

No. 13 of 1958

PORT (CARGO) CORPORATION

Acts
Nos. 13 of 1958,
67 of 1961,
41 of 1964.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION FOR THE PROVISION OF CERTAIN SERVICES IN THE PORT OF COLOMBO AND IN SUCH OTHER PORTS AS MAY BE DETERMINED BY THE MINISTER BY ORDER PUBLISHED IN THE GAZETTE ; TO ENABLE THE COMPULSORY ACQUISITION OR REQUISITION FOR SUCH CORPORATION OF ANY IMMOVABLE OR MOVABLE PROPERTY REQUIRED FOR THE PURPOSES OF SUCH CORPORATION ; AND TO MAKE PROVISION FOR THE TERMINATION OF THE BUSINESS OF PORT ENTREPRENEURS AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[Act No. 13 of 1958—7th May, 1958.]

[Act No. 67 of 1961—7th December, 1961.]

[Act No. 41 of 1964—12th November, 1964.]

Short title.

1. This Act may be cited as the Port (Cargo) Corporation Act, No. 13 of 1958.

PART I

CONSTITUTION, POWERS AND DUTIES OF THE PORT (CARGO) CORPORATION AND ITS BOARD OF DIRECTORS

Establishment of Port (Cargo) Corporation.

2. (1) There shall be established a Corporation which shall be called the "Port (Cargo) Corporation" (hereinafter referred to as "the Corporation") and which shall consist of the persons who are for the time being members of the Corporation under section 3.

(2) The Corporation shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Members of the Corporation.

3. The members of the Board of Directors shall be the members of the Corporation.

4. (1) It shall be the general duty of the Corporation—

General duty
of the
Corporation.

- (a) to provide in the Port of Colombo and in any other port that may be determined by the Minister by Order published in the Gazette efficient and regular services (hereinafter referred to as "port services") for stevedoring, landing and warehousing cargo, wharfage, the supply of water and the bunkering of coal and any other services incidental thereto ; and
- (b) subject to the provisions of subsection (2), to conduct the business of the Corporation in such manner, and to make in accordance with the provisions of this Act such charges for services rendered by the Corporation, as will secure that the revenue of the Corporation is not less than sufficient for meeting the charges which are proper to be made to the revenue of the Corporation, and for establishing and maintaining an adequate general reserve.

(2) Where the Minister, after consultation with the Board of Directors, is satisfied that the Corporation will be unable, during any period reckoned from the date of commencement of its business, to perform the duty imposed on the Corporation by paragraph (b) of subsection (1) by reason only of the heavy initial expenditure that will have to be incurred by the Corporation in first commencing and carrying on its business, the Minister may, by Order published in the Gazette, exempt the Corporation during that period from the provisions of that paragraph.

(3) Nothing in this section shall be construed as imposing on the Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Corporation would not otherwise be subject.

5. (1) The Corporation may exercise all or any of the following powers :—

Powers of the
Corporation.

- (a) to acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of any immovable or movable property ;

- (b) to employ such officers and servants as may be necessary for carrying out the work of the Corporation ;
- (c) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or the manner in which that equipment is operated, including the provision by the Corporation, and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Corporation ;
- (d) to establish a provident fund, and provide welfare and recreational facilities, houses, hostels and other like accommodation for persons employed by the Corporation ;
- (e) to construct, manufacture, purchase, maintain and repair anything required for the purpose of the business of the Corporation ;
- (f) to delegate to any officer of the Corporation any such function of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of business ;
- (g) to enter into and perform, directly or through any officer or agent authorized in that behalf by the Corporation, all such contracts as may be necessary for the performance of the duties and the exercise of the powers of the Corporation ;
- (h) to make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them ;
- (i) to make rules in respect of the administration of the affairs of the Corporation ; and
- (j) to do all other things which, in the opinion of the Corporation, are necessary to facilitate the proper carrying on of its business.

[§ 2, 67 of 1961.]

(2) Nothing in the preceding provisions of this section shall be construed as authorizing the disregard by the Corporation of any law for the time being in force.

6. (1) The Minister may, after consultation with the Board of Directors, give such Board general or special directions in writing as to the performance of the duties and the exercise of the powers of the Corporation, and such Board shall give effect to such directions.

Powers of the Minister in relation to the Corporation.

(2) The Minister may, from time to time, direct in writing the Board of Directors to furnish to him, in such form as he may require, returns, accounts and other information with respect to the property and business of the Corporation, and such Board shall carry out every such direction.

(3) The Minister may from time to time order all or any of the activities of the Corporation to be investigated and reported upon by such person or persons as he may specify, and, upon such order being made, the Board of Directors shall afford all such facilities, and furnish all such information, as may be necessary to carry out the order.

7. (1) The Corporation shall have a Board of Directors consisting of an officer of the General Treasury, an officer of the Customs, an officer of the Port Commission, and four other members, all of whom shall be appointed by the Minister.

Board of Directors.
[§ 3, 67 of 1961.]

(2) A person shall be disqualified for being appointed or continuing as a Director—

- (a) if he is a Senator or a Member of Parliament, or
- (b) if he is an employee of the Corporation, or
- (c) if he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds or enjoys any right or benefit under any contract made by or on behalf of the Corporation, or
- (d) if he has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Director.

(3) Where a Director is, by reason of illness or other infirmity or absence from Ceylon, temporarily unable to perform the duties of his office, then, if he is not

[§ 3, 67 of 1961.]

the Director who is an officer of the General Treasury or the Customs or the Port Commission, the Minister may appoint another person to act in his place, and, if he is a Director who is an officer of the General Treasury or the Customs or the Port Commission, the Minister may appoint an officer of the General Treasury, or the Customs, or the Port Commission, as the case may be, to act in his place.

(4) The Minister may, without assigning a reason, remove any Director from office. The removal of any Director from office by the Minister shall not be called in question in any court.

(5) A Director who is not a public officer may resign the office of Director by letter addressed to the Minister.

(6) Subject to the provisions of subsection (4) and subsection (5), the term of office of a Director shall be three years :

Provided that a Director appointed in place of a Director who dies or resigns or otherwise vacates office shall, unless he earlier resigns or otherwise vacates office, hold office for the unexpired part of the term of office of the Director whom he succeeds.

Remuneration of Directors.

8. All or any of the Directors may be paid such remuneration, out of the funds of the Corporation, as may be determined by the Minister.

Director to disclose interest in contract proposed to be made by the Corporation.

9. A Director who is directly or indirectly interested in a contract proposed to be made by the Corporation shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes of such Board, and such Director shall not take part in any deliberation or decision of such Board with respect to such contract.

Quorum for meeting of Board of Directors.

10. The quorum for any meeting of the Board of Directors shall be three.

11. Subject to the other provisions of this Act, the Board of Directors may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

Regulation of procedure.

12. The Board of Directors may act notwithstanding a vacancy among the members thereof.

Board of Directors may act despite vacancy.

13. The Board of Directors shall administer the affairs, may exercise the powers, and shall perform the duties, of the Corporation.

Board of Directors to administer the affairs of the Corporation.

14. (1) The Board of Directors may delegate to any Director or employee of such Board any of its powers and duties.

Delegation of powers and duties of Board of Directors.

(2) Every delegate appointed under subsection (1) shall exercise or perform the power or duty delegated to him subject to the general or special directions of the Board of Directors.

15. (1) The Minister shall appoint a Chairman and may appoint a Vice-Chairman of the Board of Directors from among the Directors.

Chairman and Vice-Chairman of Board of Directors.

(2) If the Chairman or the Vice-Chairman is, by reason of illness or other infirmity or absence from Ceylon, temporarily unable to perform the duties of his office, the Minister may appoint one of the Directors to act in his place.

(3) The Minister may, without assigning a reason, terminate the appointment of the Chairman or Vice-Chairman. The termination of the appointment of the Chairman or Vice-Chairman shall not be called in question in any court.

(4) Where the Chairman or the Vice-Chairman is not a public officer, he may resign the office of such Chairman or Vice-Chairman by letter addressed to the Minister.

(5) Subject to the provisions of subsection (3), and subsection (4), the term of office of the Chairman shall be the period of his membership of the Board of Directors and the term of office of the Vice-Chairman shall be the period of his membership of such Board.

