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THE BANGLADESH 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.)

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BANGLADESH

DEDICATION

This drafting project is dedicated to my mother Mrs. Anwara Momen and late father K.M.A. Momen (Advocate).

been approved by Parliament on the 1st day of March 1996.

The following drafting instructions are now being submitted to you for the preparation of legislation on a new Port Authority Act.

Preliminary

The interpretation section of the Act will, to a large extent, be the same as that of the 1976 Act. However, the Act should include "harbours" and "docks" and not just ports so that the powers of the Authority are extended to such harbours and docks. It is hoped that this will take care of Government's policy towards erecting harbours and docks at Cittagong, Khulna and Narayanganj. Government does not deem it necessary to set up a separate Authority to deal with harbour and dock matters.

Port Authority

This part deals with the establishment of the Port Authority as a legal entity with a constitution of its own having the powers to sue and be sued. The part also describes the duties and powers of the Authority. The Authority is empowered to take whatever action it considers necessary to maintain and improve the ports, harbours and their approaches, operate and maintain navigational aids and port facilities, etc. 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 Ministry of Shipping and Navigation

Matters) from time to time such measures that the Authority feels are necessary for the maintenance, management and development of the Ports, Harbours and matters connected therewith. 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 powers to manage and operate and maintain properties other than land. It should also be given powers to do any thing 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, harbours and docks as well as outside such limits.

Regulation of vessels and Navigation in Ports, Harbours and Docks

Regulation and navigation of vessels in the ports, harbours and docks and approaches is provided for under this Part. As opposed to the 1976 Ports Act, this Part 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 any way incapable of performing the duties vested in him by the Act, the Deputy Harbour Master should be able to assume such duties.

The duties of the Harbour Master and Deputy Harbour Master are to be carried out according to the regulations issued by the Authority with the approval of the Government. The general administration and maintenance of good order within the ports and harbours should be provided under this Part with particular emphasis on the regulation of vessels and navigation within the parts. 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.

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

Regulations of Premises and Dangerous Goods

This Part deals with the regulation of premises and dangerous goods. The Authority is empowered to issue or make by-laws for regulating activities within the Authority premises - especially for the control, on arrangement and maintenance of good order within the Authority premises.

As the Authority is designed to be an autonomous body, it is necessary that the powers given under this Part enable them to make such regulations 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 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.

The Authority is also empowered to take measures to rectify the inefficiency of wharves which are outside the Authority premises. National interest requires the exercise of such power, since all wharves in the port area have to be maintained properly and run safely without exposing life or property to risk of danger or damage.

The handling of dangerous goods has been dealt with in detail thus giving it special attention. The Authority is expected to issue regulations on various aspects of handling dangerous goods either in the ports or even before their arrival. It is noteworthy that the vessel is required to provide information on the cargo even before departing from its loading port thereby enabling the Authority to make the necessary preparation in advance. The Authority, in making regulations on dangerous goods, must take into account the International Maritime Dangerous Goods (IMDG) Code of IMO, thus keeping up to the current changes. 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 purview 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 goods does 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 warehousemen 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

This Part deals with the power of the Authority to establish navigational aids in order to facilitate safe navigation in Bangladesh waters which include the area of territorial sea of the country. The functions of the Authority are not limited to navigational aids. The Authority is also empowered to remove navigational obstructions such as wrecks. The disposal of the removed materials is to be carried out in accordance with regulations to be issued with the approval of the concerned Minister. Although the Authority is empowered to establish or maintain navigational aids, no responsibility arises if it has not carried out its functions. Nor can the Authority be held liable for faults. The general maintenance and supervision of such aids are to be the responsibility of the Authority. The Authority must also have the power to be able to prosecute and punish any person who interferes with the maintenance of such aids or causes damage to them. All these provisions are intended to ensure safety of navigation by avoiding or minimizing interference other than by the Authority.

The Government of Bangladesh has recognized the importance of exploiting the geographical location of Bangladesh ports to promote a healthy economy through promoting international trade. Desiring to facilitate maritime traffic by simplifying and reducing to a minimum, the documentary formalities, requirements and procedures on the arrival, stay and departure of vessels engaged in international voyages. The ports of Bangladesh shall take all appropriate measures to facilitate and expedite international maritime traffic and to prevent unnecessary delay to vessels and to persons and property on board.

