

ODISHA PORT TRUST ACT, 1962

The Odisha : Gazette EXTRAORDINARY PUBLISHED BY AUTHORITY THE ORISSA PORT TRUST ACT, 1962 | Received the assent of the President on the 4th November 1962, first published in an extraordi- nary issue of the Orissa Gazette, dated the 15th Nopember 1962 | AN ACT to PROVIDE FOR REGULATION, DBVELOF}mr. MANAGENCNT AND ADWNISTRkTION OF PORTS WITHIN THB STATE OF ORISSA BE -it enacted by the Legislature of the State of Orissa in the Tffrteenth year of the Republic of India as follows

CHAPTER 1 Preliminary 1. (1) This Act may be called the Orissa Port Short title, extent and Trust Act, 1962. commence- (2) It extends to the whole of the State of Orissa. (3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed in respect of different ports

2. In this Act, unless the context otherwise Definiaõns requires—(1) "Board" in respect of any port means the Board of Trustees in respect of such port established under section 3 (2) "bye-law" means a bye-law made by the Board under this Act; (3) "Chief Officer of Customs" denotes the Chief Executive Officer of Customs for the port ; (4) 'dock' includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slir ways, grid-irons, quays, warehouses and other works and things appertaining to any dock and also denotes the portion of the sea enclosed or protected by the arms or groynes of the harbour , For the Statement of 9bjects and RnsonS ee Orissa Gazd'e Extraordi- nary dated the -23rd August 1962 (Noa 417)- and tor report of Select Committee, dzted the 10th 1962 (No. 452). 508 THB ORSSA PORT TRUST Acr, 1962 (Sec. 2) (Or. Act 30 (5) "goods" means and includes evßry k.ind of movable property; (6) "Government" means the State Govern- ment of Orissa , (7) 'land' includes the of a river and of the sea below high water-mark ; (8) "major port" means a, port declared as such by or under any law made by Parliament' -or any existing law within-the maning Of the Constitution of India; (9) "master" when in relation to any vessel or to any aircraft making use of the port, means any pefs•on ghaving for the ume being the charge or control of such vessel or such -aircraft, as the case may be, except a pil6t, harbourmaster, berthing master, dock master or assistant harbour master' of the port ; (10) "owner" when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods and when used in relation to any vessel, includes any port owner, Charterer, consignee or mortgagee in possession thereof; (11) "pier" includes any stage, stairs, landing- place, hard-jetty, landing stage, floating barge or pontoon and any bridge or other works connected therewith ; (12) "port" means any port other than a major port with such limits as may be defined by notifiéatidn issued by Government from time to for the purposes of this Act and until a notification is so issued, with such limits as may have been defined by Govern- ment under the provisions of the Indian Ports Act, 1908. of (14) "Port Trust Security " means debenture bonds or siöck certificates or other. securities issued by the Board in respect of any loan contracted- under .the provisions of this Act ; of 19621 THB ORISSA PORT TRUST ACT. 1962 (Secs. 3—4) (14) "prescribed" means prescribed by rules 509 Orissa Act 23 of 1950. Orissa Act of 1948. Orissa Act made by Government under this Act ; (15) "rate" includes any toll, due, rent, rate, fee or charge leviabie under this Act ; (16) "Regulations" means Regulations made by the Board under this Act , (17) "rules" means rules made by Government under this Act ; (18) "Trustee" means a trustee on the -Board ; (19) "vessel" denotes anything made for the conveyance by water of human beings or of property ; (20) "wharf" includes any wall or stage and. any part of the river bank or foreshore that may be used for loading or unloading goods, and any walt enclosing or adjoining the same

CHAPTER 11 TÛ BOARD OF TRUSTBS 3. (1) With effect from such date as Government meut and may, by notification appoint, there shall be in respect incorpora- of a port a Board charged with the responsibility of the Board. development, regulation and administra- tion of such port and the duties of carrying out the provisions of this Act to be known as the Board of Trustees for such port. (2) The Board shall be a body corporate, with the name aforesaid having perpetual succession and a common seal with power, subject to the provi- sions of this Act, to acquire, hold and dispose of property and to contract, and may by the said name sue and be sued . (3) With effect from the date of appointment of the Board in respect of any port no local authority constituted under the Orissa Municipal Act, 1950, the Orissa Grama Panchayats Act, 1948 or the Orissa Panchayat Samiti and Zilla Parishad Act, 1959, shall exercise

jurisdiction within such port. 4. (1) The Board shall consist, of the following Composition trustees, namely . of Board. (a) t\$o persons to be appointed by Govern- ment' as the Chairman and the Vice- Chairman respectively.. ex-officio trustees; 510 Term of omee• TRB ORISSA PORT TRUST ACT, 1962 (sec. 5) (or. Act 30 (b) not more than five elected representatives of such commerce and laouor organi- sations as may be notified by Government from time to time.... elected trustees (c) not more than two other non- omcials to be nominated by Government, nominated trustees ; and (d) not more than seven Government omcials to be nominated by Government..... nominated trustees : Provided that the total number of trustees in the Board shall not be iess than eleven. (2) Every appointment, election or nomination under this section shall take effect as soon as it is notified by Government. 5. (1) The Chairman and the Vice-Chairman shall hold omce during the pleasure of Government. (2) The term of omce of the elected and nomi- nated non- official trustees shall be a period of two years from the date the election or nomination, as the case may be, is notified by Government; Provided that the outgoing trustee shall continue in office until the election or nomination of his successor is notified under section 4. (3) Any nominated non-omcial trustee may Resign his omce by giving notice in writing to Govern- ment, and , on such resignation, being notified by Government, shall be deemed to have vacated office. (4) Any elected trustee may resign his omce,, by giving notice in writing to the Board and on the acceptance of such resignation by the Board, shall be deemed to have office. (5) An outgoing trustee snail be eligible, as the case may be, for reappoin*mont, reelection or re-nomination. of 19621 TRB ORISSA PORT TRIjsr ACT, 1962 (Secs. 6—8) 511 6. (I) Notwithstanding anything contained in Constitution of first Board sub-section (I) of section 4— and filing up ca.sual (a) the Board constituted for the first time shall consist of such number of 'trustees, not being less than seven and more than eleven, as Government may, from time to time, determine, who shall be nomi- nated by Government; (b) any person whom Government may deem fit may be nominated as a trustee; (c) Government may, at any time remove any trustee and appoint another in his place and (d) without prejudice to the provisions of clause (c) a trustee shall hold office for such term, not being more than five years as Government may fix in that behalf. (2) Every vacancy in the omce of an elected trustee shall be filled up by the organisation con- cerned within thirty days of the occurrence of the vacancy. (3) Where an organisation fails to elect a trustee for filling up the vacancy referred to in sub- section (2) within the period specified therein Govern- ment shall have the power to fill up such vacancy by appointing •a .trustee according as they deem fit and on such appointment the trustee shall be deemed to be an elected trustee under clause (b) of sub-section (1) of section 4

7. If any trustee or nominated non- abseze of official trustee, is by infirmity or otherwise rendered Trustees.temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving vacation of his omce, Government may appoint • or nominate another person to act in his place during his absence. 8. (1) A person shall be disqualified for becom- Disquali* ing a Trustee if he— etion fox offco ot (g) iS not a citizen of India,- or has volun- tarily acquired the citizenship ofa foreign State or is undet acknowledgment or adherence to a foreign State; 12 THE ORISSA PORT TRUST ACT, 1962 (Sec. 8—cattd.) [Or. Act 30 (b) has been convicted and sentenced to imprisonment for an offence involving moral turpitude which, in the opinion disqualifies him from of Government, being a Trustee and if such sentence has not been reversed, set aside, or remitted; (c) is of unsound mind; (d) is an undischarged insolvent; (e) holds any omce of profit undor the Board; or (f) has, directly or indirectly any share or interest in any work done by order of the Board, or in any contract or •employ- ment with, by or on behalf of the Board, (2) No person shall be deemed to have a share or interest in any work, contract or employment within the meaning of clause (f) of sub-section (1) by reason only of his— (i) having a share in any incorporated Company which may contract with or be by, or on behalf of, the Board; (ii) having a share or interest in any news- paper in which any advertisement relating to the affairs of the Board may be (iii) being interested in any loan to the Board; (iv) having a share or interest in any lease, sale, exchange or purchase of immovable property or any agreement for the same; (y) having a share or interest in any licence ganted by the Board, or having any right by agreement or otherwise with the Board to the sole or preferential use of any berth for vessels in the docks belonging to the Board; (Yi) having a share or interest in the occasional sale to the Board, to a value not exceeding two thousand rupe# in any one financial year, of any article in wh.idi he trades; or THE ORISSA PORT TRUST ACT, 1962 (Sce. 9) (yii) being a person to whom, or a member of a firm or incorporated company to which, any of the functions specified in clauses (a) and (e) of sub-section (1) of section 3S shall have been relinquished under

