be decided according to the opinion of that member.</p> <p>(2) The Bench constituted under sub-section (1) shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as are exercisable by a civil court to—</p> <p>(a) Receive and adjudicate any complaint raised by any aggrieved person or reference made by the Central Government or State Government or State Maritime Board, concerning alleged anticompetitive practices or abuse of a dominant position at Scheduled Ports;</p> <p>(b) Receive and adjudicate any complaint raised by any aggrieved person or reference made by the Central Government or State Government or State Maritime Board in relation to Port-charges levied by Scheduled Ports, and whether those Port-charges are in violation of the provisions of this Act, or amount to or evidence an anti-competitive practice or an abuse of a dominant position;</p> <p>(c) Receive and adjudicate any complaint raised by any aggrieved person or reference made by the Central Government or State Government or State Maritime Board, with respect to any combination of: -</p> <p style="margin-left: 20px;">(i) a shipping line and a terminal operator;</p> <p style="margin-left: 20px;">(ii) a Port services provider with another Port services provider; or</p> <p style="margin-left: 20px;">(iii) a terminal operator with another terminal operator in the same Port or in a nearby Port, for causing or being likely to cause an appreciable adverse effect on competition within the relevant market in India;</p> <p style="margin-left: 20px;">(iv) Disputes of anti-competitive practices, or an abuse of a dominant position at Scheduled Ports and to make an order thereon prior to or upon merger;</p> <p>(d) Discharge such other adjudicatory functions as may be assigned to it by the Government under this Act or under any other Act.</p> <p>PROVIDED THAT the Bench shall determine matters connected with clauses (a), (b), and (c), in accordance with the provisions contained in the Competition Act, 2002 (12 of 2003) and in adjudication of these matters shall have the same powers vested in the Competition Commission of India under the Competition</p>	<p>Powers regarding complaints and resolution of disputes by the Authority</p>
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<p>Act, 2002;</p> <p>(3) No complaint under sub-section (2) shall be entertained by the Bench unless it is made within a period of three months from the date on which the cause of action first arose;</p> <p>PROVIDED THAT the Bench may allow a complaint under sub-section (2) to be filed after the expiry of the said period of three months if it is satisfied that there was sufficient cause for not filing such complaint but such period shall not exceed sixty days.</p> <p>(4) Each complaint under sub-section (2) shall be made to the Bench in such form, contain such particulars and be accompanied by such documents and fees as may be prescribed.</p> <p>(5) The Bench, in regard to matters referred under sub-section (2), may pass an order to: -</p> <p>(i). provide any relief including refund, restitution or compensation for any loss or damage or injury caused to the aggrieved person or complainant; or</p> <p>(ii). in relation to matters falling under sub-section (2) clause (a), (b) and (c), pass any order or impose any such penalty which the Competition Commission of India has the power to pass or impose under the Competition Act, 2002; or</p> <p>(iii). in relation to matters falling under sub-section (2) clause (d), impose any fine not exceeding five lakh rupees for violation of the provisions of this Act, or of any Rules, Regulations, Specifications, Orders or Directions given under this Act.</p> <p>(6) Any matter under sub-section (2), which is pending in any court or other authority shall stand transferred to the Bench.</p> <p>(7) The complaint preferred under sub-section (2) shall be dealt with by the Bench as expeditiously as possible and endeavour shall be made by the Bench to dispose of the complaint finally within four months from the date of receipt of the complaint, as the case may be:</p> <p>PROVIDED THAT where any complaint could not be disposed of within the said period of four months, the Bench shall record its reasons in writing for not disposing of the complaint within that period.</p> <p>(8) The Bench shall ensure transparency while exercising its powers and discharging its functions.</p> <p>(9) In discharge of its functions, the Bench shall be guided by the National Port Policy and the National Port Plan and by such directions as may be issued by the Central Government.</p> <p>(10) Subject to the provisions of this Act, every order made by the Bench under this Act shall be final and shall not be called in question in any suit, application, execution or other proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Act.</p> <p>(11) The Central Government or a State Government or the State</p>	
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<p>Maritime Board or any person as may be prescribed may make an application to the Authority for adjudication of any dispute referred to in Clause (2).</p> <p>(12) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), the Authority shall have the power to decide matters referred to in sub-section (2) on or after the appointed day.</p>	
<p>10. Constitution of Adjudicatory Board and its functions:</p> <p>(1) The State Government shall, within six months from the appointed date, by notification, constitute an Adjudicatory Board for ports other than Major ports for the purpose of adjudicating any dispute relating to or connected with ports other than Major Ports; Public Private Partnership (PPP) concessionaires; State Maritime Boards; captive users or port officials or port users or port service providers or port operators and such Adjudicatory Board shall consist of a Presiding Officer and such other members not exceeding two in number, as may be appointed by the State Government.</p> <p>(2) The qualifications, term, allowances and salaries of the Presiding Officer and the members of the Adjudicatory Board shall be prescribed by the State Government through rules or regulations, which shall be notified from time to time.</p> <p>(3) The head office of the Adjudicatory Board for ports other than Major Ports shall be at such place as the State Government may notify.</p> <p>PROVIDED THAT the Adjudicatory Board for ports other than Major Ports may hold its sittings at such other places as the Presiding Officer may decide from time to time having taken into consideration the convenience to decide the disputes referred to it.</p> <p>(4) In addition to its function mentioned in sub-section (1) and in addition to such other functions as may be notified by the State Government, the Adjudicatory Board for ports other than Major ports referred to in sub-section (1) shall perform the following functions, namely: —</p> <p>(a) To receive and adjudicate reference to any dispute or differences or claims relating to rights and obligations of ports other than Major ports for the purpose of adjudicating any dispute relating to or connected with ports other than Major Ports; PPP concessionaires; State Maritime Boards; captive users or port officials or port users or port service providers or port operators or of any other licensee under this Act and to pass orders after</p>	<p style="text-align: center;">Constitution of Adjudicatory Board and its functions.</p>

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- considering and hearing all the parties involved in the dispute;
- (b) To look into the complaints received from port users against the services and terms of service rendered by the ports other than Major Ports or the private operators operating in the ports other than Major Ports and to pass necessary orders after hearing the parties concerned;
 - (c) To advise the State Government on any matter referred to it by the State Government;
 - (d) To discharge such other functions as may be assigned to it by the Central Government.

PROVIDED THAT in regard to matters connected with clauses (a) and (b) above, the Adjudicatory Board shall have the power to adjudicate upon the disputes or to refer such a dispute for arbitration.

- (5) The Adjudicatory Board shall ensure transparency while exercising its powers and discharging its functions.
- (6) In the discharge of its functions, the Authority shall be guided by the National Port Policy and the National Port Plan and by such other directions as may be issued by the Central Government or relevant and appropriate authority from time to time.
- (7) The procedure to be adopted by the Adjudicatory Board, while discharging its functions referred to in sub-section (1) shall be such as may be prescribed by the relevant and appropriate authority or through the Central Government in exercise of its rule making power under the provisions of this Act.
- (8) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1) and (4), the Adjudicatory Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—
 - (a) The discovery and production of books of account and other documents, at such place and at such time as may be specified by the Adjudicatory Board;
 - (b) Summoning and enforcing the attendance of persons and examining them on oath;
 - (c) Issuing commissions for the examination of witnesses or documents; and
 - (d) Any other matter which may be prescribed by the relevant and appropriate authority from time to time.
- (9) Any proceeding before the Adjudicatory Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code and the Adjudicatory Board shall be deemed to a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

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<p>(10) Subject to the provisions of this Act, every order made by the Adjudicatory Board under this Act shall be final and shall not be called in question in any suit, application, execution or other proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Act.</p>	
<p>11. Constitution of Appellate Tribunal. —</p> <p>(1) The Appellate Tribunal, for the purposes of this Act, shall be the Adjudicatory Board constituted under Section 54 of the Major Port Authorities Act, 2020 and the Presiding Officer and other members of the Adjudicatory Board shall act as the Presiding Officer and members of the Appellate Tribunal.</p> <p>(2) The Appellate Tribunal shall hear and dispose off an Appeal against: -</p> <p>(a) any direction, decision or order passed by the Bench of the Authority under this Act; or</p> <p>(b) any direction, decision or order passed by the Authority under Section 18 or 19 of this Act.</p> <p>(3) The Central Government or a State Government or a local authority or any person aggrieved by any such direction, decision or order which falls under sub-section (2), may prefer an appeal to the Appellate Tribunal.</p> <p>(4) Every appeal under sub-section (3) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be Prescribed:</p> <p>PROVIDED THAT the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period, but such period shall not exceed fifteen days.</p> <p>(5) On receipt of an appeal under sub-section (4), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.</p> <p>(6) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.</p> <p>(7) The appeal preferred under sub-section (3) shall be dealt with by the Appellate Tribunal as expeditiously as possible and endeavour shall be made by the Appellate Tribunal to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:</p> <p>PROVIDED THAT where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its</p>	<p style="text-align: center;">Constitution of Appellate Tribunal for Ports and functions to be performed by it</p>

