

THE RANGOON PORT (AMENDMENT) ACT, 1954.

[ACT No. XVI OF 1954.]

It is hereby enacted as follows :—

1. (1) This Act may be called the Rangoon Port (Amendment) Act, 1954.

(2) It shall come into force on such date as the President may, by notification, direct.

2. In section 4 of the Rangoon Port Act hereinafter referred to as "the said Act" for clauses (1) and (2) the following shall be substituted, namely :—

"(1) 'Board' means 'Board of Management for the Port of Rangoon' hereinafter incorporated ;

(2) 'Member' means 'a member of the said Board'."

3. For section 6 of the said Act, the following shall be substituted, namely :—

" CONSTITUTION OF THE BOARD.

6. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called 'The Board of Management for the Port of Rangoon.'

The Board shall be a body corporate and have perpetual succession and a common seal, and may sue and be sued in its corporate name, and, in addition to the powers expressly conferred by this Act, shall have power, subject to the provisions of this Act, to do all other things necessary for the purposes of its constitution."

4. For sub-section (1) of section 7 of the said Act, the following shall be substituted, namely :—

"There shall be 14 members of whom—

(a) one shall be the Chairman appointed by the President of the Union ;

(b) one shall be a representative of the Ministry of Transport and Communications not below the rank of Deputy Secretary ;

(c) one shall be a representative of the marine interests of Government appointed by the President of the Union ;

(d) one shall be the Collector of Customs, Rangoon ;

(e) one shall be a representative of Inland Water Transport Board not below the rank of Deputy General Manager ;

(f) one shall be elected by the Municipal Corporation of the City of Rangoon ;

(g) one shall be a representative of sea-going shipping elected by shipping agents, to be approved by the President of the Union ;

(h) two shall be elected by the Union of Burma Chamber of Commerce, to be approved by the President of the Union ;

(i) five shall be appointed by the President of the Union."

Price,—25 pyas]

5. Sections 8 and 9 of the said Act, *shall be deleted.*
6. For section 10 of the said Act, the following *shall be substituted*, namely :—
- “ 10. (1) The terms of office of the Chairman or other members of the Board shall be such as may be prescribed by the President of the Union and the tenure of office of Chairman or any other member may at any time be terminated by the President of the Union.
- Terms of office of Chairman and other members.
- (2) The non-official members of the Board shall be paid such fees and allowances as may be prescribed by the President of the Union.
- (3) Any person who has been convicted of any such offence as implies in the opinion of the President of the Union a defect of character or who has been punished for any offence under this Act shall be disqualified for being elected or appointed a member of the Board. ”
7. In section 10A of the said Act—
- (i) for the word “ Commissioner ” wherever it occurs, the word “ member ” *shall be substituted* ; and
- (ii) for the words “ in the number of Commissioners ” the words “ in the number of members ” *shall be substituted.*
8. In section 11 of the said Act—
- (i) for the word “ Commissioner ” wherever it occurs, the word “ member ” *shall be substituted* ;
- (ii) for the word “ Commissioners ” wherever it occurs, the word “ Board ” *shall be substituted* ; and
- (iii) in clause (a) of sub-section (2) the expression, “, save as provided by section 8, sub-section (4),” *shall be deleted.*
9. After section 12 of the said Act, the following *shall be inserted*, namely :—
- “ 12A. (1) The President of the Union may, by notification, constitute one or more Advisory Committees for the purposes of this Act.
- Constitution of Advisory Committees.
- (2) The number and terms and conditions of service of members of, the procedure to be followed by and the manner of filling casual vacancies among members of such Advisory Committees and the circumstances in which and the authority by which members thereof may be removed shall be such as may be prescribed by the President of the Union. ”
10. In section 13 of the said Act, for the word “ Commissioners ” wherever it occurs, the word “ Board ” *shall be substituted.*
11. In section 14 of the said Act—
- (i) the expression “ or in the event of his illness or absence from Rangoon, the Vice-chairman, ” *shall be deleted* ;
- (ii) for the words “ three Commissioners ” the words “ three members ” *shall be substituted* ; and
- (iii) for the words “ a meeting of the Commissioners ” the words “ a meeting of the Board ” *shall be substituted.*

12. In section 15 of the said Act—

- (i) the words "and Vice-chairman" shall be deleted; and
- (ii) for the word "Commissioners" the word "Board" shall be substituted.

