

THE GAMBIA PORT AUTHORITY ACT

A MARITIME LEGISLATION DRAFTING PROJECT SUBMITTED IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE
AWARD OF THE DEGREE OF MASTER OF LAWS (LL.M.)
AT THE I.M.O. INTERNATIONAL MARITIME LAW INSTITUTE (I.M.L.I.)
MALTA

APRIL 1991

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Drafting Instructions

The Gambia Port Authority Act

During the second phase of the revision of the laws of the Gambia, particular emphasis was laid on the laws relating to shipping and navigation within the Gambia. The Law Revision Commission after a careful study of the laws in relation to the changing shipping and navigation trends have found it necessary to revise and update the laws in that area.

After detailed consultation with the Port Authority Board, the Commission has proposed that the present Ports Act of 1972 be repealed and new legislations be enacted to regulate, control and supervise the ports, harbours and marine navigational aids.

The proposal has been approved by Parliament on the 1st day of April 1991.

The following drafting instructions are now being submitted to you to draft legislation on a new Port Authority Act:

Preliminary

The interpretation section of the Act will to a large extent be the same as the 1972 Act. However, there should be some amendments with regards to the following: The interpretation of the term "Authority premises" is to be wide enough to include all lands vested in or in possession of the Authority to be established.

The Act should also include "harbours" and not just ports so that the powers of the Authority are extended to such harbours. It is hoped that this will take care of Governments policy towards erecting harbours within Banjul and in the Kombo St. Mary's Division of The Gambia - Government does not deem it necessary to set up a separate Authority to deal with harbour matters.

Port Authority

The Authority is to be established under this part. It is a body corporate with a constitution of its own having the powers to sue and be sued. The duties and powers of the Authority are to be set out under this part. Government desires that sufficient powers be given to the Authority to enable it to take action necessary to conserve, maintain and improve the ports and harbours without necessarily having to consult with any other body. However, it is

also important to the Government that the Authority makes recommendations to the minister (responsible for shipping and navigation matters) from time to time such measures that the Authority feels are necessary for the maintenance and improvements of the Ports and Harbours and its facilities. In order to carry out the duties designated to the Authority in this part, powers should also be given to the Authority. The Authority is to have the powers to manage and operate and maintain properties other than land. It should also be given powers to do anything it considers necessary for the management of such properties.

With the setting up of the new shipyards under Government policy, provisions are to be included so that the Authority is vested with the powers of repairing of vessels and machinery in such shipyards.

Powers as to berthing, docking, towing and related matters are also to be included under this part of the Act and vested in the Authority. Government has also decided that warehouses located within various parts of the country can be acquired and managed by the Authority in addition to those located within its Premises. It is important therefore that there be provisions to reflect this policy.

The Authority is on the whole to be given powers wide enough to enable it to carry out all its duties towards the effective management, control and general improvement of the Ports and Harbours as a whole.

Control of Works

With regards to the above, powers are to be vested in the Authority to be able to carry out and maintain works which are in connection with the exercise of its functions. These provisions however should concentrate on the powers to be vested in the Authority to carry out works in, over or upon the bed of waters within the ports and harbours as well as outside such limits. This is necessary because it has been observed that since the Authority was only given powers to maintain works within the premises of the harbours, in the 1972 Act, it has created some questions as to the Authority's powers to maintain such works in over or upon the bed of waters. Having realised this, Government does not want such difficulties to arise - It should therefore be adequately provided for within this part.

Regulation of Vessels and Navigation in Ports and Harbours

This part, as opposed to the 1972 Ports Act, will not only provide for the appointment of a Harbour Master, but a Deputy Harbour Master as well. In the event that the Harbour Master is in anyway incapable of performing the duties vested in him by the Act, the Deputy Harbour Master should be able to assume such duties. Such duties are to be designated by the Authority with the approval of the Minister. The general administration and maintenance of good order within the Ports and Harbours should be provided for under this part with particular emphasis on the regulation of vessels and navigation within the ports. In this regard provisions are to be made giving powers to the Authority to be able to inspect vessels arriving and departing from any port or harbour. Such duties are to be vested in the Harbour Master. Rules for navigation within the Ports or channels must conform with international regulations in force. The Authority must therefore be given powers to designate navigable and non-navigable areas as well as routes to be followed within such navigable areas. Government has also decided that the Ferry Service will no longer be kept separate from the Ports but will be managed by the same body. Provisions to this effect must therefore be included in this part.

Persons obstructing the Authority in the carrying out of its duties under this part are to be liable for an offence and punishable.

Regulations of Premises and Dangerous Goods

Amongst the powers to be given to the Authority, there is a need to include powers to make bye-laws so as to enable the Authority to enact legislation for regulating activities within the Authority premises - particularly for the control, management and maintenance of good order within the Authority premises.

As Government wants to see the Authority as a complete autonomous body, it is necessary that the powers given under this part enable them to make such regulation without having to consult or be dependent on any other body to make such rules and regulations. Maintenance of wharves, quays, jetties and harbours are also within the powers and duties of the Authority which it can either take charge of personally or direct how it should be taken care of. The Authority is also to be able to have powers to make regulations as to the consequences in case of damage done by vessels, removal of goods which are interfering or obstructing the use of any part of the premises. Repair of wharves to improved its use including those outside the premises of the Authority are the responsibility of the Authority. Such provisions should also include the ability of the Authority to be able to make regulations with respect to the

loading, discharging and the general movement of dangerous goods within the limits of the ports and harbours. These regulations however, are to be made in consultation with and approval of the minister in charge of shipping and navigational matters.