The ports of Bangladesh must maintain an effective system of port state control to ensure that foreign merchant vessels visiting the port comply with the standards laid down in the following international conventions; namely, FAL Convention 1965, International Convention on Loadlines 1966/68, SOLAS Convention 1992, Convention for Preventing Collision at Sea, MARPOL 73/78 and relevant ILO Conventions.

THE BANGLADESH PORT AUTHORITY ACT

An Act to provide for the establishment of the Bangladesh Port Authority.

Whereas it is expedient and necessary to repeal the Bangladesh Port Authority Act 1976 and to make new provisions updating the laws in respect of management, maintenance a development of Bangladesh ports, harbours, docks, warehouses, maritime navigational aids and matters connected therewith or incidental thereto.

Now, therefore, in pursuance of Article 80 of the Bangladesh Constitution, and in exercise of all Government powers enabling him in that behalf, the President of the Peoples Republic of Bangladesh hereby promulgates this Act as approved by Parliament.

PART I**PRELIMINARY**

1. **Short Title and Commencement.**- This Act may be called the Bangladesh Port Authority Act, 1996 and it shall come into operation on the 1st of July, 1996.
2. **Definitions.**- In this Act, unless the context otherwise requires -

"Act" means the Bangladesh Port Authority Act, 1996;

"Authority" means the Bangladesh 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;

"Bangladesh waters" means the territorial and inland waters of Bangladesh; including the rivers of Bangladesh and oil tributaries thereof, or creeks directly or indirectly opening into or adjacent thereto, within the limits of Bangladesh;

"Board" means the Board of the Authority Constituted under section;

"Chairman" means the chairman of the Board.

"Dangerous Goods" means the substances and articles which are specified and defined in the International Maritime Dangerous Goods Code;

"Dock" includes basins, locks, cuts, quays, wharves, warehouses, railways and other works and things appertaining to any dock;

"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;

"Harbours Master" means the Harbour Master of Bangladesh appointed under section and includes, to the extent of his authority, any person authorized by or under section to discharge the functions of the office of Harbour Master;

"high water mark" means line drawn through the highest points reached by ordinary spring tides at any season of the year;

"land" includes buildings and benefits arising out of the land things attached to the earth or permanently fastened to anything attached to the earth and the foreshore and the bed of the river below high water-mark;

"the limits" in relation to a part of harbour means such limits as are defined pursuant to section 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" when used in relation to any vessel, means any person, not being a pilot or harbour master, having lawfully for the time being command or charge of such vessel;

"member" means a member of the Board;

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

"navigational aid" means -

- (a) a lighthouse, lightship, beacon or buoy;
- (b) any other structure, mark, device or apparatus that is on 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 the use of a vessel being a lightship;

"owner" in relation to a vessel means -

- (a) the person registered or licensed 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;
- (b) in relation to goods includes any consignor, consignee, shipper or agent for the sale, custody, shipping, clearing or removing such goods;

"pier" includes any stage, stairs, landing place, jetty, floating barge or pontoon and any bridge or other work connected therewith;

"port" means any approved area of waters of Bangladesh declared to be a port of Bangladesh for the purposes of this Act;

"port dues" means any due, fee or charge payable under this Act in respect of a vessel which enters the waters of Bangladesh or uses any port facility;

"port facility" means any aid to navigation, mooring or signal station;

"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 -
- (e) in or from a vessel that is in a harbour or port or the approaches thereto;
- (f) at a wharf within the limits of a harbour or port or land adjacent thereto;

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

"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;

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

3. Declaration of Limits of Port.- (1) The Government may, by notification in the official Gazette, define the limits of a Bangladesh port for the purposes of this Act, and may, from time to time, by a like notification, alter such limits.

(2) Such limits may extend to any part of the navigable approaches to the port, and may include any dock, pier, shed and other work made on behalf of the public for the Convenience of traffic, for the

safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high water-mark, and subject to any right of private property therein, any portion of the shore or bank with fifty years of high water-mark.

PART II

ESTABLISHMENT OF THE AUTHORITY

4. The Bangladesh Port Authority.- (1) With effect from such date as the Government may, by notification in the official Gazette, appoint, there shall be established an Authority for Bangladesh ports to be called the Bangladesh Port Authority for carrying out the purposes of this Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both moveable and immoveable and shall by the said name sue and be sued.