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<p>reasons in writing for not disposing of the application or appeal within that period.</p> <p>(8) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (3), on its own motion or otherwise, call for the records relevant to disposing of such appeal and make such orders as it thinks fit.</p> <p>(9) If at any stage of the hearing of any case or matter, it appears to the Presiding Officer or a Member of the Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Presiding Officer to such Bench as the Presiding Officer may deem fit.</p>	
<p>12. Procedure of the Authority and the Appellate Tribunal—</p> <p>(1) The Authority and the Appellate Tribunal shall have, for the purposes of discharging its functions under Section 10 and 11 respectively, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely: —</p> <p>(a) summoning and enforcing the attendance of any person and examining him on oath;</p> <p>(b) 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 and production of such documents;</p> <p>(c) receiving evidence on affidavits;</p> <p>(d) issuing commissions for the examination of witnesses or documents;</p> <p>(e) dismissing an application for default or deciding it, <i>ex parte</i>;</p> <p>(f) setting aside any order of dismissal of any application for default or any order passed by it, <i>ex parte</i>;</p> <p>(g) granting interim relief;</p> <p>(h) reviewing its decision; and</p> <p>(i) any other matter which may be Prescribed.</p> <p>(2) Every proceeding before the Authority and the Appellate Tribunal under Section 10 and 11 respectively, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Board shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).</p> <p>(3) The Authority and the Appellate Tribunal shall be guided by the principles of natural justice and subject to other provisions of this Act and of any rules made thereunder, shall have powers to regulate its own procedure</p>	<p>Procedure and Powers of the Authority and the Appellate Tribunal while carrying out adjudicatory functions</p>

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<p>including the places at which it shall conduct its business.</p>	
<p>13. Bar of jurisdiction of any court.—No other court or authority shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the Appellate Tribunal is empowered by or under Section 10 and 11 of this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of power conferred by or under Section 10 or 11 of this Act.</p>	<p>Exclusive jurisdiction</p>
<p>14. Dispute Resolution: Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall be determined by such person or persons as the Adjudicatory Board may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.</p>	<p>Alternate Dispute Resolution</p>
<p>15. Orders passed by Authority and the Appellate Tribunal under this Act to be executable as a decree. —</p> <p>(1) An order passed by the Authority and the Appellate Tribunal under this Act shall be executable by the Authority and the Appellate Tribunal as a decree of civil court, and for this purpose, the Authority and the Appellate Tribunal shall have all the powers of a civil court.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Authority and the Appellate Tribunal may transmit any order made by it under this Act, to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.</p>	<p>Orders passed by the Authority and the Appellate Tribunal this Act to be executable as a decree</p>
<p>16. Appeal to Supreme Court. —</p> <p>(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds provided in section 100 of that Code.</p> <p>(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.</p> <p>(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:</p> <p>PROVIDED THAT the Supreme Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.</p>	<p>Appeal to Supreme Court.</p>
<p>17. Penalty for wilful failure to comply with orders of the Authority and the Appellate Tribunal.—If any person wilfully fails to comply with the order of the Authority and the Appellate Tribunal, he shall be punishable with fine which</p>	<p>Penalty for wilful failure to comply with</p>

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<p>may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.</p>	<p>orders of Authority and the Appellate Tribunal</p>
<p>CHAPTER IV PROCEDURE WITH RESPECT TO EXERCISE OF POWERS UNDER SECTION 3 AND 4 OF THE ACT</p>	
<p>18. Procedure with respect to exercise of powers under Section 3 and 4 of the Act—</p> <p>(1) If the Government is of the opinion that it is desirous or necessary or expedient, to notify a Port under Section 3 of this Act or to alter the Port Limits of Scheduled Ports under Section 4 of this Act, it shall send to the Authority, the draft Notification along with the project proposal in such form and manner as may be Specified by the Authority, and consult with the Authority for this purpose.</p> <p>(2) The Authority shall within thirty days of the date of consultation, give its recommendation to the Government with respect to the draft Notification.</p> <p>PROVIDED that while giving its recommendation under sub-section (2), the Authority shall consider minimum distance from existing Ports having due regard to the local conditions, investment already made in existing Ports and any other conditions notified by the Central Government.</p> <p>Explanation: For the purposes of sub-section (2), “local conditions” shall include regard to factors such as distance between Scheduled Ports, overlapping of catchment areas, existing capacity of subject ports, capacity of subject ports for future expansion, port services offered, port infrastructure, performance of subject ports, density of traffic at subject ports, projected traffic at subject ports, the relevant geographic market structure and conditions, internal and/or international requirements for the subject ports, feasibility for port users, barriers to entry and development of new ports, development of economic zones, land-availability and any other factors which the Central Government may consider fit.</p> <p>PROVIDED that the draft Notification and the project proposal shall also be sent by the Authority to the Central Government or the Coastal State Governments, as the case maybe, for comments, within such time as may be prescribed.</p> <p>PROVIDED also that the Authority will make the recommendation under sub-section (2) after considering the representation of the Central or Coastal State Governments, as the case maybe.</p>	<p>Procedure with respect to exercise of powers under Section 3 and 4 of the Act</p>

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<p>PROVIDED also that such a recommendation by the Authority shall be binding on the Government.</p> <p>PROVIDED that any recommendation provided under sub-section (2) of this Act will only remain valid for a period of 6 months and thereafter, for the purposes of exercise of its power under Section 3 and 4 of this Act, the Government may initiate fresh action under sub-section (1).</p> <p>(3) If the concerned Government, having considered that a recommendation of the Authority under sub-section (2) of sub-section (1), comes to a conclusion that such a recommendation cannot be accepted or needs modifications, then:</p> <p>(a) it shall refer the recommendation back to the Authority for its reconsideration, within thirty days from date of receipt of the recommendation under sub-section (2);</p> <p>(b) The Authority, within thirty days from the date of receipt of such reference, if any, shall withdraw its earlier recommendation and issue a fresh recommendation under sub-section (2) or shall modify its recommendation under sub-section (2) or shall reject the reference made under sub-section (3)(a), as it deems fit.</p> <p>(4) The Authority may request the Government to furnish such information or documents as may be necessary for the purpose of discharging its functions under sub-section (2) and that Government shall supply such information within a period of seven days from receipt of such request.</p>	
<p>19. Deletion of Port from the First Schedule—</p> <p>(1) If upon survey by the Authority, it appears to the Authority that a Scheduled Port is in violation of the conditions of approval or in violation of any provision of this Act or the rules or Regulations or Specifications provided under this Act or is otherwise no longer feasible, it shall make a representation to that effect to the Central Government.</p> <p>(2) Where the Scheduled Port under sub-section (1) is a Major Port, the Central Government, after considering such representation, may send it to the concerned authority established under The Major Ports Act, 1963 or under any successor thereto, for administration, control and management of such Scheduled Major Port, along with such remarks as it may choose to make, with an intimation of the period within which the Major Ports authority may submit its explanation to the Central Government.</p> <p>(3) On the receipt of the explanation or, where no explanation is submitted within the period fixed under sub-section (2), the Central Government, after making such further inquiry, if any, as it may think fit, may, by Notification in the Official Gazette, may cause such Port to be deleted from the First Schedule.</p>	<p>Deletion of Port from the First Schedule</p>

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<p>(4) Where the Scheduled Port under sub-section (1) is a Port other than a Major Port, then notwithstanding anything contained in sub-section (2) and (3), the Central Government, after considering such representation, may send it to the State Government of the State in which the Port is situated and the State Government shall forward it to the State Maritime Board along with such remarks as it may choose to make, with an intimation of the period within which the State Maritime Board may submit its explanation to the State Government.</p> <p>(5) On the receipt of the explanation or where no explanation is submitted within the period fixed, then on the expiry of that period, the State Government shall make its recommendations to the Central Government with respect to the Scheduled Port under sub-section (4).</p> <p>(6) The Central Government, after making such further inquiry, if any, as it may think fit, may, by Notification in the Official Gazette, cause such Port under sub-section (5) to be deleted from the First Schedule.</p> <p>(7) Upon Notification being passed by the Central Government under subsection (6), any Notification issued under Section 3(3) shall be deemed as lapsed.</p>	
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CHAPTER-V	
PORT OFFICIALS, THEIR POWERS AND FUNCTIONS	
<p>20. Appointment of conservator: -</p> <p>(1) The Government shall appoint an officer or body of persons to be the conservator for the port, or for two or more ports.</p> <p>(2) In a port where the conservator is not in place, the deputy conservator shall be deemed to be the conservator of that port;</p> <p>(3) The conservator may, with the approval of the Government, delegate such of his powers as he thinks fit to a deputy conservator, harbour-master or other official of the Government.</p> <p>(4) The deputy conservator, and his assistants, including the harbour Master shall be subject to the supervision and control of the conservator.</p> <p>(5) The conservator shall be subject to the control of the Government, or of any intermediate authority as the Government may appoint.</p>	<p>Appointment of conservator</p>
<p>21. Powers of conservator-</p> <p>(1) The conservator of a port, with respect to any Vessel within the port, subject to the provision of this Act may issue directions for complying with any rule for the time being in force.</p> <p>(2) The conservator of a port, with respect to any Vessel within the Port, may, subject to such conditions as the Conservator may think fit to impose-</p> <p>(a) direct where the Vessel shall be berthed, moored or anchored and the</p>	<p>Power of conservator to issue directions</p>