Delivery of Goods

Delivery of goods within ports and harbours are to be brought under the preview of this Act. It should however be limited to the following: Power of the shipowner to be able to deposit the goods within the ports and harbours in the event that the owner of the goods do not take delivery of them. In the event that the owner does not take delivery of the goods within a specified time, powers are to be given to the Authority through the warehouseman to be able to sell the goods. Actions of the warehouseman which he takes should be protected whilst he performs his duties under this part.

Navigational Aids

The Authority is also to be given powers to establish navigational aids. The general maintenance and supervision of such aids are to be the responsibility of the Authority. The Authority also is to have the powers to be able to prosecute any person who interferes

with the maintenance of such aids or courses damage to them. Wrecks are also to be supervised, removed or marked by the Authority within this Act, so as to facilitate the navigation of vessels within Gambian waters.

An Act to Repeal the Port Authority Act and other Acts relating to ports and harbours and to make new provisions in respect of the regulation, control and supervision of ports, harbours and marine navigational aids and for matters connected thereto.

Be it enacted by the Parliament of The Gambia as follows:

PART I

PRELIMINARY

Short title and commencement 1. This Act may be cited as The Gambia Ports Authority Act and shall come into operation on the 1st of July, 1991.

Interpretation 2. In this Act unless the context otherwise requires - "approaches" means -

(a) in relation to a harbour, an area to the seaward of the limits of the harbour declared to be the approaches pursuant to section 3

(b) in relation to a port, an area of water declared to be the approaches

pursuant to section 3.

(c) any navigable channel declared to be approaches.

"Authority" means The Gambia Port Authority established under the provisions of this Act;

"Authority premises" means -

(a) the wharves together with the adjacent lands which are vested in or in the possession of the Authority and the buildings or works on those wharves or lands.

(b) other premises on harbour lands which are vested in or in the possession of the Authority;

"ballast" includes every kind of gravel, sand and soil and every commodity or thing commonly used for the ballasting of ships;

"beacon" means any light, mast or sign used as an aid to navigation, other than a lighthouse or buoy;

"buoy" includes any floating light, mark or sign used as an aid to navigation other than a lighthouse;

"comptroller of customs" has the same meaning as in the Customs Act;

"courts" in relation to any act or proceedings shall include any Magistrate, Commissioner or Head Chief authorised to perform such act, or having jurisdiction in the matter to which the proceedings relate;

"Gambian Waters" means the territorial and inland waters of The Gambia; including the River Gambia and all tributaries thereof, or creeks directly or indirectly opening into or adjacent thereto, within the limits of The Gambia;

"goods" include live animals and all tangible personal property of any kind, and every

description of wares and merchandise;

"harbour" means -

(a) the areas of the sea named and their limits; and

(b) any other area of the sea declared to be a harbour pursuant to section 3;

"harbour land" means land adjacent to a harbour or port and occupied wholly or mainly for the purposes of activities there;

"Harbour Master" means the Harbour Master of The Gambia appointed under Section 8 and includes, to the extent of his authority, any person authorised by or under section 9 to discharge the functions of the office of Harbour Master.

"the limits" in relation to a port or harbour means such limits as are defined pursuant to Section 3 excluding, in the case of a harbour,

the approaches to the harbour;

"Marina" means a sheltered water area in a harbour provided with moorings, floats and buoys for small vessels, boats, yachts, etc.;

"master" includes every person lawfully having for the time being command or charge of any ship, but does not include a pilot;

"The Minister" means the Minister for the time being charged with responsibility for marine shipping and navigation;

"mooring" includes anchoring;

"navigational aid" means -

- (a) a light house, lightship, beacon or buoy;
- (b) any other structure, mark, device or apparatus that is an aid to marine navigation including a siren or other description of fog signals, a radio beacon or an electronic aid, but does not include any device or apparatus

used or for use on a vessel being a lightship;

"navigable channel" means any channel where navigation is possible;

"owner" in relation to a vessel means the person registered or licenced as the owner of the vessel, or in the absence of such registration or licensing the person who owns the vessel (except that in relation to a vessel owned by a State and operated by a person registered as its operator it means the person registered as operator) and includes master, agent, charterer, mortgagee in possession or other beneficial owners;

"sister-ship" means a vessel belonging to an owner who also owns other vessels;

"person in control" in relation to a wharf or harbour land means the person in occupation under any lease, licence or management contract or the owner of the wharf or harbour land;

"port" means:-

(a) an area having port facilities for the purposes of port operations, the limits of which are set out in this Act; and

(b) an area declared to be a port pursuant to section 3;

"port operations" means:-

(a) the berthing or drydocking of a vessel within a port;

(b) the warehousing, sorting, weighing or handling of goods at a wharf within the limits of a port or on harbour land adjacent to a port;

(c) the towing or moving of a vessel that is in or about to enter a harbour or port or the approaches thereto, or the towing or moving of

a vessel to and from a wharf in such a harbour or port;

(d) the loading or unloading of goods or embarking or disembarking of passengers-

(i) in or from a vessel that is in a harbour or port or the approaches thereto;

(ii) at a wharf within the limits of a harbour or port or land adjacent thereto

(e) the movement of goods or passengers within the limits of a harbour or port or the approaches thereto or on land adjacent thereto;

"port services" includes services in connection with the performance of port operations;

"vessel" means-

(a) every description of vessel, however

propelled or moved, including hydrofoil and hovercraft and every other type of non-displacement craft, anything constructed or used to carry persons or goods by water, and a seaplane on or in the water;

(b) a hulk, storeship or other vessel without means of propulsion;

(c) such other thing constructed or adapted for floating or being submerged in water as the Minister may by order specify as a vessel for the purposes of any provision of this Act;

"report" means the report required by the customs laws to be made by the master of an importing ship;

"wharf" includes a quay, dock, pier or jetty or other waterside landing place or similar installations (including approaches from land to such installations);

"warehouse" includes all warehouses, buildings, plain wagon, ship or vehicle when used by the Authority for the purpose of warehousing or depositing goods;

"wharfinger" means the wharf owner.