5. Management.- (1) The general direction and management of the Authority and its affairs shall vest in a Board which may exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board in discharging its functions shall be guided on

questions of policy by such directions as may be given to it, from time to time, by the Government.

6. The Board.- (1) The Board of the Authority shall consist of a chairman and not more than three other members to be appointed by the Government.

(2) The chairman and other members shall be full-time officers of the Authority and shall hold office on such terms and conditions as may be determined by the Government.

(3) The chairman shall be the chief executive officer of the Authority.

(4) The chairman and other members shall perform such functions and discharge such duties as are assigned to them by or under this Act.

PART III

POWERS AND FUNCTIONS OF THE AUTHORITY

7. Duties of the Authority.- Subject to the provisions of this Act, it shall be the duty of the Authority under this Act to take such action as it considers necessary or desirable -

(a) to manage, maintain, improve and develop the harbours and the

approaches to the harbours;

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

(c) to provide and maintain adequate and efficient port services and facilities in the port or the approaches to the port;

(d) to regulate and control berthing and movement of vessels and navigation within the port;

(e) to do such acts and things as may be necessary or convenient to be done in connection with, or incidental or conducive to, the performance of its functions under this Act;

(f) 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.

8. Powers of the Authority.- (1) Subject to other Provisions of the is Act, the Authority may take such measures and exercise such powers as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Authority shall, in particular, have power -

(a) to construct, maintain and operate docks, mooring, piers and bridges within the Port, with all necessary and convenient drains, arches, culverts, roads, railways, benches and approaches;

(b) to undertake any work of or in connection with the loading, unloading and storing of goods in the port;

(c) to construct, maintain and operate railways, warehouses, sheds,

engines, cranes, scales and other appliances for conveying, receiving, handling and storing goods to be landed or shipped or otherwise dealt with by the Authority;

(d) to construct, maintain and operate ferry vessels to carry passengers, vehicles and goods within the port;

(e) to reclaim, excavate, enclose or raise any part of the bank or bed of the river;

(f) to construct, maintain and operate dredgers and appliances for cleaning, deepening and improving the bed of the river;

(g) to construct, maintain and operate all means and appliances for berthing, loading and discharging vessels;

(h) to construct, maintain and operate vessels for towing or rendering assistance to vessels, saving life and property or recovering any property lost, sunk or stranded;

(i) to supply fuel or water to vessels;

(j) to provide fire and security services within the port;

(k) to acquire, hire, procure, construct, erect, manufacture, provide, operate, maintain or repair anything whatsoever required by the Authority for the purposes of this Act;

(l) to control the erection and use of docks and any other works, whether above or below the high water-mark, within the port of approaches to the port;

(m) to acquire any undertaking affording or intending to afford facilities for the loading and discharging or warehousing of goods in the port or for the bunkers of vessels;

(n) to enter into any contract, bond or agreement of any kind whatsoever for the purposes of this Act.

19. Responsibility for Claims.- (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 this 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 IV

CONTROL OF WORKS

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

Bangladesh 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 V

REGULATION OF VESSELS AND NAVIGATION IN PORTS AND HARBOURS

11. Appointment of Harbour Master and Deputy Harbour Master.- (1) The Authority shall appoint an officer to be called the Harbour Master of Bangladesh (herein after 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 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 as described in the regulations or directives issued by the port Authority with the approval of the Government.

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

(6) If the Harbour Master is incapacitated from illness, or is 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.

(7) 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 Bangladesh, 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.

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

12. Regulations.- (1) The Authority may with the approval of the

Government, 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 oil, ballast, cargo, fuel, water or substances likely to cause pollution, and the discharge into any port or harbour of earth, stone, mud, sand or other similar matter;
- (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 making 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 services and providing its safe and convenient use;

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

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

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

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

(r) 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.

(s) regulating the operations of vessels including loading and discharging of goods and embarkation and disembarkation of passengers

within harbours, ports and the approaches thereto, including but not restricted to, the granting of licenses or permits;

(t) regulating the mode of payment of tolls, dues, rates and charges levied under this Act;

(u) fixing and regulating the wages and allowances for pilotage to be received by pilots;

(v) for regulating the behaviour and conduct of pilots, whether maintained by the Authority or not;

(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 taka or for a term of imprisonment which may extend to six months or to both such fine and imprisonment.