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<p>method of anchoring;</p> <p>(b) direct the removal of the vessel from any place within the Port to any other place and the time within which such removal is to be effected;</p> <p>(c) regulate, restrict or prohibit the movement of vessels in the port and the approaches to the Port; or</p> <p>(d) prohibit any Vessel from entering or leaving the Port, where such a Vessel fails to comply with the mandatory provisions of this Act or of any other Law in force or of such rules, regulations, orders or directions which may be given under this Act or under any other Law in force.</p> <p>(3) The Conservator in exercise of his powers under this Act, shall be bound by the provisions of this Act or any other Law in force or of such mandatory rules, regulations, orders or directions which may be given under this Act or under any other Law in force.</p> <p>(4) If any person wilfully and without reasonable cause refuses or neglects to obey any direction of the conservator, after notice thereof has been given to him, he shall, for every such refusal or neglect, be punishable as provided in the Table and in the case of a continuing refusal or neglect, with such action as the Government may deem appropriate.</p> <p>(5) In case of such refusal or neglect, the conservator may cause or cause to be done, all the necessary acts for execution of the directions and may hire and employ suitable persons for this purpose, and all expenses incurred in this behalf shall be recoverable from the person for such refusal or neglect.</p> <p>(6) The Conservator, for the purposes of discharge of his duties and functions under this Act, shall have: -</p> <p>(a) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask; and</p> <p>(b) power to require any person so questioned to make and sign a declaration of the truth of the statements made by him.</p>	
<p>22. Power to cut warps and ropes. – The conservator of a Port may, in case of urgency cut or cause to be cut, any warp, rope cable or hawser endangering the safety of any Vessel or Port asset in the Port or at or near the entrance thereof and move the Vessel to a different place at the cost of the person having control over the Vessel.</p>	<p>Power to cut warps and ropes</p>
<p>23. Removal of Obstructions within limits of Port.-</p> <p>(1) The conservator may remove, or cause to be removed, any Obstruction or impediment being in any part of a Port, which in his opinion obstructs or impedes the Port Activity or the lawful use of any Pier, jetty, landing-place, Wharf, quay, Dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the Port.</p> <p>(2) The person causing any Obstruction or impediment shall be liable to pay the reasonable expenses for the removal thereof and if such Owner or any</p>	<p>Removal of Obstructions within limits of Port</p>

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<p>other person has without lawful excuse caused any such Obstruction or impediment or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable as provided in the Table and shall also be liable for any damages caused to the Port.</p> <p>(3) The conservator may cause removal of Obstruction or impediment within the Port Limits, including dismantling of the obstruction or impediment if required, either on his own, or through any external agency or through an officer authorised by the conservator in this regard, in accordance with such rules, regulations, orders or directions which may be given by the Central Government under this Act or under any other Law in force.</p> <p>(4) No injunction shall be granted by any court or other authority in respect of any action taken or to be taken by the Conservator for removal of any obstruction, where such removal is done for the purpose of uninterrupted navigation in such Port or to contain pollution of the environment.</p>	
<p>24. Recovery of expenses for removal of Obstructions. -</p> <p>(1) The conservator may recover expenses incurred for removal of Obstruction in any part of the Port, from the person causing such Obstruction by public auction of the Obstruction, and may retain all the expenses for such removal and sell out the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same and if no such person is available, the conservator shall cause the same to be kept and deposited in such manner as the Government directs;</p> <p>(2) The Conservator may, if necessary, recover the expenses of keeping the unsold thing or materials together with the expenses of sale, by further sale of so much of the thing or materials as may remain unsold from time to time;</p> <p>PROVIDED THAT, if the sale proceeds are not adequate to meet the expenses incurred, such person shall be liable to pay the shortfall along with the interest as may be directed by the Conservator.</p>	<p style="text-align: center;">Recovery of expenses for removal of Obstructions</p>
<p>25. Removal of lawful Obstructions outside Port Limits. -</p> <p>(1) If any Obstruction or impediment to the navigation of any Port subject to this Act has been lawfully made or has become lawful by reason of the long continuance of such Obstruction or impediment, or otherwise, the conservator shall report the same for the information of to the Government, and shall, with the sanction of the Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.</p> <p>(2) Any dispute arising concerning such compensation shall be determined according to the law relating to disputes in the case of Land required for public purposes.</p>	<p style="text-align: center;">Removal of lawful Obstructions beyond limits of Port</p>

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<p>26. Fouling of moorings. - If any Vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Government in any such Port, the Master of such Vessel shall not, nor shall any other person, except in case of emergency, lift the buoys or moorings for the purpose of unhooking or getting clear from the same without the assistance of the conservator; and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such Vessel; and the Master of such Vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same and for repairing the damages or for the replacement, if required, notwithstanding his right to reimbursement, if any.</p>	<p style="text-align: center;">Fouling of moorings</p>
<p>27. Raising or removal of wreck impeding Port Activity within limits of Port.</p> <p>(1) If any Vessel is wrecked, stranded, abandoned, stateless or sunk in any Port with or without cargo, the conservator shall give notice to the Owner of the Vessel to raise, or remove or dismantle the Vessel within such period as may be stipulated in the notice and to furnish such adequate security to the satisfaction of the conservator to ensure that the Owner of the Vessel shall cause the Vessel to be raised, or removed or dismantle within the said period;</p> <p>PROVIDED THAT the conservator may extend such period to such further period as he may consider necessary having regard to the circumstances of such case and the extent of its impediment to navigation and pollution of the environment.</p> <p>(2) Where the Owner of any Vessel to whom a notice has been issued under sub-section (1) fails to raise or remove or dismantle such Vessel within the period stipulated in the notice or the extended period or fails to furnish the security required of him, the conservator may cause the Vessel to be raised, or removed or dismantled.</p> <p>(3) Notwithstanding anything contained in the forgoing sub-sections, if the conservator is of the opinion that any Vessel which is wrecked, stranded, abandoned, stateless or sunk in any Port is required to be immediately raised, removed or destroyed for the purpose of uninterrupted navigation in such Port, he may, without giving any notice under sub-section (1), cause the Vessel to be raised, removed or dismantled.</p> <p>(4) No injunction shall be granted by any court or other authority in respect of any action taken or to be taken by the Conservator for raising, removal or dismantling of any such wreck, where such an act is carried out for the purpose of uninterrupted navigation in such Port or to contain pollution of the environment</p> <p>(5) If any property recovered by a conservator acting under sub-section (2) or sub-section (3) is unclaimed or the person claiming it fails to pay the expenses incurred by the conservator under that sub-section and a further</p>	<p style="text-align: center;">Raising or removal or wreck impeding Port Activity within limits of Port</p>

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<p>sum of twenty per cent of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than thirty days after the recovery thereof.</p> <p>(6) The expenses and further sum aforesaid shall be payable to the conservator out of the sale proceeds of the property, and the balance, shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:</p> <p>Provided that the person makes his claim within three years from the date of the sale.</p> <p>(1) Where the sale proceeds of the property are not sufficient to meet the expenses and further sum aforesaid, the Owner of the Vessel at the time the Vessel was wrecked, stranded, abandoned or sunk shall be liable to pay the deficiency to the conservator on demand, and if the deficiency be not paid within one month of such demand the conservator may recover the deficiency from such Owner as debt in any court of competent jurisdiction.</p>	
<p>28. Power to board Vessels and enter buildings. -</p> <p>(1) The conservator or a person authorized by the conservator, whenever he suspects that any offence against the provisions of this Act has been, or is about to be committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act, and the person appointed under this Act to receive any Port dues, fees or other charges payable in respect of any Vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act, either alone or with any other person, board any Vessel, or enter any building or place, within the limits of any Port subject to this Act</p> <p>(2) If the Master of the Vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such Vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable as provided in the Table.</p>	<p>Power to board Vessels and enter buildings</p>
<p>29. Power to require crews to prevent or extinguish fire, or other aspects pertaining to safety, security, pollution prevention of the Vessel, personnel and Port. -</p> <p>(1) For the purpose of preventing or extinguishing fire, or for any matter affecting the safety, security or pollution prevention aspect of the Vessel or personnel in any Port subject to this Act, the conservator or duly authorized official of Port may require the Master of any Vessel within the Port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such Master.</p> <p>(2) Any Master refusing or neglecting to comply with such requisition shall be punishable as provided in the Table, and any seafarer, then under his orders who,</p>	<p>Power to require crews to prevent or extinguish fire, or other aspects pertaining to safety, security, pollution prevention of the Vessel, personnel and Port</p>