Seal of the Corporation.

16. (1) The seal of the Corporation shall be in the custody of the Board of Directors.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Board of Directors.

(3) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two members of the Board of Directors both of whom shall sign the instrument or document in token of their presence.

PART II

FINANCE

Borrowing powers of the Board of Directors.

17. (1) The Board of Directors may, with the consent of the Minister, or in accordance with the terms of any general authority given by him, borrow temporarily, by way of overdraft or otherwise, such sums as the Board may require for meeting the obligations of the Corporation or discharging its duties under this Act :

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board of Directors under this subsection shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister of Finance.

(2) The Board of Directors may, with the consent of the Minister given with the concurrence of the Minister of Finance, borrow money, otherwise than by way of a temporary loan under subsection (1), for all or any of the following purposes :—

(a) the provision of working capital ;

- (b) the provision of money for meeting any expenses incurred in connection with any permanent work or other thing the cost of which is properly chargeable to capital ;
- (c) the provision of money required for the payment of any compensation under this Act which is payable in cash by the Corporation ;
- (d) the redemption of any stock issued or any loan raised by the Board of Directors ; and
- (e) any other purpose for which capital moneys are properly applicable, including the repayment of any money temporarily borrowed under subsection (1).

(3) The Board of Directors may, with the consent of the Minister given with the concurrence of the Minister of Finance, borrow money for any of the purposes mentioned in subsection (2) by the issue of stock under section 19 or in any other manner whatsoever.

18. Any funds of the Corporation which are not immediately required for the purposes of the business of the Corporation may be invested by the Board of Directors in such manner as such Board may determine with the approval of the Minister.

Investments
of funds of
the
Corporation.

19. (1) The Board of Directors—

- (a) may create and issue any stock required for the purpose of exercising the powers of the Board under subsection (3) of section 17, and
- (b) shall create and issue such stock as is required for the purpose of satisfying any right to compensation under this Act which is to be satisfied by the issue of stock,

Port (Cargo)
Corporation
Stock.

and the stock so created and issued is in this Act referred to as "Port (Cargo) Corporation Stock".

(2) Port (Cargo) Corporation Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Board of Directors with the approval of the Minister given with the concurrence of the Minister of Finance.

Government
guarantee.

20. (1) The Minister of Finance shall guarantee the repayment of the principal of, and the payment of the interest on, any Port (Cargo) Corporation Stock created and issued under section 19 (1) (b), and may, with the concurrence of the Minister, guarantee the repayment of the principal of, and the payment of the interest on, any Port (Cargo) Corporation Stock created and issued under section 19 (1) (a).

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may, with the prior approval of the House of Representatives, be paid out of the Consolidated Fund of Ceylon.

(3) Any sum paid out of the Consolidated Fund of Ceylon in fulfilment of a guarantee provided under subsection (1) shall be repaid, together with interest thereon, at such rate as the Minister of Finance may determine with the concurrence of the Minister, by the Corporation in such manner and over such period as the Minister of Finance may with such concurrence determine.

(4) Immediately after a guarantee is given under subsection (1), the Minister of Finance shall lay a statement of the guarantee before the Senate and the House of Representatives.

(5) Where any sum is paid out of the Consolidated Fund of Ceylon in fulfilment of a guarantee provided under subsection (1), the Minister of Finance shall forthwith lay before the Senate and the House of Representatives a statement that such sum has been so paid.

Application
of the
revenue
of the
Corporation.

21. The revenue of the Corporation in any year shall be applied in defraying the following charges in the order of priority set out hereunder :—

(a) the working and establishment expenses (including allocations to the insurance reserve and depreciation reserve), in connection with the exercise and performance of the powers and duties of the Corporation, properly chargeable to revenue account ;

(b) the interest on any temporary loan raised by the Corporation ;

- (c) any sums required to be transferred to any sinking fund or redemption fund ; and
- (d) the interest on and the repayment of the principal of any Government loan to the Corporation.

22. (1) The Board of Directors—

Reserves.

- (a) may establish and maintain an insurance reserve to cover the insurance of the movable and immovable property of the Corporation, and to meet liabilities arising under the Workmen's Compensation Ordinance ; and

[§ 4, 67 of 1961.]
Cap. 139.

(b) shall establish and maintain—

- (i) a depreciation reserve to cover the depreciation of the movable and immovable property of the Corporation, and
- (ii) a general reserve not exceeding such amount as may from time to time be determined by the Minister.

(2) Such amount out of the surplus of the revenue of the Corporation in any year remaining after the charges mentioned in section 21 have been satisfied as can be paid to the general reserve without causing it to exceed the amount determined by the Minister under paragraph (b) (ii) of subsection (1) shall be paid to that reserve and the balance, if any, of such surplus shall be paid to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund of Ceylon.

23. (1) The Board of Directors shall cause proper accounts of the income and expenditure of the Corporation and of all its other transactions to be kept and shall prepare an annual statement of accounts and statistics relating to the business of the Corporation in such form and containing such particulars as the Minister with the concurrence of the Minister of Finance may from time to time specify.

Accounts
and audit of
accounts.

(2) The accounts of the Corporation for each financial year shall be audited by the Auditor-General. For the purposes of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Corporation, the Auditor-General shall be paid by the Corporation such remuneration as the Minister may determine with the concurrence of the Minister of Finance. Any remuneration received from the Corporation by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund of Ceylon.

(4) The Auditor-General shall examine the accounts of the Corporation and furnish a report—

(a) stating whether he has or has not obtained all the information and explanations required by him ;

(b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Corporation ; and

(c) drawing attention to any item in the accounts which in his opinion may be of interest to the Senate and the House of Representatives in any examination of the activities and accounts of the Corporation.

(5) The Auditor-General shall transmit his report to the Board of Directors.

(6) For the purpose of this section, the expression "qualified auditor" means any person who is an auditor under the Companies Act, 1933.

(7) The Auditor-General and any person assisting the Auditor-General shall have access to all such books, accounts, vouchers and other

documents of the Corporation as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Directors and officers of the Corporation with such information within their knowledge as may be required for such purposes.

25. (1) The Board of Directors shall, as soon as possible after the end of each financial year of the Corporation, make to the Minister a report on the exercise and performance by such Board of its powers and duties during that year and on its policy and programme. Such report for any year shall set out any direction given by the Minister to the Board of Directors during that year, unless the Minister has notified to such Board his opinion that it is against the interests of national security to do so. The Minister shall lay a copy of such report before the Senate and the House of Representatives.

Report of the Board of Directors and copies of Auditor-General's report and statement of accounts and statistics to be sent to the Minister and laid before the Senate and the House of Representatives, and copies of such reports and statistics to be made available for purchase by the public.

(2) The Board of Directors shall, on receipt of the Auditor-General's report in each year, transmit to the Minister—

(a) a copy of such report, and

(b) a copy of the statement of accounts and statistics prepared under section 23 (1).

(3) The Minister shall lay copies of the report and statement referred to in subsection (2) before the Senate and the House of Representatives.

(4) The Board of Directors shall cause copies of the report of such Board and of the Auditor-General's report and statement of accounts and statistics referred to in subsection (2), to be printed at the expense of the Corporation and to be made available for purchase by the public at such price as shall be determined by such Board.

PART III

COMMENCEMENT OF BUSINESS BY, AND ACQUISITION AND
REQUISITION OF PROPERTY FOR, THE CORPORATION

Date on and
after which
certain port
services are
to be
provided
by the
Corporation.

26. (1) The Minister shall, after consultation with the Board of Directors, by Order published in the Gazette, declare that, on and after such date as shall be specified in the Order, the port services referred to in section 4 shall be provided in the Port of Colombo exclusively by the Corporation.

(2) Where by Order of the Minister under section 4 (1) (a) any port other than the Port of Colombo is determined as a port in which the port services referred to in that section shall be provided by the Corporation, the Minister shall, after consultation with the Board of Directors, by Order published in the Gazette, declare that, on and after such date as shall be specified in the Order, the aforesaid port services shall be provided exclusively by the Corporation in the port so determined.