- Designation of ports and
3. (1) The Minister may by order declare -
- (a) any harbour properly so called whether harbours and natural or artificial or any haven, estuary, area of roadstead bay or inlet or any works in which jurisdiction vessels can obtain shelter to be a harbour for the purposes of this Act;
- (b) any harbour, or part of a harbour or any other area, declared as such in an order under paragraph (a) to be a port for the purposes of this Act;
- (c) any area of water within Gambian waters to be the approaches to a harbour or port for

purposes of this Act;

(2) A harbour or port or the approaches to a harbour or port declared as such by an order made in subsection (1) shall have such limits as the Minister may define in that order;

(3) The limits of a harbour or port defined in an order made under this section may include a foreshore adjoining the water of the harbour or port and islands, wharves and places, but the seaward limit of any area so defined shall not extend beyond Gambian waters.

Area of

(4) The Port of Banjul shall be deemed to jurisdiction include the space or portion of the River Gambia together with the shores and beaches adjoining thereto, bounded

as follows -

To the northward by an imaginary line drawn from Buniada Point to the norther extremity of Cape St. Mary and to Southward by an imaginary line drawn from the western extremity of Dog Island Point to the Northern extremity of the South bank of Madina Creek.

PART II

PORT AUTHORITY

The Gambia 4. (1) There shall be established for the
Port Authority purposes of this Act, a body corporate called
the Gambia Port Authority (in this act
referred to as the Authority) with a legal
personality and which can be sued and be sued.

(2) The provisions shall have effect as to
the constitution of the Authority and
otherwise in relation thereto.

Duties and 5.(1) Subject to the provisions of this Act, it
Powers of the shall be the duty of the
Authority under this Authority

Act to take such action as it considers
necessary or desirable -

(a) to conserve, maintain and improve the
harbours and the approaches to the harbours;

(b) to provide, maintain and operate
navigational aids in the harbours, the
approaches in the Gambian waters;

(c) to provide, maintain and operate, or
arrange for the operation of port facilities
and port services for the ports and to improve
port facilities vested in the Authority;

(d) in the exercise of the powers conferred
by this Act, to regulate the harbours, ports
and approaches thereto, and regulate port
facilities, port services and port operations

carried on or provided by any person;

(e) to recommend to the minister from time to time such measures as the Authority considers necessary or desirable to maintain and/or improve port facilities.

(2) Subject to the provisions of this Act and any other enactment, the Authority shall have power either by itself or by arrangement between itself and another person take such action as the Authority considers necessary or desirable for the purpose of discharging or facilitating the discharge of any of its duties under section 4.

(3) Without prejudice to subsection (1) the Authority may carry out any or all of the following:

(a) Acquire, hire, procure, construct, erect, provide, manufacture, operate, maintain or repair anything, other than land, required by

the Authority for the purpose of this Act;

(b) Carry on the businesses of repairers of vessels and machinery, ship-breaking, carriers of passengers or goods by land or sea, stevedores, wharfingers, warehousemen, lightsmen, dealers in fuel, bunkering of vessels, dealers in stores connected with or required in any of the above named businesses, or carry on any other business which in the opinion of the Authority, is desirable for the purpose of the Authority.

(c) Provide and operate any of the following services ;

(i) berthing, towing, mooring, slipping or docking any vessel;

(ii) loading or discharging any vessel or transshipping goods;

(iii) sorting, weighing, measuring, storing, warehousing or otherwise handling goods;

(iv) in connection with the operation of facilities for the packing or unpacking of

containers, the movement, receiving or delivery of containers,, or the transshipment of containers.

(d) Provide public weighbridges and appoint licence and regulate weighers and measurers of goods in any port or harbour;

(e) Supply water, bunkers and stores to vessels;

(f) Generate, distribute and supply electric and other forms of energy for the purposes of the Authority and to vessels and premises within the limits of a port or harbour;

(g) Provide and use within harbours and ports and the approaches thereto as may be deemed necessary by the Authority and elsewhere in Gambian waters, vessels and appliances for the purpose of rendering assistance to any vessel;

(h) Provide such fire services within any

harbour, port or the approaches thereto as may be deemed necessary by the Authority.

Responsibility 6.(1) The Authority may, subject to the provisions of this Act, be held liable, according to the relevant law, for injury or death to any person or loss or damage to property, in the course of performance of its functions under the Act only if it is at fault.

(2) The fault of the member or employee of the Authority shall be deemed to be the fault of the Authority.

(3) With regard to maritime claims under this section, the relevant law on limitation of liability shall apply to limit the amount recoverable from the Authority.