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<p>after being directed by the Master to obey the orders of the conservator or authorized official of the Port for the purpose aforesaid, refuses to obey such orders, shall be punishable as provided in the Table.</p>	
<p>30. Appointment and powers of health-officer. - (1) The Central Government may appoint at any Port subject to this Act, an officer, or an empanelled medical practitioner as the health-officer at the place to carry out the functions of the Port health officer. (2) A health-officer shall be subject to the control of the Central Government and have the following powers, within the limits of the Port for which he is appointed, or empanelled, namely: - (a) with respect to any Vessel, the powers of inspection of provisions, water and sanitation of a Vessel including accommodation of the Vessel. (b) power to enter on board any Vessel and medically examine all or any of the seafarer or apprentices on board the Vessel; (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the Vessel. (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask; and (e) power to require any person so questioned to make and sign a declaration of the truth of the statements made by him.</p>	<p>Appointment and powers of health-officer</p>
<p>31. Indemnity of Government against act or default of Port-official or Pilot. - (1)The Government shall not be responsible for any act or default of any conservator, or harbour-Master, of any Port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any Pilot, or for any damage sustained by any Vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the Vessel. Provided that nothing in this section shall protect the Government from a suit in respect of any act done by or under the express order or sanction of the Government.</p>	<p>Indemnity of Government against act or default of Port official or Pilot</p>
<p>CHAPTER-VI MANAGEMENT AND ADMINISTRATION</p>	
<p>32. Constitution of State Maritime Board – (1) Every State Government for a port other than a Major Port, shall, within six months from the appointed date constitute for the purposes of this Act, a Maritime Board for the State to be known as the State Maritime</p>	<p>Constitution of State Maritime Board</p>

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Board.

- (2) Notwithstanding anything contained in sub-section (1), the Central Government may by way of Notification allow such State Government as are mentioned in the Notification to perform the functions of a State Maritime Board;
- (3) The State Government shall prescribe the manner and terms of appointment of the Chairperson and the members of the State Maritime Board, the duties of the Chairperson and the staff of the State Maritime Board.

PROVIDED THAT the State Maritime Boards which have been constituted by State Governments under the enactments listed in the second Schedule and are functioning as such before the appointed date, shall be the State Maritime Boards for the purposes of this Act and the Chairperson, Members, Secretary, and other officers and other employees thereof shall continue to hold office, on the same terms and conditions on which they were appointed under those Acts;

PROVIDED THAT the State Government may appoint as the member of the State Maritime Board such persons as may be nominated by the Central Government.

- (4) The State Maritime Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the name with which it is constituted, sue or be sued.
- (5) The State Government may transfer, and vest, amongst other things, all port land, property, assets, funds, interest in property, all rights to levy rates, fees, rents and other sums of money, all contracts entered into, all rights to enter into a public works contract and other rights, liabilities, obligations, debts, dues connected with the affairs of ports other than Major Ports, and personnel serving under the State Government before such day solely or mainly for or in connection with affairs of the port, to the State Maritime Board.
- (6) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by the State Government in exercise of its powers under the Indian Ports Act, 1908, shall to the extent that they are not inconsistent with the provisions of the Act, be deemed to have been incurred, entered into or done by the State Maritime Board, and all suits or other legal proceedings instituted by or against the State Government, as the case maybe, be continued or instituted by or against the State Maritime Board or concerned transferee.
- (7) The head office of the State Maritime Board shall be at such place as the State Government may notify.

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33. Functions of the State Maritime Board –

In addition to any other such functions as the State Government may notify, the functions of the State Maritime Board with respect to the Ports other than Major Ports within the territory of the respective state, shall be: -

- (a) to initiate plans for development of the Scheduled Ports other than the Major Ports in the state in line with the National Port Policy and National Port Plan notified by the Central Government;
- (b) to promote the use, development, and improvement of Scheduled Ports other than the Major Ports in the State;
- (c) to execute such works within or outside the limits of Scheduled Ports other than Major Ports and provide such facilities or such equipment to Ports other than Major Ports, as may be notified by the Central Government, State Government or the Authority;
- (d) to provide and maintain adequate and efficient lighthouses beacons and other lights buoys and other navigational aids and services at such places as the State Maritime board may deem appropriate;
- (e) to exercise licensing functions in respect of infrastructure and services provided by Scheduled Ports other than Major Ports;
- (f) to exercise supervision and control over all Port Activities, Port Operations, Port Services or Port Works for the Scheduled Ports other than Major Ports, including those contracted out to third parties;
- (g) to regulate and control navigation within the limits of Scheduled Ports other than Major Ports and the approaches to the Scheduled Ports other than Major Ports in the state;
- (h) to receive Port-dues;
- (i) to plan or provide or secure the provision of a safe economical and efficient sea transport system for movement of goods and persons in the state;

PROVIDED THAT, the State Maritime Board shall ensure that security at port confirms the norms required under International Ships and Ports Security (ISPS) code and also the compliance of security guidelines/instructions/Notifications issued by Ministry of Home Affairs and Ministry of Ports, Shipping and Waterways, from time to time.

- (j) To develop new ports other than Major Ports, as may be notified by the Central Government and the State Government in the State within the Port Limits to be notified by the Central Government and which are in accordance with any notification published by the Central Government or the State Government in exercise of its powers under this Act, *subject to obtaining requisite clearances for new projects from the Central Government and security clearance for new projects from Ministry of Home Affairs, Government of India*

PROVIDED THAT, the State Maritime Board shall ensure that all security

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clearance pertaining to projects/developments/operation of Scheduled Ports other than Major Ports be processed in consultation with concerned central security agencies and in accordance with the standard operating procedures recommended by the Task Force on National *Committee On Strengthening Maritime And Coastal Security (NCSMCS) against threats from the sea.*

- (k) To protect ecological balance and safeguard social and environmental issues;
- (l) To ensure that Scheduled Ports other than Major Ports are equipped with minimum facilities, as Specified by the Authority;
- (m) To ensure that the Scheduled Ports other than Major Ports meet the minimum quality, Standards, technical Specifications and have such facilities and equipment as Specified by the Authority;
- (n) To conduct a survey and inspection of Scheduled Ports other than Major Ports to check for compliance with all facilities and Standards as Specified by the Authority;
- (o) To ensure that the Scheduled Ports other than the Major Ports provide Reception Facilities in accordance with the requirements of the MARPOL Convention and in accordance with the provisions of this Act or the Merchant Shipping Act, 1958 or any order, directions, rules, Regulations, Standards notified by the Central Government in this regard, and to survey and supervise and guide provisioning of such Reception Facilities by Ports other than Major Ports.
- (p) To take appropriate measures to require that wastes generated during operation, repair and re-cycling of Vessel are collected, handled, treated and disposed of in a safe and environmentally sound manner, to protect human health and the environment in accordance with the provisions of this Act or the Merchant Shipping Act, 1958 or any order, directions, rules, Regulations, Standards notified by the Central Government in this regard;
- (q) To ensure safety and security management is carried out in accordance with the provisions of this Act or the Merchant Shipping Act, 1958 or any order, directions, rules, Regulations, Standards notified by the Central Government in this regard;
to look into and address the complaints submitted by Port users against the services and terms of service rendered by the Ports other than Major Ports or the private operators operating in the Ports other than Major Ports after hearing the parties concerned, through a grievance redressal mechanism comprising of such members of the State Maritime Board who are nominated by the State Maritime Board as Grievance Redressal Officers, in such a manner as may be prescribed by the Government.
- (s) Without prejudice the above, to provide or ensure the providing of such other services and other facilities as are in the opinion of the State Maritime Board necessary for the efficient operation of Ports systems of Scheduled Ports other than Major Ports in the state;

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<p>(t) Without prejudice to the above, to carry out all the functions that may be notified by the State Government and as may be required by law.</p>	
<p>34. Power to issue directions – The State Maritime Board may in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any port other than Major Ports, or port-users, or captive users, or port-officials or port service provider or port operators or any other licensee, and such person shall be bound to comply with such directions.</p>	<p>Power of State Maritime Board to issue directions in writing to Ports other than Major Ports</p>
<p>CHAPTER – VII SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS</p>	
<p>35. Damage to the property of the Port: - (1) No person shall, without lawful excuse, remove, destroy or damage any property including any wharf or jetty belonging to or in the custody or possession of the Port or hinder or prevent such property from being used or hinder or prevent such property from being used or operated in the manner which it is intended to be used or operated. (2) If any person offends against the provisions of this section, he shall be punishable with a fine not exceeding One Lakh Rupees and shall be liable to make good any loss, destruction or damage suffered by the Port, including the expenses of any inspection or survey carried out by the Port to ascertain such loss, destruction or damage.</p>	<p>Damage to the property of the Port</p>
<p>36. Improperly discharging ballast, oil, garbage and sewage from ships and emission from ships – (1) No emissions or ballast, oil, oily waste, noxious liquid substance, garbage, sewage shall be emitted or discharged from a Vessel in contravention of the provisions of the MARPOL Convention, or Ballast Water Convention or such other Convention as may be applicable. (2) Any person, who contravenes the provision of sub-section (1), in addition to the punishment, shall be liable to pay the expenses incurred in removing or cleaning such oil, oily wastage, noxious liquid substance, garbage, sewage as provided in the Table. (3) If, after receiving notice from the conservator of the port, or an official authorized by the conservator to desist from discharging ballast, oil, oily waste, noxious liquid substance, garbage, sewage or rubbish or such other thing, any Master continues so to cast, throw or discharge the same, he shall also be punishable as provided in the Table.</p>	<p>Improperly discharging ballast, oil, garbage and sewage from ships and emission from ships</p>