(3) The date specified in an Order made under subsection (1) or subsection (2) as the date on and after which the port services referred to in section 4 shall be provided exclusively by the Corporation in any port specified in that Order may, before that date expires, be altered by the Minister, after consultation with the Board of Directors, by Order published in the Gazette.

Termination
of business
of port
entrepreneurs.

Cap. 238.

27. (1) On the date specified in an Order made and published under subsection (1) of section 26 as the date on and after which the port services referred to in section 4 shall be provided in the Port of Colombo exclusively by the Corporation, every such licence granted under the regulations made under the Port of Colombo (Administration) Act as authorizes the carrying on of an undertaking for providing in the Port of Colombo any of the port services referred to in section 4 shall cease to be in force notwithstanding anything to the contrary in such regulations and such Act.

(2) Where an Order under subsection (2) of section 26 is made specifying a date on and after which the port services referred to in section 4 shall be provided

exclusively by the Corporation in any port specified in that Order, every port entrepreneur in that port shall cease to be such entrepreneur on and after that date.

(3) No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, by reason of the fact that any licence referred to in subsection (1) ceases to be in force by virtue of that subsection or by reason of the fact that a port entrepreneur has ceased to be such entrepreneur by virtue of subsection (2).

28. (1) A port entrepreneur who is the holder of a licence referred to in subsection (1) of section 27 shall carry on the undertaking specified in such licence until such licence ceases to be in force by virtue of that subsection.

Duty of certain port entrepreneurs to carry on their undertakings until the date when their licences cease to be in force.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

29. (1) Any officer of the Corporation who is authorized in that behalf by the Chairman of the Board of Directors may, by notice (hereafter in this Act referred to as a "notice of claim") sent by registered post to the address of a port entrepreneur, declare that such movable or immovable property, other than money, as has been used or is intended to be used by such entrepreneur for the purpose of the undertaking carried on by him as such entrepreneur is required for the purposes of the Corporation. Such property is hereafter in this Act referred to as "notified property".

Notice of claim or disclaimer.

(2) Where a notice of claim is sent under subsection (1), any officer of the Corporation authorized in that behalf by the Chairman of the Board of Directors may from time to time, by notice (hereafter in this Act referred to as a "notice of disclaimer") sent in like manner as the notice of claim, disclaim the need, for

the purposes of the Corporation, of any property referred to in the notice of claim and specified in the notice of disclaimer.

(3) No person shall alienate to any person other than the Corporation—

(a) any property which is specified in a notice of claim and is not disclaimed by a notice of disclaimer, or

(b) any rights in respect of that property ;

and any alienation of that property or those rights to any person other than the Corporation shall be null and void.

(4) Any person shall, if requested by any officer of the Corporation so to do, furnish to such person as shall be specified in the request information with regard to any such matter within his knowledge relating to any movable or immovable property referred to in a notice of claim as shall be so specified.

(5) Any person who fails to furnish the information referred to in subsection (4), or who wilfully withholds all or any part of such information, or who furnishes information knowing such information to be false, or who wilfully or negligently destroys or damages or causes to be destroyed or damaged any notified property shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Report on
condition of
any notified
property.

30. The Chairman of the Board of Directors may—

(a) cause a report to be prepared as to the condition of any notified property ;

(b) cause a copy of such report to be sent by registered post to the person to whom the notice of claim in respect of such property was sent ; and

(c) require such person to notify in writing such Chairman whether or not such person is in agreement with such report and, if he is not in agreement, to specify any objections

he may have and the grounds of such objections and to produce all documents relied on by him in support of such objections.

31. (1) The Minister may, by Order (hereafter in this Act referred to as a "vesting Order") published in the Gazette and sent by registered post to a port entrepreneur, vest in the Corporation, with effect from such date as shall be specified in the Order, any notified property which has not been disclaimed by a notice of disclaimer and which has been used or was intended to be used by such entrepreneur for the purpose of the undertaking carried on by him as such entrepreneur.

Compulsory acquisition of notified property for the Corporation by vesting Order of the Minister.

(2) Before a vesting Order takes effect, the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the Gazette and sent by registered post to the person to whom such vesting Order was sent, the date on which such vesting Order takes effect.

(3) A vesting Order shall have the effect of giving the Corporation absolute title to any property specified in the Order with effect from the date specified therein and free from all encumbrances.

32. (1) The Minister may, by Order (hereafter in this Act referred to as a "requisitioning Order") published in the Gazette and sent by registered post to a port entrepreneur, requisition, with effect from such date as shall be specified in the Order, any notified property which is immovable property and which has been used or was intended to be used by such entrepreneur for the purpose of the undertaking carried on by him as such entrepreneur, in order that it may be temporarily used by the Corporation for the purposes of its business.

Requisitioning of immovable notified property.

(2) Before a requisitioning Order takes effect the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the Gazette and sent by registered post to the person to whom such requisitioning Order was sent, the date on which such requisitioning Order takes effect.

(3) A requisitioning Order shall have the effect of authorizing the Corporation, with effect from the date specified in the Order, to take possession of the property specified in the Order and to use such property temporarily for the purposes of the business of the Corporation.

(4) Where any property is requisitioned by a requisitioning Order, the Minister may, by Order (hereafter in this Act referred to as a "derequisitioning Order") published in the Gazette and sent by registered post to the person to whom such requisitioning Order was sent, derequisition such property with effect from such date as shall be specified in the derequisitioning Order.

(5) Before a derequisitioning Order takes effect, the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the Gazette and sent by registered post to the person to whom such derequisitioning Order was sent, the date on which such derequisitioning Order takes effect.

(6) Where, immediately before the date on which any property is requisitioned for the Corporation, a person, other than the owner of such property, was entitled to possession of such property under the terms of any lease, that lease shall be deemed for all purposes to have expired on that date.

Compulsory acquisition of requisitioned property for the Corporation by a vesting Order under section 31.

33. Where it is found that any property requisitioned for the Corporation is permanently required for the purpose of the business of the Corporation, such property may be vested in the Corporation by a vesting Order under section 31.

Taking possession of property vested in, or requisitioned for, the Corporation.

34. (1) Any officer of the Corporation authorized in that behalf by the Chairman of the Board of Directors may, for and on behalf of the Corporation, take possession of any property vested in or requisitioned for the Corporation.

(2) Any officer referred to in subsection (1) shall, by notice in writing given to the person in possession of any property vested in or requisitioned for the Corporation,—

- (a) inform such person that such officer intends to take possession of such property for and on behalf of the Corporation on such date and at such time and place as shall be specified in the notice, and
- (b) require such person or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such officer to take possession of such property for and on behalf of the Corporation.

(3) A notice required to be given to any person under the preceding provisions of this section shall be deemed to be given to him if it is sent to him by registered post.

(4) Any person who fails to comply with any requirement of a notice given to him under this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

35. (1) Every person who prevents or obstructs any person from or in taking possession, under section 34, of any property for and on behalf of the Corporation shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Prevention of, or obstruction to, taking possession of property for and on behalf of the Corporation.

(2) Where an officer authorized under section 34 to take possession of any property for and on behalf of the Corporation is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an

application in that behalf to the Magistrate's Court having jurisdiction over the place where that property is kept or situated, be entitled to an order of the court directing the Fiscal to deliver possession of that property to him for and on behalf of the Corporation.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the court the manner in which that order was executed.

(4) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where any movable property to which that order relates is kept and seize such movable property, or to enter any land, building or other structure to which that order relates and to eject any person in occupation thereof, and to deliver possession of such movable property, land, building or other structure to the person who is authorized to take possession thereof for and on behalf of the Corporation.

Acquisition of immovable property under the Land Acquisition Act for the Corporation.

Cap. 460.

36. (1) Where any immovable property, other than any notified property, is required to be acquired for the purpose of the business of the Corporation and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act, and be transferred to the Corporation.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Corporation shall be paid by the Corporation.

Special grant or lease of Crown property to the Corporation.

Cap. 454.

37. Where any immovable property of the Crown is required for the purpose of the business of the Corporation, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Corporation.

38. (1) The Chairman of the Board of Directors or any officer of the Corporation authorized in that behalf by such Chairman may direct a port entrepreneur to furnish to such Chairman or such officer any such information, returns, statements or statistics as shall be indicated in the direction and shall relate to the undertaking carried on by him as such entrepreneur.