PART III

CONTROL OF WORKS

Power of the Authority to carry out and maintain works
7.(1) The Authority may carry out and maintain such works as in its opinion are required for carry out and or in connection with the exercise of any of maintain works its functions:-

(a) in, over or upon the bed of the waters within the limits of any harbour or the approaches thereto; or

(b) with the consent of the Minister, in, over or upon the bed of Gambian waters outside the limits of a harbour or port or the approaches thereto or on the foreshore.

(2) The power conferred on the Authority by subsection (1) shall not affect any liability of the Authority to make compensation for damage to property or works caused by any operations carried out under that subsection.

PART IV**REGULATION OF VESSELS AND NAVIGATION IN PORTS
AND HARBOURS**

Appointment 8. (1) The Authority shall appoint an officer to
of Harbour be called the Harbour
Master of the Gambia Master

(hereinafter referred to as the "Harbour
Master").

(2) A person shall not be appointed as Harbour
Master unless he possesses such qualifications
as may be prescribed.

(3) No person shall be appointed as Harbour
Master for any harbour or port in which
he acts as agent or consignee for vessels, or
for any wharf in which he has any interest as
absolute or partial owner, tenant or
wharfinger, and every Harbour Master who shall
become such an agent or consignee, or who
shall become so interested in any such wharf,
shall be deemed to have resigned his

appointment as such Harbour Master and the Authority shall in such case appoint some other person to fill the vacancy in such office.

(4) The functions of the Harbour Master shall be described in the regulation or directives issued by the Port Authority with the approval of the Minister.

9.(1) The Harbour Master shall be the Harbour Master for every harbour and port under this Act.

Deputy Harbour (2) When the Harbour Master shall be Master
incapacitated from illness, or
be absent from or unable to attend to or
perform his duties for any cause, or where a
vacancy in the office of Harbour Master shall
occur, the Authority may appoint a fit and
proper person to act temporarily as Harbour
Master, and any person so appointed shall have
for the time being all the powers, privileges
and immunities of a Harbour Master duly

appointed under this Act.

(3) The Authority may, in its discretion appoint any fit and suitable person, possessing appropriate nautical qualifications and experience to be a Deputy Harbour Master of the Gambia, and such deputy Harbour Master may, subject to such limitations as may be attached to his appointment, exercise any of the functions of the Harbour Master.

(4) The Harbour Master or any Deputy Harbour Master shall be under the control, superintendence and direction of the Authority.

Regulations 10.(1) The Authority may, with the approval of the Minister, make regulations for the control and management of any harbour or port, of the approaches thereto and for the maintenance of good order therein. Without prejudice to the generality

of the foregoing power, the Authority may make regulations for all or any of the following purposes:-

(a) inspection of any vessel arriving in or departing from any harbour or port by the Harbour Master or other officer of the Authority, and the manner in which vessels arriving shall be boarded;

(b) providing for information to be supplied to the Authority by the master or agent of a vessel prior to arrival or on arrival or departure;

(c) regulating the movement of vessels within harbours and ports and the approaches thereto;

(d) designing routes or channels for the movement of vessels and otherwise regulating traffic;

(e) regulating the taking in or discharging

of ballast, cargo, fuel, water or stores by vessels ;

(f) prescribing and designating prohibited and restricted areas and anchorages within the limits of the harbours or ports or the approaches thereto and regulating the use thereof;

(g) keeping free passages of such width as is deemed necessary within the harbour or ports or the approaches thereto and along or near to the wharves, mooring and other similar works in or adjoining the same and for marking out the spaces so as to be kept free;

(h) regulating the anchorage, mooring and unmooring and warping of all vessels and the use of warps, mooring buoys, chain and other moorings;

(i) regulating the movement, anchoring and mooring of disabled vessels;

(j) regulating the use of fires and lights and signals to be used and measures to be taken in case of fires;

(k) enforcing and regulating the use of aids to navigation, signal lights and sound signals by vessels and the steps to be taken for avoiding collision by vessels;

(l) regulating the flags and signals to be used by vessels arriving at, lying in and departing from harbours or ports or the approaches thereto;

(m) regulating the operations of any ferry service and providing its safe and convenient use;

(n) regulating the use by vessels of whistles, sirens and other sound signalling apparatus;

(o) regulating the taking on and discharge of

oil, ballast or substances likely to cause pollution, and the discharge into any port or harbour of earth, stone, mud, sand or other similar matter;

(p) the licensing of persons engaged in the business of stevedoring, wharfingers or any other activity;

(q) regulating towage within harbours or ports or the approaches thereto;

(r) regulating the loading and discharging of goods and the embarkation and disembarkation of passengers within harbours or ports or the approaches thereto;

(s) regulating the construction, operation and licensing of marinas;

(t) prohibiting fishing, within specific areas, either generally or by any notice prescribed;

(u) designating areas within which regattas, watersports and other recreational activities may be carried out;

(v) providing for the protection of any seawall, breakwater or similar works within the limits of the harbour or for the protection of any natural feature which protects the harbour or its approaches;

(w) regulating the operations of vessels within harbours, ports and the approaches thereto, including but not restricted to, the granting of licences or permits.

(2) Any person violating the regulations made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding twenty thousand dalasis or for a term of imprisonment (with or without hard labour) not exceeding twelve months in respect of any one offence, and in the case of a

continuing offence, to a further fine not exceeding two thousand dalasis or a further term of imprisonment not exceeding one month for every day or part of a day during which the offence continues or to both such fine and imprisonment.