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<p>37. Warping. - (1) Every Master of a Vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the Vessel for the purpose of warping any other Vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do. (2) A Master offending against sub-section (1) shall be punishable for every such offence as provided in the Table.</p>	<p>Warping</p>
<p>38. Provision of Vessels with life-saving appliances and fire extinguishing appliances. — (1) Every Vessel lying in any Port to shall be provided with such life-saving appliances and fire extinguishing appliances as may be mandated under the Merchant Shipping Act, 1958 and the Rules, Regulations, Orders and Notifications made thereunder. (2) The Master of such a Vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to one lakh rupees.</p>	<p>Provision of Vessels with life saving appliances and fire extinguishing appliances</p>
<p>39. Penalty on Master omitting to take order to extinguish fire. – If the Master of any Vessel in which fire takes place while lying in any such Port wilfully omits to take order to extinguish the fire or obstructs the conservator or any person acting under the authority of the conservator in extinguishing or attempting to extinguish the fire, he shall be punishable as provided in the Table.</p>	<p>Penalty on Master omitting to take order to extinguish fire</p>
<p>40. Offences in connection with safety of Vessels, etc. – Any person who — (a) wilfully and without lawful excuse loosens or removes from its moorings or from its fastenings any Vessel in the port without leave or authority from the master or owner of such Vessel; or (b) wilfully and without lawful excuse lifts, injures, makes a Vessel fast to, loosens or sets adrift any moorings, buoys, beacons or sea or landmarks; or (c) without any lawful excuse discharges any gun in the port except for such purpose as is allowed under any law in force; or (d) graves, breams or smokes any Vessel in the port, or boils or heats any pitch, tar, resin, dammar, turpentine oil or other such combustible matter on board any vessel within the port, at any time or within any limits at or within which such act is prohibited by the Government, or contrary to the orders or directions of the Conservator; or (e) by an unprotected artificial light draws off spirits on board any Vessel within any ship subject to this Act; or (f) does or omits to do any act on board any vessel in the port which has</p>	

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<p>caused or may cause fire on board such vessel; or</p> <p>(g) uses a Vessel or permits a Vessel to be used in the port when such vessel is in such a state that by reason of the defective condition of its hull, equipment or machinery, or by reason of under-manning or otherwise, the life of any person is likely to be endangered or the safety of any other Vessel navigating in the Port is likely to be endangered; or</p> <p>(h) causes or suffers any warp or hawser attached to his Vessel to be left out in any Port subject to this Act after sunset in such a manner as to endanger the safety of any other Vessel navigating in the Port;</p> <p>such person and the Master of the Vessel shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one lakh rupees or to imprisonment for a term not exceeding 6 months or to both.</p>	
<p>41. Unauthorised person not to search for lost stores. –</p> <p>(1) No person, without the permission of the conservator, shall, in any Port subject to this Act, creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.</p> <p>(2) If any person offends against the provisions of sub-section (1), he shall be punishable as provided in the Table.</p>	<p>Unauthorised person not to search for lost stores</p>
<p>42. Removing stones or injuring shores of Port prohibited. –</p> <p>(1) No person without the permission of the conservator shall in any Port remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the Port; and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.</p> <p>(2) If any person offends against sub-section (1), he shall for every such offence be punishable as provided in the Table; and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.</p>	<p>Removing stones or injuring shores of Port prohibited</p>
<p>43. Moving of Vessels without Pilot or permission of harbour Master. –</p> <p>(1) No Vessel shall enter, leave or be moved in any Port without having a Pilot, harbour-Master or assistant of the harbour-Master on board, unless authority in writing so to do has been obtained from the conservator or some officer authorised by him to give such authority;</p> <p>PROVIDED THAT the Government may, by Notification in the Official Gazette, direct that in any Port provided in such Notification the provisions of this sub-section shall not apply to sailing Vessels of any measurement not exceeding a measurement so provided.</p>	<p>Moving of Vessels without Pilot or permission of harbour Master</p>

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<p>(2) Notwithstanding anything in sub-section (1), the Owner or Master of a Vessel which is by that sub-section required to have a Pilot, harbour-Master or assistant of the harbour master on board, shall be answerable for any loss or damage caused by the Vessel or by any fault of the navigation of the Vessel, in the same manner as he would have been if he had not been so required by that sub-section:</p> <p>(3) If any Vessel, except in case of urgent necessity, enters, leaves or is moved in the Port contrary to the provisions of subsection (1), the Master of the Vessel shall for every such offence be punishable as provided in the Table, unless upon application to the proper officer, the Master was unable to procure a Pilot, harbour-Master or assistant of the harbour-Master to go on board the Vessel.</p>	
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CHAPTER-VIII SAFETY AND SECURITY	
<p>44. Safety and Security requirements:</p> <p>(1) For the purpose of this Chapter, all Ports in India, Port-officials, State Government and State Maritime Boards, unless otherwise exempted by the Central Government, shall comply with the provisions of this Chapter.</p> <p>(2) Every Port, Port-official, State Maritime Board, and State Government shall, subject to such conditions as may be Prescribed, comply with the provisions of the following Convention or agreement, as applicable, in the manner Prescribed by the Central Government: —</p> <p style="margin-left: 40px;">(a) International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended</p> <p style="margin-left: 40px;">(b) Convention on Facilitation of International Maritime Traffic 1965 as amended (FAL)</p> <p style="margin-left: 40px;">(c) Nairobi International Convention on the Removal of Wrecks, 2007 (NAIROBI WRC 2007)</p> <p style="margin-left: 40px;">(d) any other Convention or agreement or any treaty relating to safety or security which the Central Government may Prescribe:</p> <p>PROVIDED THAT Ports which the provisions of the above Conventions are not applicable, shall comply with such safety and security requirements as may be prescribed.</p>	Safety and Security requirements
<p>45. Compliance with general safety requirements. –</p> <p>Every port, port-official, State Maritime Board and State Government shall comply with all such safety requirements as may be Prescribed by the Central</p>	Compliance with general safety

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<p>Government under this Act and which are mandated under any other existing law in force and under any notice, order, bye-law, Notification, Rules, and Regulations published by the Central Government, to ensure compliance with the provisions of this Chapter.</p>	<p>requirements</p>
<p>46.Security of Ports:</p> <ol style="list-style-type: none"> (1) Every port, State Maritime Board and State Government to which this Chapter applies shall appoint all such Officers, prepare and submit all such documents, and plans and shall comply with any requirement as may be Prescribed by the Central Government in this regard and which is mandated under any other existing law in force and under any notice, order, by-law, Notification, rules, and Regulations published by the Central Government, to ensure compliance with the mandatory provisions of and with the provisions of this Chapter. (2) Every Port, State Maritime Board and State Government shall comply with such requirements as may be Prescribed by the Central Government for safety management and security management of the Port from time to time, under this Act or under any existing law in force. (3) Every Port-official appointed for the purposes of this Chapter, shall discharge all such duties that are necessary and/or which may be Prescribed by the Central Government, for safety management and security management of the Port from time to time, under this Act or under any existing law in force. (4) The Central Government or a person authorised by Central Government for the purpose of this Section, shall audit the Port for the purpose of compliance with sub-section (1). (5) The Central Government or a person authorised by Central Government for the purpose of this Section, may set different levels of security for each Port, the protective measures to be carried out by the Port and by all Port-officials, and employees of Port at such security level and provide such information thereof to all Ports. 	<p>Security of Ports</p>
<p>47. Vessel Traffic services: Every operating port shall prepare and implement a Vessel Traffic Services arrangement plan for safe navigation of Vessels which shall be compatible with the Port community system as provided in this Act.</p>	<p>Vessel Traffic services</p>
<p>48.Order for securing compliance:</p> <ol style="list-style-type: none"> (1) Where any port, personnel of the port or port-officer fails to comply, or fails to comply in part with the provisions of this Chapter, the Central Government may, whether or not such person is convicted of an offence under this Chapter by reason of his having so failed to comply, cause such action to be taken as it may deem necessary for carrying out the directives given in this Chapter. (2) Where the Central Government is satisfied that there are no Vessel Traffic Services arrangement plan is provided by any Port or that the Vessel Traffic Services arrangement plan is not adequate or not in compliance with any provision of this Act or any law which is in force, 	<p>Order for securing compliance</p>

