

THE LIGHTHOUSE ACT, 1927

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THE LIGHTHOUSE ACT, 1927

ACT NO. XVII OF 1927

[21st September, 1927]

An Act to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in Bangladesh.*

WHEREAS it is expedient to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in Bangladesh;

It is hereby enacted as follows:—

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Lighthouse Act, 1927.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Collector of Customs" means an officer of customs exercising the powers of a Collector of Customs under the ¹[Customs Act, 1969], and includes any person appointed by the Government to discharge the functions of a Collector of Customs under this Act;

(b) "district" means an area defined as a district for the purposes of this Act under section 3;

* Throughout this Act, except otherwise provided, the words "Bangladesh", "Government" and "Collector of Customs" were substituted, for the words "Pakistan", "Central Government" and "Custom-Collector" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words, comma and figure "Customs Act, 1969" were substituted, for the words, comma and figure "Sea Customs Act, 1878" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (c) "general lighthouse" means any lighthouse which the Government may, by notification in the official Gazette, declare to be a general lighthouse for the purposes of this Act;
- (d) "lighthouse" includes any light-vessel, fog-signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships;
- (e) "local lighthouse" means any lighthouse which is not a general lighthouse;
- (f) "local lighthouse authority" means ¹[* * *], local authority or other person having the superintendence and management of a local lighthouse;
- (g) "owner" includes any part-owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned;
- (h) "port" means any port, as defined in the Ports Act, 1908, to which that Act extends; and
- (i) words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the Merchant Shipping Act, 1923.

3. The Government may, by notification in the official Gazette,— Appointment
of officers

- (a) define areas to be districts for the purposes of this Act;
- (b) appoint a person to be the Superintendent of Lighthouse in each district;
- (c) appoint a person to be the Chief Inspector of Lighthouse in Bangladesh; and
- (d) appoint persons to be Inspector of Lighthouses.

¹ The words "a Provincial Government" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Advisory
Committees

4. (1) The Government shall appoint a Central Advisory Committee and shall consult it in regard to—

- (a) the erection or position of lighthouses or of any works appertaining thereto;
- (b) additions to, or the alteration or removal of, lighthouses;
- (c) the variation of the character of any lighthouse or of the mode of use thereof;
- (d) the cost of any proposals relating to lighthouses; or
- (e) the making or alteration of any rules or rates of dues under this Act.

(2) The Government may, if it thinks fit, appoint an Advisory Committee for any district for the purposes of advising in regard to any of the matters specified in sub-section (1) in so far as the interests of the district are affected thereby.

(3) Advisory Committees shall consist of persons representing interests affected by this Act or having special knowledge of the subject-matter thereof.

GENERAL LIGHTHOUSES

Management of
general
lighthouses by
the
Government
and delegation
of management

5. (1) The superintendence and management of all general lighthouses are vested in the Government.

(2) The Government may require any local lighthouse authority to undertake the superintendence and management of any general lighthouse situated in or adjacent to the local limits within which the authority exercises its powers, and shall pay to the authority such sums to defray the cost of superintendence and management as the Government may determine.

LOCAL LIGHTHOUSES

Power to
inspect local
lighthouses

6. (1) The Chief Inspector of Lighthouses may, at any time, and any Superintendent or Inspector of Lighthouses may, if authorized in this behalf by a general or special order in writing of the Government, enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit.

(2) Every person having the charge of, or concerned in the management of, any lighthouse shall be bound to furnish to any officer authorized by or under sub-section (1) to inspect the lighthouse all such information regarding the same as the officer may require.

(3) Every local lighthouse authority shall furnish to the Government all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as the Government may require.

7. (1) If, after an inspection under section 6 or such other inquiry as it thinks fit, the Government is satisfied that a direction under this sub-section is necessary or expedient for the safety, or otherwise in the interests, of shipping, it may direct any local lighthouse authority—

Control of local lighthouses by the Government

- (a) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such lighthouse, or
- (b) to erect, or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within the local lighthouse authority exercises its powers.