(3) Regulations made under this section may:

(a) authorise the Harbour Master or other officer of the Authority to give directions regulating or requiring the doing of anything prescribed in the regulation in relation to a vessel;

(b) make different provisions for different classes of vessels;

(c) make different provision for different parts of a harbour or port;

(d) make provision for the fees to be paid in respect of any licence, permit or certificate issued, or other thing done by the Authority or an officer of the Authority by virtue of the regulations.

(4) If under any regulations made under this Act, it is not lawful for any vessel to be used without a licence from the Authority, it shall not be lawful for the vessel to be used in any Gambian waters.

(5) The Authority shall not be liable for any loss, damage or injury to any person or to any property of any description occasioned by the carrying out of a direction pursuant to regulations made under this section.

Interfering 11. A person who wilfully and without lawful excuse casts off, cuts, breaks or destroys the moorings or fastenings of any vessel in the waters of any harbours or port or the approaches thereto or alongside any wharf, shall be guilty of an offence and liable on summary conviction before a competent court to a fine not exceeding seven thousand five hundred dalasis or a term of imprisonment not exceeding three years, or to

both such fine and imprisonment.

Giving false 12.(1) The master of a vessel coming alongside or particulars departing from any wharf on entering or of a vessel

leaving or intending to enter or leave any dock, shall if required to do so by the duly authorised officer of the Authority state the draught of his vessel, the maximum gross tonnage and any other particulars which may be required in the interest of safe navigation.

(2) The master of a vessel who fails to comply with a requirement under subsection (1) or makes or is privy to another person making a false statement in response to a requirement shall, without prejudice to the right of the Authority to bring proceedings in respect of loss or damage occasioned thereby, be guilty of an offence and liable on summary conviction before a competent court to a fine not exceeding ten thousand dalasis.

PART V

REGULATIONS OF PREMISES AND DANGEROUS GOODS

Bye-laws for 13.(1) The Authority may make bye-laws for the Authority control and management of the Authority premises premises, the maintenance of good order therein. In particular, and without prejudice to the generality of the foregoing, may make bye-laws for all or any of the following purposes -

(a) regulating, declaring and defining the wharves of the Authority on and from which goods shall be landed and shipped;

(b) regulating the conduct of vessels at the wharves including the manner in which the conditions under which the loading and discharging of vessels shall be carried out;

(c) regulating the use of the facilities and services provided at Authority premises;

(d) protecting property at or forming part of

Authority premises from damage or theft;

(e) regulating the admittance of persons to Authority premises;

(f) preventing trespassing, nuisances and misuse regarding Authority premises;

(g) regulating vehicular traffic at Authority premises;

(2) Bye-laws under this section may make

diffe
rent
provisions
for
Authority
premises
at

diffe
rent ports

or

harbours.

(3) A copy of the bye-laws made under this section and for the time being in force shall be kept at the office of the Authority and the Authority shall allow any person to inspect it free of charge at all reasonable times.

Damage by 14.(1) The owner of a vessel shall be liable to vessels pay to the Authority the cost of making good any damage done by the vessel or by any person employed on or about the vessel to -

(a) any wharf or other works of the Authority in a harbour or the approaches to a harbour;

(b) any equipment (not being a navigational and belonging to the Authority) in the waters within the limits of a harbour or port or the approaches thereto;

(2) The Authority may recover from the owner of the vessel as a debt in a court of competent jurisdiction the cost of making good any such damage.

Removal of 15.(1) The Authority may remove to another part goods of the Authority premises or to a place of storage elsewhere goods which are in its premises; and

(a) which are obstructing or interfering with the use of any part of the Authority premises;

(b) which remain at a place used by the Authority for the deposit or storage of goods for a longer time than specified in the regulations;

(c) without prejudice to section 6, such removal and storage shall be carried out at the risk and expense of the owner of the

goods.

(2) Remedies available to the Authority for the recovery of rates in respect of goods shall be available to it for the recovery of the expenses of removal and storage of goods removed under this section.

Repair of
navigation

16.(1) The Authority may by notice require the wharves affecting person in control of any wharf, which in the opinion of Authority is, or is likely to become, by reason of its insecure condition or want of repair:

(a) dangerous to persons using the wharf;

(b) dangerous to person for vessels using a harbour or port or the approaches thereto or;

(c) a hindrance to the navigation of a harbour or port or the approaches thereto;

(2) Where the person to whom notice under subsection (1) is given fails to remedy the situation within the time specified in the notice, the Authority may carry out the remedial work it considers necessary and recover the costs from the person by court action.

Efficiency of wharves outside the Authority premises 17.(1) The Section applies to any wharf outside the Authority premises:

the Authority

premises

(2) Where the Authority is of the opinion that a wharf to which this section applies cannot be efficiently used or operated as a place of loading or unloading of goods or in the case of a sufferance wharf, goods in respect of which it is designated, by reason that:

(a) the depth of water alongside the wharf is insufficient;

(b) the wharf or any building pertaining to it

are in disrepair;

(c) any requirement is a licence granted under this Act relating to the condition of the wharf or any buildings or equipment pertaining to it is not being complied with;

(d) in the case of a public wharf within the meaning of the Wharfage Act, the requirement of that Act with respect to the equipment or buildings to be maintained by the wharfinger are not being adequately complied with;

(e) in the case of a wharf which is not such a public wharf, the buildings or equipment pertaining to the wharf are inadequate for loading, unloading, handling or storing goods, or the navigational aids associated with the wharf are inadequate for its safe or efficient use by vessels or;

(f) there is no adequate method of operation for loading, unloading, handling or storing goods,

the Authority may serve a provisional notice

on the person in control of the wharf specifying the grounds upon which it considers that the wharf cannot be efficiently used or operated and calling upon him to submit proposals to the Authority, within the time stated in the notice to remedy the condition or method of operation in the respects described in the notice.

