

Tanzania

## Tanzania Harbours Authority Act Chapter 166

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Tanzania Harbours Authority Act  
 Contents

Part I – Preliminary provisions (ss. 1-3) ..... 1

    1. Short title ..... 1

    2. Interpretation ..... 1

    3. This Act to apply notwithstanding the East African Harbours Corporation Act ..... 3

Part II – The Tanzania Harbours Authority (ss. 4-9) ..... 3

    4. Establishment of the Tanzania Harbours Authority ..... 3

    5. Authority to be a body corporate ..... 3

    6. Functions of the Authority ..... 3

    7. Board of Directors ..... 5

    8. Powers of the Board ..... 5

    9. Powers of the Minister ..... 6

Part III – Provisions relating to the performance by the Authority of its functions (ss. 10-14) ..... 6

    10. Power under law to survey ..... 6

    11. Power to enter land to prevent accidents ..... 6

    12. Power to enter land and make alterations ..... 7

    13. Power to take water ..... 7

    14. Authority not to be required to provide services at a loss ..... 7

Part IV – Declaration and control of harbours (ss. 15-28) ..... 8

    15. Declaration of harbours ..... 8

    16. Harbour limits and jurisdiction over perimeters of harbour areas ..... 8

    17. Compulsory pilotage harbours ..... 8

    18. Passengers to be embarked only at harbour ..... 9

    19. Master to supply information ..... 9

    20. Harbour rates may be levied ..... 9

    21. Power to arrest ship for harbour charges ..... 9

    22. Refusal of outward clearance ..... 9

    23. Powers of authorised employee in relation to a harbour ..... 10

    24. Power of Health Officer in harbour ..... 10

    25. Authority may retain goods until freight paid ..... 10

    26. Liability for demurrage ..... 11

    27. Master responsible for contravention of Act in respect of ship ..... 11

    28. Act to be available to master ..... 11

Part V – Responsibility of the Authority as a warehouseman (ss. 29-30) ..... 11

    29. Liability for loss of goods ..... 11

30. Limitation of liability for loss of goods deposited in cloakroom .....	12
Part VI – Operations of the Authority (ss. 31-40) .....	12
Goods (ss. 31-36) .....	12
31. Authority may determine conditions for handling and warehousing of goods .....	12
32. Description of goods to be delivered .....	13
33. Goods may be sold to pay rates .....	13
34. Unclaimed goods in possession of the Authority .....	14
35. Indemnity where goods claimed by two persons .....	14
36. Dangerous or offensive goods .....	14
General (s. 37) .....	15
37. Authority to prepare Tariff Book, etc. ....	15
Accidents (ss. 38-40) .....	15
38. Accidents to be reported .....	15
39. The Minister or the Board may order inquiry .....	15
40. Shipping casualties .....	15
Part VII – Administrative and financial provisions (ss. 41-51) .....	16
41. Appointment of Director-General and other employees .....	16
42. Remuneration of members of the Board .....	16
43. Superannuation benefits .....	16
44. Power of Board to delegate .....	16
45. Authorised capital .....	16
46. Principles of operation and power to invest .....	17
47. Power to borrow .....	17
48. Annual and supplementary budget .....	17
49. Accounts and audit .....	18
50. Annual report .....	19
51. Audited accounts and annual report to be laid before National Assembly .....	19
Part VIII – Provisions relating to offences (ss. 52-61) .....	19
52. Major offences .....	19
53. Minor offences .....	19
54. False returns .....	21
55. Unlawfully transporting dangerous goods .....	21
56. Offences by master of vessel .....	21
57. Navigating without pilot in compulsory pilotage harbour .....	21
58. Employee endangering safety of operation .....	21

59. Employee demanding improper amount .....	22
60. Arrest of employee .....	22
61. Power of arrest, removal and place of trial .....	22
Part IX – Legal provisions (ss. 62-72) .....	23
62. Protection of members of the Board .....	23
63. Compensation .....	23
64. Liability for damage caused by fire .....	23
65. Burden of proof .....	24
66. Notice of claim .....	24
67. Limitation .....	24
68. Restriction on execution against property of Authority .....	25
69. Overcharge and undercharge .....	25
70. Medical examination of person claiming compensation .....	25
71. Service of notice on the Director-General .....	26
72. Service of notice by the Director-General .....	26
Part X – Miscellaneous provisions (ss. 73-75) .....	26
73. Regulations .....	26
74. Authority may assume Corporation's functions .....	27
75. Transitional provisions .....	27
First Schedule (Section 7) .....	28
Second Schedule (Sections 2(1), 15 and 17) .....	30

# Tanzania

## Tanzania Harbours Authority Act Chapter 166

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*[G.N. No. 143 of 1991; Acts Nos. 12 of 1977; 17 of 1989]*

**An Act to establish the Tanzania Harbours Authority.**

### Part I – Preliminary provisions (ss. 1-3)

#### 1. Short title

This Act may be cited as the Tanzania Harbours Authority Act.