section- 38e 513 (3) A Trustee shall cease to remain a Trustee on the Board if he— (a) becomes disqualified in pursuance of the provisions of the foregoing sub-sections; (b) refuses to act or becomes incapable of acting ; (c) fails to attend, without the previous permission of the Board, three consecutive ordinary meetings of the Board; or (d) is absent from the meetings of the Board for a period exceeding six consecutive months. (4) Whenever any question arises as to whether any condition specified in sub-section (2) or (3) has been satisfied the same shall be referred to Government who shall make such orders as they deem fit and the order so made shall be final and binding on the parties : Provided that no such order shall be made Without giving the parties concerned not more than fifteen days time for being heard in the matter. 9. (I) The Chairman and the Vice-Chairman Remuneration and and the person appointed to act as; Chairman shall be entitled to such remuneration, if any, by way of service or of salary, leave and other allowances and on retirement to such gratuity or compassionate allowance, and if any as Government may from time to time determine in that behalf. able to make a, ViwChü• man •nd other Trust- THE ORISSA PORT •mi'ST ACT, 1962 (secs. 10-12) (2) Without prejudice to the provisions of sub-section (1), the other conditions of service of the Chairman and Vice-Chairman shall be as may be determined by Government from time to time

10. Government may prescribe from time to time the fees, if any, to be paid to the Chairman, Vice-Chairman and other Trustees for attendance at meetings of the Board or its committees and prescribe conditions and restrictions subject to which such fees shall be payable. Meetings of 11. (1) The

Board, subject to the other provisions of this Act shall meet at such intervals and at such places and observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made in that behalf. (2) The Chairman or in his absence the Vice-Chairman or, in the absence of both* any Trustee chosen by the Trustees present from amongst themselves, shall preside at a meeting of the Board. (3) All questions at a meeting of the Board shall be decided by a majority of the votes of the Trustees present and voting and in case of an equality of votes, the Chairman, or other presiding shall have a second or casting vote. (4) No business shall be transacted at a meeting unless, at least five Trustees are present throughout such meeting. (5) The Chairman may, wherever he thinks fit, and shall upon the written request of not less than three Trustees, call a special meeting. Minutes or 12. (1) Minutes in which shall be recorded the proceedings and names of the trustees present and the proceedings of each meeting of the Board and standing committees aication of orders and shall be drawn up and recorded in a book to be kept for that purpose, and shall be laid before the next- Board. meeting of the Board and signed at such meeting by the presiding officer thereof, and shall be open to inspection by any Trustee during working hours of the office of the Board. of 1962 THE ORISSA PORT TRUST ACT, 1962 (Sec. 13) 515 (2) A copy of the minutes of every meeting of the Board and of its standing committees shall, as soon as may be, be sent for publication in the Official Gazette at the cost of the Board and another such copy shall within three days of the meeting be forwarded to Government. (3) Government may also in any case ask for a copy of any paper or papers laid before the Board and the Board shall forward to Government a copy of such paper or papers. (4) All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other trustee authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in that behalf. 13. (1) The Board may, from time to time, appoint Constitution and such number of Standing Committees as it deems fit of business each consisting of not less than five of its Trustees as of Standing Committees. members and may, by general or special order, direct that subject to such conditions, limitations and restrictions as may be specified in the said order, all or any of the powers or duties of the Board shall also be exercised or discharged by any of the Committees so constituted Provided that the Board shall always have the power to alter, from time to time, the constitution of or discontinue any such Committee. (2) A Standing Committee may elect one of its members to preside at its meetings and if no such member has been elected or if a member so elected is not present at the time appointed for holding any of its meetings, the members present shall choose one from among themselves to preside at such meeting. (3) The Standing Committees may meet and adjourn at their discretion, but the Chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a Committee, call a special meeting of such Committee. 516 TRB ORISSA PORT TRUST ACT, 1962 (Sec. 14) [Or. Act % (4) Questions at the meetings of a Standing Committee shall be decided by a majority of votes of the members present, and in the case of an equality

of votes the person presiding at the meeting shall have a second or casting vote. (5) No business shall be transacted at any such meeting unless at least three of the of the Committee are present throughout such meeting. 14. (1) No trustee shall vote on or take part in the Rentionction on Of discussion ot any matter coming up for consideration Trustee' to or at a meeting of the Board or of any Committee if it is discuss mat- one in which the Trustee has any direct or indirect bey pecuniary interest by himself or along with his partner, if any, or in which he is interested professionally on behalf of a client or äs agent for, any person other than Government, or a local authority. (2) If any objection is raiSed at a meeting that a Trustee has in any such matter an interest of the nature specified in sub-section (1), the objection shall be considered and by the other Trustees of the Board or the Committee, as the case may be, in such manner as may be prescribed and the decision of such Trustees shall be final. (3) If at any time it is brought to the notice of the Chairman of the Board that a Trustee had voted or taken part in the discussions at a meting in contraven- tion of the provisions of sub-section (1) the matter shall, unless bonafide rights have accrual to third parties in pursuance of the resolution pâssed at the meeting, be inquired into and decided in the manner prescribed, and pending such decision it shall be the duty of the Board or the Standing Committee, as the case may be, not to gve effect to such resolution. (4) A decision, under sub-section (3) shall be final and if as a result of the enquiry the Trustee is found to have votE or *Aken part in the proceedings in contra- vention of the provisions of sub-section (l) the reso- luüon in question shall stand annulled, of 19621 THE ORISSA PORT TRUST Acer, 1962 (Sees. 15—1n 517 15. No act or proceedings of the Board or of any Validation of and acts Standing Committee shall be invalid merely by reason of— (1) any vacancy in or defect in the constitution of the Board or the Committee oc (2) any defect in the appointment, nomination or election of a person acting as a Trustee thereof ; or (3) any irregularity ifrits procedure not affecting the merits •of the case

16. The -Board may from time to time, delegate Delegation of power; t' such of its' powers and duties to be exercised or dis: Chair. charged by the Chairman subject to such conditions and limitations as may be specified in that behalf in a resolution passed by' the Board with the prior approval of Gövernment. 17. (1) 'The Chairman shall be the Chief Executive Duties of Officer of the Board and shall, subject to the provisions of this Act and the rules and regulations maae there- under, be responsible for implementing all orders and decisions of the Board. (2) It shall be the duty of the Chairman--- (i) to, attend every mwting of the Board unless prevented by sickness or other reasonable cause • (iD to exercise supervision and -control over; the acts and of all officers and • servants of the Board in matters of executive administration, and in matters concerning the accounts and reeörds of the Board; and (iii) subject to the regulations made under sections 20 and 95 and to the for the time being in force prepared and sanctioned under section 18, to dispose* of all matters relating to the service of the omcers and servants of the Board, and their privileges and allowanm : 518 THE ORISSA PORT TRUST ACT, 1962 (secs. 18-19) [Or. Act 30 Provided that, subject to the approval of the Board, the Chairman may delegate all or any of his duties to the Vice-Chairman or any other Trustee or officer or servant of the Board as he may, from time to time, consider fit

CHAPTER 111 OFFICBRS AND SERVANTS OTHER THAN THE CHAm.M.AN AND VICE- (ÄIÆRMAN 18. (1) The Board shall, from time to time, subject dule of to such rules as may be made in that behalf, prepare Board" and sanction a schedule of its omcers and servants, other than the Chairman and Vice-Chairman, setting forth the number, designation, grades, salaries, fees and allowances payable to such omcers and servants. Explanation—Artisans, porters and labourers and contractors or agents who provide porters and labour- ers are not officers and servants within the meaning of this section and sections 20 and 21. (2) No such officer or servant shall undertake any work unconnected with his duties under this Act except with the permission of the Board. 19. (1) A person shall be disqualified for being Disqual ifica- appointed as an officer or servant if he has •directly or t ion appointment • *Indirectly, by himself or by a partner or any other person, any share or interest in any contract made with, servant • or any work being done for the Board otherwise than as such omcer or servant; (2) If any such omcer or servant or indirectly any share or interest of the nature and in the manner referred to in sub-section (1) he•shall, be liable to bo,removed from office by order of the author- ity haviäg'the power so to do by or under the provi- 'ions of this Act. of 19621 THE ORISSA PORT TRIST 1962 (sec. 20) (3) Notwithstanding- anything contained in 519 sub-sections (I) and (2) Government may exempt— (a) any person, who is a member of the Board of Directors of any Company or Corpora- tion owned or controlled by Government, from the operation of