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<p>the Central Government, may, by order in writing, give such directions as may be necessary for the purpose of preparation of an adequate a Port traffic flow arrangement plan.</p> <p>(3) If any Port or Port-facility or Port-officer contravenes any of the provisions of this Chapter or the rules made thereunder or the directions given by the Central Government or the persons designated by the Central Government in this regard, or contravenes any condition, limitation or restriction subject to which any approval, sanction, confirmation, direction or exemption in relation to any matter has been accorded, given or granted by the Central or by the persons designated by the Central, such a Port or Port-facility and the Port-officers in default shall be liable to the punishment as provided in the Table.</p> <p>(4) Nothing in the foregoing sub-sections, shall prevent the State Government from passing any order to secure compliance by Ports other than Major Ports to the provisions of this Chapter or the rules made thereunder or the directions given by the Central Government or the persons designated by the Central Government, in so far as any such order passed by the State Government is not inconsistent with this Act, rules, directions or orders passed by the Central Government or by persons designated by the Central Government.</p>	
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<p>CHAPTER- IX PREVENTION, CONTAINMENT OF POLLUTION AND RESPONSE</p>	
<p>49. Requirements for prevention and containment of pollution – All ports including repair ports or terminals, State Governments and State Maritime Boards, unless otherwise exempted by the Central Government, shall comply with all such requirements as may be Prescribed by the Central Government under this Act and which is mandated under any other existing law in force and under any notice, order, by-law, Notification, Rules, and Regulations published by the Central Government, to ensure prevention and containment of pollution.</p>	<p>Requirements for prevention and containment of pollution</p>

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<p>50. Reception Facilities:</p> <p>(1) All Ports, repair Ports or terminals taking into account the international Standards, shall provide such Reception Facilities for receipt of wastes including oil, noxious liquid substances, sewage, ballast water, contaminated water or exhaust gas cleaning residues from an approved exhaust gas cleaning system and thereof as may be notified by the Central Government, under this Law or under any existing law for the time being in force.</p> <p>(2) The Ports, Repair Ports or Terminal may impose reasonable charges for the use of the facilities at such rates and may impose such conditions in respect of the use thereof.</p> <p>(3) If the Ports, repair Ports or terminals fail to provide adequate reception facilities, the Conservator or the Master of the Vessel, must report such default in such manner and to such officer as may be prescribed by the Central Government, under this Law or under any existing law for the time being in force.</p>	<p>Reception Facilities</p>
<p>51. Powers to take measures for prevention or containment of pollution and reporting of incidents:</p> <p>(1) When an incident in which the cargo or harmful substance, as covered under the Merchant Shipping Act, 1958 or any other Law in force, escapes or is likely to escape at a Port and threatens or is likely to pose a threat of pollution of air or any part of coasts or coastal waters of India, the State Government or any such Authority, Board or Officer as directed by the Central Government, shall report the particulars of such incident to the Central Government in such manner as may be Prescribed.</p> <p>(2) Where the Central Government is satisfied that an incident in which the cargo or harmful substances, as covered under this Chapter Part or is likely to occur or threatens or is likely to pose a threat of pollution of air or any part of coasts or coastal waters of India, it may, by way of notice, direct the State Government or any such Authority, Board or Officer to take such Action as may be directed.</p> <p>(3) Notwithstanding anything contained in sub-section (2), the Central Government may, if it is of the opinion that the pollution caused or likely to be caused by release of harmful substances has or may present a grave and imminent danger to the coastline or related interest from pollution or threat of pollution, proceed to take such measures as may be deemed necessary to prevent, mitigate or eliminate such threat or danger and any measures so taken shall be deemed to have been taken under this section.</p> <p>(4) The Central Government and the State Government may make national arrangement systems or regional arrangement systems respectively for responding promptly and effectively to pollution incidents occurring at Ports, Repair Ports or Terminals.</p> <p>(5) Every Port shall prepare and implement a pollution incident emergency preparedness and response plan in line with the national arrangement</p>	<p>Powers to take measures for prevention or containment of pollution and reporting of incidents</p>

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<p>system, and if there is no national arrangement system, then in line with the regional arrangement system made under sub-section (4).</p>	
<p>52. Order for securing compliance:</p> <p>(1) Where any Port, personnel of the Port or Port –officer fails to comply, or fails to comply in part with the provisions of this Chapter, the Central Government may, whether or not such person is convicted of an offence under this Chapter by reason of his having so failed to comply, cause such action to be taken as it may deem necessary for carrying out the directives given in this Chapter.</p> <p>(2) If any Port, Repair Port, Terminal or Port-facility or Port-officer contravenes any of the provisions of this Chapter or the rules made thereunder or the directions given by the Central Government or the persons designated by the Central Government in this regard, such a Port, Repair Port, Terminal or Port-facility and the Port-officers in default shall be liable to the punishment as provided in the Table.</p> <p>(3) Nothing in the foregoing sub-sections, shall prevent the State Government from passing any order to secure compliance by Ports other than Major Ports to the provisions of this Chapter or the rules made thereunder or the directions given by the Central Government or the persons designated by the Central Government, in so far as any such order passed by the State Government is not inconsistent with this Act, rules, directions or orders passed by the Central Government or by persons designated by the Central Government.</p>	<p>Power of the Government to pass Orders to secure compliance with the provisions of this Chapter</p>
<p>CHAPTER-X PORT-DUES, FEES AND OTHER CHARGES</p>	

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<p>53. Levy of Port-charges: -</p> <p>(1) Every Port may levy such Port charges for different Port activities, Port Facilities and Port services of the Port including pilotage charges, and such other charges, which are reasonable and in line with commercial prudence.</p> <p>PROVIDED THAT the Port may provide different rates for different types of Vessels, different Port activities and different Port services and different facilities and will cause the same to be published in such a manner as is directed by the Government.</p> <p>PROVIDED THAT the fixation, levy and implementation of such Port charges, fees, rates and conditions shall be in consonance with the norms as may be specified by the Authority and shall—</p> <p style="padding-left: 40px;">(i) be reasonable and in line with commercial prudence;</p> <p style="padding-left: 40px;">(ii) not be with retrospective effect; and</p> <p style="padding-left: 40px;">(iii) not be inconsistent with the provisions of the Competition Act, 2002;</p> <p>(2) The Port-charges shall come into force on such date as is Notified by the Government.</p> <p>(3) The Port-charges currently leviable in any Port shall continue to be so leviable till the same are altered.</p>	<p>Levy of Port-charges</p>
<p>54. Power to Remit or exempt. -The Government may, in special cases, remit or exempt the whole or any portion of the Port charges.</p>	<p>Power to Remit or exempt</p>
<p>55. Owner, agent or Master to report arrival or departure –</p> <p>(1) The Owner, agent or Master of a Vessel shall provide intimation to the conservator of its arrival within the limits of a Port immediately after the arrival but in any case, not later than six hours after such arrival.</p> <p>(2) The owner, agent or Master of the Vessel arriving in the Port shall provide within such time and by such means to the Conservator: -</p> <p style="padding-left: 40px;">(a) a general declaration of arrival in such form as the Central Government may direct with respect to such Vessels;</p> <p style="padding-left: 40px;">(b) the clearance from the last port;</p> <p style="padding-left: 40px;">(c) a list of passengers and/ or crew on board;</p> <p style="padding-left: 40px;">(d) the particulars of insurance or any other financial security maintained in respect of the Vessel including the details regarding the name and address of the insurer and/or guarantor, the limits of liability under such insurance or financial security, the period of validity of such</p>	<p>Master to report arrival</p>

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<p>insurance or financial security along with production of satisfactory evidence in support of the details provided, in such form as the Central Government may direct with respect to such Vessels; and</p> <p>(e) such other documents or information as may be required by the Conservator or is mandated by the Government from time to time with respect to such Vessels.</p> <p>(3) The Owner, agent or Master of the Vessel intending to enter or leave the Port shall furnish, before entering or leaving the Port, such information as the Conservator may require or the Government may direct relating to such Vessels, its cargo, the estimated time of entering or leaving the Port, the details of the persons on board such Vessel including their health and medical condition or as to whether they are accused or convicted of any offence, the number of armed guards, fire arms or any other weapons on board such Vessel, if any.</p> <p>(4) The Owner, agent or Master of any Vessel who fails without lawful excuse to comply with the provisions of this Section in whole or in part, shall be punishable as provided in the Table.</p>	
<p>56. Conservator may in certain cases ascertain draught and charge expense to Master.- If any Vessel is in any Port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained and the Master of the Vessel shall be liable to pay the expenses for the same.</p>	<p>Conservator may in certain cases ascertain draught and charge expense to Master</p>
<p>57. Distraint and sale on refusal to pay Port-charges. -</p> <p>(1) If the Master of any Vessel in respect of which any Port-dues, fees or other charges are payable under this Act, refuses or neglects to pay the same on demand, the authority appointed to receive such Port-dues, fees or other charges, may distraint or arrest the Vessel, and the tackle apparel and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid; and in case any part of the Port-dues fees, or other charges, or of the costs of the distress or arrest or of the keeping of the Vessel, or other thing distrained or arrested remains unpaid for the space of five days next after any such distress or arrest, may cause the Vessel, or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, fees or other charges and the cost including the costs of sale remaining unpaid, and shall render the surplus, if any, to the Master of the Vessel upon demand:</p> <p>PROVIDED THAT where such Vessel or other thing is already arrested under the order of a Court or other authority, the authority appointed to receive Port dues, fees or other charges, may sell the Vessel or other thing only with the prior permission of such Court or other authority and satisfy the Port dues, fees or other charges and the costs including costs of sale remaining unpaid, and</p>	<p>Distraint and sale on refusal to pay Port-charges</p>

