

Bengal Ports Act, 1867

3 of 1867

[10 April 1867]

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PREAMBLE

An Act to amend the law relating to ships lying in ports 1[in the

States or parts of States corresponding to the Provinces which were on the tenth day of April, 1867] under the control of the Lieutenant-Governor of Bengal.

Whereas it is expedient to amend the law relating to merchant-ships lying in ports ¹[in the State or parts of States corresponding to the Provinces which were on the tenth day of April, 1867] under the control of the Lieutenant-Governor of Bengal;

It is enacted as follows:-

1. Words and figures substituted for the words "in the Provinces" by the Adaptation of Laws Order, 1950.

1. Interpretation :-

The following words and expressions for the purposes of this Act have the meanings hereby assigned to them unless where a contrary intention appears from the context, that is to say:-

¹[the words "appropriate Government" mean, in relation to a port which is a major port within the meaning of the Indian Ports Act, 1908, the Central Government, and in relation to any other port, the ²(State) Government;]

"Master."- the word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master;

"Owner."- the word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be;

"Port."- the word "port" denotes any port within the ²[States] aforesaid subject to the provisions of Act 22 of 1855 (for the regulation of ports and port-dues).

"Magistrate."- the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure and any Magistrate of Police for the town of Calcutta;

"Municipal town."- the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, bazar, village and tract of country to which the provisions of Act 3 of 1864 (the District Municipal improvement Act), passed by the Lieutenant-Governor of Bengal in Council, have been or shall be extended;

³[***]

1. Definition inserted by Government of India (Adaptation of Indian Laws) Order, 1937.

2. Word substituted for the word "Provincial" by the Adaptation of

Laws Order, 1950.

3. The "number" clause in respect of words denoting the plural or singular number, rep. by Act 1 of 1903.

2. Penalty for not having sufficient crew on vessels lying in port :-

If any vessel of more than ten tons burden shall, without such license, as hereinafter is mentioned, be afloat in any port within the ¹[territories to which this Act extends], without having on board thereof a crew of not less than the number set forth in the First Schedule hereto, the master of such vessel, and in case there shall be no master of such vessel then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

1. Words substituted for the words "Provinces under the control of the Provincial Government of Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

3. Power to exempt from maintaining crew on particular ships :-

Whenever it shall appear to the Conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such Conservator, if he shall think fit, to grant under his hand a license in the Form A in the Second Schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuance of such license the provisions of section 2 of this Act shall not apply to such vessel.

4. Power to revoke exemption :-

It shall be lawful for such Conservator, by any writing under his hand in Form B in the Second Schedule hereto, to revoke such license; and, from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof as if no such license had ever been granted.

5. Power to make order with respect to portions of ports :-

Whenever it shall appear to the Conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock without danger to any vessels in any part of such port, it shall be lawful for such Conservator to make an order in the Form C in the Second Schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order:

Provided always that every such order, amendment and revocation shall be published in the ¹[Official Gazette], and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

1. Words substituted for the words "Calcutta Gazette" by Government of India (Adaptation of Indian Laws) Order, 1937.

6. Application of section 2 to certain ships :-

During such time as any such order shall remain in force the provisions of section 2 of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be deemed by such order.

7. Penalty on master omitting to take order to extinguish fire :-

Repealed by the Indian Ports Act, 1875 (12 of 1875).

8. Power to charge port-police upon port-fund :-

It shall be lawful for ¹[the appropriate Government] to order (if and when ²[it] shall ³* * think fit) that the entire or any portion of the expense of maintaining the police-force in any port which may be within or abutting upon any municipal town shall be borne by and paid out of the port-fund of such port.

1. Words substituted for the words "the Lieutenant Governor of Bengal" by Government of India (Adaptation of Indian Laws) Order, 1937.

2. Word substituted for the word "he" by Government of India (Adaptation of Indian Laws) Order, 1937.

3. Words "in his discretion" om. by Government of India (Adaptation of Indian Laws) Order, 1937.

9. Power to charge upon port-fund portion of expense of

municipal police :-

It shall be lawful for ¹[the appropriate Government] from time to time, to assign to the persons charged with the management of the municipal fund of any municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port fund of such port as to ²[it] shall seem just and reasonable for or towards reimbursing to such municipal fund such portion of the expense of the police-force in such town as may, in the opinion of ¹[the appropriate Government] be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

1. Words substituted for the words "the Lieutenant Governor of Bengal" by Government of India (Adaptation of Indian Laws) Order, 1937.