Power to
require
information
and to
inspect, &c.

(2) The Chairman of the Board of Directors or any person authorized in that behalf by such Chairman may—

- (a) inspect any movable or immovable property used or intended to be used by a port entrepreneur for the purpose of the undertaking carried on by him as such entrepreneur, and
- (b) examine any books or other records maintained for such purpose and take copies of all or any of the entries in such books or records.

(3) The Chairman of the Board of Directors or any person authorized in that behalf by such Chairman may direct any person who has the custody of the books of accounts for the years 1957 and 1958 relating to an undertaking carried on under a licence referred to in section 27—

- (a) to produce those books for inspection by, and
- (b) if necessary, to deliver those books to the custody of,

such Chairman or such authorized person.

(4) Any person who fails, without reasonable cause, to comply with a direction given under subsection (1), or who furnishes information knowing such information to be false, or who obstructs any other person in the exercise of the powers conferred on that other person by subsection (2), or who fails, without reasonable cause, to comply with a direction given under subsection (3), shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

PART IV

COMPENSATION

Compensation in respect of property vested in the Corporation by vesting Order.

39. In respect of any property vested in the Corporation, the Corporation shall pay compensation assessed on the basis of the value of such property at the time it was vested in the Corporation and as if this Act had not been passed. If there is no ready market in Ceylon for such property, account shall be taken of the original cost to the owner, the replacement cost and the age and condition of such property in assessing such value.

Compensation in respect of property requisitioned for the Corporation.

40. In respect of any property requisitioned for the Corporation, the Corporation shall pay compensation equal to the amount which might reasonably be expected to be payable for the temporary use of such property.

Date of commencement of accrual of compensation.

41. The compensation payable in respect of any property shall be considered as accruing due from the date on which that property was vested in or requisitioned for the Corporation.

Interest on compensation. [§ 5, 67 of 1961.]

42. Any compensation payable, less any deductions that may be made from such compensation under this Act shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister of Finance.

Mode of payment of compensation.

43. The mode of payment of compensation shall be determined by the Board of Directors with the approval of the Minister and the Minister of Finance.

Valuation Board or Boards for assessing compensation.

44. (1) For the purpose of assessing the compensation payable under this Act, there shall be a Valuation Board or more than one Valuation Board according as the Minister may decide.

(2) The Minister shall determine the number of members of each Valuation Board and shall appoint the members for such term as he may decide. At least one of the members of such Board shall be a person

with judicial or legal experience. The Minister shall appoint as the Chairman of such Board a member thereof who has the aforesaid experience.

(3) All or any of the members of a Valuation Board may be paid out of the funds of the Corporation such remuneration as the Minister may determine with the concurrence of the Minister of Finance.

45. (1) The Board of Directors shall refer to a Valuation Board the assessment of compensation payable in respect of any property, and the Valuation Board shall submit its assessment and recommendations to the Board of Directors.

Assessment
and deter-
mination of
compensation.

(2) A Valuation Board shall, before making its assessment of the compensation payable in respect of any property, give the person from whom that property was acquired or requisitioned for the Corporation an opportunity to adduce before such Board, by himself or by a representative authorized by him in that behalf, evidence with regard to the value of that property.

(3) The Board of Directors shall, after considering the assessment of compensation and the recommendations made by a Valuation Board in respect of any property, determine the amount of compensation payable in respect of that property and communicate the decision in writing to the person from whom that property was acquired or requisitioned for the Corporation.

(4) The Board of Directors shall cause a notice to be published in the Gazette and in at least one English, one Sinhala and one Tamil newspaper, specifying the compensation that it proposes to pay in respect of any property and inviting any person who had any right, title or interest to or in that property immediately before that property was vested in or requisitioned for the Corporation and who claims any compensation in respect of that property to communicate to the Chairman of the Board of Directors his claim in writing, stating the nature and the basis thereof, before such date as shall be specified in the notice.

Payment of
compensation.

46. (1) Where no claim to the compensation payable in respect of any property is received in response to the notice under section 45 from any person other than the person from whom that property was acquired or requisitioned for the Corporation, the Chairman of the Board of Directors shall cause such compensation, less any sum required by or under this Act to be deducted therefrom, to be paid to the person from whom that property was so acquired or requisitioned.

(2) Where any claim to compensation payable in respect of any property is received in response to the notice under section 45 from any person other than the person from whom that property was acquired or requisitioned for the Corporation, then, if every such claimant and the person from whom that property was so acquired or requisitioned amicably agree in writing as to the persons entitled to the compensation and the apportionment of the compensation among them, the Chairman of the Board of Directors shall cause the compensation, less any sum required by or under this Act to be deducted therefrom, to be apportioned and paid to such persons according to such agreement. If there is no such agreement, the Chairman of the Board of Directors shall cause the compensation, less any sum required by or under this Act to be deducted therefrom, to be paid to any District Court or Court of from the amount of such compensation the following sums, if any, in the order of priority in which they are rupees, to be drawn by the persons entitled thereto.

Deductions
from
compensation.

47. (1) Where a person is entitled to compensation in respect of any property vested in or requisitioned for the Corporation, the Board of Directors shall pay from the amount of such compensation the following sums, if any, in the order of priority in which they are specified below :—

[§ 6, 67 of 1961.]

(a) any sum—

(i) which is certified in writing by a Labour Tribunal constituted under this Act to the Chairman of the Board of Directors to be due from such person under section 55, section 56, or section 57 ; or

-
- (ii) which is admitted by such person to be due from him under section 55, section 56, or section 57, and is certified in writing by the Chairman of the Board of Directors to that Board to have been admitted by such person to be so due to an employee of the Corporation, or is certified in writing by the Commissioner of Labour to the Chairman of the Board of Directors to have been admitted by such person to be so due to anyone who is not an employee of the Corporation ;
or
- (iii) which is neither admitted nor denied by such person to be due from him under section 55, section 56, or section 57, and is certified in writing by the Chairman of the Board of Directors to that Board to have been neither so admitted nor so denied by such person and to be so due from such person to any employee of the Corporation, or is certified in writing by the Commissioner of Labour to the Chairman of the Board of Directors to have been neither so admitted nor so denied by such person and to be so due from such person to anyone who is not an employee of the Corporation ;
- (b) any sum certified under the hand of the Port Commissioner to the Chairman of the Board of Directors to be due from such person as arrears of employer's contributions to the Provident Fund referred to in section 54 ;
- (c) any sum certified under the hand of the Port Commissioner to the Chairman of the Board of Directors to be due to him from such person ;
- (d) any sum certified under the hand of the Commissioner of Inland Revenue to the Chairman of the Board of Directors to be due from such person as tax on income or profits ; and

(e) any sum certified under the hand of the Secretary to the Treasury to the Chairman of the Board of Directors to be due from such person to the Crown as compensation for the loss of or any damage to any cargo of the Crown while such cargo was in the custody of such person or any employee or agent of such person.

(2) The payment to be made by the Board of Directors under subsection (1) shall—

(a) in the case of a sum referred to in paragraph (a) of that subsection, be made to the Corporation if that payment is in respect of an employee of the Corporation ;

(b) in the case of a sum referred to in paragraph (b) of that subsection, be made to the Corporation ;

(c) in the case of a sum referred to in paragraph (c) of that subsection, be made to the Port Commissioner ;

(d) in the case of a sum referred to in paragraph (d) of that subsection, be made to the Commissioner of Inland Revenue ; and

(e) in the case of a sum referred to in paragraph (e) of that subsection, be made to the Secretary to the Treasury.

[§ 6, 67 of 1961.]

(3) For the purposes of this section, the expression "compensation" includes any interest which has accrued due on such compensation.

Appeal
against
determination
of Board of
Directors
regarding
amount of
compensation.

48. Any person to whom the Board of Directors has awarded compensation in respect of any property may, if he is dissatisfied with the amount of the compensation, prefer, within thirty days after the communication to him of the determination of such Board in respect of such compensation, a written appeal against such determination, specifying the grounds of appeal, to the Board of Review established under this Act.

