

**LAWS OF BRUNEI**

**CHAPTER 222**  
**MARITIME AND PORT**  
**AUTHORITY OF BRUNEI DARUSSALAM**

**S 22/2017**

**REVISED EDITION 2021**



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**CHAPTER 222**

**MARITIME AND PORT  
AUTHORITY OF BRUNEI DARUSSALAM**

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# MARITIME AND PORT AUTHORITY OF BRUNEI DARUSSALAM ACT

**An Act to establish and incorporate the Maritime and Port Authority of Brunei Darussalam and for matters connected therewith and incidental thereto**

*Commencement: 28th September 2017  
[S 74/2017]*

## PART 1

### PRELIMINARY

#### **Citation and application**

1. (1) This Act may be cited as the Maritime and Port Authority of Brunei Darussalam Act.

(2) Different dates may be appointed for different provisions of this Act or for different purposes of the same provision.

(3) (i) Subject to sub-paragraph (ii), this Act does not apply to vessels belonging to or for the time being in the service of His Majesty the Sultan and Yang Di-Pertuan or of the Government.

(ii) The Minister may, by notification published in the *Gazette*, direct that any provision of this Act or any regulations made thereunder apply to any such vessels referred to in sub-paragraph (i) as may be specified in the notification.

#### **Interpretation**

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

“appointed day”, in any provision of this Act, means the date appointed for the coming into operation of that provision;

“approaches” means, in relation to a port, any area in Brunei Darussalam adjacent to a port and declared under section 3 to be the approaches to such port;

“authorised pilot” means any person employed or authorised by the Authority to pilot vessels under section 62;

“Authority” means the Maritime and Port Authority of Brunei Darussalam established under section 4;

“beacon” means a prominent specially constructed object forming a conspicuous mark as a fixed aid to navigation;

“berthing master” means any person authorised under section 62(2)(b) to act as a berthing master;

“Board” mean the Board of Directors of the Authority referred to in section 6;

“buoy” includes a floating object of any size, shape and colour which is moored to the seabed and serves as an aid to navigation or for other specific purposes;

“Chairman” means the Chairman of the Board appointed under section 6(2) and includes any person acting in that capacity;

“Chief Executive” means the Chief Executive of the Authority appointed under section 14(1) and includes any person acting in that capacity;

“container” means a receptacle 6.1 metres or more in length equipped with corner castings to facilitate handling by mechanical equipment;

“dangerous cargoes” means such cargoes, whether packaged, carried in bulk packagings or in bulk, as may be prescribed;

“Deputy Chief Executive” means the Deputy Chief Executive of the Authority appointed under section 14(1);

“Director of Marine” means the Director of Marine appointed under section 4(1) of the Merchant Shipping Order, 2002 (S 27/2002);

“dock” means an artificial excavation or construction in which vessels can be placed for loading, unloading, fitting out or repairing and includes gridirons, slips, keel blocks, inclined planes and all machinery, works, fixtures and things whatsoever attached or pertaining thereto;

“dues” includes port dues, light dues, goods dues, private wharf dues, garbage removal dues, pilotage dues and any other dues levied under this Act but does not include rates;

“equipment” includes any appliance, apparatus, machinery, system or accessory used or intended to be used for the purposes of providing marine or port services and facilities;

“Fund” means the Maritime and Port Authority of Brunei Darussalam Fund established under section 21;

“garbage removal dues” means dues levied in respect of services provided by the Authority for the removal of refuse, waste or garbage from vessels;

“goods” includes dangerous cargoes, animals, carcasses, baggage, containers and any other movable property of any kind whatsoever and whether in a refrigerated form or otherwise;

“goods dues” means dues levied in respect of goods landed from or loaded into vessels;

“harbour craft” means any vessel which is used in the port for any purpose;

“light dues” means dues levied in respect of lights, beacons and any other aids to navigation maintained by the Authority;

“lighthouse” includes any floating and other light exhibited for the guidance of vessels and also any siren and any other description of fog signals, and also any addition to a lighthouse of any improved light, or any siren, or any description of fog signal;

“marine services and facilities” means the towage and pilotage of vessels and the supply of water and fuel to vessels;

“master” includes every person, except a pilot, having command or charge of any vessel;

“member” means a member of the Board;

“Minister” means the Minister of Communications;

“owner”, when used in relation to goods includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, discharge or delivery of such goods; and, when used in relation to any vessel, includes any part-owner, charterer,

operator, consignee or mortgagee in possession of the vessel or any duly authorised agent of any such person;

“passenger” has the same meaning as in the Merchant Shipping Order, 2002 (S 27/2002);

“pilot” means any person not belonging to a vessel who has the conduct thereof;

“Pilotage Committee” means the Pilotage Committee appointed under section 66;

“pilotage district” means any area in the port declared under section 59(1) to be a pilotage district;

“port” means any place in Brunei Darussalam and any navigable river or waters leading into such place declared to be a port under section 3(1);

“port dues” means dues levied in respect of a vessel for entering, using, leaving or plying in the port;

“Port Master” means the Port Master appointed under section 15 and includes any Deputy Port Master appointed under that section;

“port services and facilities” means port terminal services and facilities for the handling, storage and transportation of goods on land adjoining the foreshore of Brunei Darussalam and for the handling of passengers carried by vessels;

“premises” includes messuages, houses, buildings, structures, lands, tenements, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority;

“private wharf” means any wharf comprised in the land area of a port which is not controlled and managed by or on behalf of the Authority.

“public licence” means a licence granted under section 81 and “public licensee” shall be construed accordingly;

“rates” means any rates or charges leviable by the Authority under this Act and includes any toll or rent but does not include dues;

“seaman” means any person normally engaged on ship’s articles on any vessel going beyond the limits of the port, but does not include —

(a) masters, mates, engineers, radio officers, pursers, cadets, laundrymen and stevedores;

(b) probationer deckhands, probationer engineroom hands and probationer catering hands under any training scheme approved by the Authority; and

(c) any other person employed on board the vessel who is engaged in duties which are not normally the duties of seamen;

“vehicle” has the same meaning as in section 2(1) of the Road Traffic Act (Chapter 68);

“vessel” includes any ship or boat or air-cushioned vehicle or floating rig or platform or any other description of vessel used in any form of operations at sea or in navigable river or waters;

“wharf” includes a quay, pier, jetty, ramp or other landing place.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulations provide that references or a particular reference to a buoy or beacon in this Act or any regulations made thereunder shall be construed as including, in such circumstances as are specified in the regulations made under this subsection, equipment of a kind so specified which is intended as an aid to the navigation of vessels.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulations provide that a thing designed or adapted for use at sea and described in this Act is or is not to be treated as a vessel for the purposes of any provision specified in this Act or any regulations made thereunder; and regulations made under this subsection may —

(a) make different provision in relation to different occasions; and

(b) if the regulations provide that a thing is to be treated as a vessel for the purposes of any provision specified in the regulations, provide that the provision shall have effect in relation to the thing with such modifications as are so specified.

**Declaration of ports**

3. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan and after consultation with the Authority, by notification published in the *Gazette* —

(a) declare any area in Brunei Darussalam and any navigable river or waters leading into such area to be a port for the purposes of this Act;

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

(2) Every declaration under this section shall define the limits of the port or approaches thereto, as the case may be, and the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, alter the limits so declared.

## PART 2

## MARITIME AND PORT AUTHORITY OF BRUNEI DARUSSALAM

**Establishment of Authority**

4. There is hereby established a body to be known as the Maritime and Port Authority of Brunei Darussalam which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and

(c) doing such other acts or things as bodies corporate may lawfully do.

**Common seal**

5. (1) The Authority shall have a common seal and such seal may be changed, altered or made anew as the Authority thinks fit.



(2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority.

(3) All instruments to which the common seal is affixed shall be signed by any two officers generally or specially authorised by the Chief Executive for the purpose or by one officer and the Chief Executive.

(4) The Authority may, by regulations or otherwise in writing, appoint an officer of the Authority or any other person either generally or in any particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter within the powers of the Authority.

(5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

### **Board of Directors of Authority**

6. (1) There shall be a Board of Directors of the Authority which shall be the executive body of the Authority which may exercise all the powers conferred on the Authority under this Act and shall be responsible for the formulation of the policies of the Authority, the supervision of the implementation and the general administration of the affairs and business of the Authority.

(2) The Board shall consist of a Chairman, a Deputy Chairman and such other members as His Majesty the Sultan and Yang Di-Pertuan may appoint.

(3) Schedule 1 shall have effect with respect to the Authority, its members and proceedings.

## PART 3

### FUNCTIONS AND POWERS

#### **Functions of Authority**

7. (1) Subject to the provisions of this Act, it shall be the function of the Authority —

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

(b) to regulate and control navigation within the limits of the port and the approaches to the port;

(c) to provide and maintain adequate and efficient lighthouses, beacons, buoys and other aids to navigation in the territorial waters of Brunei Darussalam and the approaches thereto and at such other places as the Authority may think fit;

(d) to disseminate navigational information;

(e) to exercise licensing and regulatory functions in respect of marine and port services and facilities;

(f) to secure that there are provided in the port (whether by itself or by any public licensee), adequate and efficient marine and port services and facilities on such terms as the Authority may think expedient;

(g) to secure that any person by whom any marine or port services and facilities fall to be provided in the port is able to provide the services and facilities efficiently whilst maintaining independent financial viability;

(h) to promote efficiency, reliability and economy on the part of public licensees in accordance with, as far as practicable, recognised international standards and public demand;

(i) to create an economic regulatory framework in respect of the provision of marine and port services and facilities which promotes and safeguards competition and fair and efficient market conduct or, in the absence of a competitive market, which prevents the misuse of monopoly or market power;

(j) to promote, provide and administer training schemes for members of the mercantile marine and the shipping and port industries;

(k) to develop, promote and regulate employment among members of the mercantile marine;

(l) to promote the development of merchant shipping;

(m) to exercise regulatory functions in respect of merchant shipping and particularly in respect of safety at sea, the manning of vessels and the prevention of pollution at sea;

(n) to advise the Government on all matters relating to sea transport and the provision of marine and port services and facilities;

(o) to act internationally as the national body representative of Brunei Darussalam in respect of sea transport, marine and port matters;

(p) to discharge or facilitate the discharge of international obligations of the Government in respect of sea transport; and

(q) to perform such other functions as are conferred on the Authority by this Act or any other written law.

(2) In discharging the functions imposed on it by subsection (1), the Authority shall have regard to —

(a) satisfying all reasonable demands for marine and port services and facilities;

(b) fostering the development and expansion of marine and port services and facilities in the world in collaboration with other countries and international organisations;

(c) enabling persons providing marine and port services and facilities in Brunei Darussalam to compete effectively in the provision of such services and facilities outside Brunei Darussalam;

(d) the promotion of measures for the safety of life in the port;

(e) the promotion of research and development in the fields of marine and port services and facilities; and

(f) collaboration with educational institutions for the promotion of technical education in the fields of marine and port services and facilities.

(3) In addition to the functions imposed by this section, the Authority may undertake such other functions as the Minister may assign to the Authority, and in so doing —

(a) the Authority is deemed to be fulfilling the purposes of this Act; and

(b) the provisions of this Act apply to the Authority in respect of such functions.

(4) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

(5) Notwithstanding the provisions of this Act, the Authority may, until such time as the licences granted under Part 12 come into effect, continue to provide any marine or port services and facilities that the Marine Department or the Ports Department were providing immediately before the appointed day.

(6) Without prejudice to the provisions of Part 12, the Authority may provide any marine or port services and facilities in any of the following circumstances notwithstanding that it has granted a public licence to any person —

(a) if the Authority is of the opinion that the person has failed to discharge or is not discharging to the Authority's satisfaction the obligations imposed by the Authority on the person in the public licence; or

(b) to give effect to any direction of the Minister under section 9.

(7) The Authority shall furnish the Minister with information with respect to its property and activities in such manner and at such times as the Minister may require.

### **Powers of Authority**

8. (1) Subject to this Act, the Authority may carry on such activities as appear to the Authority to be advantageous, necessary or convenient for it to carry on for or in connection with the discharge of its functions under this

Act or any other written law, and in particular, the Authority may exercise any of the powers specified in Schedule 2.