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<p>disburse the surplus, if any in accordance with the orders or directions of such Court or other authority.</p> <p>(2) Where the sale proceeds of the property are not sufficient to meet the Port-dues, fees or other charges and the cost including the costs of sale remaining unpaid, the Owner of the Vessel shall be liable to pay the deficiency to the authority appointed to receive such Port-dues, fees or other charges on demand, and if the deficiency be not paid within one month of such demand to the authority appointed to receive such Port-dues, fees or other charges , such Owner shall be punishable for such offence as is provided in the Table.</p>	
<p>58. No Port-clearance to be granted until Port-charges are paid.-The officer of the Government whose duty is to grant a Port-clearance for any Vessel shall not grant such clearance until its Owner or Master or agent, has paid or secured to the satisfaction of such officer the amount of all Port-dues, fees and other charges, and of all fines, penalties and expenses to which the Vessel or her Owner or Master is liable under this Act or under the Merchant Shipping Act,1958, unless such a Vessel or type of Vessel is exempted from the application of this Section by the Central Government by way of notification.</p>	<p style="text-align: center;">No Port-clearance to be granted until Port-charges are paid</p>
<p>59. Port-charges payable in one Port recoverable at any other Port. —</p> <p>(1) If the Master of any Vessel in respect of which any such sum as is mentioned in section 58 is payable, causes her to leave any Port without having paid the sum, the authority appointed to receive Port-dues, fees and other charges at the Port under this Act may require in writing the authority appointed to receive Port- dues, fees and other charges under this Act at any other Port in India to which she may proceed, or in which she may be, to levy the sum.</p> <p>(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner Prescribed and a certificate purporting to be made by the authority appointed to receive Port-dues, fees and other charges at the Port where such sum as is mentioned in the section 58 became payable, stating the amount payable, shall be sufficient <i>prima facie</i> proof of such amount in any proceeding and also (in case the amount payable is disputed) in any subsequent proceedings.</p>	<p style="text-align: center;">Port-charges payable in one Port recoverable at any other Port</p>
<p>60. Penalty for evading payment of Port-charges. -</p> <p>(1) If the Master of a Vessel evades the payment of any such sum as is mentioned in section 58, he shall be punishable with fine which may extend to five times the amount of the sum.</p> <p>(2) In any proceeding before a Magistrate on a prosecution under sub-section (1) any such certificate stating that the Master has evaded such payment, shall be sufficient <i>prima facie</i> proof of the evasion, unless the Master shows to the satisfaction of the Magistrate that the departure of the Vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.</p>	<p style="text-align: center;">Penalty for evading payment of Port-charges</p>

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(3) Any Magistrate having jurisdiction under this Act in any Port to which the Vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.	
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CHAPTER- XI	SUPPLEMENTAL PROVISIONS
<p>61. Hoisting unlawful colours in Port – In any Port where hoisting is mandated by the Conservator, if any Vessel hoists, carries or wears, within the limits of any Port subject to this Act, any flag, jack, pennant or colours, the use whereof is unlawful, the Master of the Vessel shall, for every such offence, be punishable with fine which may extend to fifty thousand rupees.</p>	Hoisting unlawful colours in Port
<p>62. Master to hoist number of Vessel. — (1) In any Port where hoisting the number of the Vessel is mandated by the conservator, the Master of every inward or outward bound Vessel, on arriving within signal distance of any signal-station established, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the Pilot-in-charge of the Vessel, signify the name of the Vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station. (2) If the Master of a Vessel arriving as aforesaid offends against subsection (1), he shall be punishable for every such offence with fine which may extend to fifty thousand rupees.</p>	Master to hoist number of Vessel
<p>63. Pilot to require Master to hoist number. — (1) Every Pilot in charge of a Vessel shall require the number of the Vessel to be duly signalled as provided by the last foregoing section. (2) When, on such requisition from the Pilot, the Master refuses to hoist the number of a Vessel, or to adopt such other means of making her name known as may be practicable and usual, the Pilot may, on arrival at the first place of safe anchorage, anchor the Vessel and refuse to proceed on his course until the requisition has been complied with.</p>	Pilot to require Master to hoist number
<p>64. Penalty on Pilot disobeying provisions of this Chapter.—Any Pilot in charge of a Vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter, shall be punishable with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and, in addition, shall be liable to have his authority to act as a Pilot withdrawn.</p>	Penalty on Pilot disobeying provisions of this Chapter

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<p>65. Application of sections 23, 25, 27 and 36. — (1) The provisions of sections 23, 25, 27 and 36 shall be applicable to all Ports heretofore or hereafter declared by the Government to be Ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such Port is subject. (2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions, shall be recoverable respectively in the manner provided in this Act.</p>	<p>Application of sections 23, 25, 27 and 36</p>
<p>66. Exercise of powers of conservator by his assistants. — (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master, or any deputy or assistant of such conservator or harbour-master. (2) Any person authorised by this Act to do any act may call to his aid such assistance as may be necessary.</p>	<p>Exercise of powers of conservator by his assistants</p>
<p>67. Publication of orders of Government.—Every declaration, order and rule of a Government made in pursuance of this Act shall be published in the Official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every Port to which the declaration, order or rule relates, and shall be open at all reasonable times to the inspection of any person without payment of any fee.</p>	<p>Publication of orders of Government</p>
<p>68. Grant of sites for sailors institutes. — Any local authority in which any immovable property in or near a Port is vested may, with the previous sanction, in the case of a cantonment authority or the Port authority of a Major Port, of the Central Government, and in other cases, of the State Government, appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.</p>	<p>Grant of sites for sailors institutes</p>
<p>69. Service of written notices of directions. — Any written notice of a direction given under this Act, left for the Master of any Vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the Vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.</p>	<p>Service of written notices of directions</p>
<p>70. Authorities exercising jurisdiction to co-operate in manoeuvres for defence of Port. — Every authority exercising any powers or jurisdiction in, or relating to, any Port to which this Act for the time being applies shall, if so required by an officer authorized by general or special order of the Central Government in this behalf, co-operate in such manner, as such officer may direct, in carrying out any manoeuvres in connection with any scheme or preparations for the defence of the said Port in time of war, and for this purpose shall, if so required,</p>	<p>Authorities exercising jurisdiction to co-operate in manoeuvres for defence of Port</p>

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<p>temporarily place at the disposal of such officer the services of any of its staff and the use of any of its Vessels, property, equipment or other material:</p> <p>PROVIDED THAT if any Vessels are placed at the disposal of such officer in accordance with this section, the Central Government shall, in respect of the period during which they are so at his disposal, bear the running expenses of such Vessels, and be responsible for any damage thereto.</p> <p>Explanation. -The expression 'running expenses' in this proviso includes all outlay incurred in connection with the use of the Vessels other than any charges for their hire, or for the wages of the officers and crews of such Vessels:</p> <p>PROVIDED FURTHER THAT any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the Port as is compatible with the exigencies of the efficient carrying out of the manoeuvres:</p> <p>PROVIDED FURTHER THAT no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.</p>	
<p>71. Duties of the said authorities in an emergency. – Whenever the Central Government is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes of this Act on the authorities herein mentioned, or other duties of a like nature should be imposed on such authorities continuously during the existence of the emergency, it may, by general or special order, authorise any officer to require the said authorities to perform such duties until the Central Government is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely:- The Central Government shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Central Government, and the decision of such person shall be final.</p>	<p style="text-align: center;">Duties of the said authorities in emergency</p>
<p>72. Protection of Acts done in good faith.- No suit or other legal proceeding shall lie against the Authority, Board or any member or employee thereof or against any Port-official appointed under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rules or regulations made thereunder.</p>	<p style="text-align: center;">Protection Acts done good faith.</p>

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<p>73. Application of certain provisions of the Act to aircraft and seaplane. - (1) The provisions of this Act shall apply in relation to all aircraft and seaplane making use of any part of the Port, while on water, as they apply in relation to Vessels (2) No aircraft shall enter or leave any Port subject to this Act, except with the permission granted by the conservator of the Port or by such other officer as may be authorized in this behalf by the conservator.</p>	<p>Application of certain provisions of the Act to aircraft and seaplane</p>
<p>74. Nuclear Vessels. -Every Port shall comply with the requirements provided under the Merchant shipping Act 1958 and under such other laws in force in India in respect of nuclear Vessels calling at the Port.</p>	<p>Nuclear Vessels</p>
<p>75. Dealing with emergencies.- Every Port shall take steps to ensure that the Port is ready in all respect to deal with emergencies that may arise at the Port and for this purpose the Port shall carry out regular drills to ensure that the readiness is maintained to the required level at all times.</p>	<p>Dealing with emergencies</p>
<p>76. Shore based welfare services for seafarers. -Every Port shall provide such shore-based welfare services for seafarers of Vessels calling at the Port, as may be specified by the Authority under this Act.</p>	<p>Shore based welfare services for seafarers</p>
<p>77. Port community system. — (1) The Central Government may, by Notification in the Official Gazette, direct a Port to adopt a mechanism for integration of all trade related data electronically at a centralized hub. (2) Any software applications that is used by any Port for integration of all trade related data should be interoperable with such other software applications as per the Specifications and Standards laid down by the Central Government in this regard.</p>	<p>Port community system</p>