49. (1) For the purpose of hearing and deciding appeals made under section 48, there shall be a Board of Review.

Board of Review.

(2) The Minister shall determine the number of members of the Board of Review and shall appoint the members for such term as he may decide. At least one of the members of such Board shall be a person with judicial or legal experience. The Minister shall appoint as the Chairman of such Board a member thereof who has the aforesaid experience.

(3) All or any of the members of the Board of Review may be paid, out of the funds of the Corporation, such remuneration as the Minister may determine with the concurrence of the Minister of Finance.

(4) The decision of the Board of Review on any appeal made to it under section 48 shall be final and conclusive and shall not be called in question in any court.

(5) The Board of Review shall, before making its decision on any appeal made to it under section 48, give the appellant or a representative authorized by him in that behalf an opportunity of being heard by such Board in support of such appeal.

PART V

EMPLOYEES OF THE CORPORATION

50. (1) At the request of the Board of Directors, any officer in the public service may, with the consent of that officer and the Secretary to the Treasury, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

Appointment of public officers and servants of the Local Government Service and of any local authority, to the staff of the Corporation.

(2) The provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957, shall, *mutatis mutandis*, apply in relation to any officer in the public service who is temporarily appointed to the staff of the Corporation, and the provisions of subsection (3) of the aforesaid section 9 shall, *mutatis mutandis*, apply in relation to any officer in the public service who is permanently appointed to such staff.

(3) Where the Corporation employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(4) At the request of the Board of Directors, any officer or servant of the Local Government Service Commission or any local authority may, with the consent of that officer or servant and that Commission or authority, as the case may be, be temporarily appointed to the staff of the Corporation for such period as may be determined by that Board with like consent, or be permanently appointed to that staff, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by that Board and that Commission or authority.

(5) Where any officer or servant of the Local Government Service Commission or of any local authority is temporarily appointed to the staff of the Corporation, he shall be subject to the same disciplinary control as any other member of such staff.

Officers and servants of the Corporation deemed to be public servants.
Cap. 19.

51. All officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Employment by the Corporation of qualified workers of the Port of Colombo.

52. (1) Every person who is a qualified worker of the Port of Colombo shall be entitled to employment in the service of the Corporation, unless the Board of Directors for any good reason considers him unsuitable for employment. The Board of Directors shall cause such person to be informed by written notice of the employment in the service of the Corporation which is offered to him, the date of commencement of such employment, the remuneration and conditions of such employment, and the period within which he may accept the offer. The remuneration offered to such person shall be generally calculated in accordance with the rates of remuneration applicable on February 1, 1958, to a worker in an employment of

the same description as the employment offered to such person by the Board of Directors, and if such person was on February 1, 1958, in receipt of a basic monthly salary of not more than four hundred and seventy-five rupees, the basic salary offered to him by the Board of Directors shall not be less than the aforesaid basic monthly salary.

(2) Where any person to whom an offer of employment under subsection (1) is made accepts that offer within the time allowed therefor by the notice of such offer, the Board of Directors shall employ him in the service of the Corporation in the post and on the terms specified in such offer.

53. Where the services of any employee of the Corporation are to be terminated on any ground other than that of misconduct, notice of such termination shall be given by the Board of Directors to such employee at least one month before the date of such termination or one month's salary or wages shall be paid to him by such Board in lieu of such notice.

Provision
in regard to
termination
of services.

54. (1) The Port Commissioner shall, after the date on which the licences referred to in subsection (1) of section 27 cease to be in force by virtue of that subsection, transfer to the Corporation all the monies which, at the time of the transfer, are to the credit of the Provident Fund established for the Port of Colombo on May 1, 1955, and known as the "Provident Fund, Commercial Workmen, Port of Colombo".

Provision
in regard to
the Fund
known as the
Provident
Fund,
Commercial
Workmen,
Port of
Colombo.

(2) The Port Commissioner shall recover any arrears of contributions due to the Provident Fund referred to in subsection (1), up to the date of the transfer to the Corporation of the monies of that Provident Fund, from employers or employees, and any such arrears of contributions as are not recovered before that date by the Port Commissioner shall be paid after that date to the Corporation by the persons from whom the arrears are due.

(3) Any person who as an employee was a contributor to the Provident Fund referred to in subsection (1) shall, if he is not employed by the Corporation, be entitled to receive from the Corporation such amount

out of the monies transferred to the Corporation under subsection (1) as was to the credit of his individual account in the Provident Fund referred to in that subsection.

Gratuities payable by port entrepreneurs of the Port of Colombo.

55. (1) This section shall apply to every such employee of a port entrepreneur of the Port of Colombo as has ceased or ceases to be that employee after October 28, 1957, whether of his own accord or upon the termination of his services by that entrepreneur.

(2) A port entrepreneur of the Port of Colombo who, during the whole or any part of the period (hereafter in this section referred to as the "relevant period") commencing on December 20, 1950, and ending on the date on which the licences referred to in subsection (1) of section 27 cease to be in force by virtue of that subsection, was the employer of any employee to whom this section applies shall pay, if such employee is employed by the Corporation, to the Corporation, or, if such employee is not employed by the Corporation, to such employee, as a gratuity in respect of the service of such employee under such employer during the relevant period, a sum which shall—

[§ 7, 87 of 1961.]

(a) where such employee was employed under such employer during the relevant period for twelve months or more and was remunerated by such employer at a monthly rate, be calculated at the rate of one-half of one month's salary for every twelve months of such employment and one and one-fourth days' wages for every complete month in any outstanding period of such employment,

[§ 7, 87 of 1961.]

(b) where such employee was employed under such employer during the relevant period for less than twelve months and was remunerated by such employer at a monthly rate, be calculated at the rate of one and one-fourth days' wages for every complete month in the period of such employment,

(c) where such employee was employed under such employer during the relevant period for twelve months or more and was remunerated by such employer at a daily rate, be calculated at the rate of fifteen days' wages for every twelve months of such employment and one and one-fourth days' wages for every complete month in any outstanding period of such employment, and

[§ 7, 67 of 1961.]

(d) where such employee was employed under such employer during the relevant period for less than twelve months and was remunerated by such employer at a daily rate, be calculated at the rate of one and one-fourth days' wages for every complete month of such employment:

[§ 7, 67 of 1961.]

Provided that—

(a) where such employer has, for the period of service of such employee under such employer in the relevant period, paid in respect of such employee any contributions to any gratuity or provident fund or scheme established by such employer, the amount of such contributions shall be deducted from the amount of the gratuity which such employer is liable under the preceding provisions of this subsection to pay in respect of such employee, and

(b) where the amount of such employer's contributions in respect of such employee to such gratuity or provident fund or scheme for such period of service of such employee exceeds the amount of such gratuity, such employer shall be exempt from the liability to pay such gratuity.

(3) The monthly rate or the daily rate referred to in subsection (2) shall, with reference to any employee to whom this section applies, be the monthly rate or daily rate applicable to him immediately before he ceased to be in the employ of the employer who is liable under that subsection to pay a gratuity in respect of that employee, and the salary or wages referred to in that subsection shall include the cost of living

[§ 7, 67 of 1961.]

allowance and the dearness allowance but shall not include any other allowance or any payment for over-time work:

Provided that, in the case of any employee who was employed by the port entrepreneur of the Port of Colombo known as A. V. Michael Fernando & Company, Limited, the monthly rate or the daily rate referred to in subsection (2) shall be that which was in force on February 1, 1958.

[§ 7, 67 of 1961.]

(4) Every port entrepreneur of the Port of Colombo shall, upon being directed to do so by the Chairman of the Board of Directors or by an officer of the Corporation who is authorized in that behalf by such Chairman, furnish to such Chairman or such officer any information which such Chairman or such officer may require in regard to any matters which are specified in subsection (2) and which relate to any employee of that entrepreneur who is not employed by the Corporation.

(5) Any port entrepreneur of the Port of Colombo who, without reasonable cause, fails to comply with any direction given to him under subsection (4) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

[§ 7, 67 of 1961.]

(6) For the purposes of this section, an employee shall be deemed to be remunerated at a daily rate if his remuneration is calculated by the day, whether or not such remuneration is paid by the month.