sub-section (I) ; and (b) any officer or servant of the Board, who is appointed as a member of the Board of Directors of any such Company or Corporation, from the operation of sub-section (2). 20. Subject to the prior approval of Government, Regulation relating to the Board may make regulations to provide for all or recruitment any of the following matters, namely : and to (a) tenure of office, provident funds, pensions, gratuities, compassionate allowance, leave of absence and other conditions of service of officers and servants referred to in section 18 ; (b) remuneration of persons appointed to act for any such officer or servant during absence on leave ; (c) powers, duties and functions of all such officers and servants (d) qualifications of candidates for appointment to such posts and the manner of selection for such posts ; (e) pension, gratuities, compassionate allowances, if any, payable to any of them or their relatives, as the case may be, in the event of injuries being sustained or death being caused in course of employment ; (f) procedure to be followed in imposing any penalty of withholding increment or promotion, censure, reduction in rank, compulsory retirement or dismissal in pursuance of departmental proceedings for indiscipline, carelessness, unfitness, neglect of duty or other misconduct and directing suspension pending such proceedings ; authority by whom such orders may be passed and to whom appeal may lie ; 1. Inserted by the Orissa Port Trust (Amendment) Act, 1963 (Or. Act 26 of 1963), s. 2. 520 Power to appoint, punish or grant leave to officers and servants. PORT TRUST ACT, 1962 (secs. 21-22) [Or. Act 30 (g) establishment of welfare or loan funds for the benefit of the employees of the Board ; (h) any of the matters covered by the aforesaid clauses in respect of artisans, porters and labourers and in respect of contractors agents who provide such workmen ; and (i) such other matters as may be incidental to, or necessary for the purpose of regulating the appointment and conditions of service or for which in the opinion of the Board provisions should be made by regulations

21. Subject to such conditions, limitations and restrictions, if any, as Government may by order direct, the Chairman shall have the power to—(a) appoint officers and servants specified in the schedule for the time being in force made under section 18 (b) grant leave and promotion to such officers and servants (c) dismiss or reduce in rank and take any other disciplinary action against such officers and servants ; and (d) exercise all other administrative control over such officers and servants Provided that the orders of the Chairman made in pursuance of clause (c) shall be subject to the decision in appeal, if any, to the Board preferred within such period and in such manner as may be prescribed

22. Notwithstanding anything to the contrary in Power to dissolve sections 20 and 21—with services "d to permit retirement in certain cases. (1) in case of officers and servants appointed by Government the power to dispense with their services otherwise than for reasons of misconduct, and to order their retirement on pension, gratuity or compassionate allowance shall vest in Government and in all other cases such power shall vest in the Board ; and of 1962 THE ORISSA PORT TRUST ACT, 1962 (secs. 23-24) 521 (2) no orders made by the Board in respect of officers or servants as Government may, from time to time, direct, shall have effect without the prior approval of Government, CHAPTER IV PROPERTY AND CONTRACTS 23. (1) On the coming into force of this Act all property within the limits of the port other than board. private property, vested in or belonging to or held by the Government shall, subject only to such of the charges and liabilities outstanding against such property as may be notified by the Government in that behalf, vest in, belong to and be held by the Board and shall, with all the other property of whatever nature or kind which may become vested in the Board, be under its direction, management and control: provided that no roads and electric installations thereon, if any, as are not public roads and which belong to Government immediately before the commencement of this Act shall vest in the Board under this sub-section unless Government in exchange for a price fixed and with the consent of the Board, so direct. (2) All property vested in or belonging to, or acquired or held by and all moneys paid or payable to, the Board shall be deemed to be held by the Board in trust for the purposes of this Act* 24. The Board shall, for the purposes of this Act, have power to acquire and hold immovable or movable hold or property or any interest therein, whether within or alienate without the limits of the port, and also the power to lease or sell any immovable or movable property which may have been vested in or acquired by it: Provided that no acquisition of immovable property or sale or lease for a term exceeding ten years of any immovable property shall be valid unless the sanction of Government to such acquisition, sale or lease has been first obtained. 522 Application of Land Acquisition Act, 1894. THE ORISSA PORT TRUST ACT, 1962 (secs. 25—28) [Or. Act 30 25. When any immovable property is required for the purposes of this Act, Government may at the request of the Board procure the acquisition thereof under the provisions

of the Land Acquisition Act, 1894, 1 of 1894 and on payment by the Board of the compensation awarded under that Act and the charges incurred by Government in connection with the proceedings the land shall vest in the Board for the purposes of this Act

26. Whenever any property, to which public as Mar acqui- such have no manner of right or claim, vests in the 'idon or by Board in pursuance of the provisions of this Act, no such right Or claim shall accrue in respect of such property for So long as it continues to remain vested in the Board, anything in this Act or any other' la'# or in any custom or usage having the force of law to the contrary notwithstanding. 27. (1) Subject to the of. this Act the Contract' by the Board. Board shall be competent to enter into and perform any contract necessary for the purposes of this Act. (2) Every such contract shall be made on behalf of the Board by the Chairman in such form and manner as may be specified in the regulations made in that behalf. (3) No contract which is not made in accordance with the provisions of this Act and the rules and regula- tions made thereunder shall be binding on the Board

CHAPTER V WORKS AND SERVICES 28. The Board may execute such works and Works and appliances. provide such appliances as it may deem necessary or expedient for the purposes of the port and such works and appliances may include— (1) whasves, quays, docks, stages, jetties and piers Within the port or on the foreshore of the port, with all necessary and conve- nient arches, drains, landing places, electric installations* stairs, fences, roads and rail- way approaches ; of 19621 TRE ORISSA PORT TRUST ACT, 1962 (Sec. 28—contd.) (2) railways, tram',vays, locomotives, rolling stock, sheds, warehouses and other accom- modation for passengers and goods and other appliances within the port for carrying passengers and for conveying, receiving and storing goods landed, or to be shipped or otherwise ; (3) moorings for vessels and cranes, scales and all other necessary means and appliances, preferably mechanical process of loading and unloading -vessels , (4) reclaiming, excavating, .enclosing and raising any part of the foreshore of the port which may be necessary for the execution of the works authorised by this Act, or otherwise for the purposes of this Act ; (5) such breakwaters and other works within or without the limits of the port as shall be expedient for the protection of the harbour or port ; (6) dredgers and other machines for cleaning, deepening and improving any portion of the port or foreshore ; (7) and other appliances necessary for the safe navigation of the port and of the approaches thereto ; (8) vessels, steam tugs or other boats for use as well within the limits of the port as beyond those limits, whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property and for the purpose of landing, shipping or transshipping passengers and goods ; (9) boats, barges and other appliances •necessary in connection with the supply of water to shipping in the port ; 523 524 wteb THE ORISSA PORT TRUST Ac:r, 1962 (secs. 29-30) (Or. Act (10) engines and other appliances necessary for the extinguishing of fires in the port and on the property of the Board ; and (11) such other works and appliances as may be, in the opinion of the Board, expedient for carrying out the purposes of this Act. 29. (1) When any wharf, quay, stage, jetty or pier to has been made and completed, with suficient ware- etc* houses, sheds and appliances for landing or for shipping goods from and in seegoing vessels, the Board may, with the previous sanction of Government, by a notification published in three consæutive issues of the Official Gazette, declare .that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping or for landing or for shipping, as the case may be, goods from and in sea-going vessels. (2) From and after such publication, the Board may, from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to' come along- side of such wharf, quay, stage, jetty 01' pier tor the purpose of landing and' shipping goods or for landing or for shipping th? sahe, the nse may be, any- sea- going vessel within the port which has not commenced to discharge cargo or which, bping about to take in has not commenced to do so : Provided that in making such order the Board shall have regard so far as may be, to the convenienæ of such vessel and of the shippers in respect of the use of any particular wharf, quay, stage, jetty or pier