(2) This section shall not be construed as limiting any power of the Authority as may be conferred by or under any other written law.

### **Directions by Minister**

9. (1) The Minister may, after consultation with a person to whom this section applies, give to that person such directions as he thinks fit as to the exercise by that person of his functions under this Act.

(2) Without prejudice to the generality of subsection (1), if it appears to the Minister to be requisite or expedient to do so —

(a) on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence, or relations with the government of another country; or

(b) in order to —

- (i) discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement;
- (ii) attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister requisite or expedient in view of the Government being a member of such an organisation or a party to such an agreement; or
- (iii) enable the Government to become a member of such an organisation or a party to such an agreement,

he may, after consultation with a person to whom this section applies, give such directions to that person as are necessary in the circumstances of the case.

(3) Any direction given under subsection (1) or (2) may include provisions for —

(a) the prohibition or regulation of any marine or port services and facilities;

(b) the taking of, the control of or the usage of any marine or port services and facilities for official purposes of all or any system and equipment relating thereto; and

(c) the carrying out of any other purposes which the Minister thinks necessary.

(4) A person to whom this section applies shall give effect to any direction given to that person under subsection (1) or (2) notwithstanding any other duty imposed on that person by or under this Act or any other written law.

(5) A person to whom this section applies shall not disclose any direction given to that person under subsection (1) or (2) if the Minister notifies that person that the Minister is of the opinion that the disclosure of the direction is against the public interest.

(6) The Minister may with the approval of the Minister of Finance —

(a) pay compensation for any damage caused to a public licensee by reason of its compliance with the directions of the Minister under subsection (3)(b);

(b) make grants to public licensees for defraying or contributing towards any losses which they may sustain by reason of their compliance with the directions of the Minister under any other provision of this section.

(7) Any sum required by the Minister for paying compensation or making grants under subsection (6) shall be paid out of the Fund.

(8) This section applies to the Authority and to every public licensee.

(9) If any doubt arises as to the existence of a public emergency or as to whether any act done under this section was in the public interest or in the interests of public security, national defence or relations with the government of another country, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

**Furnishing of information**

10. (1) The Authority or any person authorised by the Authority in that behalf may by notice in writing require any person to furnish to the Authority or the person so authorised, within such period as shall be specified in the notice, all such documents or information relating to such matters as may be required by the Authority for the purposes of this Act and as are within the knowledge of that person or in his custody or under his control.

(2) Any person who, on being required by notice under subsection (1) to furnish any document or information, fails to comply with any requirement of the notice is guilty of an offence.

(3) A person who —

(a) intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (1) to furnish; or

(b) in furnishing any estimate, return or other information required of him under any notice under subsection (1), makes any statement which he knows to be false in any material particular,

is guilty of an offence.

**Committees**

11. (1) The Board may, in its discretion, appoint committees consisting of persons who are members of the Board or otherwise, for purposes which, in the opinion of the Board, would be better regulated and managed by such committees.

(2) The Board may define or vary the terms of reference of the committees.

(3) Subject to this Act and to the control of the Board, each committee may regulate its procedure in such manner as the committee thinks fit.

**Delegation of powers**

12. (1) The Authority may, in respect of a specified matter or class of matter, by writing, delegate any of its powers to a member or committee of the Board or to an officer of the Authority.

(2) Every member or committee of the Board or an officer of the Authority purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of that delegation.

(3) No delegation under this section shall prevent the exercise of any power of the Authority under this Act or any other written law.

### **Symbol, design or representation of Authority**

**13.** (1) The Authority shall have the exclusive right to the use of such symbol, design or representation as it may select or devise and thereafter display or exhibit it in connection with its activities or affairs.

(2) Any person who uses a symbol, design or representation identical with that of the Authority or which so resembles the symbol, design or representation thereof as to deceive or cause confusion or to be likely to deceive or cause confusion is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both.

## PART 4

### PROVISIONS RELATING TO STAFF

#### **Appointment of Chief Executive and Deputy Chief Executive**

**14.** (1) The Authority shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint a Chief Executive and a Deputy Chief Executive for such term of office and on such conditions of service as the Authority may determine.

(2) The Chief Executive and Deputy Chief Executive shall be responsible to the Authority for the proper administration and management of the functions and affairs of the Authority in accordance with the policy of the Authority.

(3) If the Chief Executive is temporarily absent from Brunei Darussalam, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Authority, to act in the place of the Chief Executive during any such period of absence from duty.



### **Appointment of Port Master**

15. The Authority shall appoint a Port Master and may appoint such number of Deputy Port Masters as it may think fit for the purposes of carrying out all or any of the functions vested in the Authority by or under this Act or any other written law.

### **Execution of orders etc. of Port Master**

16. All acts, orders or directions authorised to be done or given by the Port Master may be done or given by any employee of the Authority subject to the control and authorisation of the Port Master.

### **Appointment of staff**

17. The Authority may appoint and employ for such terms of office and on such conditions of service as the Authority may determine such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

### **Protection from personal liability**

18. No suit or other legal proceedings shall lie personally against any member, officer or employee of the Authority or other person acting under the direction of the Authority which is in good faith done or intended to be done in the execution or purported execution of this Act or any other written law.

### **Public servants**

19. All members, officers and employees of the Authority and all members of the Pilotage Committee are deemed to be public servants for the purposes of the Penal Code (Chapter 22).

## PART 5

### FINANCIAL PROVISIONS

#### **Power to borrow**

20. For the discharge of its functions or duties under this Act or any other written law, the Authority may with the approval of the Minister of Finance, raise loans from the Government or, raise loans from banks and other financial institutions (whether in Brunei Darussalam or elsewhere) by —

(a) mortgage, overdraft or otherwise;

(b) charge, whether legal or equitable, on any property vested in the Authority or on any revenue receivable by the Authority under this Act or any other written law;

(c) or the creation and issue of debentures or bonds.

### **Fund of Authority**

21. For the purposes of this Act, there is established a fund to be known as the Maritime and Port Authority of Brunei Darussalam Fund into which shall be paid —

(a) such sums as may be paid to the Authority out of the Consolidated Fund;

(b) such sums as may be raised by the Authority by loan;

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

(d) all such other sums as may be paid to the Authority.

### **Application of Fund**

22. (1) The Fund for any financial year shall be applied in defraying the following charges —

(a) the remuneration, fees and allowances of the members of the Authority;

(b) the salaries, fees, remuneration, superannuation allowances and gratuities of the officers, agents, employees, advisers and former employees of the Authority or its predecessors;

(c) working and establishment expenses and expenditure on, or provision for, the maintenance of any of the property of the Authority, and the discharge of the functions of the Authority properly chargeable to the Fund;

(d) interest on any debentures issued and on any loan raised by the Authority;

(e) sums required to be paid to the Government towards repayment of any loan made by the Government to the Authority;

(f) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or the repayment of other borrowed money;

(g) such sums as may be deemed appropriate to set aside in respect of depreciation or renewal of the property of the Authority, having regard to the amounts set aside out of the Fund under paragraphs (c) and (f);

(h) the cost, or any portion thereof, of any new works, plants, vessels, vehicles, machinery, equipment or appliances not being a renewal of the property of the Authority, which the Authority may determine to charge the Fund;

(i) such sums by way of contribution, for the purposes associated with the objects of this Act as the Authority may determine, to the public or for charities; and

(j) any other expenditure authorised by the Authority and properly chargeable to the Fund.

(2) The balance of the Fund, with respect each financial year, shall be applied to the creation of a general reserve and such other reserves as the Authority may think fit.

### **Annual estimates**

23. (1) The Authority shall in every financial year cause to be prepared and shall adopt annual estimates of income and expenditure of the Authority for the ensuing financial year.

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

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

(4) A summary of the annual estimates and supplementary estimates adopted by the Authority shall be published in the *Gazette*.

**Bank accounts and application of revenue**

24. (1) The Authority shall open and maintain an account or accounts with such bank or banks as the Authority thinks fit; and every such account shall be operated upon as far as practicable by cheque signed by such person or persons as may be authorised in that behalf by the Authority.

(2) The moneys of the Authority shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Authority and in making any payments that the Authority is authorised or required to make.

**Power of investment**

25. The Authority may invest any of its funds available for investment in such shares, funds, securities or investments as may be authorised by the Minister of Finance.

**Other financial provisions**

26. The financial provisions set out in Schedule 3 have effect with respect to the Authority.

**Rates, charges, dues etc. payable to Authority**

27. (1) Subject to the provisions of this Act, the Authority may levy such rates, charges and fees as the Authority may, with the approval of the Minister of Finance and by notification published in the *Gazette*, prescribe for the use of services and facilities provided by the Authority.

(2) The Authority may make such charges as it thinks fit for services or facilities provided or goods supplied by it in pursuance of the power conferred by this Act or any other written law in respect of which no rates, charges or fees have been prescribed under subsection (1).

(3) The Authority may require any person to furnish such security as the Authority may think fit for the payment of any rates, charges, fees and dues payable under this Act or for any other purpose of this Act.

(4) The Authority may determine the fees to be paid in respect of the issue or renewal of any licence or permit issued under this Act or any regulations made thereunder.

(5) The Authority may, if it thinks fit, remit or waive the whole or any part of any rates, charges, dues and fees paid or payable under this Act.

(6) The owner, agent or master of every vessel which calls at the port of Brunei Darussalam shall pay to the Authority such maritime welfare fee as the Authority may, with the approval of the Minister and by notification published in the *Gazette*, prescribe.

(7) The owner, agent or master of every vessel which enters, leaves, uses or plies within the port or calls at Brunei Darussalam shall pay to the Authority such port dues and pilotage dues as the Authority may, with the approval of the Minister and by notification published in the *Gazette*, prescribe.

(8) The Authority may, with the approval of the Minister and by notification published in the *Gazette*, levy such goods dues as are prescribed on goods brought into or taken out of such private wharf or premises (by any means of transportation) as may be specified in the notification.

(9) Goods dues shall be paid by —

(a) the owner or occupier of such wharf or premises;

(b) the owner of the vehicle or vessel used in the carriage of the goods into or out of the wharf or premises or otherwise; or

(c) any other person authorised to act as agent for the owner of such vehicle or vessel in the carriage of such goods into or out of the wharf or premises or otherwise.

(10) The Authority may recover such goods dues from any of the persons mentioned in subsection (9).

(11) A rate, charge, fee or due exigible by virtue of this section may be recovered by the Authority in any court of competent jurisdiction as if it were a simple contract debt.

(12) Maritime welfare fees under this section shall not be payable in respect of —

(a) any ship of war;

(b) any vessel belonging to or for the time being in the service or employment of the Government unless such vessel is carrying or habitually carries goods or passengers for freight or fares; and

(c) any vessel or class of vessels which has or have been exempted from the operation of this section by the Minister.

(13) The rates, charges, fees and dues applied by the Marine Department or Ports Department immediately before the appointed day shall continue to be valid as though determined by the Authority under this section until rescinded, varied or otherwise determined by the Authority.

#### **Power of entry into vessels and private wharves**

**28.** (1) Any duly authorised officer of the Authority may enter into any vessel within the limits of a port or the approaches thereto or a pilotage district in order to ascertain the amount of the rates, charges, fees and dues payable, in respect of the vessel or on or in respect of any goods carried therein and to obtain any other information required for, or in connection with, the assessment and collection of the rates, charges, fees and dues.

(2) Any such officer may enter upon any private wharf in a port to ascertain the amount of the private wharf dues payable to the Authority in respect of a vessel, or as the case may be, for the purpose of obtaining access to a vessel, when berthed at such a wharf, to ascertain the amount of rates, charges, fees and dues payable to the Authority in respect of the vessel.

(3) Any person who without lawful excuse refuses to allow any such officer to enter into the vessel or upon any private wharf pursuant to subsection (1) or (2) or any person who fails to comply with a reasonable request made by an authorised officer who has entered the vessel or any private wharf pursuant to subsection (1) or (2) for information or for the production of a document is guilty of an offence and liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part thereof during which such person continues to fail to comply with the request.