- (3) The provisions of section 16 shall apply mutatis mutandis to wharves under this section.

Regulations 18.(1) The Authority may, with the approval of for dangerous the Minister, make regulations with respect goods to the loading and discharging of dangerous goods by vessels and for the movement of such within the limits of any harbour or port or the approaches thereto and for precautions to be observed with respect to the stowage and handling of dangerous goods at wharves or on harbour land or at Authority premises and without prejudice to the generality of the

foregoing for all or any of the following:-

(a) requiring the owners or master of any vessel in which it is intended to carry or to load dangerous goods within the limits of any harbour or port or the approaches thereto, or the agent of such a vessel to provide such advance information to the Authority as it may require before departing from the port of loading;

(b) prohibiting the entry to any harbour or port or the approaches thereto of vessels carrying dangerous goods in such circumstances as may be prescribed;

(c) regulating the navigation and place of anchoring or mooring of vessels carrying dangerous goods;

(d) designating the places at which vessels are to load, tranship, or discharge goods, and prescribing the mode of and the precautions to

be taken during such loading, transshipment or discharge, or the precautions to be taken during the lighterage of dangerous goods;

(e) providing for the stowage and segregation of different classes of dangerous goods ashore at wharves, on harbour land or at Authority premises where such goods are being discharged or awaiting delivery to consignees;

(f) providing for the watching and inspection of dangerous goods ashore at wharves, on harbour land or at Authority premises;

(g) regulating the entry of dangerous goods to Authority premises and providing for the removal from those premises of dangerous goods the entry of which is prohibited, and for the precautions to be observed in keeping, storing or handling dangerous goods at those premises;

(h) generally for protecting persons and property from dangers arising during the carriage, loading, transshipment or discharge

of dangerous goods within the limits of harbours or ports or the approaches thereto; or the keeping, storing or handling of such goods at Authority premises.

(2) Regulations made under this section:-

(a) shall define and classify the goods which are dangerous for the purposes of this section.

(b) shall have regard to the International Maritime Dangerous Goods Code of the International Maritime Organisation.

(3) Regulations made under this section may provide for the imposition of a fine recoverable summarily before a court of competent jurisdiction, not exceeding fifty thousand dalasis or a term of imprisonment (with or without hard labour) not exceeding three years in respect of any one offence, and in the cases of a continuing offence, a further fine not exceeding five thousand

dalasis or a further term of imprisonment not exceeding two months for every day or part of a day during which the offence is continued, or for both such fine or imprisonment.

PART VI

DELIVERY OF GOODS

Power of shipowner to enter and land goods or default owner of goods delivery thereof and to proceed therewith

19.(1) Where the owner of any goods imported in any ship from foreign parts into the Gambia fails to make any entry, thereof, or having made entry thereof, to land the same take by

with all convenient speed, by the times severally hereinafter mentioned, the shipowner may make entry of and land or unload the goods at the following times:-

(a) If a time for the delivery of the goods is expressed in the Charterparty, bill of lading, or agreement, then at any time after the time so expressed;

(b) If no time for the delivery of the goods

is expressed in the charter party, bill of lading or agreement, then at anytime after the expiration of seventy two hours exclusive of a Sunday, or holiday, from the time of the report of the ship;

(2) Where a shipowner lands goods in pursuance of this section, he shall place them or cause them to be placed -

(a) If any wharf or warehouse is named in the charterparty, bill of lading or agreement, as the wharf or warehouse where the goods are to be placed and if they can be conveniently there received, on the wharf or in that warehouse; and

(b) In any other case on some wharf or in some warehouse on or in which goods of a like nature are usually placed; the wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the Comptroller of Customs for the landing of

dutiable goods.

(3) If at any time before the goods are landed or unloaded the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall in that case be preferred to any entry which may have been made by the shipowner.

(4) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, the owner of the goods at the time of that landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, the goods shall be assorted at landing, and shall if demanded, be delivered to the owner thereof within twenty four hours after assortment, and the expense of and consequent on that landing and assortment shall be borne by the shipowner.

- (5) If at any time before the goods are landed or unloaded, the owner thereof has made entry for the landing and warehousing thereof at any particular wharf or warehouse other than that at which the ship is discharging, and has offered and being ready to take delivery thereof, and the shipowner has failed to make such delivery and has also failed at the time of that offer to give the owner of the goods correct information of the time at which the goods can be delivered, then the shipowner shall, before landing or unloading the goods, in pursuance of this section, give to the owner of the goods or of such wharf or warehouse as last aforesaid, twenty four hours' notice in writing of his readiness to deliver the goods, and shall, if he lands or unloads the same without that notice, do so at his own risk and expense.

Lien for 20. If at the time when any goods are landed from freight on any ship, and placed in the custody of any landing goods person

as a wharfinger or warehouseman, the shipowner gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in the notice the goods so landed shall, in the hands of the wharfinger or warehouseman continue subject to the same lien, if any, for any such charges as they were subject to before landing thereof, and the wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as hereinbefore mentioned, and shall, if he fails so to do, make good to the shipowner any loss thereby occasioned to him.