30. When a sumcient number of wharves; quays, dagoß sum- stages, jetties, piers, warehouses, sheds and ihave been provided, as aforesaid, the Board may, with wmpeJled to the previous sanction of Government by an order published in three consecutive issues of the OGcial Gazette, direct that no goods, shall be landed shipped from or in any sea-going vessel within the port, save at 'such wharves, quays, stages, jetties and piers and •may, in like manner, •alter, vary or revoke any such, order. of 19621 THB ORISSA PORT TRusr ACT, 1962 (secs. 31—33) 525 Power fo 31. Any omcer appointed by

the Board in this order behalf may in cases of emergency or for any reason to come alongside of which appears to him sufficient by notice in writing, or to order the master or owner of any vessel to remove, such vessel from or not to bring such vessel alongside of any wharves, wharf, quay, stage, jetty or pier belonging to the Board etc and if such notice is not obeyed the Board may charge in respect of such vessel such sum as thinks fit, not exceeding five hundred rupees for each day of twenty- four hours or portion of such day during which such vessel remains at such wharf, quay, stage, jetty or pier Provided that, in the case of a vessel ordered to be removed such charge shall not commence to be made till after the expiry of twelve hours from the service of such notice as aforesaid on the master or owner of the vessel. 32. (1) Notwithstanding anything contained in Power of Government sections 29 and 30 Government may, by notification to, exempt from time to time, permit specified vessels or classes of vessels to use vessels to discharge or ship cargo or any specified cargo etc., or any specified classes of cargo, at such part of the port and to require, in preference port, in such manner, during such period, subject to to be to such payments and, on such conditions as Government Government vessels. think fit, and otherwise grant exemption from the provisions of the said sections and may in like manner cancel or modify any such notification. (2) Government may also at any time, require that any vessel belonging to or in the service of Government shall be permitted to come alongside any wharf, quay, stage, jetty or pier belonging to the Board in preference to all other vessels at the time in the port and it shall be incumbent on the Board to give effect to any such requisition. 33. Government may; at any time, order a local survey or examination of any works of the Board or of the proposed site therefor and the cost of such survey or works, and examination shall be borne and paid by the Board out of its funds in the general account specified in clause (b) of sub-section (Z) of section 40. 526 Power of Government to restore or works at the cost of the Board. THE ORISSA PORT TRUST ACT, 1962 (Secs. 34-35) 34. If, at any time, the Board— [Or. Act 30 (a) allows any work appliance constructed or provided by or vested in it to fall into disrepair, or does not, within a reasonable time, complete any work commenced by it or included in any estimate sanctioned by Government ; or (b) does not, after due notice in writing, proceed to carry, out effectually any work or repair or to provide any appliance which is necessary in the opinion of Government for the purposes of this Act, Government may cause such work to be restored or completed or carried out or such repair to be executed or such appliance to be provided ; and the cost of any such restoration, completion, construction or provision shall be paid by the Board ; and shall be recoverable in the manner provided in the Local Authorities Loans 9 of 1914 Act, 1914. 35. (1) The Board shall provide all reasonable performance of facilities for and shall have power to undertake the following services, namely (a) landing, shipping or transshipping passengers and goods, between vessels in the port and the wharves, piers, quays or docks in possession of the Board (b) providing proper amenities to and ensuring the safety of vessels entering the port ; (c) providing pilotage, hauling, mooring, remooring, hooking, measuring and other services in respect of such vessels ; (d) carrying passengers by rail, tramways or otherwise within the limits of the port, subject to such restrictions and conditions as Government may deem fit to impose ; (e) receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises ; of 1962 THE ORISSA PORT TRUST ACT, 1962 (sec. 35) (f) providing special facilities for giving preference in receiving, transporting and shipping of such consignments of iron-ore as Government may, from time to time direct ; and (g) such other services as may be incidental, or ancillary to or necessary or expedient for the carrying out of the purposes of this Act. 527 (2) The Board in addition to its obligation under sub-section (f) shall provide for each of the following matters and for rendering all such services as may be relevant thereto, namely (a) construction, maintenance and cleansing of drains and drainage works and public latrines, urinals and similar conveniences , (b) construction and maintenance of works and means for providing supply of water for public and private purposes , (c) scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters (d) establishment and maintenance of hospitals and dispensaries and the carrying out of other measures necessary for public medical relief ; (e) construction and maintenance of markets and slaughter houses and regulation of all markets and slaughter houses (f) the regulation of places for the disposal of the dead and the provision and maintenance of places for the said purpose ; (g) regulation and abatement of offensive or dangerous trades, occupation and practices ; (h) regulation, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like • 528 ORISSA PORT TRUST ACT, 1962 (Sec. 36) [Or. Act 38 (i) maintenance of fire-brigade and protection of life and property in case of fire ; (j)

lighting, watering and cleansing of public streets and other public places ; and (k) fulfilment of any other obligation imposed by or under this Act or any other law for the time being in force. (3) The Board may provide, either wholly or in part, for all or any of the following services, namely (a) furtherance of education, establishment of schools and improvement of educational facilities (b) providing housing accommodation for the employees of the Board and for labourers engaged within the port , (c) construction and maintenance of warehouse and godowns ; and (d) any measure, not hereinbefore specified, likely to promote public safety, health, convenience or general welfare of labourers and other persons working or residing in the port area. Obligation to 36. (1) Subject to the provisions of sub-section (1) tender of section 38 where any of the services specified in certain clause (a) or (e) of sub-section (I) of section 35 has required by been undertaken by the Board, it shall be the duty of goods. the Board to render the said services in respect of the goods • if so required by the owner and if further required, to take charge of the same on granting in the prescribed form and manner a receipt therefor. (2) On the issue of a receipt under sub-section (I) the person in whose favour such receipt is issued and the master or owner of the vessel from which the goods might • have been transhipped shall cease to be responsible for the subsequent loss or damage, if any . to such goods. of 1962 THE ORISSA PORT TRUST ACT, 1962 (secs, 37-38) 529 9 of 1872 37. (1) The responsibility of the Board for the Responsi- loss, destruction or deterioration of goods of which of Board for it is taken charge shall, subject to the other provisions loss, etc., of of this Act, be that of a bailee under sections 151 152 and 161 of the -Indian Contract Act, 1872, omi- ting the words "in the absence of any special contract" in section 152 of the said Act: Provided that, till the receipt mentioned in sub- section (I) of section 36 is given by the Board, the goods shall be at the risk of the owner. (2) The Board shall not be in any way responsi- ble for loss Of or damage to goods of which it has taken • charge, unless notice of such loss or damage shall have been given 'Nithin one month of the date of the receipt issued under sub-section (I) of section 36. R clinquish- 38. (1) The Board may, subject to the sanction ment of of Government and subject to such conditions as subject to may be prescribed— the control of the (a) emer into an agreement relinquishing the performance of any of the services specified in clauses (a) and (e) of sub- section (I) of section 35 to an approved person; or (b) enter into an agreement accepting a liability greater or less than that imposed on the Board by sub-section (I) of section 37. (2) Every agreement entered into under this section shall be in writing and signed by or on behalf of- the parties concerned. (3) No person to whom the performance of any service is relinquished under sub-section (1) shall charge or recover for such service any sum in excess of the • amount leviable if such service had been • perfor:r.ed by the Board. 536 THE ORISSA PORT TRUST ACT, 1962 (Secs. 3940) [Or. Act 30 (4) Notwithstanding such relinquishment, the Board may charge dues -according to the scales laid down in sections 70, 71 and 72 for the use of its works or appliances or for other services connected with that which has been relinquished without thereby incurring any liability under section 37. Performance 39. In respect of any person to whom any or of services by persons all of the services has or have been relinquished under to whom the section 38 the provisions of sections 36 and 37 shall, services have been relin- mutatis mutandis, apply. by he Board

CHAPTER VI REVENUE, EXPENDITURE, ACCOUNTS AND AUDIT Constilution 40. (1) Save as otherwise provided in this Act of Port Trust there shall be a Port Trust Fund (hereinafter referred Fund. to as the Fund) vested in the Board which shall be comprised of— (a) all funds which immediately before the establishment of the Board had vested in Government or any other authority on account of the port under the Indian Otfgsa Ports Act, 1908 and the Orissa Ports Regulation, 1937 ; ot 1937. (b) au moneys received by or on behalf of the Board under the provisions of this Act or any othet laq for the time being in force or under any contract; (c) all proceeds of the disposal of property by or on behalf of the Board; (d) 411 rents accruing from any property of the Board; (e) all moneys raised by means of rates, fees, charges and other dues levied for the purposes of this Act; (f) all fines and penalties levied by or under the provisions of this Act; of 1962 TKE ORISSA PORT TRUST ACT, 1962 (Secs. 4142) (g) all moneys received by ore on behalf of the Board from Government, Central or State or from any individual or associa- tion of individuals by 'tvey of grant, •gift or deposit; (h) all interests and profits arising from any investment of or from any transaction in connection with, any money bebg- ing to the Board, including loans advan- ced under this Act; and (i) all moneys received by or on behalf of the Board from any other source whatsoever. (2) The Fund constituted under sub-section (1) 531 shall be held by the Board in trust for the purposes of this Act subject to the provisions herein contained and shall be maintained in the following distinct