13. In section 16 of the said Act—

- (i) for the words "meetings of the Commissioners" the words "meetings of the Board" shall be substituted;
- (ii) for clause (a) the following shall be substituted, namely:—
 - "(a) the Chairman shall be the presiding authority; and if he is absent, the members may elect one of their number to be the presiding authority;"
- (iii) for the word "President" in clauses (b), (e) and (f) the words "presiding authority" shall be substituted; and
- (iv) for the words "Commissioner" and "Commissioners" wherever they occur, in clauses (d), (e) and (f) the words "member" and "Board" shall be respectively substituted.

14. For section 17 of the said Act, the following shall be substituted, namely:—

- "17. No proceedings of the Board at any special or ordinary meeting shall be deemed invalid by reason only of any vacancy in the number of the members or defect in the election or appointment of any of the members or defect of form."

15. In section 18 of the said Act, for the word "Commissioners" the word "Board" shall be substituted.

16. Section 19 of the said Act shall be deleted.

17. In section 20 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

18. In section 21 of the said Act, for the word "Commissioners" the word "Board" shall be substituted.

19. In section 22 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

20. In section 23 of the said Act—

- (i) in sub-sections (1) and (2) for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted; and
- (ii) for sub-sections (3) and (4) the following shall be substituted, namely:—
 - "(3) Every contract and agreement by or on behalf of the Board, the value of which shall exceed the sum of five thousand rupees,
 - (4) shall, if made in Rangoon Town, be in writing signed by the Chairman and by two other members, and shall be sealed with the common seal of the Board,
or

(b) may, if made outside Rangoon Town, be made in such manner and form as, according to the law for the time being, would bind him if made on his own behalf, by an agent duly appointed, either generally or specially, in that behalf by the Board under a power-of-attorney signed by the Chairman and by two other members and sealed with the common seal of the Board.

(4) No contract or agreement in value exceeding the said sum, which is not executed in accordance with the provisions of this section, shall be binding upon the Board."

21. (1) In section 23A of the said Act, for the word "Commissioners" the word "Board" shall be substituted.

(2) Section 24 of the said Act shall be deleted.

22. In section 25 of the said Act—

(i) in sub-sections (1) and (2) for the word "Commissioners" the word "Board" shall be substituted; and

(ii) for sub-section (3) the following shall be substituted, namely :—

"(3) A copy of all such schedules as last sanctioned by the Board shall be appended to the annual estimate prepared by the Board."

23. In sections 26 and 27 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

24. In section 28 of the said Act, for the expression "of section 52" the expression "of section 48" shall be substituted.

25. In sections 28B and 28C of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

26. For section 28D of the said Act, the following shall be substituted, namely :—

" 28D. The powers conferred and duties imposed by this Act on the Board shall, in respect of all matters affecting the pay and allowances, discipline, general administration and internal economy of the pilot service of the port, be exercised and carried out, subject to such conditions and limitations as may be prescribed by bye-laws made under section 28E and subject also to the control of the Board, by a Pilot Council consisting of six councillors, namely—
the Chairman ;
two councillors elected from amongst themselves by the members ;
two councillors elected from amongst themselves from the pilots of the port ; and
the Deputy Conservator of the Port or such other officer as may be appointed in his place by the Board ;

Provided—

- (i) that no act or proceeding of the Pilot Council shall have effect until confirmed by the Board ; and
- (ii) that an act or proceeding of the Pilot Council which has received the confirmation of the Board shall be deemed to be an act or proceeding of the Board for the purpose of section 57."