Discharge of 21. The said lien for freight and other charges
Lien shall be discharged:-

(1) Upon the production to the wharfinger or warehouseman of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a

release of freight from the shipowner; and

(2) Upon the deposit by the owner of the goods with the wharfinger or warehouseman of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner; but in the latter case the lien shall be discharged without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

Provisions as 22.(1) When a deposit as aforesaid is made with to deposits by the wharfinger or warehouseman, the person owner of goods making the same may, within fifteen days after making it, give to the wharfinger or warehouseman notice in writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner, or as the case may be, that he does not admit any sum to be so payable, but if no such notice is given, the wharfinger or warehouseman may, at the expiration of fifteen days, pay the sum

deposited over to the shipowner.

(2) If a notice is given as aforesaid the wharfinger or warehouseman shall immediately apprise the shipowner of it, and shall pay or tender to him out of the deposited, the sum, if any, admitted to be payable, the whole of the sum deposited, for thirty days from the date of the notice.

(3) At the expiration of those thirty days, unless legal proceedings have in the meantime been instituted against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any dispute which may have arisen between them concerning the freight or other charges as aforesaid, and the notice in writing of those proceedings has been served on the wharfinger or warehouseman, the wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof.

Sale of goods 23.(1) If the lien is not discharged, and no
by warehouseman deposit is made as aforesaid, the wharfinger
or warehouseman may, and if required by the
shipowner, shall, at the expiration of ninety
days from the time when the goods were placed
in his custody, or, if the goods are of a
perishable nature, at such earlier period as
in his discretion he thinks fit, sell by
public auction, either for home use or for
exportation, the goods or so much thereof as
may be necessary to satisfy the charges
hereinafter mentioned.

(2) Before making the sale, the wharfinger or
warehouseman shall give notice thereof by
advertisement in two local newspapers, and
also if the address of the owner of the goods
has been stated on the manifest of the cargo,
or on any of the documents which have come
into the possession of the wharfinger or
warehouseman, or is otherwise known to him,
send notice of the sale to the owner of the
goods by post.

- (3) The title of a bonafide purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section nor shall any such purchaser be bound to inquire whether the notice has been sent.

Application of 24. The proceeds of sale shall be applied by the proceeds of sale wharfinger or warehouseman as follows, and in the following order:-

(a) First, if the goods are sold for home use, in payment of any customs or excise duties owing in respect thereof, then;

(b) In payment of the expenses of the sale;

(c) In payment of the charges of the wharfinger or warehouseman and the shipowner according to such priority as may be determined by the terms of the agreement (if any) in that behalf between them, or if there

is no such agreement:-

(i) in payment of the rent, rates and other charges due to the wharfinger or warehouseman in respect of the said goods; and then;

(ii) in payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods;

and the surplus if any, shall be paid to the owner of the goods.

Warehouseman's 25. Whenever any goods are placed in the custody of a wharfinger or warehouseman, under the authority of this Part of this Act, the wharfinger or warehouseman shall be entitled to rent in respect of the same, and shall also have the power, at the expense of the owner of the goods, to do all such reasonable acts as in the judgment of the wharfinger or warehouseman are necessary for

the proper custody and preservation of the goods, and shall have a lien on the goods for the rent and expenses.

Warehouseman's 26. Nothing in this Part shall compel any protection wharfinger or warehouseman to take charge of any goods which he would not have been liable to take charge of if this Act has not been enacted, nor shall he be bound to see the validity of any lien claimed by any shipowner under this Part.

Saving for 27. Nothing in this Part shall take away or powers under abridge any powers given by any local Act to local Acts any harbour or port authority, body corporate or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods , nor shall anything in this Part take away or diminish any rights or remedies given to any shipowner or wharfinger or warehouseman by any local Act.

PART VII

NAVIGATIONAL AIDS

- Powers to
- 28.(1) The Authority may establish in the Gambia establish such navigational aids as are necessary to navigational facilitate safe navigation within Gambian aids waters and shall exercise general supervision over all such aids.
- (2) Without prejudice to the generality of subsection (1), in particular the Authority may:
- (a) establish, replace and maintain light houses, lightships, beacons, buoys or the navigational aids;
- (b) add to , alter or vary the character of any navigational aid which is the property of the Authority;
- (3) The Authority may not be held liable for not carrying out any of the functions under this section.

Authority to 29.(1) No person, other than the Authority shall
licence and establish, alter or remove any navigational
publish list aid unless he is licensed to do so by the of
navigational Authority under this section.
aids

(2) The Authority may grant a licence for the
purposes of subsection (1) upon such
terms and conditions as it thinks fit.

(3) Any person who contravenes the provisions of
subsection (1) shall be guilty of an
offence and shall be liable on summary
conviction before a competent court to a fine
not exceeding fifty thousand dalasis or a term
of imprisonment (with or without hard labour)
not exceeding three years, and in the case of
a continuing offence, to a further fine of two
thousand dalasis or a further term of
imprisonment not exceeding two months for
every day or part of a day during which the
offence continues, or to both such fine and

imprisonment.

(4) The Authority may make regulations:

(a) prescribing the procedure for the application and grant of licenses under this section and the fees to be paid to the Authority in respect of such licenses;

(b) exempting any description of navigational aid from the provisions of subsection (1).

(5) The Authority shall cause to be published and updated a list of Navigational Aids and shall, upon becoming aware of any changes to or deficiencies in such navigational Aids, inform the public thereof.