2. Word substituted for the word "him" by Government of India (Adaptation of Indian Laws) Order, 1937.

10. Power to impose police-port-dues :-

In case the port-fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port-fund be insufficient to pay any expense of police and annual sums which shall, under the provisions aforesaid, be payable thereout; it shall be lawful for ¹[the appropriate Government] and ²[it] is hereby required to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called police-port-dues, as shall thereunto be necessary:

Provided that the same shall not exceed the port-dues in that behalf mentioned in the Third Schedule to this Act.

1. Words substituted for the words "the Lieutenant Governor of Bengal" by Government of India (Adaptation of Indian Laws) Order, 1937.

2. Word substituted for the word "he" by Government of India (Adaptation of Indian Laws) Order, 1937.

11. XXX XXX XXX :-

XXX XXX XXX

12. XXX XXX XXX :-

XXX XXX XXX

13. Imposition and application of hospital port-dues: power to refuse port clearance till expenses under Merchant Shipping Act, 1854, s. 228, are paid :-

Repealed by the Indian Ports Act, 1875 (12 of 1875).

14. Power to compound port-dues :-

It shall be lawful for the owner of any vessel to pay to the Conservator of any port three times the amount of the police-port-dues and hospital-port-dues which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

15. Power to vary port-dues :-

It shall be lawful for ¹[the appropriate Government] from time to time, to vary the rate of police-port-dues ³* * * payable in any port, as to ²[it] ⁴* * * shall seem fit, so as that the same shall not exceed the rates in the Third Schedule ⁵* * * set forth.

1. Words substituted for the words "the Lieutenant Governor of Bengal" by Government of India (Adaptation of Indian Laws) Order, 1937.

2. Word substituted for the word "he" by Government of India (Adaptation of Indian Laws) Order, 1937.

3. Words "and hospital port dues" rep. by Act 1 of 1903.

4. Word "in his discretion" omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Word "respectively" rep. by Act 1 of 1903.

16. Imposition or increase of port-dues to be published :-

No order of ¹[the appropriate Government], imposing or increasing any port-dues under this Act, shall take effect until the expiration of six calendar months from the day upon which such order shall have been published in the ²[Official Gazette.]

1. Words substituted for the words "the Lieutenant Governor of Bengal" by Government of India (Adaptation of Indian Laws) Order, 1937.
2. Words substituted for the words "Calcutta Gazette" by Government of India (Adaptation of Indian Laws) Order, 1937.

17. Recovery of penalties :-

All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed 1* * *.

1. Remainder portion of section 17 relating to "recovery of fines" rep. by Act 1 of 1903.

18. Penalties how disposed of :-

All penalties levied under this Act shall be applied as fines received under the said Act 22 of 1855 are directed to be applied.

19. Construction :-

This Act shall be construed together with and as part of the said Act 22 of 1855.

20. Commencement of Act :-

Repealed by the Repealing Act 1873 (12 of 1873).

SCHEDULE 1

THE FIRST SCHEDULE

THE FIRST SCHEDULE (Referred to in section 2)

| | If Natives | If Europeans. | Officers-in- charge. |
|---|-----------------------|--------------------------|---------------------------------|
| Cargo-boats | 4 | 4 | 0 |
| Vessels, not being cargo-boats, of 600 tons and under, in moorings. | 6 | 4 | 1 |
| For every additional 100 tons | 1 1/2 | 1 | 0 |
| Vessels not being cargo-boats of 600 tons and under, in streams. | 11 | 7 1/2 | 1 |
| For every additional 100 tons | 2 | 1 | 0 |

SCHEDULE 2

SECOND SCHEDULE

THE SECOND SCHEDULE (Referred to in sections 3, 4 and 5) Form A

Port of ()

I () Conservator of the Port of do hereby license the (ship) of which is master, to remain at his present moorings, in the said port, without having on board the crew required by Act 3 of 1867 of the Lieutenant-Governor of Bengal in Council:
Provided always that, on breach of any of the conditions hereunder written, this license shall forthwith absolutely cease and determine.

Form B

Port of ()

1 () the Conservator of the Port of do hereby revoke all license to the (ship) to remain in port without a crew therein.

Form C

Port ()

I () the Conservator of the Port of do hereby order that vessels lying in the following portion of the said port (here set out the exempted limits) shall be exempt from the provisions of the second section of Act 3 of 1867 passed by the Lieutenant-Governor of Bengal in Council.

SCHEDULE 3

THE THIRD SCHEDULE

THE THIRD SCHEDULE (Referred to in sections 10 1* * * and 15.) PORT-DUES. Police-Port-dues. For every vessel entering any port, two annas per ton.

2[* * *]

1. Figures "11" repealed by Act 1 of 1903.

2. The provision "Hospital Port-dues. For every vessel entering any port, one anna per ton" repealed by Ben. Act 1 of 1903.