Provision in regard to certain provident funds to which such employees of port entrepreneurs of the Port of Colombo as are employed by the Corporation have been contributors.

56. Where any employee of a port entrepreneur of the Port of Colombo has been a contributor to a provident fund, other than the provident fund referred to in section 54, and that employee is employed by the Corporation, the administrators of the first-mentioned provident fund shall, notwithstanding anything to the contrary in the rules of the first-mentioned fund, transfer to the Corporation the amount which was to the credit of the individual account of that employee in the first-mentioned fund on the date on which that employee ceased to be an employee of that entrepreneur.

57. Where a port entrepreneur of the Port of Colombo is liable to pay any sum to a qualified worker of the Port of Colombo under any such collective agreement affecting that worker and effected under the Industrial Disputes Act, as is in operation on the date on which the licences referred to in subsection (1) of section 27 cease to be in force by virtue of that subsection, or under any other agreement or award which is in force on that date and which legally binds that entrepreneur and that worker, that entrepreneur shall,—

Payment of sums due to qualified workers of the Port of Colombo under collective agreements or other agreements and awards. Cap. 131.

- (a) where that worker is employed by the Corporation—
 - (i) pay that sum to the Corporation if that sum is payable as a gratuity or out of a provident fund, or
 - (ii) pay that sum to the Corporation to be paid to that worker if that sum is payable otherwise than as a gratuity or out of a provident fund; and
- (b) where that worker is not employed by the Corporation, pay that sum to that worker.

58. Any sum—

Disposal of certain sums transferred or paid to the Corporation.

- (a) which is paid to the Corporation under subsection (2) (a) of section 47 in respect of an employee of the Corporation, or
- (b) which is transferred to the Corporation under subsection (1) of section 54 and which was to the credit of the individual account of an employee of the Corporation in the Provident Fund referred to in that subsection, or
- (c) which is paid to the Corporation under subsection (2) of section 55 as a gratuity to an employee of the Corporation, or
- (d) which is transferred to the Corporation under section 56 in respect of an employee of the Corporation, or

(e) which is paid to the Corporation under paragraph (a) (i) of section 57 in respect of an employee of the Corporation,
shall—

- (i) be credited to the individual account of that employee in any provident fund which the Corporation may establish for its employees, or
- (ii) be transferred to any provident fund which the Government may establish for workers under any other written law :

[§ 8, 67 of 1961.]

Provided that—

- (a) any sum referred to in paragraph (c) or paragraph (e) of this section which is paid to the Corporation in respect of an employee of the Corporation, or
- (b) where any sum referred to in paragraph (d) of this section which is transferred to the Corporation in respect of an employee of the Corporation includes the amount of any contributions referred to in the proviso to subsection (2) of section 55, that amount out of such sum or, if paragraph (b) of that proviso applies in the case of such employee, that amount out of such sum less any sum by which that amount exceeds the gratuity which would be payable in respect of such employee under that subsection but for the application of the said paragraph (b),

shall, if a written request in that behalf is made by such employee to the Chairman of the Board of Directors, be paid to such employee instead of being disposed of according to the preceding provisions of this section.

Obligation to furnish certain information in respect of payments due under section 55, section 56, and section 57.

[§ 9, 67 of 1961.]

58A. (1) Every port entrepreneur of the Port of Colombo shall, before the expiration of the prescribed period, furnish to the Chairman of the Board of Directors a statement specifying—

- (a) the name of every person in respect of whom that entrepreneur is liable to make a payment under section 55 or section 57, and
- (b) the amount of such payment and details of the mode of the computation of that amount.

(2) The administrators of every provident fund to which any employee of a port entrepreneur of the Port of Colombo has been a contributor, other than the provident fund referred to in section 54, shall, before the expiration of the prescribed period, furnish to the Chairman of the Board of Directors a statement specifying—

- (a) the name of every person in respect of whom such administrators are liable to make a payment under section 56 ; and
- (b) the amount of such payment and details of the mode of the computation of that amount.

(3) Any person who, without reasonable cause, fails to comply with the provisions of subsection (1) or subsection (2) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

59. (1) The Minister shall, in consultation with the Minister to whom the subject of labour is for the time being assigned, establish a Labour Tribunal or Labour Tribunals for the purpose of determining the claims that may be referred under this Act to a Labour Tribunal.

Labour
Tribunal or
Labour
Tribunals to
determine
certain
claims.
[§ 10, 67 of 1961.]

(2) The Labour Tribunal or each Labour Tribunal established under this section shall consist of one person appointed by the Minister. The term of office of a person so appointed shall be determined by the Minister and shall be specified in the letter of appointment.

(3) The determination of a Labour Tribunal on any claim referred to it under this Act shall be final and conclusive and shall not be called in question in any court.

[§ 10, 67 of 1961.]

(4) Every Labour Tribunal established under this section shall have all the powers of a District Court—

- (a) to summon and compel the attendance of witnesses ;

(b) to compel the production of books, records and other documents relating to remuneration and terms of employment of any employee, or to any matter under inquiry by the Tribunal ; and

(c) to administer an oath or affirmation to witnesses.

(5) Every person giving evidence on any matter before a Labour Tribunal established under this section shall be bound to state the truth on such matter.

[§ 10, 67 of 1961.]

(5A) The proceedings at an inquiry by a Labour Tribunal shall as far as possible be free from the formalities and technicalities of the rules of procedure and evidence applicable to a court of law, and may be conducted by such Tribunal in any manner, not inconsistent with the principles of natural justice and any regulations made in that behalf under this Act, which to such Tribunal may seem best adapted to elicit proof concerning the matters that are investigated.

[§ 10, 67 of 1961.]

(5B) Where any person fails or is unable to comply with—

(a) a direction given to him under subsection (4) of section 55 to furnish information in regard to any such matter concerning any other person as is referred to in that subsection ; or

(b) the provisions of subsection (1) or subsection (2) of section 58A requiring such person to furnish a statement in regard to any such matter concerning any other person as is referred to in that subsection,

an affidavit of such other person in regard to that matter shall be admissible in any proceedings before a Labour Tribunal constituted under this Act as sufficient evidence of the facts stated therein.

(6) A person who is appointed under this section to function as a Labour Tribunal shall be remunerated in such manner as may be determined by the Minister with the concurrence of the Minister of Finance.

(7) Every person who as a witness attends a Labour Tribunal established under this section shall be paid as travelling and other expenses such sum as shall be determined by such Tribunal.

(8) Such sums as may be required for making the payments under subsection (6) and subsection (7) and for defraying the expenses of every Labour Tribunal established under this section shall be provided by the Corporation.

60. (1) Any claim made to the Board of Directors by any person that he is a person to whom the Board of Directors shall offer employment under section 52 shall be referred in writing by such Board for determination to a Labour Tribunal established under this Act and such Board shall, at the time the claim is so referred, notify the Tribunal of the date on which the claim was received by such Board.

Claims that may be referred for determination to a Labour Tribunal or Labour Tribunals.
[§ 11, 67 of 1961.]
[§ 2, 41 of 1964.]

(2) Any claim made to any person that any sum is payable by that person to or in respect of any other person under section 55, section 56, or section 57, shall be referred in writing by the person to whom such claim is made for determination to a Labour Tribunal established under this Act, and the last-mentioned person shall, at the time the claim is so referred, notify the Tribunal of the date on which the claim was received by him.

[§ 11, 67 of 1961.]

[§ 2, 41 of 1964.]

(2A) No claim in respect of any matter referred to in subsection (1) or subsection (2) shall be entertained by a Labour Tribunal unless such Tribunal is satisfied that such claim was received by the Board of Directors or the person to whom the claim was made, as the case may be, on or before such date as the Minister may specify for the purposes of this subsection by notification published in the Gazette.

[§ 2, 41 of 1964.]

(3) Regulations may be made under this Act in respect of the reference of claims under this Act to, and the inquiries into such claims by, a Labour Tribunal or Labour Tribunals established under this Act.

[§ 11, 67 of 1961.]

In making such regulations particular regard shall be had to the provisions of subsection (5A) of section 59.

[§ 11, 67 of 1961.]

Instalments due from any employee of the Corporation in repayment of a loan from the Lady Lochore Loan Fund and interest thereon.