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CHAPTER XII

PENALTIES AND PROCEDURES

78. Punishment under this Act:

- (1) Any person who contravenes any provision of this Act or fails to comply with any provision thereof, which it was his duty to comply with, shall be guilty of an offence committed under this Act.
- (2) The offences mentioned in column (2) of the Table be punishable to the extent mentioned in column (4) of the Table with reference to such offence respectively, and in case of a continuing offence with an additional fine of which may extend to ten thousand rupees for every day during which such offence continues after conviction for the first such offence.
- (3) If in respect of any offence that any person is found guilty of under subsection (1) has no penalty that is specifically provided in sub-section (2), he shall be punishable with fine, which may extend to fifty thousand rupees.
- (4) The conservator may, after affording an opportunity to all concerned parties of being heard, by order in writing, impose penalties as provided in column (4) of the Table.
- (5) Any person aggrieved by the order under sub-section (4), may, within a period of thirty days from the date of receipt of such order, prefer an appeal before the Government concerned in such form and manner as the Government may prescribe in this behalf.

PROVIDED THAT the appeal filed beyond the period of limitation may be entertained if sufficient cause that prevented him from filing the appeal in time is shown to the satisfaction of the appellate authority.

- (6) The Government concerned may, after affording opportunity to all concerned parties of being heard, within a period of thirty days from the date of receipt of the appeal under sub-section (5), pass appropriate order which shall be final and binding on all parties.

PROVIDED THAT the appeal filed beyond the period of limitation may be entertained if sufficient cause that prevented him from filing the appeal in time is shown to the satisfaction of the appellate authority.

- (7) The Government concerned may, after affording an opportunity of being heard, within a period of thirty days from the date of receipt of the appeal under sub-section (5), pass appropriate order which shall be final and binding on all parties.

**Punishment
under this Act**

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<p>79. Punishment for disobedience to rules and orders of the Government.- Any person who disobeys any rule or order made by the Government made in pursuance of this Act for which express provision has not been made elsewhere in the Act, he shall be punishable for every such offence with fine as provided in the Table.</p>	<p style="text-align: center;">Punishment for disobedience to rules and orders of the Government</p>
<p>80. Punishment for unlawful port operations: - Any person who establishes, maintains or operates any Port or commences or carries out any port operations in derogation to the provisions of this Act or any rule, regulation, guideline, notification, order or direction given under this Act, shall be punishable with a fine which may extend to five lakh rupees and, in case of a continuing offence, to a further fine not exceeding fifty thousand for every day or part thereof during which the offence continues after conviction.</p>	<p style="text-align: center;">Punishment for unlawful port operations</p>
<p>81. Offences by companies. -</p> <p>(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>PROVIDED THAT nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p> <p>Explanation. —For the purpose of this section, —</p> <p>(a) “company” means any body corporate, and includes a firm or other association of individuals; and</p> <p>(b) “director”, in relation to a firm, means a partner in the firm.</p>	<p style="text-align: center;">Punishment for offences by Companies</p>

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<p>82. Offences how triable, and penalties how recovered. — Any offence under this Act punishable with imprisonment shall be triable by a Magistrate, having jurisdiction, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the Owner or Master of any Vessel, for any offence committed on board of the Vessel or in the management thereof or otherwise in relation thereto, whereof the Owner or Master is convicted, to be levied by distress and sale of the Vessel, and the tackle apparel and furniture thereof, or so much thereof as is necessary.</p>	<p>Offences how triable, and penalties how recovered</p>
<p>83. Costs of conviction. — (1) In case of any conviction under this Act, the Magistrate may order the convict to pay the assessed costs in addition to any fine or expenses to which he may be liable. (2) Such costs shall be recovered in the same manner as fine under this Act</p>	<p>Costs of conviction</p>
<p>84. Ascertainment and recovery of expenses and damages payable. — (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the parties. (2) Whenever any person is liable to pay any sum, not exceeding one lakh rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.</p>	<p>Ascertainment and recovery of expenses and damages payable</p>
<p>85. Cost of distress.- Whenever any fine, expenses or damages is or are levied under this Act, by distress and sale, the cost of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.</p>	<p>Cost of distress</p>
<p>86. Magistrate to determine the amount to be levied in case of dispute.-If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the preceding section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.</p>	<p>Magistrate to determine the amount to be levied in case of dispute</p>

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<p>87. Jurisdiction over offences beyond local limits. —</p> <p>(1) Any person offending against the provisions of this Act in any Port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the Port.</p> <p>(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.</p>	<p style="text-align: center;">Jurisdiction over offences beyond local limits</p>
<p>88. Conviction to be quashed on merits only. —</p> <p>(1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.</p> <p>(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.</p>	<p style="text-align: center;">Conviction to be quashed on merits only</p>

<p>CHAPTER - XIII MISCELLANEOUS</p>	
<p>89. Transitional Provisions: Unless otherwise provided in this Act, any licence, authorisation, approval, clearance and permission granted or any act already done under the provisions of the repealed law may, for a period not exceeding one year from the Appointed date or such earlier period, as may be notified by the Central Government, continue to operate as if the repealed laws were in force with respect to such licence, authorisation, approvals, clearances or/and permissions or/and any act, in so far as they are not inconsistent with the provisions of this Act or any Rules or Notifications made thereunder, as the case may be.</p>	<p style="text-align: center;">Transitional Provisions</p>
<p>90. Inconsistency in laws: Nothing contained in this Act or any rule or regulation made thereunder or any instrument having effect by virtue of this Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Major Port Trusts Act, 1963 or the Merchant Shipping Act, 1958 or any rule or regulation made thereunder.</p>	<p style="text-align: center;">Inconsistency in laws</p>

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<p>91. Act to have overriding effect: Save as otherwise provided in section 89, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>	<p style="text-align: center;">Act to have overriding effect</p>
<p>92. Provisions of this Act to be in addition to and not in derogation of other laws: The provisions of this Act are in addition to and not in derogation of any other law for the time being in force.</p>	<p style="text-align: center;">Provisions of this Act to be in addition to and not in derogation of other laws</p>
<p>93. Power to make Port-rules-</p> <p>(1) The Central Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for the purpose of this Act;</p> <p>(2) The Central Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from Vessels arriving at, or being in, any such Port, and for the prevention of the conveyance of infection or contagion by means of any Vessel sailing from any such Port, and in particular and without prejudice to the generality of this provision, for—</p> <p>(i) the signals to be hoisted and the places of anchorage to be taken up by such Vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such Port from a Port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the Vessel left such Port, any infectious or contagious disease;</p> <p>(ii) The medical inspection of such Vessels and of persons on board such Vessels;</p> <p>(iii) The questions to be answered and the information to be supplied by Masters, Pilots and other persons on board such Vessels;</p> <p>(iv) the detention of such Vessels and of persons on board such Vessels;</p> <p>(v) the duties to be performed in cases of any such disease by Masters, Pilots and other persons on board such Vessels;</p> <p>(vi) the removal to hospital or other place approved by the health officer and the detention therein of any person from any such Vessel</p>	<p style="text-align: center;">Rulemaking powers</p>

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who is suffering or suspected to be suffering from any such disease;
(vii) the cleansing, ventilation and disinfection of such Vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such Vessels;
(viii) the disposal of the dead on such Vessels.

- (3) The Central Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for ensuring security of Ports including but not limited to data management, and cyber-security.
- (4) The State Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules with respect to sub-section (1), which are consistent with this Act, in so far as any such rule made by the State Government is not inconsistent with any rule made by the Central Government.
- (5) The power to make rules under sub-section (1), (2), (3) and (4) is subject to the condition of the rules being made after prior publication;
- (6) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.
- (7) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification, or annulment shall be without prejudice to the validity of anything previously done under that rule.

Any person including the Master of a Vessel disobeying any rule made under this section, shall be punishable for every such offence as provided in the Table.

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<p>94. Power to remove difficulties. -</p> <p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	<p>Power to remove difficulties.</p>
<p>95. Repeal and savings. —</p> <p>The Indian Ports Act, 1908 is hereby repealed.</p> <p>Notwithstanding such repeal, any order, rule Notification made or issued or anything done, or any action taken in pursuance of any provision of the Indian Ports Act, 1908, shall be deemed to have been made, done or taken under the corresponding provisions of this Act.</p>	<p>Repeal and savings</p>