Offences in
respect of
navigational
aid

30. Any person who -

(a) wilfully or negligently injures, damages, destroys or runs foul of any navigational aid or any light exhibited on such a navigational aid;

(b) wilfully or negligently does anything which causes the view of any lighthouse, lightship, beacon or buoy to be obstructed in such manner as to lessen its efficiency;

(c) wilfully or negligently does anything which interferes with the operation of or the use by a person of, a navigational aid and so as to hinder the effective operation, or use, of the aid.

(d) without lawful authority removes, alters, anchors by, or makes fast to any navigational aid; or

(e) trespasses on or without lawful authority enters or goes upon any navigational aid;

shall be guilty of an offence and shall be liable on summary conviction before a competent court to a fine not exceeding fifty thousand dalasis or to a term of imprisonment

not exceeding three years or to both such fine and imprisonment.

Liability to 31.(1) If any navigational aid or part thereof is damaged or rendered imperative by any navigational aid person or vessel, the person or the owner of the vessel, as the case may be, shall be liable to pay the cost of repairing or replacing such aid.

(2) A vessel referred to in subsection(1) may be detained until the cost of repairing or replacing such aid is paid or security given for the payment of the amount due to the satisfaction of the owner of the aid.

(3) Subsection (2) shall be applicable in respect of a "sister-ship" where part or all of the claim remains unsettled.

Report of 32.(1) A person who, or the master of a vessel damage to be which, damages a

navigational aid shall, as made

soon as practicable, report the damage to the Authority or to such officer as the Authority may prescribe by notice published in the Gazette.

- (2) Any person who fails to make a report as required by subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a competent court to a fine not exceeding fifty thousand dalasis.

Fires and

- 33.(1) When a fire or light is burned or lights exhibited in such a place or manner that, in detrimental to the opinion of the Authority, it is navigation calculated or likely to mislead persons navigating in Gambian waters or in the waters of any harbour or port or the approaches thereto, the Authority may, by written notice, require the person placing or using the fire or light to screen, alter, extinguish or remove it within a reasonable time specified

in the notice.

- (2) Where a person to whom notice is given under subsection (1) fails to comply with the notice within the time stated therein, or after complying, replaces the fire or light by another fire or light in respect of which the Authority would be entitled to give notice under this section, he shall be guilty of an offence and liable on summary conviction before a competent court to a fine not exceeding five thousand dalasis and in the case of a continuing offence, to a further fine not exceeding one thousand dalasis for every day or part of a day during which such offence is continued.

- (3) The Authority may extinguish any fire or light in respect of which notice is given under this section where the person to whom the notice has been given fails to comply with the notice within the time specified therein.

- (4) Nothing in this section shall apply to a light exhibited in accordance with the terms of a licence under section 29.

Marking and 34.(1) If the Authority is of the opinion with prohibition of respect to a vessel lying wrecked in Gambian wrecks waters that, because of its positions or anything contained in it, the wreck is a potential danger to life or property, the Authority may mark the wreck and protect it from interference and may by order designate an area around it as a prohibited area.

- (2) An order under this section shall identify the wreck and the place where it is lying and

(a) the prohibited area shall be within such distance of the wreck as is specified by the order excluding any area beyond the landward limit of the foreshore;

(b) the distance specified for the purpose of

paragraph (a) shall be whatever the Authority thinks appropriate to ensure that unauthorised persons are kept from the wreck.

(3) Subject to subsection (4) a person who without authority in writing granted by the Authority, enters a prohibited area, whether on the surface or under water, shall be guilty of an offence and shall be liable on summary conviction before a competent court to a fine not exceeding ten thousand dalasis or a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

(4) Nothing shall be regarded as constituting an offence under this section where it is done by a person:-

(a) in the course of any action taken by him for the sole purpose of dealing with an emergency of any description;

(b) in exercising functions conferred by or under any enactment by him or a body for which

he acts;

(c) out of necessity due to stress of weather or navigational hazards.

- Notices to
- 35.(1) The Authority shall take appropriate steps
Mariners and to inform the seafaring
community and the Navigational public
of any developing or existing warnings
situation which may affect maritime
safety in a harbour or port and the approaches
thereto.
- (2) Such information shall take the form of
Notices to Mariners and Navigational
Warnings which may be issued and communicated
by any means as the circumstances warrant.
- (3) The Authority may require the assistance of
any person in the communication of such
information and a person who without
reasonable cause refuses to render such
assistance when so requested is guilty of an

offence and liable on summary conviction before a competent court to a fine not exceeding twelve months or to both such fine and imprisonment.

Removal of 36.(1) The Authority may remove anything including obstructions a wreck which is causing or is likely to become an obstruction or impediment to navigation in, or for the use of, a harbour or port or the approaches thereto.

(2) The possession, custody, disposal of and other related matters to the thing removed shall be dealt with according to the regulations issued by the Authority with the approval of the minister.

(3) The Authority shall not under the powers conferred by this section remove anything placed or constructed by virtue of the provisions of this Act or any other law.

- Navigationa 37.(1) The Minister may make regulations aids
stipulating the system of
lighting and other regulations
characteristic marks and features of
navigational aids, and in
making such Regulations shall have due regard
to the International Association of Lighthouse
Authority (IALA) Harmonized Buoyage "System B"
or any other international system of buoyage
which may replace it.
- (2) The Minister may, in making the regulation,
direct the Authority to submit studies,
make recommendations or provide information on
navigational aids.