(2) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the Government at least one month's notice in writing of its intention so to do:

Provided that, in cases of emergency, a local lighthouse authority may take such action as it deems necessary and shall give immediate notice of the same to the Government and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse.

(3) If a local lighthouse authority—

- (a) fails to comply with any direction made under sub-section (1), or

- (b) fails to exercise or perform, or exercise or perform in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or
- (c) fails to make adequate financial provision for the performance of any such duty,

the Government may, by order in writing require the local lighthouse authority to comply with the direction, or to make arrangement to the satisfaction of the Government for the proper exercise of the power or performance of the duty, or to make financial provision to the satisfaction of the Government for the performance of the duty, as the case may be, within such period as the Government may specify.

(4) If the local lighthouse authority fails to comply with an order made under sub-section (3) within the specified period or within such further time as the Government may allow the Government may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the Government any expenditure incurred by it in so doing.

Management of local lighthouses by the Government

8. The Government may, at the request of a local lighthouse authority, undertake the superintendence and management of any local lighthouse on its behalf, and the local lighthouse authority shall pay to the Government such sums to defray the cost of superintendence and management as may be agreed.

LIGHT-DUES

Levy and collection of light-dues

9. For the purpose of providing or maintaining or of providing and maintaining lighthouse for the benefit of ships voyaging to or from Bangladesh or between ports in Bangladesh, the Government shall, subject to the provisions of this Act, cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in Bangladesh.

Rates of light-dues leviable

10. (1) The Government may by notification in the official Gazette, prescribe rates, not exceeding ¹[five Taka] per ton, at

¹ The words "five Taka" were substituted, for the words "twelve poisha" by section 2 of the Lighthouse (Amendment) Ordinance, 1982 (Ordinance No. XIII of 1982).

which light-dues shall be payable, and may prescribe different rates for different classes of ships, or for ships of the same class when in use for different purposes or in different circumstances.

(2) Light-dues payable in respect of a ship shall be paid by the owner or master of the ship on its arrival at, and on its departure from, any port in Bangladesh:

Provided that, if Light-dues have been paid in accordance with the provisions of this Act in respect of any ship, no further due shall become payable in respect of that ship for a period of thirty days from the date on which the dues so paid became payable.

(3) An order under sub-section (1) imposing, abolishing or varying light-dues shall not take effect till the expiration of thirty days from the day on which the order was notified in the official Gazette.

11. Light-dues shall be paid to the Collector of Customs who shall grant to the person paying the same a receipt in writing specifying—

Receipts for
light-dues

- (a) the port at which the dues have been paid;
- (b) the amount of the payment;
- (c) the date on which the dues became payable; and
- (d) the name, tonnage and other proper description of the ship in respect of which the payment is made .

12. (1) For the purpose of the levy of light-dues, a ship's tonnage shall be reckoned as under the Merchant Shipping Acts for dues payable on a ship's tonnage, with the addition require under section 85 of the Merchant Shipping Act, 1894, with respect to deck cargo.

Ascertainment
of tonnage

(2) In order to ascertain the tonnage of any ship for the purpose of levying light-dues, the Collector of Customs may—

- (a) if the ship is registered under any law for the time being in force in Bangladesh or under the law of any foreign country in respect of which an order in Council has been made under section 84 of the Merchant Shipping Act, 1894, that ships of that country shall be deemed to be of the tonnage

denoted in their certificates of registry or other national papers (any such ship being hereafter in this section referred to as a registered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other persons refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the Collector of Customs as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained; or

- (b) If the ship is not a registered ship and the owner or master fails to satisfy the Collector of Customs as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to such mode.

(3) If any person refuses or neglects to produce any register or other papers or otherwise to satisfy the Collector of Customs as to the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage, and, if the ship is a registered ship, shall further, on conviction by a Magistrate of the first class having jurisdiction in the port where the ship lies or in any port to which she may proceed, be punishable with fine which may extend to one thousand ¹[Taka].