accounts, namely:— (a) the Pilotage Account relating to all moneys including all fees for Pilotage and all fines and penalties levied under this Act from pilots, harbour-masters or other persons employed in the Pilot Service other than fines and penalties imposed by a court; (b) the general account relating to all moneys received by or on behalf of the Board other than those specified in clause (a); and (c) such other special accounts as Government may, from time to time, direct. 41. All moneys payable to the credit of the aforesaid accounts shall be received by the Board kept in State Bank and shall be forthwith paid into the State Bank of India to the credit respectively of the said accounts. 42. (1) The moneys from time to time credited to the fund shall, subject to the provisions of section 96, be applied by the Board in payment of all sums, charges and costs necessary for carrying out the provisions of this Act and of the rules, regulations and bye-laws made thereunder. 43. The Chairman may, in cases requiring expenditure from the fund, require action, on being so authorised by the Board and subject to the rules and regulations, if any, made in that behalf, incur expenditure from out of the Fund for meeting such situations. 44. (1) The Board may, from time to time set apart as reserve fund or funds from out of its revenue surplus for the purpose of providing against any temporary decrease in revenue or increase in expenditure from transient causes or for purposes of replacement or for meeting expenditure arising from loss or damage by fire, shipwreck or other accidents or for any other emergency arising in the ordinary course of administration of the provisions of this Act. (2) The sums set apart as a reserve fund shall not exceed such amount and shall be invested in such manner as Government may from time to time direct. 45. No expenditure shall be charged by the Board to capital account without the prior sanction of Government: Provided that whenever in the opinion of Government it is expedient so to do with a view to facilitate the development of the port or the construction thereof, Government may, from time to time, by notification specify the period during which no such sanction shall be necessary.] 46. No work shall be undertaken or any contract in respect of such work entered into or any sanction of expenditure in connection therewith incurred without the plan and estimate of the work being earlier approved by the Board where the estimated cost exceeds two thousand rupees and also by Government where such cost exceeds twenty thousand rupees: 47. The Chairman shall at a special meeting to Budget be held on or before the 20th day of December every year lay before the Board an estimate of the income and expenditure of the Board for the next financial year

48. The estimates shall be printed in the form and prescribed and a copy thereof shall be served on circulation of Budget each month not less than ten clear days prior to Estimate, the day appointed for the meeting specified in section 47

49. The Board may, at such meeting, alter or Adoption or modify the said estimates and shall subject to such by Board. alterations or modifications, if any, pass the same. 50. (1) The estimates passed by the Board under Of Estimates by section 49, shall, not later than the 10th day of January, be submitted to Government who may call for such further information as may be deemed necessary from the Board or return the estimates to the Board for reconsideration. after a consideration (2) Government may, of the said estimates along with the information and the views as may have been received in pursuance of subsection (1), approve the same subject to such alterations or modifications, if any, as they may decide

1. Added by the Orissa Port Trust (Amendment) Act, 1963 (Or. Act 26 of 1963), s. 4. 534 Supplementary THE ORISSA PORT TRUST ACT, (Secs- 51—54) or. Act 30 51. The Chairman may, in the course of any year for which an estimate has been approved by Government cause one or more supplemental estimates for the residue of such year to be prepared and laid before the Board and to such estimates the provisions of sections 48, 49 and 50 shall* so far as may be, apply. 52. Save as otherwise provided in section 53 of expenditure to Budget grant. the Board shall not without the prior sanction of Government spend on any item of expenditure any sum greater than that allotted in the estimates approved

ed by Government under section 50 or section 51 as the case may be. 53. (1) in cases requiring immediate action power to beyond the Board may, without prior sanction of Govern- approved ment, spend on any item of expenditure— 03timates. (a) a sum not exceeding two thousand rupees in excess of the sum allotted for the item in the approved estimates ; and (b) a sum not exceeding three thousand rupees on any item for which no funds are allot- ted for the year in the said estimates. (2) On a decision being taken by the Board under sub-section (1) the Chairman, shall forthwith report to' Government the circumstances which necessitate such expenditure and the marmer in which the Board proposes to meet the same. 54. (1) The accounts of receipts and expendi- Auditors. ture of the Böard shall, once in every year, be laid before Government and' 'shall be . audited by such auditors as Government ,may, from time to time, appoint and the Accountant-General for the State of Okissa may be appointed in that behalf. 2) The Auditors so appointed may, by summons in writing,— (a) require production of any book, deed, voucher, document or paper; of 19621 THE ORrssaA PORT TRUST ACT, 1962 (secs. 55—56) (b) require the attendance of any person in the custody of or accountable for any such book, deed, contract, voucher, or paper; and document (c) require such person to explain all matters relatiqg thereto or to prepare and subrnit statements in connection thete- further with according as such Auditors deem it necessary or expedient. 535 before the eipiry Audit 55. (1) The Auditors shall, of fourteen days ot the completion of the audit, prepare their report and submit copies thereof to Government and to the Board. (2) Board shall, on receipt of such report cause the same along with an abstract of the relevant accounts to be published in the Official Gazette. (3) The Government shall, as soon as may be, after receipt of the report, cause a copy thereof to be laid before the Legislative Assembly

CHAPTER VII BORROWING POWERS OF THE BOARD 56. (1) The Board may, in pursuance of a resolu- Power to raigc Icahc. tion passed by it, borrow by way of debenture or on other security (hereinafter referred to as Port Trust Securities) or on the guarantee obtained from Govern- ment, any sums of money which may be required— (a) for acquiring any land which -it has power tp acquire (b) for erecting any building which it has power to erect (c) for the execution of any work, the provision of any plant, or the doing of any other thing which it has the power to executo, provide or to do (d) for meeting expenditures which it has the power to incur; 536 THE ORISSA PORT TRUST ACT. 1962 (Secs.57—60) [Or. 30 (e) to repay any loan raised under this Act ot any debt due to Government ; or (f) for any other purpose for which the Board is by virtue of this Acl or under any other law authorised to borrow. (2) No loan shall be rai\$d without prior sanction of Government and previous publication of the app li- cation for sanction. (3) The amount of loan, rate of interest and the terms and conditions including the date of floatation, the time and method of the payment and the like shall also be subject to the prior approval of Government

57. The time for repayment of any loan shall' PetiQd with- In which in no case, exceed sixty years, and the time for re- cepaid. payment of any money borroWed for. discharging any previous loan shall not, except with the express sanction of Government, extend beyond the unexpired portion of the period for which such previous loan was sanctioned. Port Trusk 58. (1) The Board may, with the sanction of Securities. Government, prescribe the form in which Port Trust Securities shall be issued, the mode in which and the conditions subject to which they may be transferred. (2) The right to sue in respect of moneys secured by Pott Trust Securities shall be exercisable by the holders thereof for the time being without preference in respect of priority of date

50. The provisions of sections and 15 of I ndian Securities the Indian Securities Act,' 1920 shall, mutatis mutandis, 10 af 1920 Act, 1920 applicable to apply to all securities issued by the Board subject in Port the case of sections 10 and 15 ot the said Act to the Securities. understanding *that the word "prescribed" shall mean "prescribed by Government or by the Board with the sanction of Governmént"

60. The Board may make regulations to carry Power make out the purposes of this Chapter and in particular to regulations. provide for all or any of the following matters, namely (a) the person, if any, authorised to sign, and the mode of affixing the corporate seal of attestation of documents relating to Port Trust Securities; of 19621 THE ORISSA PORT TRusr ACT, 1962 (Sec. 60—contd. •) (b) the manner in which payment of interest in respect of Port Trust Securities is to be made and acknowledged (c) the circumstances and the manner in which Port Trust Securities may be renewed ; (d) the circumstances in

which such securities must be renewed before further payment of interest thereon can be claimed. (e) the form in which securities delivered for renewal and conversion are to be receipted. (f) the proof which is to be produced by persons applying for duplicate securities (g) the form and manner of publication of the notification mentioned in sub-section (2) of section 10 of the Indian Securities Act, 1920, as applied to Port Trust Securities and the manner of publication of the list mentioned in sub-section (3) of that section; (h) the nature and amount of indemnity to be given by a person applying for the payment of interest on debentures alleged to have been wholly or partly lost or destroyed, or for the issue of duplicate debentures (i) the conditions subject to which Port Trust Securities may be converted (j) the amounts for which stock certificates may be issued (k) generally, all matters connected with the grant of duplicate, renewed and converted securities; (l) the fees to be paid in respect of the issue of duplicate securities and of the renewal and conversion of Port Trust Securities (m) the fees to be levied in respect of the issue and of stock certificates 537 538 Security for loans, Remedies of THE ORISSA PORT TRUST ACT, 1962 (secs. 61—63) [Om Act 30 (n) any other matter which is required to be or may be provided for by regulations. (2) The power to make regulations under sub-section (J) shall be subject to the following conditions, namely: (i) a draft of the regulations shall be published in three consecutive issues of the official Gazette; (ii) the same shall have no effect until approved by Government after such publication and until such approval has also been published in the official Gazette; and (iii) Government may, at any time, by notification cancel any regulation published under the provisions of this section