#### **Power to distrain for non-payment of rates, dues etc.**

**29.** (1) If the master or owner of any vessel in respect of which any rates, charges, fees, dues, damages or penalties or other sums are payable under this Act or any regulations made thereunder refuses or neglects to pay the same or any part thereof on demand, the Authority may, in addition to any other remedy which it may be entitled to use, distrain or arrest of its own authority the vessel and the bunkers, tackle, apparel or furniture belonging thereto or any part thereof, and detain the same until the amount so due is paid.

(2) If any part of such rates, charges, fees, dues, damages or penalties or other sums, or of the costs of the distraint or arrest, or of the keeping of the vessel, bunkers, tackle, apparel or furniture belonging thereto remains unpaid for 14 days, the Authority may cause the vessel and the bunkers, tackle, apparel or furniture so distrained or arrested to be sold or disposed of in such manner as it thinks fit and may recover, as a debt in any court of competent jurisdiction from the master or owner of the vessel, the expenses of such distraint, arrest, sale or disposal or attempted sale or disposal of the vessel and the bunkers, tackle, apparel or furniture so distrained or arrested.

(3) The proceeds of sale of the vessel and bunkers, tackle, apparel or furniture so distrained or arrested may be used by the Authority to satisfy those rates, charges, fees, dues, damages or penalties or other sums and costs, including costs of sale remaining unpaid, rendering the surplus, if any, to the master or owner of the vessel on demand and, in case no such demand is made within one year from the date of the disposal of the vessel and bunkers, tackle, apparel or furniture, by paying the surplus to the account of the Authority, whereupon all rights to the same by such person shall be extinguished.

(4) If the Authority gives to the Port Master a notice stating that an amount therein specified is due in respect of rates, charges, fees, dues, damages or penalties or other sums payable under this Act or any regulations made thereunder against the vessel or the owner, agent or master of the vessel, the Port Master shall not grant port clearance until the amount so chargeable has been paid or security has been given to the satisfaction of the Authority for the amount thereof.

## PART 6

### TRANSFER OF ASSETS, LIABILITIES AND EMPLOYEES

#### **Transfer to Authority of property, assets and liabilities**

30. (1) As from the appointed day, such property, rights and liabilities vested in the Government relating to the Marine Department and the Ports Department as may be determined by the Minister for Finance shall become, by virtue of this section and without further assurance, the property, rights and liabilities of the Authority.

(2) If any question arises as to whether any particular property, right or liability has been transferred to or vested in the Authority under subsection (1), a certificate under the hand of the Minister of Finance shall be conclusive evidence that the property, right or liability was or was not so transferred or vested.

(3) Any immovable property to be transferred to and vested in the Authority under subsection (1) shall be held by the Authority upon such tenure and subject to such terms and conditions as His Majesty the Sultan and Yang Di-Pertuan may determine.

### **Transfer of employees**

**31.** (1) As from the appointed day, such persons employed immediately before that date in the Marine Department and the Ports Department as the Minister may determine shall be transferred to the service of the Authority on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(2) Until such time as terms and conditions of service are drawn up by the Authority, the scheme and terms and conditions of service in the Government shall continue to apply to every person transferred to the service of the Authority under subsection (1) as if he were still in the service of the Government.

### **Pension rights etc. of employees to be preserved**

**32.** (1) The terms and conditions to be drawn up by the Authority shall take into account the salaries and terms and conditions of service, including any accrued rights to leave, enjoyed by the persons transferred to the service of the Authority under section 31 while in the employment of the Government, and any such term or condition relating to the length of service with the Authority shall provide for the recognition of service under the Government by the persons so transferred to be service by them under the Authority.

(2) Nothing in the terms and conditions to be drawn up by the Authority shall adversely affect the conditions that would have been applicable to persons transferred to the service of the Authority as regards any pension, gratuity or allowance payable under the Pensions Act (Chapter 38).



(3) In every case where a person has been transferred to the service of the Authority under section 31, his employer immediately before the date of such transfer shall be liable to pay to the Authority such portion of any gratuity, pension or allowance payable to such person on his retirement as the same shall bear to the proportion which the aggregate amount of his pensionable emoluments during his service with such employer bears to the aggregate amount of his pensionable emoluments during his service under both the Authority and such employer.

(4) Where any person in the service of the Authority whose case does not fall within the scope of any pension or other schemes established under this section retires or dies in the service of the Authority or is discharged from such service, the Authority may grant to him or to such person or persons wholly or partly dependent on him, as the Authority thinks fit, such allowance or gratuity as the Authority may determine.

#### **No benefits in respect of abolition or reorganisation of office**

33. Notwithstanding the provisions of the Pensions Act (Chapter 38), no person who is transferred to the service of the Authority under section 31 shall be entitled to claim any benefit under the Pensions Act (Chapter 38) on the ground that he has been retired from the service of the Government on account of abolition or reorganisation of office in consequence of the establishment and incorporation of the Authority.

#### **Continuation and completion of disciplinary proceedings**

34. (1) Where on the appointed day any disciplinary proceedings were pending against any employee of the Government transferred to the service of the Authority under section 31, the proceedings shall be carried on and completed by the Authority; but where on the appointed day any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order or decision had been rendered thereon, the committee shall complete the hearing or investigation and make such order, ruling or direction as it could have made under the authority vested in it before that date.

(2) Any order, ruling or direction made or given by a committee pursuant to this section shall be treated as an order, a ruling or a direction of the Authority and have the same force or effect as if it had been made or given by the Authority pursuant to the authority vested in the Authority under this Act.

**Misconduct or neglect of duty by employee before transfer**

35. The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Government, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Government and if this Act had not been made.

**Penalty to be served by employee**

36. Where an employee of the Government has been transferred to the service of the Authority under section 31, and on the appointed day any penalty (other than dismissal) has been imposed on the employee pursuant to disciplinary proceedings against him and the penalty has not been, or remains to be, served by the employee, he shall on his transfer to the service of the Authority, serve or continue to serve such penalty to its full term as if it had been imposed by the Authority and the penalty shall remain valid against the employee on his transfer and shall continue in full force and effect until he has served the penalty in full.

**Existing agreements and pending proceedings**

37. (1) All deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed day affecting the portion of the property, rights and liabilities transferred to the Authority under section 30(1) or affecting any employee transferred to the service of the Authority under section 31 shall continue in full force and effect on and after that date and shall be enforceable by or against the Authority as if instead of the Government or any person acting on its behalf, the Authority had been named therein or had been a party thereto.

(2) Any proceedings or cause of action relating to the portion of the property, rights and liabilities transferred to the Authority under section 30(1) or to any employee transferred to the service of the Authority under section 31 pending or existing immediately before the appointed day by or against the Government or any person acting on its behalf, may be continued and shall be enforced by or against the Authority.

PART 7  
EMPLOYMENT OF SEAMEN

**Employment of seamen**

38. (1) No person other than an employer shall engage a seaman.

(2) No employer shall engage a seaman and no seaman shall accept employment on board any vessel except in accordance with regulations made under section 40.

(3) No employer shall enter into arrangements with any seaman to transport him outside Brunei Darussalam for the purpose of engagement in contravention of regulations made under section 40.

(4) For the purpose of this Part, “employer” includes the shipowner, charterer or operator, the agent of the shipowner, charterer or operator and the master of the vessel.

**Penalty for employment of seamen in contravention of section 38 or of regulations made under section 40**

39. (1) Any person or employer who —

(a) contravenes section 38; or

(b) selects or engages a seaman otherwise than in accordance with regulations made under section 40,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both.

(2) Any person or seaman who accepts employment or works in a vessel as a seaman otherwise than in accordance with regulations made under section 40 is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both.

**Regulations relating to seamen**

40. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the purposes of this Part and, in particular, may make regulations for the following purposes —

(a) to prescribe the age and other qualifications of applicants for registration as seamen;

(b) to prescribe the manner in which seamen may apply or be required to register;

(c) to make provisions for the medical examination of applicants for registration as seamen;

(d) to prescribe the procedures for dealing with the discipline of seamen;

(e) to prescribe the fee to be paid upon the issue of registration cards, and the fee for replacement of such cards when lost, destroyed or otherwise rendered unserviceable;

(f) to prescribe the conditions under which the Authority may cancel, suspend or alter the registration of seamen;

(g) to prescribe the fee to be paid on selection in respect of seamen selected in accordance with the provisions of this Part;

(h) requiring Brunei Darussalam ships to maintain in their crew lists such percentage of seamen who are of citizens of Brunei Darussalam as may be specified in the regulations; and

(i) specifying the ships or description of ships to which this section is to apply and may make different provisions for different descriptions of ship or for ships of the same description in different circumstances.

PART 8  
REGULATION OF PORT

**Port regulations**

**41.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the control and management of the port and the approaches thereto and for the maintenance of good order therein and generally for the purposes of this Act and any other written law and, in particular, may make regulations for or in respect of all or any of the following matters —

(a) regulating traffic and preventing and removing obstruction or impediment to navigation within the limits of the port and the approaches thereto;

(b) the conduct of inquiries into any case where damage has been caused to or by a vessel;

(c) regulating the keeping or placing of private moorings or buoys;

(d) regulating the use of lights and the signals to be used in the port and the steps to be taken for avoiding collision by vessels navigating in the port;

(e) the information to be supplied by the owners, agents, masters, and other persons in respect of vessels arriving and departing and the time and manner in which such information shall be supplied;

(f) regulating, directing and controlling the use of vessels within the territorial waters of Brunei Darussalam and all activities carried on in the waters of the port in respect of vessels, including but not limited to prescribing the conditions for towage and sale and supply of water and fuel to vessels and prohibiting such towage, sale and supply except through the Authority or by agreement with the Authority, and providing for the licensing thereof;

(g) permitting, regulating and controlling the landing of personnel belonging to an armed service of any foreign country and the movement of such personnel in the port;

(h) keeping clean the basins, works and premises of the Authority and the waters of the port and the approaches thereto and preventing oil, filth, rubbish or any other thing from being thrown or entering therein or thereon;

(i) regulating and controlling the use and manning of harbour craft and providing for the licensing thereof;

(j) supervising, regulating and controlling all activities carried on in the port and waters of the port and providing for the licensing thereof;

(k) regulating the provision and maintenance of adequate and efficient pontoons for the landing of persons, mooring buoys, gangways, landing stages, moorings and berthing facilities and providing for the licensing thereof;

(l) regulating the provision and maintenance of beacons, lighthouses, buoys and other aids to navigation not owned or erected by the Authority and providing for the licensing thereof;

(m) prescribing the standards of competence to be attained by officers and crew of harbour craft in order to be qualified for the purposes of manning harbour craft and providing for, for such purposes, the conduct of any examinations, the conditions for admission to them and the issue, form and recording of licences or certificates and other documents;

(n) providing for and in respect of the construction and machinery, equipment, fittings, installations, appliances and apparatus of harbour craft, and the tests to be carried out and the maintenance in respect thereof, including the provision, maintenance and stowage of life-saving and fire-fighting appliances and apparatus and providing for and in respect of the survey of harbour craft, the issue, suspension, cancellation or extension and period of validity of certificates or exemption certificates, and the types and forms of the certificates;

(o) regulating the navigation and place of anchoring or mooring of vessels carrying dangerous cargoes;

(p) regulating the mode of utilising, stowing and keeping dangerous cargoes on board vessels and the conveyance within the port of any kind of dangerous cargoes with any other kind of goods, articles or substances;

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

(r) keeping free passages of such width as is deemed necessary in the port and along or near to the wharves, docks, moorings and other similar works in or adjoining the same and for marking out the spaces so to be kept free;

(s) the information to be supplied by the masters, owners or agents and other persons in respect of goods loaded or discharged at the wharves in the port, and the time and manner in which such information shall be supplied;

(t) prohibiting the embarkation and disembarkation of persons except at such places as may be authorised by the Authority for such purpose;

(u) prohibiting the loading and discharging of goods other than, in the case of dutiable goods, at wharves, docks and places authorised in the Customs Order, 2006 (S 39/2006) or the regulations made thereunder and, in the case of non-dutiable goods, at wharves, docks and places named in the Customs Order, 2006 (S 39/2006) or any regulations made thereunder and at such other wharves, docks and places approved by the Authority;

(v) prohibiting the loading, handling or discharging of dangerous cargoes at wharves or docks where such loading, handling or discharging appears specially dangerous to the public.