(3) 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.

13. Bye-Laws for Authority Premises.- (1) The Authority may with the prior approval of the Government make bye-laws for the control and management of the Authority's operations and affairs.

(2) All regulations made under this section shall be published in the official Gazette and shall come into force on such publication.

14. Interfering with Moorings.- Any 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 five thousand taka or a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

15. Damage by Vessel.- (1) The owner of a vessel shall be liable to 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 aid 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.

16. Removal of Goods.- (1) The Authority may remove to another part 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 s. 11, 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.

17. Regulations for Dangerous Goods.- (1) The Authority may, with the approval of the Government, make regulations with respect to the leading 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, transhipment 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, or on harbour land or at Authority premises where such goods are being discharged or are 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, transhipment 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:- shall define and classify

the goods which are dangerous for the purpose of the International Maritime Dangerous Goods Code of the International Maritime Organization.

(3) Regulations made under this section may provide for the imposition of a fine recoverable summarily before a court of competent jurisdiction, not exceeding twenty five thousand taka or a term of imprisonment not exceeding one year in respect of any one offence, and in the case of a continuing offence, a further fine not exceeding five thousand taka or a further term of imprisonment not exceeding one month for every day or part of a day during which the offence is continued, or for both such fine and imprisonment.

PART VII

NAVIGATIONAL AIDS

18. Powers to Establish Navigational Aids.- (1) The Authority may establish in Bangladesh such navigational aids as are necessary to facilitate safe navigation within Bangladesh 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 lighthouses, lightships, beacons, buoys or other 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.

19. Authority to License and Publish List of Navigational Aids.- (1) No person other than the Authority shall establish, alter or remove any navigational aid unless he is licensed to do so by the Authority under this section.

(2) The Authority may grant a license for 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 twenty five thousand taka or a term of imprisonment not exceeding six months, and in the case of a continuing offence, to a further fine of one thousand taka 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.

(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.

20. Offences in Respect of Navigational Aids.- 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 or any light exhibited on such a navigational aid;

(b) wilfully or negligently does any thing 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 any thing which interferes with the operation of, or the use by a person of , a navigational aid 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, 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 twenty five thousand taka or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

21. Liability to Damage for Navigational Aid.- (1) If any navigational aid or part thereof is damaged or rendered imperative by any 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.

(4) (a) A person who, or the master of a vessel which, damages a navigational aid shall, as soon as practicable, report the damage to the Authority or to such officer as the Authority may prescribe by notification in the official Gazette.

(b) Any person who fails to make a report as required by subsection (1) shall be guilty on an offence and shall be liable on summary conviction before a competent court to a fine not exceeding twenty five thousand taka.

22. Fires and Lights Detrimental to Navigation.- (1) When a fire or light is burned or exhibited in such a place or manner that, in the opinion of the Authority, it is calculated or likely to mislead persons navigating in Bangladesh 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 two thousand taka and in the case of a continuing offence, to a further fine not exceeding one thousand taka 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 license under section ;

23. Marking and Prohibition of Wrecks.- (1) If the Authority is of the opinion with respect to a vessel lying wrecked in Bangladesh waters that, because of its position 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 unauthorized 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 five thousand taka or a term of imprisonment not exceeding three 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.

24. Notice to mariners and Navigational Warnings.- (1) the Authority shall take appropriate steps to inform the seafaring community and the public of any developing or existing 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 six thousand taka or a term of imprisonment not exceeding three months, or to both such fine and imprisonment.

22. Removal of Obstructions.- (1) The Authority may remove anything including 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 Government.

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

26. Navigational Aids Regulations.- (1) The Government may make regulations stipulating the system of lighting and other characteristic marks and features of navigational aids, and in making such Regulation 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 Government may, in making the Regulation, direct the Authority to submit studies, make recommendations or provide information on navigational aids.

27. Power of the Government to make Rules.- The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

28. Repeal and Savings.- Upon the establishment of "Bangladesh Port Authority Act, 1996", the Bangladesh Port Authority Act, 1976, shall stand repealed.