61. All loans may be raised on the security of—(a) the property now vested, or which may hereafter become vested in the Board, other than any sums set apart by the Board as a sinking fund for the purpose of paying off any loan and (b) the taxes, tolls, dues, rates, rents, cesses, fees and charges leviable under this Act

62. Government shall have, in respect of loans made by it to Board, the same remedies as debenture-holders. In respect of made holders; and it shall not be deemed to possess any to Board prior or greater rights in respect of such loans than debenture-holders. 63. (1) The Board may apply any sum not being Power to re-loans pay less than ten thousand rupees which can be so applied before due without prejudicing the security of the other debenture-holders of the Board, in repaying to the Government any sum which may remain due to them in respect of the principal of any loan before the time fixed for the repayment of the same. (2) On any such repayment being made the portion of any subsequent instalment which represents interest shall be reduced to such an amount as represents interest on the outstanding principal. of 1962] THE ORISSA PORT TRUST ACT, 1962 64—68) 539 64. [In respect of a loan not repayable before the Establishment of sinking fund, expiration of one year from the date of the loan, the Board shall pay half-yearly out of its income into a sinking fund such sum sufficient for the repayment within the period of the loan. 65, The accumulations in the sinking fund shall be subject to the prior approval of Government, of be invested in Government securities and other securities of sinking the Central or the State Government or otherwise and shall be held in trust for the purpose of this Act by two trustees one being the Board and the other a person appointed by Government. (2) The Board may apply the whole or any part of the sum accumulated in the sinking fund in or towards the discharge of the loan for the repayment of which the fund has been established provided that it pays into the fund in each year and accumulates until the whole of the moneys borrowed are discharged* a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied

66. The sinking fund established for the redemption of sinking liquidation of any loan shall be subject to annual examination by the Accountant-General, Orissa who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually, equal to the amount which would have been accumulated had interest been regularly made and had the rate of interest as originally estimated been obtained thereon and the Board shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient

67. All payments due from the Board on account of interest on and repayment of loans shall be made and in priority to all other payments due from the Board. Of loan over other payments

68. Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914. Local Authorities Loans 540 Due leviable THE ORISSA PORT TRUST ACT, 1962 (secs. 69—71) CHAPTER VIII

LEVY AND RECOVERY OF RATES (Or. Act 30 of 1969). All dues leviable immediately before the coming into force of this Act in respect of any port under Orissa Ports' Regulation, 1937 shall continue to be so leviable until otherwise declared by Government by notification in that behalf. 70. (1) The Board shall frame a scale of rates on a scale of payment of which and a statement of conditions subject to which— (a) any of the services in Chapter V shall be rendered by it or by a person to whom any service has been relinquished under section 38 or partly by one and partly by the other ; (b) the benefit of any of the works and appliances specified in the said Chapter shall be availed of and (c) any property belonging to or in possession or occupation of the Board or, any place within the limits of the port may be used. (2) In determining the rates and conditions under sub-section (1) the Board may, and if so directed by Government shall, provide for the levy of a special scale of rates in respect of wharves, roads and railways in the construction of which heavy expenditure has been incurred

71. Without prejudice to the generality of Scale or rates for provisions of section 70 the Board shall, in particular, determine the rates and conditions . under the said section (i) in respect of 'the following services and benefits available, namely:— (a) transshipping of goods or passengers between vessels in harbours of 1962] THE ORISSA PORT TRUST ACT, 1962 (Sec. 72) (b) landing and shipping of goods or passengers from or to such vessels, to or from any wharf, quay, pier, dock, land or building in possession or occupation of the Board or at any place within the limits of the port; (c) cranes or portage of goods on any such place (d) wharfage, storage or demurrage of goods on any such place ; and (e) any other service in respect of vessels, passengers or goods ; and 541 (ii) .in respect of the use of any property belonging to or in possession or occupation of the Board for the purposes herein specified, namely : (a) approaching or lying at or alongside any moorings, wharf, quay, pier, dock, land, building or place as aforesaid by vessels or boats (b) entering upon or plying for hire at' any wharf, quay, pier, dock, land, building or place as aforesaid by animals or vehicles carrying passenger or goods; (c) leasing of land or sheds to owner of goods imported or intended for export or by steamer agents ; and (d) any other use of any land, roads, canals, works or appliance belonging to or maintained or provided by the Board, 72. The Board may, frame a consolidated scale of rates for any combination of the services specified for combination of sections 70 and 71 or for any combination of such of services. service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in the said sections. 542 Prior sanction of Government THE ORISSA PORT TRUST 1962 (Secs. 73-75) [Or. Act 73. (1) Every scale and every statement of conditions framed by the Board under sections 70, 71 or such 72 shall be submitted to Government for sanction, to scales. and when so sanctioned and published in the official Gazette, shall have the force of law ; and may, in like manner from time to time, be amended or added to by the Board. (2) The Board may, in special cases, with the prior sanction of Government, remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section and may suo motu correct mistakes, remit overcharges made in its bills, and write off irrecoverable sums up to a limit of two hundred rupees in each case. (3) In respect of any item of any scale of rates framed in pursuance of sections 70, 71 or 72 the Board, with the previous sanction of Government may fix maximum and minimum rates, and may levy any charges not exceeding the maximum and not below the minimum so fixed

74. No person shall be entitled to the refund of Refund of charges.an overcharge except on application made by him or on his behalf to the Board before the expiry of six months from the date of payment and in the form and manner specified by regulations made in that behalf. Power to increase rates to cover deficiency revenue. 75. (I) If in any case— (a) on the preparation of the estimate of any year, it appears that the estimated income of the Board for such year, after deducting therefrom the estimated expenditure of such year, will be insufficient for the payment of the interest which may be payable by the Board during such year to Government or to any other creditor and of any sinking fund established under section 64 and of any sum the repayment of which is due in pursuance of any terms fixed under section 56 ; or of 1962] THE ORISSA PORT TRUST ACT, 1962 (Secs.76-78) (b) at any time during the course of a year, it appears that the income of such portion of the year as has then elapsed, and the estimated income of the residue of such year after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be insufficient for the payment of the said interest, sinking funds and sums due ; 543 the Board may, and upon the requisition of Government shall, increase the

rates for the time being in force to such extent as will render the estimated income of the year sufficient as nearly as may be for the payment in full of the said interest, sinking funds and sums due. (2) Such increased rates shall be fixed by the Board, and if approved by Government, shall be published in the Official Gazette and shall become leviable after the expiration of one month from the date of such publication, and continue to be so leviable until altered by the Board with the sanction of Government

76. If the Board shall, for fifteen days after the Power or receipt by the Chairman of any such requisition from to enhance Government, neglect or refuse to submit to Govern- rates, if Board ment for approval such increased rates, Government to do may by notification increase such rates as they think fit, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed under section 70, 71 or 72 and sanctioned and published under section 73

77. The Board shall not lease, farm, sell or not to alienate any power, vested in it under this Act, of lease rates without sanc- levying rates without the prior approval of Govern- ment

78. All fines and penalties recovered under this Fines and Act (other than fines and penalties imposed by a penalties nayaMg Io Court) shall be paid to the Board. Board. 544 Payment of THE ORISSA PORT TRUST ACT, 1962 (secs.79-84) [Or. Act 30 79. The Government may at any time direct be lance ot that the vqhole or any portion of the balance of the moneys which may be credited to the Consolidated to Boa td. Fund of the State in the account of Port under the Indian Ports Act, 1908 or the Orissa Ports Regulation, 15 or 1908. Orissa 1937 after defraying therefrom all expenses legally Regulation chargeable from the said income shall be paid to the 11 of 1937. Board for the purpose of this Act. for 80. Rates in respect of goods to be landed shall payment of' on be payable immediately on the landing of the goods and in respect of goods to be removed from the premises of the Board or to 'be shipped for export or trans- shipped, before the goods are removed or shipped or transh.ipped