(2) The Authority may, in making any regulations under this section, provide that any contravention of or failure to comply with any regulation is an offence and may prescribe as a penalty in respect of any one offence a fine not exceeding \$20,000, imprisonment for a term not exceeding 6 months or both and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which such offence continues after conviction.

**Insurance policy**

42. (1) Where by virtue of this Act or any regulations made thereunder, any person is required to take out and maintain a policy of insurance against liability for any risks or costs, such policy of insurance shall be —

(a) a policy of insurance that is issued by an insurer who, at the time the policy is issued and during the period of insurance, is lawfully carrying on insurance business in Brunei Darussalam; and

(b) in accordance with such terms and conditions, including any minimum limit of indemnity, as may be prescribed.

(2) A policy shall be of no effect for the purposes of this Act or any regulations made thereunder unless there is issued by the insurer to the person by whom the policy is effected, a certificate of insurance in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed.

(3) Any condition in a policy of insurance issued or given for the purposes of this Act or any regulations made thereunder which —

(a) provides that no liability shall arise under the policy or that any liability so arising shall cease; and

(b) purports to negate or restrict the liability of the insurer under the policy or to impose any condition with respect to the enforcement of any such liability of the insurer,

in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall be of no effect in connection with any claim in respect of any risk against which the policy of insurance was required to be taken out or maintained.

(4) Nothing in this section shall be taken to render void any provision in a policy of insurance requiring the person insured to repay to the insurer any sum which the insurer may have become liable to pay under the policy and which have been applied to the satisfaction of any claim in respect of any risk against which the policy of insurance was required to be taken out or maintained.

(5) The Authority may, by order published in the *Gazette*, prescribe the conditions, including a minimum limit of indemnity, of any policy of



insurance which is required to be taken out or maintained under this Act or any regulations made thereunder and the form and particulars to be stated in any certificate of insurance and different conditions, forms and particulars may be prescribed in relation to different cases or circumstances.

### **Power of Port Master in relation to vessel**

43. Notwithstanding the provisions of any regulations made under section 41, the Port Master may, subject to such conditions as the Port Master may think fit to impose —

(a) direct where any vessel shall be berthed, moored or anchored and the method of anchoring in the territorial waters of Brunei Darussalam;

(b) direct the removal of any vessel from any place in the territorial waters of Brunei Darussalam to any other place in the territorial waters of Brunei Darussalam and the time within which such removal is to be effected in the territorial waters of Brunei Darussalam;

(c) regulate, restrict or prohibit the movement of vessels in the port and the approaches to the port; and

(d) by notification published in the *Gazette*, declare the berths, locations, anchorages and fairways which may be used by vessels and the areas which are prohibited or restricted areas.

### **Owner, agent or master of vessel to report arrival or departure**

44. (1) The Port Master may direct the owner, agent or master of any vessel intending to enter or leave the port to furnish, before entering or leaving the port, such information as the Port Master may require relating to the vessel, its cargo and the estimated time of entering or leaving the port.

(2) The owner, agent or master of any vessel arriving in the port shall —

(a) on arrival, report or cause to be reported by such means as the Port Master may direct, the arrival of the vessel;

(b) provide within such time and by such means to the Port Master —

- (i) a general declaration of arrival in such form as the Port Master may determine;
- (ii) the clearance from the last port;
- (iii) a list of passengers on board;
- (iv) a list of crew;
- (v) a copy of the manifest of goods to be discharged or transhipped in the port; and
- (vi) such other documents as may be required by the Port Master; and

(c) in the case of vessels belonging to a country not having a consular officer in Brunei Darussalam, produce to the Director of Marine the certificate of registry and deposit with him the ship's articles.

(3) The owner, agent or master of any vessel who fails to comply with this section is guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Port Master may require vessel in transit in port or approaches thereto to provide information**

45. (1) The Port Master may at any time require the owner or master of any vessel which is in transit in the port or the approaches thereto to provide him with such particulars of the vessel, its cargo and equipment as the Port Master may determine.

(2) Any owner or master of a vessel who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**No vessel to leave port without port clearance**

46. (1) No vessel, other than a vessel referred to in subsection (3), shall leave the port without the owner, agent or master obtaining port clearance from the Port Master.

(2) The owner, agent or master of the vessel applying for port clearance under subsection (1) shall —

(a) provide to the Port Master within such time and by such means as the Port Master may determine —

- (i) a general declaration of departure in such form as the Port Master may determine;
- (ii) a list of crew;
- (iii) a list of passengers on board;
- (iv) a copy of the manifest of goods on board and cargo loaded on or discharged at the port; and
- (v) such other documents as may be required by the Port Master; and

(b) if so required by the Port Master, produce for inspection the certificate of registry and other documents relating to the vessel.

(3) This section does not apply to —

(a) any ship of war;

(b) any vessel belonging to or for the time being in the service or employment of the Government unless such vessel is carrying or habitually carries cargo or passengers for freight or fares; and

(c) vessels which have been exempted from complying with this section by the Minister.

(4) If any vessel, not being exempted from complying with this section, leaves or attempts to leave the port without port clearance, the owner, agent or master of the vessel or any person who sends or attempts to send the vessel to sea is, if that owner, agent, master or person is party or privy to the offence, guilty of an offence and liable on conviction for every offence to a fine not exceeding \$10,000, and the vessel, if she has not left Brunei Darussalam waters, may be detained.

(5) No port clearance shall be granted to any vessel —

(a) whose owner, agent or master has not complied with the Customs Order, 2006 (S 39/2006) or any regulations made thereunder or any other written law relating to the import or export of goods into or from Brunei Darussalam; or

(b) until the owner, agent or master of such vessel has declared to the Port Master the name of the country to which he claims that the vessel belongs, and if so required by the Port Master, has produced the certificate of registry of the vessel; and the Port Master shall thereupon inscribe that name on the port clearance.

(6) Where under this Act or any other written law a vessel is to be detained, the Port Master shall, and where under this Act or any other written law a vessel may be detained the Port Master may, refuse to grant port clearance to that vessel.

(7) The Port Master may refuse to grant port clearance to any vessel whose owner or master has not complied with, or has been charged with an offence under, any of the provisions of this Act or any other written law.

(8) The Port Master may refuse to grant port clearance to any vessel which has anchored in the submarine cable corridor unless the owner, agent or master of the vessel has deposited such sum of money or furnished such security as may be required by a public telecommunication licensee in order to meet the costs of making good the damage, whether actual or estimated by a public telecommunication licensee, to the submarine cable and its associated plant (in this section referred to as the submersible plant).

(9) Where a public telecommunication licensee has reason to believe that the submersible plant has been damaged by a vessel, the public telecommunication licensee may require the owner, agent or master of that vessel to carry out an inspection or survey of the submersible plant in such manner as it considers necessary.

(10) The expenses of any inspection or survey of the submersible plant carried out under subsection (9) shall be paid by the owner, agent or master of the vessel.

(11) For the purposes of this section —

“public telecommunication licensee” means the person designated by the Authority for Info-communications Technology Industry of Brunei Darussalam under section 6 of the Telecommunications Order, 2001 (S 38/2001);

“submarine cable corridor” means the area designated by the Port Master as the submarine cable corridor.

**Owner, agent or master of vessel not leaving within 48 hours after port clearance to return port clearance to Port Master**

47. (1) The owner, agent or master of any vessel which fails to leave the port within 48 hours, or such shorter period as may be specified by the Port Master, after obtaining port clearance shall, within 6 hours after the expiry of the 48 hours or such shorter period, return to the Port Master the port clearance certificate and, if so required, obtain fresh port clearance.

(2) Any owner, agent or master of a vessel who fails to comply with subsection (1) is guilty of an offence and liable on conviction for every offence to a fine not exceeding \$5,000 and the vessel may be detained.

**Power to prohibit vessel from entering territorial waters**

48. The Port Master may prohibit any vessel from entering the territorial waters of Brunei Darussalam if he is of the opinion that it would not be in the public interest for the vessel to enter Brunei Darussalam.

**Power to direct vessel to leave territorial waters**

49. (1) The Port Master may direct any vessel to leave the territorial waters of Brunei Darussalam if he is of the opinion that it would not be in the public interest for the vessel to remain within the territorial waters of Brunei Darussalam.

(2) Any person aggrieved by the direction of the Port Master under subsection (1) may, within 7 days of the receipt of such direction, appeal to the Minister whose decision shall be final.

(3) If any vessel fails to leave the territorial waters of Brunei Darussalam within the time specified by the Port Master, or where an appeal has been made to the Minister under subsection (2), after the appeal has been refused, the Authority may take possession of and dispose of the vessel in any manner the Authority thinks fit.

**Penalty for disobedience of direction**

50. (1) Any person who, without lawful excuse, refuses, neglects or fails to obey any direction lawfully given under this Part or any regulations made thereunder is guilty of an offence and liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part thereof during which he wilfully continues to disobey such direction.

(2) In case of any refusal or neglect or failure to comply with this Part or any regulations made thereunder, the Authority may, whether any proceedings have been instituted against any person for such offence or not, do or cause to be done all such acts as are in its opinion reasonable or necessary for the purpose of carrying out such direction or complying with such direction, and may hire and employ such person as it considers proper and necessary for such purpose.

(3) All expenses incurred in doing such acts shall be paid and borne by the person or persons so offending.

### **Removal of certain obstructions and compensation therefor**

51. (1) Notwithstanding that any obstruction or impediment to the navigation of the port has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Authority may, with the approval of the Minister, cause the same to be removed or altered, and making to the persons who suffer damage by such removal or alteration, reasonable compensation for the damage done.

(2) If any dispute arises concerning such compensation, the amount and, if necessary, any question of liability shall be summarily ascertained and determined by a court of competent jurisdiction.

(3) An appeal shall lie to the High Court from any decision of a Court of a Magistrate under this section, and the provisions of the Criminal Procedure Code (Chapter 7) apply, with the necessary modifications, to all such appeals.

### **Fire on board vessel**

52. (1) In the event of fire breaking out on board any vessel in the port, the Port Master or his authorised representative may proceed on board the vessel with such assistance and persons as he thinks fit, and may give such orders as seems to him necessary for scuttling the vessel, or for removing the vessel or any other vessel to such place as he thinks proper to prevent in either case danger to other vessels and for the taking of any other measures that appear to him expedient for the protection of life or property.

(2) If such orders are not forthwith carried out by the master of such vessel, the Port Master or his authorised representative may proceed to carry them into effect.

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

#### **Power to board vessel**

**53.** (1) The Port Master or his authorised representative or any officer of the Authority authorised by the Authority or any police officer may go on board any vessel in the port whenever he suspects that any offence against this Part has been or is about to be committed in any vessel, or whenever he considers it is necessary for him to do so in the discharge of any duty imposed upon him by this Part or otherwise by law.

(2) Any master of such vessel who, without lawful excuse, refuses to allow the Port Master or his authorised representative, any officer of the Authority authorised by the Authority or any police officer to enter the vessel is guilty of an offence and liable on conviction for each offence to a fine not exceeding \$1,000.

#### **Execution of order etc.**

**54.** (1) All acts, orders or directions by this Part or any regulations made thereunder authorised to be done or given by a particular employee of the Authority may be done or given by any other employee of the Authority authorised in writing in that behalf by the Authority.

(2) Any person authorised to do any such act may provide such assistance as is necessary.

#### **Exemption of vessels belonging to Royal Brunei Armed Forces**

**55.** Except where expressly provided otherwise, this Part and any regulations made thereunder do not apply to any vessel belonging to the Royal Brunei Armed Forces.