61. Where any employee of the Corporation has, before his appointment as such employee, obtained a loan from the Lady Lochore Loan Fund and that loan and the interest thereon are repayable by him in instalments, then, if any such instalment is due from him, the Board of Directors shall cause that instalment to be deducted from the salary or wages payable to him by the Corporation and to be transmitted to the Board of Trustees of that Fund.

Instalments due from any employee of the Corporation in repayment of any advance of salary or wages granted by port entrepreneur of the Port of Colombo.

62. Where any employee of the Corporation has, before his appointment as such employee, obtained an advance of salary or wages from a port entrepreneur of the Port of Colombo and the amount of such advance is repayable by that employee in instalments, then, if any such instalment is due from that employee, the Board of Directors shall cause that instalment to be deducted from the salary or wages payable to that employee by the Corporation and to be transmitted to that entrepreneur.

Certification of amount that cannot be paid out of compensation under section 47 (1) (a).
[§ 12, 67 of 1961.]

62A. Where the compensation to which a person is entitled in respect of any property vested in or requisitioned for the Corporation is inadequate to pay the whole or any part of any sum payable out of that compensation under section 47 (1) (a), then, if that sum is due to an employee of the Corporation, the Chairman of the Board of Directors, or, if that sum is due to anyone who is not an employee of the Corporation, the Commissioner of Labour, shall certify in writing the amount due from that person which cannot be paid out of that compensation.

Recovery of amount that cannot be paid out of compensation under section 47 (1) (a).
[§ 12, 67 of 1961.]

62B. (1) Upon the production of a certificate issued by the Chairman of the Board of Directors or the Commissioner of Labour under section 62A before the District Court or the Court of Requests within whose jurisdiction the person from whom the sum specified in the certificate is due resides, according as that sum exceeds or does not exceed seven hundred and fifty rupees, the Court shall direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of that person or such part thereof as may be necessary for the recovery of that sum; and the

provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the execution of such writ and to such seizure and sale. Cap. 101.

(2) Where the Chairman of the Board of Directors or the Commissioner of Labour issues the certificate referred to in subsection (1), he shall in writing notify that fact to the person specified in the certificate as the person from whom any sum so specified is payable, but the non-receipt of such notification by such person shall not invalidate the proceedings under this section.

(3) Nothing in the preceding provisions of this section shall affect or be deemed or construed to affect the right of any person to recover in any other manner any sum payable to him under section 55, section 56, or section 57.

PART VI

CHARGES THAT MAY BE MADE BY THE CORPORATION, AND THE POWER OF THE CORPORATION TO SELL CERTAIN GOODS

63. (1) The charges that may be made by the Corporation for prescribed services rendered by it shall be fixed, and may be revised from time to time, by Order made by the Minister in consultation with the Board of Directors and published in the Gazette.

Charges that may be made by the Corporation.

(2) The charges that may be made by the Corporation for services which are not prescribed services shall be fixed, and may be revised from time to time, by an officer authorized in that behalf by the Board of Directors.

(3) Charges in respect of goods to be landed by the Corporation shall become payable immediately on the landing of the goods or within such time after the landing of the goods as may be determined by the Board of Directors.

(4) Charges in respect of goods to be shipped by the Corporation shall be payable before the goods are shipped or within such time after the goods are shipped as may be determined by the Board of Directors.

(5) Charges in respect of goods to be removed from the premises of the Corporation shall be payable on demand before the goods are removed from those premises or within such time after the goods are removed from those premises as may be determined by the Board of Directors.

[§ 13, 67 of 1961.]

(6) * The charges that may be made by the Corporation as harbour dues or warehouse rents shall not be fixed or revised except with the concurrence of the Minister of Finance. All sums paid to, or recovered by, the Corporation as harbour dues or warehouse rents shall be paid by the Corporation to the Secretary to the Treasury and shall be credited to the Consolidated Fund of Ceylon.

Corporation to have a lien on goods in respect of which charges are payable to the Corporation.

64. The Corporation—

- (a) shall have a lien on any goods in its possession for any charges due to the Corporation in respect of those goods, and
- (b) where any charges due to the Corporation in respect of any goods not in the possession of the Corporation are not paid, may seize those goods, when they are in the possession of any person other than the Crown, notwithstanding that such person may have a lien on them, and remove and detain them until those charges are paid to the Corporation.

Power to sell goods which are detained by or are in the custody of the Corporation.

65. (1) Where any goods—

- (a) are detained by the Corporation for non-payment of any charges payable in respect of them to the Corporation, or
- (b) are placed in the custody of the Corporation,

[§ 14, 67 of 1961.]

then, if the requirements of any notice published in respect of those goods under subsection (3) are not complied with within the period specified in that notice, the Board of Directors may, at the expiration of such period, cause those goods to be sold by public auction :

* The provisions of this subsection shall not come into force until such date as may be appointed by the Minister by Order published in the Gazette.—See section 13 (2) of the Port Cargo Corporation (Amendment) Act, No. 67 of 1961.

Provided that, if those goods are of so perishable a nature as, in the opinion of the Board of Directors, to render their immediate sale necessary, such Board may cause those goods to be sold by public auction without publishing a notice under subsection (3), and without giving the notices under subsection (4), in respect of those goods.

(2) For the purpose of subsection (1), a sale shall not be rendered invalid by reason only that it takes place on premises or in an area to which the public is not admitted except on production of a pass.

(3) Subject to the provisions of the proviso to subsection (1), the Board of Directors shall, in regard to any goods referred to in subsection (1), cause a notice to be published in one Sinhala, one Tamil and one English newspaper that, unless any charges payable in respect of those goods are paid within such period of not less than three days as shall be specified in the notice and unless those goods are removed by the owners thereof from the premises of the Corporation within that period, such goods will be sold by public auction.

(4) If the address of the owner of any goods referred to in a notice under subsection (3) or of his agent has been stated in the manifest of any cargo consisting of or including those goods, or in any of the documents in the possession of the Board of Directors, or is otherwise known to such Board, and such address is within Ceylon, such Board shall cause a notice similar to that mentioned in subsection (3) to be given to such owner by letter delivered at or sent by post to such address and, if those goods have been discharged from any vessel, to the agent of that vessel.

(5) The title of a purchaser of any goods sold under this section shall not be invalidated by reason only of the omission to publish the notice under subsection (3) or to give the notices under subsection (4), nor shall any such purchaser be bound to inquire whether such notice has been published or such notices have been given.

(6) The proceeds of the sale of any goods under this section shall be applied by the Board of Directors as follows and in the following order :—

- [§ 14, 67 of 1961.] (a) firstly, in payment of any money payable to the Government as duty in respect of the goods ;
- [§ 14, 67 of 1961.] (b) secondly, in payment of freight, primage, or general average, payable in respect of the goods to a shipowner if notice of a lien on the goods for such freight, primage, or general average has been given by or on behalf of the shipowner in accordance with the law for the time being in force relating to merchant shipping ;
- [§ 14, 67 of 1961.] (c) thirdly, in payment of warehouse rent in respect of the goods ;
- [§ 14, 67 of 1961.] (d) fourthly, in payment of the expense of the sale of the goods ;
- [§ 14, 67 of 1961.] (e) fifthly, in payment of the charges due to the Corporation in respect of the goods ;
- [§ 14, 67 of 1961.] (f) sixthly, in payment of the charges, other than those referred to in paragraph (b), payable in respect of the goods to a shipowner if notice of a lien on the goods for such charges has been given by or on behalf of the shipowner in accordance with the law for the time being in force relating to merchant shipping.

[§ 14, 67 of 1961.] Where any balance is left after such proceeds are applied in the aforesaid manner, the Board of Directors shall, if the goods are not perishable goods, pay it on demand to the person entitled thereto, and, if no such demand is made within one year after the sale of the goods, or if the goods are perishable goods, such balance shall form part of the funds of the Corporation and thereupon the rights of any person other than the Corporation to such balance shall be extinguished.

[§ 14, 67 of 1961.]