81. For the amount of all rates leviable under Lien of rates this Act in respect of any goods, and for the rent due to the Board on any buildings, plinths, stocking areas or other premises on or in which any goods may have been placed, the Board shall have a lien on such goods and may seize and detain the same until such rates are fully paid. Priority of 82. Such lien shall have priority over all other liea of Board liens and claims, except for general average and for over liens the ship-owner's lien upon the said goods for freight claims. and other charges where such lien exists and. has been preserved in the manner provided in séction 86 and for primage, and for money payable to Govern- menta 83. If the master or owner of any vessel or his Preservation or agent at or before the time of landing from such vessel freight after of any goods at any dock, wharf, quay, stage, jetty or pier in the occupation of the Board, gives to the landed. Board notice in writing that such goods are to remain subject to a lien for freight or other charges including landing charges payable to the sh.ip-owner to an amount to be mentioned in such notice, such goods shall continue liable to such amount. Retention 84. Such goods snall be retained in the custody such goods of the Board, at the risk and expense of the owners onfl lien is discharged. of the said goods until such lien is discharged as hereinafter mentiond, and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained. of 19621 THE ORISSA PORT TRUST ACT, 1962 (secs. 85-88) 545 85. Upon the production to any officer appointed Discharge of by the Board in that behalf of a document purporting s to be a receipt for or a release from the amount Offtcight. such lien, executed by the person by whom or on whose behalf such notice has been given, Ohe Board may permit duch goods to be removed without regard to such lien, provided th?t the Board shall have used reasonable pare in respect to the authenticity of such document

86. The Board may, after the expiry of two sale of goods after months from the time when any goods have passed two months into its custody, or in the case of perishable goods rents are not after the expiry of such shorter period not paid or lien being less than twenty-four hours as the Board may rorfteight is not think fit, sell by public auction so much as may be necessary of such goods—(a) if any rates payable to the Board in respect Of such goods have not been paid • (b) if any rent referred to in section 81 in respect of any place on or in which such goods have been stored has not been paid; or (c) if any lien of any ship-owner for freight or other charges of which notice has been given hae, not been discharged and if the person claiming such lien for freight or other charges has made an application for such sale

87. Before making such sale, ten days' notice Notice of sale. Notice of sale of the same shall be given by publication thereof in the Official Gazette, unless the goods are of a perishable nature so as to, in the opinion of the Board, render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case requires

88. If the address of the owner of the goods has or been stated on the manifest of the cargo or in any of sale to owner. the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by registered post : Provided that the title of a bona fide purchaser of such goods shall not be invalidated by reason of 546 Application or sale- Recovery of rates and charges by default of vessel. THE ORISSA PORT TRUST ACT, 1962 (secs 89-90) [Or. Act 30 the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent. 89. (1) The proceeds of every such sale shall be applied 'in the following order or priority, namely (a) in payment of the expenses of the sale ; (b) in payment, according to their respective priorities of the liens subject to the provisions of section 82 ; and (c) in payment of the rates and expenses of landing, removing, storing or warehousing the same, and of all other charges due. to the Board in respect thereof. (2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents on his applying for the same : Provided that such application shall be made within one year from the sale or reason be shown to the satisfaction of the Board why such application was not so made ; and in case such application has not been so made or reason shown, 'such surplus shall be held by the Board upon trust for the purposes of this Act. 90. (1) If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any bye-laws, rules, regulations or orders made in pursuance thereof refuses or neglects to pay the same or any part thereof on demand it shall be lawful for the Board to distrain on its own authority such vessel and the tackle, apparel and furniture belonging thereto or any part thereof and detain the same until the amount so due is paid. (2) In case any part of the said rates or penalties or of the cost of the distress or of the keeping of the same, remains unpaid for the space of five days next after any such distress has been made, the Board may cause the vessel or other things so distrained of 1962] THE ORISSA PORT TRUST ACT, 1962 (Secs. 91-95) 547 of 1908 to be sold and' with the proceeds of such sale, shall satisfy such rates or penalties and costs, including the costs of sale, remaining unpaid, paying the surplus, if any, to the master of such vessel on demand

91. If the Board gives to the Officer of Government whose duty it is to grant the port-clearance port-clearance after of any vessel a notice stating that an amount therein payment of specified is due in respect of rates or penalties chargeable under this Act, or under any bye-laws, rules or orders made in pursuance thereof, against such vessel} or by the owner or master of such vessel in respect of any goods on board such vessel, such Officer shall not grant such port-clearance until the amount so chargeable has been paid

92. Notwithstanding anything in this Act instead remedied by of proceeding against the defaulter by distress and sale as hereinbefore provided or after a defaulter has been so proceeded against unsuccessfully or with partial success, any sum due or the balance of any sum due. as the case may be, from such defaulter on account of any rates, damages, expenses, or costs, may be recovered by a suit in a court of competent jurisdiction

CHAPTER LX PILOTS AND HARBOUR-MASTERS 93. 'The Board shall have the right and privilege Pilotage fees of maintaining pilots or harbour-masters for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board

94. No person shall be appointed as pilot or Appointment harbour-master who is not for the time being authorised by Government under the provisions of the Indian Ports Act, 1908, to pilot vessels. 95. (1) Notwithstanding anything contained in Rules and regulations Chapter III the Board may make special regulations regarding for regulating the behaviour and conduct of pilots or harbour-masters, and may provide that any breach thereof shall render the person committing it liable to a penalty not exceeding two hundred rupees in 548 THE ORISSA PORT TRUST Act, 1962 (sec. 96) Or. Act 30 addition to such punishment in the form of suspension, dismissal or the like as the Board may deem expedient to inflict. (2) Such regulations shall have no effect until they have been approved by the Government and published in the official Gazette. Expenditure 96. All sums credited to the pilotage account on pilotage. under clause (a) of sub-section (2) of section 40 may be applied, in such proportions as the

Board may, from time to time, direct, to the following purposes only, namely (1) the purchase and maintenance in repair of such vessels, and the supply of such materials stores or other things as the Board may deem it necessary to maintain or supply for the of the pilot service (2) the payment of the salaries and allowances of pilots or harbour-masters and other officers and servants of the Board employed in the pilot service. or in the supervision thereof, (3) the payment of pensions or retiring gratuities or compassionate allowances to and other pilots or harbour-masters officers and servants engaged in the pilot service, and of the contributions, if any, duly authorised to be made in their behalf to any provident fund, (4) the payment of pensions, gratuities and compassionate allowances granted by the Board to pilots or harbour-masters and other officers and engaged servants in the pilot service, who have been injured in the execution of their duty and to the surviving relatives of pilots or harbour-masters, officers and servants so engaged, who may die in the service of the Board. of 1962] THE ORISSA PORT TRUST ACT, 1962 97) CHAPTER X RULES, REGULATIONS AND BYE-LAWS 549 97. (1) Government may, after previous publication, make rules to carry out the purposes of this Act. under the Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely : (a) the qualifications of persons to be elected as Trustees of the Board, (b) the salary and allowances to be paid to the Chairman, Vice-Chairman and persons appointed to act during their absence on leave and the conditions and restrictions subject to which the same are payable (c) the fees payable to the Chairman, Vice-Chairman and other Trustees of the Board for attendance at meetings and the conditions and restrictions subject to which such Fees are payable (d) the inquiry into and decision of objections referred to in section 14 (e) the conditions subject to which the Board may relinquish the performance of any of the services specified in clauses (a) and (e) of sub-section (1) of section 35 or enter into any agreement accepting a greater or lesser liability than that imposed on the Board by sub-section (1) of section 37 ; (f) the form of the receipt to be given under sub-section (1) of section 36 by the Board, or in pursuance of the provisions of section 39 by a person to whom any service have been relinquished (g) the form of annual estimates of income and expenditure to be laid before the Board under section 47; and 550 Regulations when to take effect. Power to frame bye-laws. THE ORISSA PORT TRUST ACT, 1962 (Sec.98) [Or. Act 30 (h) any other matter which under the provisions of this Act is required to be or may be prescribed. (3) All rules made under this section shall have effect as if enacted in this Act

98. No regulation made by the Board shall have effect until it has been approved by Government and published in the Gazette