#### **Indemnity to Authority for act of Port Master**

**56.** The Authority shall not be liable for any act, omission or default of the Port Master.

## PART 9

REMOVAL OF VESSEL AND AIRCRAFT SUNK AND  
OTHER OBSTRUCTION**Power to require owner to raise, remove or destroy vessel, aircraft or other obstruction**

57. (1) If in the opinion of the Authority any vessel, aircraft or other object sunk, stranded or abandoned within the port or the approaches thereto is, or is likely to become, an obstruction, impediment or danger to navigation or to the safe and convenient use or operation of the port, the Authority may by notice in writing require the owner or agent of the vessel, aircraft or object to raise, remove or destroy the whole or any part of such vessel, aircraft or object within such time as may be specified in the notice.

(2) Any notice to be served by the Authority under subsection (1) is deemed to be sufficiently served if addressed to “the owner” of the vessel, aircraft or object, as the case may be, and —

(a) sent by telex or registered post to the last known place of residence or business or registered office of the owner of the vessel, aircraft or object; or

(b) affixed to some conspicuous part of the vessel, aircraft or object.

(3) Any person who fails to comply with a notice under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the notice is not complied with.

**Power to raise and remove vessel, aircraft or other obstruction**

58. (1) Notwithstanding section 57, if the vessel, aircraft or other object is not raised, removed or destroyed within such time as may be given in the notice under that section, the Authority may —

(a) take possession of and raise, remove or destroy the whole or any part of such vessel, aircraft or object;



(b) light, mark or buoy such vessel, aircraft or object until the raising, removal or destruction thereof; and

(c) sell, in such manner as it thinks fit, any such vessel, aircraft or object.

(2) The Authority may use the proceeds of the sale under subsection (1)(c) to reimburse itself for the whole of the expenses incurred by it in the exercise of its powers under this section.

(3) The Authority shall on demand pay the surplus, if any, of the proceeds of the sale under subsection (1)(c) to the owner or any person entitled to it and if no demand is made by the owner or any person entitled to the surplus within 12 months from the date of such sale, the surplus shall be paid into the funds of the Authority.

(4) If the proceeds of the sale under subsection (1)(c) are insufficient to reimburse the Authority for the whole expenses incurred by it, the Authority may recover the balance from the owner of the vessel, aircraft or object as a debt in any court of competent jurisdiction.

(5) If any vessel, aircraft or object or any part thereof is destroyed by the Authority under subsection (1)(a), the owner of such vessel, aircraft or object shall reimburse the Authority for the expenses incurred by the Authority in such destruction.

(6) For the purposes of this section, “vessel” or “aircraft” includes every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel or an aircraft, as the case may be.

## PART 10

### PILOTAGE

#### **Declaration of pilotage districts**

**59.** (1) The Authority may by notification published in the *Gazette*, declare any area in the port to be a pilotage district.

(2) Every such declaration shall define the limits of the pilotage district.

**Authority may require vessel to be under pilotage**

**60.** (1) Every vessel while navigating in any pilotage district or part thereof shall be under pilotage and the owner, agent or master of the vessel shall comply with that requirement.

(2) A vessel while being moved within any area of the port which is or forms part of a pilotage district is deemed to be a vessel navigating in a pilotage district.

(3) The Authority may, if it appears to the Authority to be necessary, exempt any vessel or class of vessels while navigating in any pilotage district from being under pilotage, subject to such conditions as it may think fit to impose.

**Failure to employ pilot under certain circumstances**

**61.** The owner, agent or master of a vessel navigating in circumstances in which the vessel is required by the Authority under section 60(1) to be under pilotage, who does not employ an authorised pilot for such purpose, is guilty of an offence and liable on conviction to a fine not exceeding \$5,000 and shall in addition be liable to pay to the Authority as penalty double the amount of pilotage dues and rates which would have been payable if the vessel had been under pilotage as required under that section.

**Authorised pilot and berthing master**

**62.** (1) Subject to the provisions of this Act, the Authority may employ such number of pilots as it considers necessary or expedient for the purpose of providing an adequate and efficient pilotage service.

(2) Notwithstanding subsection (1) —

(a) the Authority may, if it considers expedient, authorise any person to pilot vessels in a pilotage district subject to such conditions as it thinks fit; and

(b) the owner of a wharf or dock may, with the approval of the Authority and subject to such conditions as the Authority may impose, authorise any person to act as a berthing master for the purposes of berthing and unberthing, docking and undocking vessels at that wharf or dock.

### **Vessel to be piloted by authorised pilots**

63. No vessel shall be piloted in a pilotage district by any person other than an authorised pilot.

### **Penalties as to employment of pilot**

64. (1) Any person who, not being an authorised pilot, engages in any pilotage act or attempts to obtain employment as a pilot of a vessel entering or within any pilotage district is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

(2) Any owner, agent or master of a vessel entering or within any pilotage district who knowingly employs —

(a) as a pilot any person who is not employed by the Authority to pilot vessels under section 62(1);

(b) as a pilot any person who is not authorised to pilot vessels under section 62(2)(a); or;

(c) as a berthing master any person who is not authorised to act as a berthing master under section 62(2)(b),

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

(3) For the purposes of this section, a person employed under section 62(1) or authorised under section 62(2)(a) or (b) acting beyond the limits for which he is licensed or authorised to act or acting in contravention of any of the conditions imposed under section 62(2)(a) or (b) or 70 is deemed not to be an authorised pilot.

(4) Any person may, without subjecting himself or his employer to any penalty, act as the pilot of a vessel entering or leaving any pilotage district, when such vessel is in distress or under circumstances making it necessary for the master to avail himself of the best assistance that can be found at the time.

### **Employment of pilot**

65. No person shall be employed as an authorised pilot in a pilotage district unless he is in possession of a licence issued under section 68 to act as a pilot in that district.

**Appointment and functions of Pilotage Committee**

66. The Authority shall appoint a Pilotage Committee for the purpose of —

(a) holding examinations and issuing, on behalf of the Authority, licences to act as an authorised pilot;

(b) holding inquiries into the conduct of authorised pilots in the discharge of their duties;

(c) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service;

(d) investigating and advising on such matters as may be referred to the Pilotage Committee by the Authority; and

(e) carrying out such other functions as are conferred on the Pilotage Committee by this Act.

**Constitution of Pilotage Committee**

67. (1) The Pilotage Committee shall consist of —

(a) the Port Master who shall be the Chairman of the Committee; and

(b) not less than four other persons, three of whom must have, in the opinion of the Authority, knowledge of or experience in nautical matters.

(2) A member of the Pilotage Committee shall hold office for such term, not exceeding 3 years, as the Authority may specify in its appointment and shall be eligible for re-appointment.

(3) At any meeting of the Committee, three members of the Pilotage Committee shall form a *quorum*.

(4) The Chairman of the Pilotage Committee shall preside at all meetings thereof.

(5) If the Chairman is absent from a meeting or any part thereof, such member, as the members of the Pilotage Committee present shall elect, shall preside in his place.

(6) The Chairman or member presiding at any meeting of the Pilotage Committee shall have a vote and, in the case of an equality of votes, a second or casting vote.

(7) Members of the Pilotage Committee may be paid, out of the funds of the Authority, such fees and allowances as the Authority may determine.

(8) Subject to the provisions of this Act, the Pilotage Committee shall regulate its own procedure.

### **Examination for licence**

**68.** (1) The Pilotage Committee shall examine candidates for employment as authorised pilots and on being satisfied as to a candidate's general fitness and competency, including physical fitness, to act as an authorised pilot may, on behalf of the Authority, issue to him a licence to act as such, and the licence may contain such conditions as the Pilotage Committee may think fit.

(2) Every authorised pilot shall, whenever the Pilotage Committee considers that owing to changed conditions or for any other sufficient reason, the further testing of the knowledge, efficiency or physical fitness of any such pilot is necessary, present himself for further examination, and shall in every such case first deposit with the Pilotage Committee his licence issued by the Pilotage Committee on behalf of the Authority to be returned or cancelled by the Pilotage Committee on behalf of the Authority as the result of such test or examination.

(3) No person shall continue to employ as an authorised pilot any pilot whose licence to act as such is cancelled as the result of any test or examination carried out or held under subsection (2).

### **Inquiries by Pilotage Committee**

**69.** (1) The Pilotage Committee may, and when directed by the Authority shall, hold an inquiry into the conduct of an authorised pilot where it appears that he has been guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot.

(2) For the purposes of such inquiry, the Pilotage Committee may summon any person to attend any meeting of the Committee to give evidence on oath or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession relating to the matters which are the subject matter of such inquiry.

(3) Any person who —

(a) being summoned to attend any such inquiry, fails to do so;

(b) offers any act of disrespect or any insult or threat to the Pilotage Committee or any member thereof during an inquiry; or

(c) being required by the Pilotage Committee to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

### **Submission of Pilotage Committee's finding and recommendation to Authority**

70. (1) Where the Pilotage Committee, after due inquiry in accordance with the provisions of this Part and after hearing any statement that may be offered in defence, finds that an authorised pilot has been guilty of misconduct or indiscipline affecting his capability or duties as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot, the Committee shall submit to the Authority a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

(2) The Authority may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of such authorised pilot or impose such other punishment as the Authority may think fit.

(3) Any authorised pilot who is aggrieved by any decision of the Authority made under subsection (2) may, within 14 days from the date of the decision, appeal to the Minister whose decision shall be final.

(4) Where the Pilotage Committee, after due inquiry in accordance with the provisions of this Part, finds that any authorised pilot has been negligent in piloting any vessel or has become incompetent to act as a pilot, the Committee shall submit its findings to the Authority and the Authority shall thereupon suspend or revoke such authorisation as the Authority may consider fit.

### **Liability of master or owner in case of vessel under pilotage**

71. The master or owner of a vessel navigating in circumstances in which pilotage is compulsory 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 if pilotage were not compulsory.

### **Limitation of pilot's liability when bond is given**

72. (1) An authorised pilot who has given a bond in accordance with subsection (2) shall not be liable for neglect, want of skill or incapacity in office beyond the penalty of such bond and the amount payable to the Authority on account of pilotage in respect of the voyage in which he was engaged when he became so liable.

(2) Every pilot shall give a bond in the sum of \$1,000 in favour of the Authority for the proper performance of his duties under this Part and any regulations made thereunder.

(3) Any bond given by an authorised pilot in accordance with this section shall not be liable to stamp duty.

(4) Where any proceedings are taken against an authorised pilot for any neglect, want of skill or incapacity in office in respect of which his liability is limited as provided by this section, and other claims are made in respect of the same neglect, want of skill or incapacity in office, the court in which the proceedings are taken may —

(a) determine the amount of the pilot's liability and, upon payment by him of that amount into court, distribute the amount rateably among the several claimants;

(b) stay any proceedings pending in any other court in relation to the same matter; and

(c) proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimant who has not submitted his claim within a certain time, and as to requiring security from the pilot, and as to payment of any costs as the court thinks fit.

### **Offences of pilot**

73. (1) Any authorised pilot who —

(a) is in any way, directly or indirectly, concerned in any corrupt practices relating to vessels, their tackle, furniture, cargoes, crew or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels;

(b) lends his licence;

(c) acts as pilot while suspended;

(d) acts as pilot when in a state of intoxication;

(e) refuses or wilfully delays, when not prevented by illness or other reasonable cause, to pilot any vessel within the limits for which he is licensed by the Authority upon being required to do so by any employee of the Authority duly authorised in that behalf; or

(f) quits the vessel under his pilotage without the consent of the master, before the service for which he was engaged has been performed,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

(2) Any authorised pilot who, when engaged in the pilotage of a vessel, by wilful breach of duty or by neglect of duty or by reason of drunkenness, either —

(a) does any act tending to the immediate loss, destruction or serious damage of the vessel, or tending immediately to endanger the life or limb of any person on board the vessel; or



(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from loss, destruction or serious damage, or for preserving any person belonging to or on board the vessel from danger to life or limb,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 2 years or both.

(3) Any person who procures, aids, abets or connives at the commission of any offence under this section is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

### **Pilotage Committee and Authority not liable for loss or damage caused by pilot**

74. (1) The issue of a licence to a pilot by the Pilotage Committee on behalf of the Authority under section 68 or the authorisation given by the Authority to any person to pilot vessels in the pilotage district pursuant to section 62(2)(a) shall not impose any liability on the Pilotage Committee or the Authority for any loss or damage caused by any act, omission or default of such pilot.