27. In section 28E of the said Act—

- (i) for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted ; and
- (ii) in clause (a) for the words "members of such Board" the words "the councillors of the Pilot Council" shall be substituted ; and
- (iii) in clauses (b) and (c) for the words "such Board" the words "the Pilot Council" shall be substituted.

28. In section 28F of the said Act—

- (i) for the words "Pilot Board" the words "Pilot Council" shall be substituted ; and
- (ii) for the word "Commissioners" the word "Board" shall be substituted.

29. In sections 28G, 29 and 30 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

30. In section 31 of the said Act—

- (i) in sub-section (1) for the word "Commissioners" the word "Board" shall be substituted ;
- (ii) in sub section (2)—
 - (a) for the words "on the part of the Commissioners" the words "on the part of the Board" shall be substituted ;
 - (b) for the words "to the Commissioners" in clause (a) the words "to the Board" shall be substituted ;
 - (c) for the words "by the Commissioners" in clause (b) the words "by the Board" shall be substituted ; and
 - (d) for the words "to the Commissioners, as the case may be" in clause (c) the words "to the Board, as the case may be" shall be substituted ; and
- (iii) in sub-section (3) for the word "Commissioners" the word "Board" shall be substituted.

31. In sections 32 and 33 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

32. For section 34 of the said Act, the following shall be substituted, namely :—

- " 34. (1) For the purpose of enabling the Board to carry out the provisions of this Act the President of the Union may advance to the Board such sums of moneys as and on such conditions as he may think fit.

(2) For carrying out the provisions of this Act the Board may float loans in the open market upon such terms and conditions as may be prescribed by the President of the Union :

Provided that the provisions of sections 35 to 41, both inclusive shall not apply to such loans."

33. In sections 35, 36, 36A, 37, 38 and 39 of the said Act, as for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

34. In section 40 of the said Act—

(i) for the words "Accountant-General" wherever they occur, the words "Auditor-General" shall be substituted ; and

(ii) for the word "Commissioners" the word "Board" shall be substituted.

35. In sections 41 and 42 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

36. For sections 43, 44, 44A and 45 of the said Act, the following shall be substituted, namely :—

"43. There shall be maintained by the Board a fund which shall be known as the 'Rangoon Port Management Board Fund' (hereinafter referred to as 'the Fund') and there shall be credited thereto—

(a) all moneys received by the Board under this Act ;

(b) all moneys received from Government to enable the Board to carry out the provisions of this Act.

44. (1) The Board shall deposit or keep deposited all its moneys which are not immediately required in the bank or banks approved by the President.

(2) The Fund shall be operated under the bye-laws made by the Board subject to confirmation by the President of the Union.

44A. The investment of the Fund shall only be made with the prior approval of the President of the Union.

45. (1) The Fund shall be applied by the Board for the purposes of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the Fund shall be applied by the Board in—

(a) meeting the effective and the non-effective charges of its establishment ;

(b) making payments either by way of interest or by way of return of principal, in respect of any money borrowed by the Board ;

(c) making due provision for maintenance, renewals, improvements and depreciation of the properties belonging to the Board ;

- (d) allowing, with the approval of the President of the Union, reasonable rebates in port dues and charges whenever considered necessary ; and
- (e) defraying such other expenditure as, with the approval of the President of the Union, is considered necessary.

Explanation.—For the purpose of this sub-section the term ' effective charges ' means such charges as would cover the payment on account of pay and allowances to the employees of the Board and the term ' non-effective charges ' means such charges as would cover the payment towards contributory provident fund, gratuities and other similar payments."

37. In section 45A of the said Act, for the word " Commissioners " wherever it occurs, the word " Board " shall be substituted.

38. In section 46 of the said Act, for the words " The Commissioners " and " the Commissioners " the words " The Board " and " the Board " shall be respectively substituted.

39. In section 47 of the said Act, for the word " Commissioners " the word " Board " shall be substituted.

40. For Chapter VIII of the said Act, the following shall be substituted, namely :—

" CHAPTER VIII.

ANNUAL ESTIMATES AND ACCOUNTS.