99. The Board may from time to time make bye-laws not inconsistent with the provisions of this Act or of the Indian Ports Act, 1908 in respect of all 15 Of 1908 or any of the following matters, namely: (1) the guidance of persons employed by the Board under this Act (2) the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, and other works raised [ways, tramways constructed or maintained by or vested in the Board under this Act (3) the use of the public landing places constructed by or vested in the Board (4) the reception, portage, storage and removal of goods brought within the premises of the Board and for the exclusive conduct of these operations by the Board or persons employed by the Board (5) keeping clean the harbour and basins and the works of the Board and for preventing filth or rubbish being thrown therein or thereon (6) regulating, declaring and defining the docks wharves, quays, jetties, stages and piers, vested in the Board on which goods shall be landed from vessels and shipped on board vessels (7) regulating the lighterage of cargo between ships or between ships and shore or between shore and ships: of 1962 **THE ORISSA PORT TRUST ACT, 1962 (Sec.100)** (8) the exclusion from its premises of disorderly or other undesirable persons and of trespassers, (9) regulation or restriction of the use of sites for different purposes within the limits of the port, (10) regulation or restriction of buildings in different areas within the said limits and of temporary structures therein, (11) permission, regulation or prohibition of use or occupation of any public street and any matter in connection with the construction, repair, maintenance and lighting of such street (12) regulation, control and supervision of places where dangerous or offensive trades, occupations or practices are carried on; (13) regulation and control of hospitals and dispensaries; (14) matters relating to water-supply, drainage and sewerage disposal; (15) imposition of fees that may be charged in respect of licences and permissions required to be granted by the Board under any bye-law and fees that may accompany notices and applications required to be given or made to the Board for any of the purposes of this Act; (16) the mode of payment of the rates leviable this Act; and under (17) generally for

the carrying out of the purposes of this Act. 551 100. No bye-law or alteration or revocation of Bye-laws a bye-law shall have effect until the same has been when published in three successive issues of the Official Gazette and has been approved by Government. 552 Penalties for THE ORISSA PDRT TRUST ACT, 1962 (Secs. 101—105) Act 30 101. (1) The Board may provide that a breach of any bye-law shall be punishable with fine which may extend to five thousand rupees and in case of a continuing breach with fine which may extend to five hundred rupees for every day during which the breach continues after conviction for the first breach. (2) Any such bye-law may also provide that a person contravening the same shall be required to remedy, so far as lies in his power, the mischief, if any, caused by such contravention

102. The Board shall cause the said bye-laws Exhibition and the scales of rates leviable by the Board together or with a statement of the conditions under which it rates and is prepared to render services or to provide for services to be rendered to be hung up at the several wharves, docks and piers and other convenient places on the premises of the Board

103. Government may by an order published Cancellation in the Gazette at any time, annul any such of bye-laws. bye-law. not being included in Local Penalty for obtaining CHAPTER XI PENALTIES 104. Any person who, being a Trustee or an Officer or Servant of the Board, in any case not covered by subsection (2) of section 8, acquires directly or indirectly any share or interest in any contract or employment with, by or on behalf of the Board shall be deemed to have committed an offence punishable under section 168 of the Indian Penal Code. 45 of 184 105. Any officer or servant of the Board, not being a public servant within the meaning of section 21 or the Indian Penal Code, who accepts or obtains, or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatsoever, other than legal remuneration, as a reward for doing or forbearing to do any official act or for showing or forbearing to show favour or disfavour to or 1860 of 1962] THE ORISSA PORT TRUST ACT, 1962 (secs. 106—109) 553 45 of any person or for rendering or attempting to render service or disservice to any person with the any Board or with any public servant as such, or with the Government shall be liable to the same punishment as is provided under the Indian Penal Code in the case of a like offence committed by a public servant. Penalty (or 106. Any person who, when duly required so to do by or by any auditor of accounts under section 54, refuses or neglects to appear before such auditor or to produce any book, deed, accounts, voucher, document or paper or to answer any question or prepare and submit any statement shall be punishable for every such neglect or refusal with fine which may extend to one hundred rupees

107. Whoever infringes any order issued under Penalty infringement section 29 or 30 or violates any condition imposed under section- 32 shall be punished with fine which 29.32. may extend from ten to one hundred rupees and if the infringement or violation be continuing with a further fine may extend to one hundred rupees for every day during which such infringement or violation continues

108. Any person who without licence from a depositing competent authority wilfully deposits or permits his servants to deposit any dust, dirt, dung, ashes on the wharves or refuse or filth of any kind or broken glass, earthenware or rubbish in or upon any dock or pier in the possession of the Board or in or upon any part of the foreshore of the port shall be punishable with fine which may extend to ten rupees for each offence. Penalty (or 109. (1) Any person, other than the Board or setting up the Conservator of the Port, who shall, without first obtaining the written consent of Government to his so doing, make, set up or fix within the limits of the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punishable with fine which may extend to one thousand rupees and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection to remain after notice to remove the same has been given to him. 554 Penalty for understating quantity or weight of goods or for not correctly describing them Penalty for lending • etc. Recovery of value of damage to of Board. THE ORISSA PORT TRUST ACT, 1962 IOE. Act (Secs. 110-112) (2) Any such wharf, quay, pier, mooring or other erection within the limits of the port may be removed by the Board and the person who made, set up, or fixed the same shall be liable to pay all expenses which may be incurred by the Board in the removal thereof and all such expenses shall, on the application of the Board, be recoverable under a Magistrate's warrant as if the amount were a fine inflicted by such Magistrate

110. If it be found when goods are imported at or exported from any wharf, dock or pier in the possession of the Board, that the weight, quantity or description of such goods has been understated or incorrectly given in any document presented to any officer of the Board for the purpose of enabling him to determine the rate payable in respect of the said goods, the owner of such goods shall be liable to pay to the Board such sum not exceeding twice the proper rates on the whole weight or quantity of the consignment of goods so understated or incorrectly described, as may be determined by the Board and the said sum shall, on the application of the Board, be recoverable under a Magistrate's warrant as if it were a fine inflicted by such Magistrate

111. Any person who removes or attempts to remove or abets the removal of any vessel or goods with the intention of evading payment of the rates lawfully due in respect thereof to the Board shall be punishable with fine which may extend to fifty rupees. 112, If, through the negligence of any person having the guidance or command of any vessel or of any of the mariners or persons employed on such vessel, damage shall be to any wharf, dock, pier or other work in the possession of the Board the amount of such damage shall; on the application of the Board, be recoverable, together with the cost of such recovery by distress and sale under a Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel Provided that no Magistrate issue such a warrant until the master of the vessel has been summoned to before him and if he appears, until he has been heard of 19621 THE ORISSA PORT TRUST ACT, 1962 (Sees. 113—116) 555 Provided further that no such warrant shall issue if the vessel was at the time under the orders of a duly authorised servant of the Board or in the pilot service of the port and unless the damage caused was in no way attributable to the order, act or improper omission of such servant or officer

113. Save as otherwise provided, no Magistrate Cognizance of offences other than a Magistrate of the first or second class against Act shall try any offence against this Act or against any of bye-laws. bye-law published under section 100

CHAPTER XII MISCELLANEOUS 114. Nothing in this Act shall affect any power Saving of power of vested in the Chief Officer of Customs under any law for the time being in force. Collector under existing law. 115. (1) No suit shall be commenced against Limitation of procedure the Board or any person for anything done or purporting to have been done in pursuance of this Act or the rules, regulations or bye-laws made thereunder under the Act. (a) until the expiration of one month after notice in writing has been given to the Board or to such person stating explicitly the cause of action, the nature of relief sought, the amount of the compensation, if any, claimed and the name and address of the intending plaintiff and unless the plaint contains a statement that such notice has been so given ; and (b) after the expiration of six months from the date on which the cause of action for such suit arose. (2) No suit or prosecution or other proceeding shall be entertained in any court against the Board or against any person for anything which is in good faith done or intended to be done under this Act or any rule, regulation or bye-law made thereunder. 556 Saving Of liability of Board for acts of servants, Submission of returns and information to Government. Power DC THE ORISSA PORT TRUST ACT, 1962 [Or. Act 30 of 1962] (Sees. 116-118) } 16. (1) The Board shall not be liable for any act or default of any officer or servant appointed under this Act or under the Indian Ports Act, 1908, 15 of if the Board be appointed by Government under the said Act to be the Conservator of the port, or of any person acting under the authority or direction of any such officer unless such act or default is done or made under the direction of the Board, nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board. (2) Notwithstanding anything contained in subsection (1) the Board may, in any special case with the sanction of Government, award compensation to any person for any act done, default made or damage caused by the Board or any of its employees

117. The Chairman shall supply such returns and information as may be called for by the Government for the purposes of this Act. 118. (1) If, at any time, in the opinion of Government the works intended to be executed by the Board under this Act have not been, and are not likely to be in possession of works and be properly carried out or maintained by the Board, cancel powers they may give six months notice, by order published in the official Gazette, that unless, within that period, the Board takes measures, to their satisfaction for the carrying out or maintenance of the said works, the powers by this Act conferred on the Board shall, at the end of such period, be withdrawn or revoked. (2) 11, at the end of such

period the Board fails to take such measures. Government may assume possession and management of the works already constructed and may, by a like notification, declare the powers of the Board to be withdrawn or revoked and upon publication of such modification, all immovable and movable property, all rights of levying and recovering rates and penalties, all benefit of contracts, and all rights of suit which at the time are vested in the Board shall be transferred to, and vested in Government and the rights of all creditors of the Board under this Act shall continue as against Government to the extent of the property so transferred to and vested in them.