(2) Any authorised pilot while engaged in any pilotage act is deemed to be the employee only of the master or owner of the vessel under pilotage and the Authority shall not be liable for any loss or damage caused by any act, omission or default of such pilot.

### **Members of Pilotage Committee to act as assessors in proceedings**

75. A Court of a Magistrate may, if it thinks fit, call upon two members of the Pilotage Committee to sit with it as assessors in any proceedings affecting authorised pilots under this Act or any regulations made thereunder.

### **Regulations relating to pilotage and conduct of pilot**

76. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for regulating pilotage in any pilotage district and for the maintenance of good conduct and discipline of authorised pilots and for matters relating to their duties.

(2) The Minister may, in making regulations under this section, provide that any contravention of or failure to comply with any of the regulations is an offence and may prescribe as a penalty in respect of any one offence a fine not exceeding \$5,000.

## PART 11

## REGULATION AND CONTROL OF SEAWARD ACTIVITIES

**Dredging limits**

77. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, prescribe the limits within which and the levels to which dredging may be carried out by the Authority in the port and the approaches thereto.

(2) The Authority shall not be liable for any loss or damage whatsoever to any sea or river wall, wharf, dock or other property arising out of any dredging by the Authority in the port.

**Hydrographic survey etc. not to be carried out without approval of Authority**

78. (1) No person shall carry out or cause to be carried out any hydrographic or hydrologic survey or other study of the waters and seabed within the territorial limits of Brunei Darussalam except with the approval of the Authority.

(2) The Authority may grant the approval referred to in subsection (1) with or without conditions or may refuse to grant such approval.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

(4) This section does not apply to any hydrographic or hydrologic survey or other study carried out for or on behalf of the Government.

**Restriction of certain works and operations**

79. (1) Subject to this section, no person shall, without the consent in writing of the Authority, carry out any of the following operations —

(a) construct, alter or improve any work on, under or over any part of a river, waterway or the seashore lying below the high-water mark of ordinary tides;

(b) deposit any object or any material on any part of a river, waterway or the seashore as aforesaid; or

(c) remove any object or any material from any part of a river, waterway or the seashore as aforesaid.

(2) The Authority may, as a condition of considering an application for consent under this section, require to be furnished with such plans and particulars of the proposed operations as the Authority may consider necessary; and on receipt of any such application the Authority may cause notice of the application, and of the time within which and the manner in which objections thereto may be made, to be published in such manner as the Authority may consider appropriate for informing persons affected thereby, and, before granting its consent may, if the Authority thinks fit, direct an inquiry to be held.

(3) If the Authority is of the opinion that any operation in respect of which an application is made under this section should not for any reason be carried out or should be carried out subject to such conditions as the Authority thinks necessary to impose, the Authority may either refuse its consent or give its consent subject to such conditions as the Authority thinks fit.

(4) A consent of the Authority under this section may be given so as to continue in force, unless renewed, only if the operation for which the consent is given has begun or is completed within such period as may be specified in the consent; and any renewal of such a consent may be limited in the like manner.

(5) The restriction imposed by subsection (1) does not apply to the carrying out of any dredging operation or reclamation work authorised by the Government in accordance with the provisions of any written law.

(6) Nothing in this section is deemed to be in derogation of any of the powers or rights of the Government in respect of the foreshore or territorial waters of Brunei Darussalam.

(7) Nothing in this section is deemed to confer upon the Authority any power or right in respect of the foreshore not vested in the Authority.

(8) Any person who —

(a) carries out any operation in contravention of subsection (1);  
or

(b) fails to comply with any condition subject to which any  
consent of the Authority has been given under this section,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

(9) Without prejudice to any proceedings under subsection (8), where any person has constructed, altered or improved any work or deposited any object or material on a river, waterway or the seashore in contravention of subsection (1) or has failed to comply with any condition subject to which any consent of the Authority has been given under this section, the Authority may serve a notice on that person requiring him to remove, within such period (not being less than 30 days) as may be specified in the notice, the object or material, as the case may be, or, if it appears to the Authority necessary to do so, the Authority may itself remove or alter the work or remove the object or material.

(10) If within the period specified in any notice under subsection (9) the person upon whom the notice is served fails to comply therewith, the Authority may remove or alter the work or remove the object or material as specified in the notice.

(11) Where under subsection (9) or (10) the Authority removes or alters any work or removes any object or material, the Authority shall be entitled to recover the expense thereof as certified by the Authority from the person by whom or for whom the work was constructed, altered or improved, or the object or material was deposited.

(12) For the purposes of this section —

“seashore” includes the seabed under the territorial waters of Brunei Darussalam;

“work” includes any architectural or engineering operation.

**Salvage business not to be carried on without licence**

**80.** (1) No person shall carry on the business of rendering salvage services in the territorial waters of Brunei Darussalam without a licence granted by the Authority for that purpose.

(2) The Authority may grant the licence with or without conditions or may refuse to grant the licence.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both.

(4) Any person aggrieved by —

(a) the refusal of the Authority to grant or renew a licence; or

(b) the cancellation of a licence,

may, within 30 days after receiving the Authority's notification of its decision, appeal to the Minister whose decision shall be final.

PART 12

LICENSING OF MARINE AND PORT SERVICES AND FACILITIES

**Public licences authorising provision of marine or port services and facilities**

**81.** (1) No person shall provide —

(a) any marine service or facility; or

(b) any port service or facility,

unless he is authorised to do so by a public licence or an exemption granted by the Authority.

(2) Every public licence granted under this section shall be in such form and for such period and may contain such conditions as the Authority may determine.

(3) The Authority may, with the consent of, or in accordance with the terms of a general authority given by the Minister, grant a public licence either unconditionally or subject to such conditions as the Authority may impose and specify in the public licence and either irrevocably or subject to revocation as therein specified, authorising any person to provide any marine service or facility or any port service or facility.

(4) Without prejudice to the generality of subsection (3), a public licence may be granted either to any person, class of persons or a particular person, and may include conditions requiring the public licensee —

(a) to enter into agreements or arrangements with any other person, class of persons or another public licensee for —

(i) the interconnection with, access to and use of any installation of the licensee (wherever situated and whether or not used for the purpose of carrying on the activities authorised by the licence); and

(ii) such other purpose as may be specified in the licence,

and on such conditions as may be agreed to by the licensee and such other persons or, in default of agreement, as may be determined by the Authority;

(b) to prepare itself to deal with any public emergency;

(c) to pay to the Authority a fee on the grant of the licence or pay to the Authority periodic fees during the currency of the licence or both, of such amount as may be determined by or under the licence;

(d) to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified; and

(e) to do or not to do such things as are specified in the licence or are of a description so specified.

(5) Conditions in a public licence may contain —

(a) control and restriction, directly or indirectly, on the creation, holding or disposal of shares in the public licensee or its shareholders

or interests in the undertaking of the public licensee or any part thereof;

(b) restriction on the carrying on by the public licensee of any trade or business which is not related to the activity which the licensee is authorised by its public licence to carry on;

(c) provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions; and

(d) provision controlling, fixing or publishing the prices to be charged by the public licensee in respect of the handling and storage of goods other than such category of goods as the Minister may by notification published in the *Gazette*, declare to be transhipment goods, including —

(i) the setting of pricing policies or principles; and

(ii) the setting of prices with reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factors.

(6) Any provision included by virtue of subsection (5)(c) in a public licence shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a public licence.

(7) A payment required by subsection (4) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

(8) No person shall question whether the grant of a public licence under subsection (3) was, or was not, effected with the consent of or in accordance with the terms of a general authority given by the Minister, and the validity of a licence granted under that subsection shall not be impugned on the ground that it was granted neither with the consent of nor in accordance with the terms of a general authority given by the Minister.

(9) The grant and renewal of public licences under this section shall be at the discretion of the Authority.

(10) Nothing in this section shall prevent the Minister from directing the Authority to grant a public licence in any specific case or be construed as

requiring the Authority to obtain a licence where it undertakes any activity mentioned in subsection (1) and any person aggrieved by a refusal of the Authority to grant a licence may, within 14 days of the refusal, appeal to the Minister whose decision shall be final.

### **Restriction on transfer of public licence**

**82.** (1) No public licence shall be transferable to any other person without the prior consent in writing of the Authority to the transfer to that person.

(2) Any purported transfer of any public licence shall for all purposes be void.

### **Modification of conditions of public licence**

**83.** (1) Subject to this section, the Authority may modify the conditions of a public licence granted.

(2) Before making modifications to the conditions of a public licence under this section, the Authority shall give notice to the licensee —

(a) stating that it proposes to make the modifications in the manner as specified in the notice and the compensation payable for any damage caused thereby; and

(b) specifying the time (not being less than 28 days from the date of service of notice on such licensee) within which written representations with respect to the proposed modifications may be made.

(3) Upon receipt of any written representation referred to in subsection (2), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) amend the proposed modifications or compensation payable in accordance with the representation, or otherwise,

and, in either event, it shall thereupon issue a direction in writing to such public licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.



(4) Any public licensee aggrieved by the decision of the Authority under subsection (3) may, within 14 days of the receipt by it of the direction, appeal to the Minister whose decision shall be final.

(5) The Authority shall not enforce its direction —

(a) during the period referred to in subsection (4); and

(b) whilst the appeal of the public licensee is under consideration by the Minister.

(6) If no written representation is received by the Authority within the time specified in subsection (2) or if any written representation made under subsection (2) is subsequently withdrawn, the Authority may forthwith carry out the modifications as specified in the notice given under subsection (2).

#### **Suspension or cancellation of public licence etc.**

84. (1) If the Authority is satisfied that —

(a) a public licensee is contravening, or is likely to contravene or has contravened any of the conditions of its public licence or any of the provisions of this Act or any regulations made thereunder or any direction issued by the Minister or the Authority to, or applicable to, that licensee;

(b) a public licensee has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;

(c) a public licensee has made any assignment to, or composition with, its creditors; or

(d) the public interest or security of Brunei Darussalam requires, the Authority may, by notice in writing and without any compensation, do either or both of the following —

(i) cancel its public licence or suspend its licence for such period as the Authority thinks fit;

(ii) require the payment of a fine in such amount as the Authority thinks fit.

(2) Any person who is aggrieved by any decision of the Authority under this section may, within 14 days after such person has been given the notice in writing referred to in subsection (1), appeal to the Minister whose decision shall be final.

### **Direction affecting public licensee**

**85.** (1) The Authority may issue such directions in writing for or with respect to standards of performance and procedures to be observed by public licensees and other persons —

(a) to ensure the reliability of the supply of marine services and facilities or port services and facilities, as the case may be, to the public; or

(b) in the interests of public safety.

(2) Any person who fails to comply with any direction given under this section is guilty of an offence.

### **General duties of public licensee**

**86.** It shall be the duty of a public licensee to provide reliable, efficient and economical marine services and facilities or port services and facilities, as the case may be, to the public in accordance with the conditions of the public licence granted to it and the directions of the Authority.

## PART 13

### CONTROL OF RELEVANT PUBLIC LICENSEES

#### **Interpretation for this Part**

**87.** For the purposes of this Part, “relevant public licensee” means any public licensee authorised to provide any port service or facility relating to container terminal service or facility.

#### **Meaning and effect of special administration order**

**88.** (1) A special administration order is an order of the Minister made in accordance with section 89 in relation to a company which is a relevant public licensee and directing that, during the period for which the order is in

force, the affairs, business and property of the company shall be managed by the Authority —

(a) for the achievement of all or any of the purposes of such an order; and

(b) in a manner which protects the respective interests of the members, creditors and customers of the company.

(2) The purposes of a special administration order made in relation to any company shall be —

(a) the security and reliability of the supply of port services and facilities relating to container terminal services and facilities to the public;

(b) the survival of the company, or the whole or part of its undertaking as a going concern;

(c) the transfer to another company, or (as respects different parts of the area to which the company's public licence relates, or different parts of its undertaking) to two or more different companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the functions which have been vested in the company by virtue of its public licence may be properly carried out; and

(d) the carrying out of those functions pending the making of the transfer and the vesting of those functions in the other company or companies (whether by virtue of the transfer or of an authorisation or variation which replaces the former company as public licensee).