48. (1) The Board shall submit, before the close of each financial year, for the sanction of the President of the Union an estimate of its receipts and expenditure for the financial year next following and may from time to time submit in like manner further estimates in modification of such annual estimates. To such estimate there shall be appended—
- firstly, an appendix containing particulars of all new works covered by the estimate and of the estimated cost of same ; and
 - secondly, the schedule of the officers and servants sanctioned under the provision of section 25.
- (2) No expenditure shall be incurred by the Board in excess of the estimate sanctioned under sub-section (1).
49. (1) The Board shall maintain accounts and other records in relation thereto, and shall prepare in respect of each working year of the Board a statement of accounts in such form as may be prescribed by the Auditor-General with the approval of the President of the Union.
- (2) The accounts of the Board shall be audited by the Auditor-General whose report thereon shall be submitted to the President of the Union, who shall cause it to be laid before the Parliament.

50. The Board shall make provision for depreciation, reserve, sinking and other funds at such rates and on such terms as may be prescribed by the President of the Union in consultation with the Auditor-General.

Provision for depreciation, reserve and other Funds.

51. The Board shall not be liable to pay any Income-tax or Super-tax.

Board not liable to pay Income-tax, etc.

41. In sections 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 75, 76 and 77, of the said Act for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

42. In section 78 of the said Act—

- (i) in sub-section (1) for the word "Commissioners" the word "Board" shall be substituted; and
- (ii) in sub-section (2) for the words "by the Commissioners" wherever they occur, the words "by the Board" shall be substituted.

43. In sections 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92 and 93 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

44. In section 94 of the said Act—

- (i) for the words "any Commissioner" wherever they occur, the words "any member" shall be substituted; and
- (ii) for the words "the Commissioners" wherever they occur, the words "the Board" shall be substituted.

45. In section 95 of the said Act the expression "under section 55, sub-section (2), or" shall be deleted.

46. In sections 95A, 96A, 97 and 98 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

47. In section 99 of the said Act—

- (i) for the words "No Commissioner" the words "No member" shall be substituted; and
- (ii) for the words "the Commissioners" wherever they occur, the words "the Board" shall be substituted.

48. In section 100 of the said Act—

- (i) for the words "Every Commissioner" the words "Every member" shall be substituted; and
- (ii) for the words "the Commissioners" the words "the Board" shall be substituted.

In section 101 of the said Act—

- (i) for the words "the Commissioners" wherever they occur, the words "the Board" shall be substituted; and
- (ii) for the words "any Commissioner" the words "any member" shall be substituted.

49. In sections 102, 103 and 105 of the said Act, for the word "Commissioners" wherever it occurs, the word "Board" shall be substituted.

50. In section 106 of the said Act, for the words "Every Commissioner and the officers and servants of the Commissioners" the words "Every member and the officers and servants of the Board" shall be substituted.

51. After section 106 of the said Act, the following shall be inserted, namely :—

" 107. (1) The President of the Union may, by notification, make rules for the purpose of giving effect to the provisions of this Act.

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

- (a) the appointment and terms and conditions of service of the Chairman and other members of the Board ;
- (b) fees and allowances payable to non-official members appointed under section 12A ;
- (c) the number and term of office of, the procedure to be followed by, and the manner of filling casual vacancies among members of the Advisory Committees, and circumstances in which and the authority by which members thereof may be removed ;
- (d) the terms and conditions upon which loans may be floated in the open market ;
- (e) the terms upon which and the rates at which provision for depreciation, reserve and other funds may be made ;
- (f) any other matter which has to be, or may be prescribed."

52. In the Second Schedule to the said Act—

- (i) for the words "PORT COMMISSIONERS" the words "BOARD OF MANAGEMENT" shall be substituted ; and
- (ii) for the words "Port Commissioners" the words "Board of Management" shall be substituted.

53. In the Fourth Schedule to the said Act, for the words "the Commissioners" wherever they occur, the words "the Board of Management" shall be substituted.