66. (1) If the master, owner, or agent of any vessel fails to pay to the Corporation on demand made by the Chairman of the Board of Directors any charges or any part of any charges that are payable to the Corporation for any services rendered by the Corporation in respect of that vessel, such Chairman may notify such failure in writing to the Collector of Customs of the Port of Colombo. Upon such notification being made, section 24 of the Customs Ordinance shall apply to the recovery of such charges as if such charges were referred to in that section, and, in the application of such section to the recovery of such charges, such section shall have effect as if the reference therein to the demand of such charges were a reference to the demand of such charges by the Chairman of the Board of Directors and as if the references therein to the Crown were references to the Corporation. Any such charges which are recovered by such Collector of Customs shall be transmitted by him to the Corporation.

Power of Collector of Customs summarily to enforce payment of charges due to the Corporation for services rendered in respect of any vessel.
Cap. 235.

(2) Nothing in subsection (1) shall be deemed be in derogation of the right of the Corporation to recover the charges or any part of the charges referred to in that subsection by any other legal proceedings.

67. Where there is any false or incorrect information in any document furnished to the Corporation in regard to any goods by or on behalf of the consignor or consignee of those goods and the Corporation renders any service in respect of those goods, the Board of Directors may, notwithstanding anything to the contrary in any other provision of this Act, order the consignor or consignee, as the case may be, to pay for that service twice the normal charge made for that service.

Double charge may be made for services rendered in respect of any goods by the Corporation if false or incorrect information is given in regard to those goods.

68. The Board of Directors may remit the whole or any portion of the charges payable by any person under this Act for services rendered by the Corporation.

Power of Board of Directors to remit charges wholly or partly.

PART VII

GENERAL

Regulations.

69. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters:—

- (a) any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made;
- (b) the establishment of a Port Users' Consultative Committee to advise the Corporation on the adequacy, suitability, and efficiency of, and on any other matter relating to, the services provided by the Corporation;
- (c) the establishment and administration of a Reward Fund for such purposes as may be prescribed;
- (d) the prevention of the theft of or damage to, or the commission of nuisances on, any property used by the Corporation, and the imposition of penalties on, and the recovery of compensation from, persons responsible for such theft, damage or nuisance;
- (e) the disposal (whether by sale or otherwise) of such goods in the custody of the Corporation as are not removed, within such time as may be determined by any officer of the Corporation authorized in that behalf by the Board of Directors, by the persons who are entitled to those goods;
- (f) the employment by the Corporation of any employees of port entrepreneurs of any port to which an Order made under subsection (2) of section 26 applies; the remuneration of such of those employees as are employed by the Corporation; the payment of gratuities, if any, by such entrepreneurs to their employees after such entrepreneurs cease to be such entrepreneurs by virtue of subsection (2) of section

27; the disposal of the monies which are to the credit of the individual accounts of such of those employees as are employed by the Corporation, in any gratuity or provident fund or scheme established by any such entrepreneur; deductions to be made from compensation payable to such entrepreneurs in respect of any property acquired or requisitioned for the Corporation; and any other matter relating to such of those employees as are employed by the Corporation.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

70. Any person who contravenes the provisions of any regulation made under this Act shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

Contravention of a regulation an offence.

71. The Board of Directors may compound any claim or demand made against the Corporation by any person for such sum or other compensation as the Board may deem sufficient.

Power of Board of Directors to compound claims.

72. Where an offence under this Act is committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that that offence was committed without his consent or connivance and that he exercised all

Liability of directors and certain officers of a body corporate for offence committed by that body.

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

Provision in regard to mortgages and leases.

73. (1) Where any property is subject to a mortgage or lease at the time when that property is vested in the Corporation under this Act, the rights of the mortgagee or of the purchaser of the mortgaged property under a mortgage decree, or of the lessee, shall, notwithstanding the provisions of section 31 (3), be limited to any sum paid under this Act as compensation in respect of such property.

(2) Nothing in this Act shall affect the right of a mortgagee to have recourse to any property or security other than that vested in the Corporation under this Act for the recovery of the debt secured by the mortgage.

(3) Where any property is subject to a lease at the time when that property is requisitioned for the Corporation under this Act, the rights of the lessee shall, notwithstanding the provisions of section 32 (6), be limited to any sum paid under this Act as compensation in respect of that property.

Power of companies, &c., to enter into contracts with the Corporation.

74. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform all such contracts with the Corporation as may be necessary for the performance of the duties and the exercise of the powers of the Corporation.

Protection for action taken under this Act or on the direction of the Board of Directors.

75. (1) No suit or prosecution shall lie—

- (a) against the Corporation for any act which in good faith is done or purports to be done by the Corporation under this Act ; or
- (b) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purports to be done by him under this Act or on the direction of the Board of Directors.

(2) Any expense incurred by the Corporation in any suit or prosecution brought by or against the Corporation before any court shall be paid out of the funds of the Corporation, and any costs paid to, or recovered by, the Corporation in any such suit or prosecution shall be credited to the funds of the Corporation.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purports to be done by him under this Act or on the direction of the Board of Directors shall, if the court holds that such act was done in good faith, be paid out of the funds of the Corporation, unless such expense is recovered by him in such suit or prosecution.

76. No writ against person or property shall be issued against a member of the Corporation in any action brought against the Corporation.

No writ to issue against person or property of a member of the Corporation.

77. The Corporation shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

The Corporation deemed to be a scheduled institution within the meaning of the Bribery Act. Cap. 26.

78. No suit shall lie against a port entrepreneur in respect of the termination, without any notice or without proper notice, of the services of any person employed by him in connection with the undertaking carried on by him as such entrepreneur by reason of his ceasing to be such entrepreneur by virtue of subsection (1) or subsection (2) of section 27.

Protection of port entrepreneurs for termination of employments without any notice or without proper notice.

79. (1) All goods which are lodged or deposited in any such warehouse or other place of deposit as is provided or approved by the Government, or which are carried in any lighter or barge of the Corporation, shall be at the risk of the owner, importer, exporter, shipper or consignee of such goods, and he shall have no claim on the Corporation for the loss of any such goods, or

Certain goods to be at the risk of the owner, importer, exporter, shipper, or consignee thereof.

[§ 15, 67 of 1961.]

any damage to any such goods, caused by fire, theft, or other cause unless such loss or damage has been caused by the negligence or by the wrongful or unlawful act of the Corporation or of any of its officers, servants or agents.

(2) Nothing in subsection (1) shall preclude the Corporation from making any *ex gratia* payment to any person in respect of any loss or damage referred to in that subsection.

Interpretation.

80. In this Act unless the context otherwise requires—

“Board of Directors” means the Board of Directors constituted under this Act;

“Director” means a member of the Board of Directors;

“local authority” means any Municipal Council, Urban Council, Town Council or Village Council;

“Port Commissioner” means the person for the time being holding office as Port Commissioner, Colombo, and includes any officer acting under the authority in writing of such Port Commissioner;

“port entrepreneur”, with reference to the Port of Colombo, means a person who is or has been the holder of a licence referred to in subsection (1) of section 27, and, with reference to any port to which an Order made under subsection (2) of section 26 applies, means a person (other than the Corporation) carrying on an undertaking for providing in that port any of the port services referred to in section 4;

“qualified worker of the Port of Colombo” means any person who—

(i) was on February 1, 1958, either an employee of a port entrepreneur of the Port of Colombo or in the Labour Reserve established under the Port of Colombo (Administration) Act, and

(ii) was engaged, in the twelve months preceding February 1, 1958, for at least one hundred and eighty days in the work of, or in work connected with or relating to, stevedoring, warehousing or landing cargo, supplying water, building or repairing boats and other vessels, or bunkering coal in the Port of Colombo, each period of eight hours' continuous work being regarded as a day for the purpose of reckoning the aforesaid one hundred and eighty days, and

(iii) was on February 1, 1958, in receipt of any salary or wages (not including any allowance or any payment for overtime work) of an amount not exceeding four hundred and seventy-five rupees per mensem ;

“ remuneration ” means basic daily wage or monthly salary and cost of living allowance or dearness allowance, or any composite sum consisting of the basic daily wage or monthly salary and such allowance, and does not include any payment for overtime work ; and

“ stevedoring ” means the operations connected with the loading, discharging, shipping, transhipping, and storing of cargo in the holds of, or on board, any vessel.