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for giving effect to this Part, including making provision for applying, omitting or modifying the provisions of Part IV of the Insolvency Order, 2016 (S 1/2016) where a special administration order is made.

### **Special administration order made on application by Authority**

89. (1) If, on an application made to the Minister by the Authority, the Minister is satisfied in relation to any company which is a relevant public licensee that any one or more of the grounds specified in subsection (2) is

satisfied in relation to that company, the Minister may make any one or more of the following orders —

(a) a special administration order in relation to that company;

(b) an order requiring the company forthwith to take any action or to do or not to do any act or thing in relation to its business as the Minister may consider necessary;

(c) an order appointing a person to advise the company in the proper conduct of its business.

(2) The grounds mentioned in subsection (1) are, in relation to any company —

(a) that the company is or is likely to be unable to pay its debts;

(b) that the Minister considers it in the interest of the security and reliability of the provision of port services and facilities relating to container terminal services and facilities to the public; or

(c) that the Minister otherwise considers it in the public interest.

(3) Notice of any application under subsection (1) shall be given forthwith by the Authority to such persons and in such manner as may be prescribed.

(4) Where a company is a relevant public licensee —

(a) the company shall not be wound up voluntarily without the consent in writing of the Authority;

(b) no judicial management order under Part IV of the Insolvency Order, 2016 (S 1/2016) shall be made in relation to the company; and

(c) no step shall be taken by any person to enforce any security over the company's property except where that person has served 14 days' notice of his intention to take that step on the Authority.

(5) The Authority shall be a party to any proceedings under the Insolvency Order, 2016 (S 1/2016) relating to the winding-up of the affairs of a company which is a relevant public licensee.

(6) Any decision of the Minister under subsection (1) shall be final.

(7) For the purposes of this section, a company is unable to pay its debts if it is a company which is deemed to be so unable under section 100 of the Insolvency Order, 2016 (S 1/2016).

### **Remuneration and expenses of Authority and others**

**90.** (1) The Authority may at any time (whether or not the appointment of the person has terminated) fix the remuneration and expenses to be paid by a company which is a public licensee to any person appointed by the Minister under section 89(1)(c) to advise the company in the proper conduct of its business.

(2) Where a special administration order has been made under section 89(1)(a) in relation to a company which is a relevant public licensee, the Authority may, at any time, whether or not the order is still in force, fix the remuneration and expenses to be paid by the company to the Authority.

## PART 14

### LIABILITY OF AUTHORITY

#### **Exclusion of liability of Authority**

**91.** Notwithstanding the grant of any public licence, the Authority shall not be liable in any circumstances for any injury, loss, damage or cost sustained by any person as a result of any default, negligence, breach or other wrongful act or omission of any public licensee or any agent or employee of the licensee.

#### **Limitation of Authority's liability for loss or damage to or on board any vessel**

**92.** (1) The Authority shall not, where, without its actual fault or privity, any loss, damage or destruction is caused to any vessel or to any goods or other thing whatsoever on board any vessel, be liable to damages beyond an aggregate amount not exceeding in the currency of Brunei Darussalam the equivalent of such amount as may be prescribed by regulations made under section 141 of the Merchant Shipping Order, 2002 (S 27/2002).

(2) This section shall be without prejudice to any limitation of liability for loss or damage which may be available to the Authority pursuant to regulations made under section 141 of the Merchant Shipping Order, 2002 (S 27/2002).

## PART 15

## OFFENCES

**Damage to property of Authority**

93. (1) If any person —

(a) wilfully removes, destroys or damages any property belonging to or in the custody or possession of the Authority;

(b) hinders or prevents such property from being used; or

(c) hinders or prevents such property from being used or operated in the manner in which it is intended to be used or operated,

he is guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and shall make good any loss, destruction or damage suffered by the Authority, including the expenses of any inspection or survey carried out by the Authority to ascertain such loss, destruction or damage.

(2) Any person may apprehend any other person if such other person within his view commits an offence against this section and shall on such apprehension, without unreasonable delay, hand the person so apprehended over to a police officer.

**Unlawful operation of marine or port services or facilities**

94. Any person who establishes, installs, maintains, provides or operates any marine service or facility or any port service or facility without a public licence is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

**Evasion of dues**

95. (1) Any owner, agent or master of any vessel who, by any means whatsoever, evades or attempts to evade any port dues, goods dues or pilotage dues payable under this Act is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months or both, and shall in addition be liable to pay to the Authority as penalty double the amount of the dues he evaded or attempted to evade.

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

**Penalty for giving false information as to draught of vessel etc.**

96. (1) Any owner, agent or master of a vessel entering or leaving within the port or the approaches thereto, who makes any negligent mis-statement or gives false information of the type of vessel, its draught, length, beam or height to the Authority is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 6 months or both.

(2) For the purposes of this section, “height of vessel” shall be the height of the vessel measured vertically from the waterline of the vessel to the highest point of the vessel including its cargo, structure or equipment on board.

**Offences in connection with safety of vessels etc.**

97. Any person who —

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

(b) wilfully and without lawful excuse, lifts, injures, makes a vessel fast to, loosens or sets adrift, any moorings, buoys, beacons or sea or land marks;

(c) without any lawful excuse discharges any gun in the port except for the purpose of making a signal of distress or for such other purpose as is allowed under any written law;

(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 any order of the Minister, or contrary to the orders or directions of the Port Master or the master of such vessel;

(e) does or omits any act on board any vessel in the port which has caused or may cause fire on board such vessel; or

(f) uses a vessel or permits a vessel to be used in the port —

(i) 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;

(ii) when such vessel is loaded with goods or passengers or with both goods and passengers as to —

(A) exceed the number of passengers allowed by the vessel's safety certificate to be carried or received on the vessel; and

(B) submerge the appropriate subdivision load line on each side of the vessel when the vessel has no list, that is to say, the subdivision load line appropriate to the space for the time being allotted to passengers on the vessel, is lower than the load line indicating the maximum depth to which the vessel is for the time being entitled under any written law to be loaded when the vessel has no list;

(iii) in contravention of any regulations made under this Act thereby endangering the life of any person,

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months or both.



**Penalty for obstructing Authority in performance of duties**

98. Any person who at any time —

(a) hinders, obstructs or molests the Authority or any of its employees, agents or contractors in the performance and execution of their duty or of anything which they are respectively empowered or required to do so by virtue or in consequence of this Act; or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

**Preservation of secrecy**

99. (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been a member, an officer, an employee, an adviser or an agent of the Authority or a member of a committee of the Authority shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both.

**General penalty**

100. Any person guilty of an offence under this Act or any regulations made thereunder for which no penalty is expressly provided is, in addition to the forfeiture of any article seized, liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

**Offence by body corporate**

101. Where an offence against this Act has been committed by a body corporate, a partnership or unincorporated association of persons, any person who at the time of the commission of the offence was a director, manager,

partner, secretary or other similar officer thereof, or was purporting to act in any such capacity shall be guilty of that offence unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

### **Jurisdiction of Courts**

**102.** A Court of a Magistrate shall have jurisdiction to hear and determine all offences against this Act or any regulations made thereunder and, notwithstanding anything to the contrary in the Criminal Procedure Code (Chapter 7), shall have power to impose the full penalty or punishment in respect of any offence against this Act or any regulations made thereunder.

### **Composition of offences**

**103.** (1) Any police officer not below the rank of Sergeant specially authorised by name in that behalf by the Minister, or any employee of the Authority specially authorised by name in that behalf by the Chief Executive, may in his discretion, compound any such offence against this Act or any regulations made thereunder as may be prescribed as being an offence which may be compounded by collecting from the person reasonably suspected of having committed the offence a sum not exceeding \$500.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the offences which may be compounded.

### **Fines to be paid to Authority**

**104.** All fines imposed for any offence against this Act or any regulations made thereunder and all sums collected under section 103 shall be paid into the funds of the Authority.

### **Presumption of jurisdiction**

**105.** If, in any legal proceedings under this Act or any regulations made thereunder, a question arises as to whether or not any vessel or person is within the provisions of this Act or any regulations made thereunder or some

part thereof, the vessel or person shall be taken to be within those provisions unless the contrary is proved.

### **Service of documents**

**106.** (1) Unless otherwise expressly provided in this Act, any notice, order or document required or authorised by this Act or any regulations made thereunder to be given or served on any person, and any summons issued by a court in connection with any offence against this Act or any regulations made thereunder may be served on the person concerned —

(a) by delivering it to the person or to some adult member or employee of his family at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or business in a cover addressed to him;

(c) by affixing it to some conspicuous part of his last known place of residence;

(d) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or

(e) where the person is a body corporate —

(i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office;  
or

(ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) is deemed to be duly served on the person to whom the letter is addressed at the time when the letter would, in the ordinary course of post, be delivered and in proving service of the same it shall be sufficient to prove that the envelope containing the notice, order, document or summons was properly addressed, stamped and posted by registered post.

### **Saving of prosecutions under other laws**

**107.** Nothing in this Act shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an

offence against this Act or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Act or any regulations made thereunder, but no person shall be punished twice for the same offence.

## PART 16

## GENERAL

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

**108.** (1) Where damage is done to any property of the Authority by any vessel or float of timber, the cost of making good the damage, including the expenses of any inspection or survey carried out by the Authority to ascertain such damage, may be recovered by the Authority as a debt from the master, owner or person in charge of the vessel or float of timber, as the case may be.

(2) The Authority may detain any such vessel or float of timber until the costs of making good such damage and the expenses described in subsection (1) have been paid to the Authority or may require the master, owner or person in charge of the vessel or float of timber to deposit such sum of money or furnish such security as may be required by the Authority in order to meet such costs and expenses.

**Exemption from distress and attachment of property of Authority**

**109.** When any apparatus, fixture or fitting belonging to the Authority is placed in or upon any premises not being in the possession of the Authority for the purposes of carrying out the functions of the Authority, such apparatus, fixture or fitting shall not be subject to distress nor be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession it is.

**Authority to provide free landing places**

**110.** The Authority shall provide such number of public landing places as it may consider necessary or expedient for use by the public.

**Restrictions on erection of wharves, docks etc.**

**111.** (1) No plan and specification for —

(a) the erection, within the port or the approaches to the port, of a new wharf or dock or for the re-erection, extension or alteration of the same; or

(b) the erection of any sea-wall or any revetment along the bank of the port or for the re-erection, extension or alteration of the same,

shall be approved without previous reference to, and the concurrence of, the Authority.

(2) The Authority may determine the fee to be paid for the perusal of the plans and specifications.

(3) Where the Authority omits or refuses to give its concurrence to the plans and specifications referred to in subsection (1), the Authority appointed under section 3 of the Building Control Order, 2014 (S 69/2014) may refer the matter to the Minister whose decision shall be final.

### **Control and management of Government land and buildings in land areas of ports**

**112.** (1) Subject to the provisions of this section, the Authority shall be charged with the control and management of all land and buildings of the Government situate in the land area of a port, except any such land or buildings as may be specified in the notification defining or altering the limits of the port pursuant to section 3.

(2) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan may, by notification published in the *Gazette*, declare that any land or building of the Government situate in the land area of a port shall cease to be or shall become, as the case may be, subject to the control and management of the Authority.

(3) Where, by virtue of subsection (1) or of any notification under subsection (2), any wharf, land or building becomes subject to the control and management of the Authority, any order made under section 59 of the Customs Order, 2006 (S 39/2006) (relating to the establishment and maintenance of customs warehouses) and any regulations made under section 152(2)(zg) of that Order (relating to wharf dues payable under that Order) affecting such wharf, building or land shall cease to have effect in relation thereto.

**Notices, orders, receipts etc. may be given by authorised officer**

113. (1) All notices, orders, receipts and other documents and all information of whatsoever nature which the Authority is empowered to give by this Act or the regulations or by any other written law may be given by any means including electronic and mechanical means and by any employee authorised thereunto by the Authority.