Recovery of
light-dues,
expenses and
costs

13. (1) If the owner or master of any ship refuses or neglects to pay to the Collector of Customs on demand the amount of any light-dues or expenses payable under this Act in respect of the ship, the Collector of Customs may seize the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of the dues or expenses together with the costs of the seizure and detention, is paid.

¹ The word "Taka" was substituted, for the word "rupees" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the Collector of Customs may cause the ship or other thing seized to be sold, and with the proceeds of the same may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

14. The officer whose duty it is to grant a port-clearance for any ship shall not grant the port-clearance until the amount of all light-dues, expenses and costs payable in respect of the ship under this Act and of any fines imposed thereunder has been paid, or until security for the payment thereof has been given to his satisfaction.

Refusal of port clearance

15. If any disputes arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Act, or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by a Magistrate of the first class having jurisdiction at the place where the dispute arises, and the decision of such Magistrate shall be final.

Determination of disputes as to liability for payment

16. (1) If the master of any ship in respect of which any light-dues are payable at any port causes the ship to leave such port without having paid the same, the Collector of customs at that port may be writing require the Collector of customs at any other port in Bangladesh to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

Light-dues payable at one port recoverable at another

(2) Any Collector of Customs to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Act at the port at which he is the Collector of customs, and a certificate by the Collector of customs at the port at which the light-dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under section 13 or section 15 that such amount is payable.

17. (1) If the owner or master of a ship evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Act, he shall, on conviction by a Magistrate of the first class having jurisdiction in any port to which the vessel may proceed or in which she may

Penalty for evading payment of light-dues

be found, be punishable with fine which may extend to five times the amount of the sum payable.

(2) In any proceeding before a Magistrate in a prosecution under sub-section (1), any such certificate as is mentioned in sub-section (2) of section 16, stating that the owner or master has evaded such payment, shall be sufficient proof of the evasion, unless the owner or master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable grounds for such departure.

Exemption
from payment
of light-dues

18. The following ships shall be exempted from the payment of light-dues under this Act, namely:—

- (a) any ship belonging to Government or to a foreign Prince or State and not carrying cargo or passengers for freight of fares; and
- (b) any ship of a tonnage of less than fifty tons;

and the Government may, by notification in the official Gazette, exempt any other ships, or classes of ships, or ships performing specified voyages from such payment, either wholly or to such extent only as may be specified in the notification.

Refund of
excess
payments

19. Where the light-dues have been paid in respect of any ship in excess of the amount payable under this Act, no claim to refund of such excess payment shall be admissible, unless it is made within six months from the date of each payment.

ACCOUNTS

Accounts etc.

20. (1) The Government shall cause to be maintained a separate account of all amounts received by way of light-dues, expenses, costs and fines under this Act and of all expenditure incurred for the purposes of this Act, and shall cause such account to be laid before the Central Advisory Committee as soon as possible after the close of each financial year.

(2) The Government shall cause to be laid before the Central Advisory Committee before the close of each financial year a statement of the estimated receipts under, and an expenditure for the purposes of, this Act during the forthcoming year.

RULES

21. (1) The Government may make rules consistent with this Act to carry into effect the purposes thereof. Power to make rules

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

- (a) the powers and duties of the Chief Inspector of Lighthouses and of Superintendents and Inspectors of Lighthouses;
- (b) the procedure and conduct of business of Advisory Committees constituted under this Act;
- (c) the rate of traveling and subsistence allowance payable to members of Advisory Committees; and
- (d) the period in respect of which and the form in which the separate account referred to in sub-section (1) of section 20 shall be kept and the forms in which that account and the statement referred to in sub-section (2) of that section shall respectively be presented to the Central Advisory Committee.

REPEALS

22. [Repealed by the Repealing Act, 1938 (Act No. 1 of 1938), section 2 and Schedule.]

THE SCHEDULE.—[Repealed by the Repealing Act, 1938 (Act No. 1 of 1938), section 2 and Schedule.]