(2) Where any such notice, order, receipt, document or information requires authentication, the signature or a facsimile thereof of the Chief Executive or any employee authorised thereunto by the Authority affixed thereto shall be sufficient authentication.

**Vessel guidance, assistance or direction**

114. Where the Authority provides any service for the guidance, assistance or direction of any vessel, neither the Authority nor any of its employees or agents shall be liable for any loss or damage suffered by any person of whatsoever nature or howsoever caused —

(a) by reason of any act or omission of the Authority, its employees or agents which is made in good faith and in the ordinary course of the discharge of the duties of those employees or agents; or

(b) if the loss or damage occurred or arose as a result of any defect or breakdown in the service of any equipment used for the provision of such service or for the receipt or provision of such information and not as a result of any act or omission of the Authority.

**Power to enter upon lands**

115. (1) The Authority may, for the purposes of this Act, by its employees, agents or contractors, enter at all reasonable hours in the daytime into and upon any building or land for the purpose of making any survey or inspection and for the purpose of executing any work authorised by this Act to be executed by them without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done in any part of such building or land in pursuance of this Act.

(2) The Authority shall not enter into any dwelling house in actual occupation, unless with the consent of the occupier thereof and with 6 hours' previous notice to such occupier.

**Power to enter upon lands adjacent to works**

**116.** (1) The Authority may, by its employees, agents or contractors, enter upon any land adjoining to or being within the distance of 90 metres of any works by this Act authorised to be made, for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials or for any other purposes connected with the formation of the works without making any previous payment, tender or deposit.

(2) In exercising the powers conferred under subsection (1) to enter upon any land, the Authority shall —

(a) do as little damage to the land as possible; and

(b) pay compensation for —

(i) the temporary occupation of, or the temporary damage to, the land as and when such temporary occupation or temporary damage occurs; and

(ii) any permanent injury to the land.

(3) If any dispute arises touching the amount or apportionment of such compensation, the same shall be determined in the manner provided by section 118.

(4) Before the Authority makes any such temporary use under subsection (1) of the land adjoining or lying near to the works, the Authority shall give 7 days' notice in writing of its intention to the owners and the occupiers of such land and shall set apart by sufficient fences so much of the land as is required to be so used from the other land adjoining thereto.

**Employee of Authority may require evidence of identity in certain cases**

**117.** (1) Any police officer or any employee of the Authority who reasonably believes that any person has committed an offence against this Act or any regulations made thereunder may require such person to furnish evidence of his identity and the person shall thereupon furnish such evidence of his identity as may be required by such police officer or employee of the Authority.

(2) Any person who refuses to furnish any information required of him by any police officer or any employee of the Authority under this section

or wilfully mis-states such information is guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

### **Compensation, damages and costs to be determined by Court of a Magistrate**

118. (1) Except as otherwise provided in this Act, in all cases where damages, expenses, the cost of making good or other costs are by this Act directed to be paid, the amount and, if necessary, the apportionment of the same and any question of liability shall, in case of dispute, be summarily ascertained and determined by a Court of a Magistrate.

(2) If the amount of damages, expenses, the cost of making good or other costs is not paid by the party liable to pay the same within 7 days after demand, that amount may be reported to the Court of a Magistrate and recovered in the same way as if it were a fine imposed by the Court of a Magistrate.

(3) An appeal shall lie to the High Court from any decision of a Court of a Magistrate under this section, and the provisions of the Criminal Procedure Code (Chapter 7) shall apply, with the necessary modifications, to such appeal.

### **Disposal of matters and things removed by Authority**

119. (1) Any matter or thing removed by the Authority in executing any work which it is entitled to execute under this Act or any regulations made thereunder shall, except as otherwise provided, be the property of the Authority and may be sold by public auction or, if the Authority thinks the circumstances of the case require, may be sold otherwise or be disposed of without sale.

(2) The moneys arising from the sale may be retained by the Authority and applied in or towards the expenses incurred and the surplus, if any, shall be paid on demand to the owner of that matter or thing.

(3) If the surplus is not claimed within one year of the sale, it shall be paid into the funds of the Authority.

(4) If any matters or things belonging to several persons are removed by the Authority in executing any such work, the Authority shall cause those matters or things, if so, to be sold separately.



**Exemption by Minister**

**120.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, exempt any person, vessel, vehicle or premises or any class or description of persons, vessels, vehicles or premises from any of the provisions of this Act or any regulations made thereunder.

(2) Any exemption granted by the Minister under subsection (1) shall not reduce or in any way affect the responsibility of the person to whom the exemption is granted or of the owner or master of a vessel or of the owner of a vehicle or the premises to whom the exemption is granted and the Authority shall not be liable for any death or injury of any person or for any loss, damage or destruction of any property arising from such exemption.

**Regulations**

**121.** The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as may be necessary or expedient for giving effect to and carrying out the provisions of this Act and for the due administration thereof, including the prescription of fees and of any other thing required to be or which may be prescribed under this Act.

**SCHEDULE 1**

(section 6)

CONSTITUTION AND PROCEEDINGS OF BOARD

**Tenure of office of members**

1. A member shall hold office for a period not exceeding 3 years and on such conditions as the Minister may determine and shall be eligible for reappointment.

**Temporary members**

2. The Minister may appoint any person to be a temporary member during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam of any member.

**Temporary Chairman**

3. The Minister may appoint any member to be a temporary Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of the Chairman.

**Revocation of appointment**

4. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, at any time, revoke the appointment of the Chairman or any member without assigning any reason.

**Resignation**

5. A member may resign his office at any time by giving not less than one month's notice in writing to the Minister.

**Chairman may delegate function**

6. The Chairman may, in writing, authorise any member to exercise any power or perform any function conferred on the Chairman under this Act.

**Vacation of office**

7. The office of a member shall become vacant —

(a) on his death;

(b) if he, without sufficient cause (the sufficiency thereof to be decided by the Board) fails to attend three consecutive meetings of the Board;

SCHEDULE 1 — *(continued)*

- (c) if he becomes in any manner disqualified from membership of the Board;
- (d) if he resigns his office; or
- (e) if his appointment is revoked.

**Filling of vacancy**

8. If a vacancy occurs in the membership of the Board, the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint any person to fill the vacancy and the person so appointed shall hold office for so long as the member in whose place he is appointed would have held office.

**Disqualification from membership**

9. No person shall be eligible to be appointed or to remain a member if he —

- (a) is an undischarged bankrupt or has made any arrangement with his creditors;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable or unfit to discharge the functions of a member.

**Disclosure of interest by members**

10. (1) Subject to sub-paragraph (2), if a member has a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is before any meeting of the Board, he shall at that meeting declare the nature of his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, that contract or other matter, and if the Chairman or the person presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or discussion.

(2) For the purposes of sub-paragraph (1), a general notice given to the members of the Board by a member to the effect that he is an officer or member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made if it specifies the nature and extent of his interest in the specified corporation or firm and his interest is not different in nature or greater in extent than the nature and extent so specified in the general notice at the time any contract is so made, but no such notice shall be of effect unless either it is given at a meeting of the Board or the member

SCHEDULE 1 — *(continued)*

takes reasonable steps to ensure that it is brought up and read at the next meeting of the Board after it is given.

(3) For the purposes of this paragraph, a pecuniary interest of a spouse, parent, son or an adopted son, or daughter or an adopted daughter, of a member shall be treated as a pecuniary interest of the member.

(4) For the purpose of determining whether there is a *quorum*, a member shall be treated as being present at a meeting notwithstanding that under this paragraph he cannot vote or has withdrawn from the meeting.

**Salaries etc. payable to members**

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

**Meetings and *quorum***

12. (1) The Board shall ordinarily meet for the despatch of business at such times and places as the Chairman may appoint.

(2) At every meeting of the Board, one half of the number of members shall constitute a *quorum*.

(3) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(4) Where not less than four members request the Chairman by notice in writing signed by them to convene a meeting of the Board for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

(5) The Chairman shall preside at meetings of the Board.

(6) Where the Chairman is absent at a meeting, such member as the Chairman appoints as an acting Chairman shall preside at that meeting.

**Vacancy**

13. The Board may act notwithstanding any vacancy in its membership.

SCHEDULE 1 — *(continued)*

**Procedure at meetings**

**14.** Subject to this Act, the Board may make rules regulating its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

**Validity of proceedings**

**15.** The validity of any proceedings of the Board shall not be affected by any defect in the appointment of any member or by any contravention of paragraph 11 by any member.

**SCHEDULE 2**

(section 8(1))

POWERS OF AUTHORITY

1. To give directions to any person granted a licence under this Act or any regulations made thereunder.
2. To lay down standards and codes to be observed by all providers and users of marine and port services and facilities.
3. To levy such charges and fees for the granting of licences, permits, approvals, consents and concurrences and for services and facilities provided by the Authority as may in its opinion be appropriate.
4. To own and operate vessels for the purpose of providing any of the port services and facilities which the Authority is required or empowered to provide.
5. To supply water to vessels.
6. To regulate and control operations to clean up oil spills within the territorial waters of Brunei Darussalam.
7. To reclaim, excavate, enclose or raise any part of the lands vested in the Authority.
8. To provide and use, within the territorial waters of Brunei Darussalam or otherwise, vessels and appliances for the purpose of rendering assistance to any vessel, or recovering property lost, sunk or stranded.
9. To provide accommodation and recreational facilities for persons employed by the Authority and members of the mercantile marine as the Authority may consider necessary.
10. To promote the welfare of members of the mercantile marine.
11. To form or participate —
  - (a) in the formation of any company for the purpose of carrying out all or any of the functions of the Authority;
  - (b) with the approval of the Minister, in the formation of any company for such other purposes as may be approved by the Minister; and

SCHEDULE 2 — *(continued)*

(c) in any joint venture or partnership.

12. To grant or guarantee loans to officers or employees of the Authority for such purposes specifically approved by the Authority as are likely to increase the efficiency of officers or employees or otherwise for the purpose of the functions of the Authority.
13. To offer bursaries and scholarships for study at any school or institution of higher learning to members of the public and officers or employees of the Authority and members of their families.
14. To provide financial grant, aid or assistance to any person for all or any of the purposes of this Act.
15. To receive donations and contributions from any source and raise funds by all lawful means.
16. To do anything incidental to any of its functions.

**SCHEDULE 3**

(section 26)

FINANCIAL PROVISIONS

1. The financial year of the Authority shall begin on 1st April of each year and end on 31st March of the succeeding year, except that the first financial year of the Authority shall begin on the appointed day and end on 31st March of the succeeding year.

2. The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by the Authority.

3. The accounts of the Authority shall be audited by the Auditor General or by an auditor appointed annually by the Minister in consultation with the Auditor General.

4. The Authority shall, as soon as practicable after the end of each financial year, submit to the Minister an annual report on the activities of the Authority during the preceding financial year, and the Minister shall cause a copy of every such annual report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

5. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is an authorised auditor under the Companies Act (Chapter 39).

6. The remuneration of the auditor shall be paid out of the funds of the Authority.

7. The Authority shall, as soon as practicable after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

8. The auditor shall in his report state —

(a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;

(b) whether proper accounting and other records have been kept including records of all assets of the Authority whether purchased, donated or otherwise;



SCHEDULE 3 — *(continued)*

(c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Authority during the year have been in accordance with this Act; and

(d) such other matters arising from the audit as he considers should be reported.

9. The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Authority, and shall also submit such periodical and special reports to the Authority as may appear to him to be necessary or as the Minister or the Authority may require.

10. The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Authority.

11. The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

12. The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Act.

13. Any person who fails, without any reasonable cause, to comply with any requirement of the auditor under paragraph 12 or who otherwise hinders, obstructs or delays the auditor in the performance of his functions under this Act is guilty of an offence and liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

14. As soon as the accounts of the Authority and the financial statements have been audited in accordance with this Act, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

15. Where the Auditor General is not appointed as the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor General at the same time they are submitted to the Authority.

16. The Minister shall within 12 months after the close of the financial year cause a copy of the audited financial statements and of the auditor's report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