#### 2. Interpretation

(1) In this Act unless the context requires otherwise—

"**animals**" means animate things of every kind except human beings;

"**Authority**" means the Tanzania Harbours Authority established by section 4;

"**authorised employee**" means an employee authorised by the Director-General to exercise the powers or perform the duties in respect of which the expression is used;

"**beacon**" means any light, marker or other structure erected by the Authority for the purposes of navigation;

"**Board**" means the Board of Directors of the Authority provided for by section 3;

"**charges**" means all sums received or receivable, charged or chargeable for, or in respect of, any ship or harbour or the handling of warehousing of goods by the Authority or for, or in respect of, any other service performed or facilities provided by the Authority;

"**customs law**" means any law in force within the United Republic imposing, or relating to the collection of, customs or excise duties or transfer tax;

"**Director-General**" means the Director-General of the Authority appointed under section 41;

"**employee**" means any person in the service of the Authority;

"**ferry**" means any vessel plying within a harbour, or the approaches thereto, for the purpose of the carriage of passengers or goods;

"**goods**" includes luggage, animals (whether alive or dead) and all other movable property of any description;

"**harbour office**" means any office in a harbour where rates and charges may be paid to the Authority;

"**harbours**" means the ports declared to be harbours under section 15;

"**master**", in relation to a ship, means any person (other than a pilot) having charge of that ship;

"**Minister**" means the Minister responsible for matters relating to harbours;

"**perishable goods**" means goods liable to rapid deterioration and, in particular, means fish, fruits, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, birds, poultry, small animals and any other thing which the Director-General may by notice in the *Gazette* declare to be perishable goods;

"**pilot**" means any person not belonging to a ship who has the conduct of the ship;

"**purposes of Authority**" means any purposes necessary or desirable for the performance of the services, or the provision of any facilities, which the Authority is authorised to perform or provide under this Act;

"**rates**" includes all sums which may, under the provisions of this Act, be levied for, or in respect of, any ship or harbour or the handling or warehousing of goods by the Authority or for, or in respect of, any other service performed or facility provided by the Authority;

"**road**" includes any street, thoroughfare, path or lane;

"**ship**" includes any vessel, tug, lighter or boat of any kind whether propelled by steam or otherwise or towed;

"**Tariff Book**" means the tariff book published by the Authority under this Act;

"**vehicle**" means any vehicle other than a ship;

"**warehouse**" includes any building, place, wagon, ship or vehicle when used by the Authority for the purpose of warehousing or depositing goods;

"**waterworks**" includes boreholes, wells, reservoirs, dams, weirs, tanks, cisterns, conduits, aqueducts, pipes, hydrants, taps, pumps, engines and all other structures, plant and appliances used or constructed for obtaining, storing, purifying, conveying, distributing, measuring, or regulating water.

- (2) In this Act and in all documents issued under this Act, unless the context otherwise requires—
- (a) "**premises occupied by the Authority**" means premises vested in or placed at the disposal of the Authority for the purposes of the Authority;
  - (b) "**property of the Authority**" means property vested in the Authority for the purposes of the Authority;
  - (c) "**the possession of the Authority**" means the possession by any employee in the course of his duty;
  - (d) "**accepted by the Authority**" means accepted by an employee or agent of the Authority for handling or warehousing by the Authority in accordance with the provisions of the Act:  
Provided that acceptance shall not be deemed to have been effected until a document of receipt in respect of the goods accepted, signed by an authorised employee or agent of the Authority has been issued;
  - (e) "**services or facilities provided by the Authority**" means services performed or facilities provided by the Authority in accordance with the provisions of this Act;
  - (f) "**operated by the Authority**" means operated by the Authority in accordance with the provisions of this Act;
  - (g) "**vehicle of the Authority**" includes vehicles operated on behalf of the Authority.

### 3. This Act to apply notwithstanding the East African Harbours Corporation Act

Notwithstanding the provisions of the East African Harbours Corporation Act of the Community the Authority shall, as from the commencement of this Act, have the powers, duties, functions and responsibilities vested therein by this Act and in the event of any conflict or duplicity between any provision of the said East African Harbours Corporation Act of the Community and this Act, the provision of this Act shall prevail in relation to all matters arising after the commencement of this Act.

## Part II – The Tanzania Harbours Authority (ss. 4-9)

### 4. Establishment of the Tanzania Harbours Authority

There is hereby established an authority to be known as the Tanzania Harbours Authority.

### 5. Authority to be a body corporate

The Authority shall be a body Corporate and in its corporate name be capable of—

- (a) suing and being sued;
- (b) purchasing, holding, alienating, managing and disposing of any property whether movable or immovable, by way of investment or otherwise; and
- (c) entering into any contract as may be necessary or expedient for the performance of its functions under this Act or any other written law.

### 6. Functions of the Authority

- (1) Subject to the provisions of this Act the functions of the Authority shall be—
  - (a) to establish and operate a coordinated system of harbours in accordance with the provisions of this Act;
  - (b) to provide facilities relating to harbours and provide harbour services and services ancillary thereto;
  - (c) to develop, improve, maintain, operate and regulate harbours;
  - (d) with the approval of the Minister, to construct and operate new harbours;
  - (e) to construct, operate and maintain beacons and other navigational aids;
  - (f) to carry on the business of stevedore, wharfinger or lighterman;
  - (g) to act as warehouseman and to store goods, whether or not the goods have been, or are to be, handled as cargo or carried by the Authority;
  - (h) to consign goods on behalf of other persons to any place either within or outside the United Republic;
  - (i) with the approval of the Minister, to act as carriers of goods or passengers by land or sea; and
  - (j) to provide amenities or facilities which the Authority considers necessary or desirable for persons making use of the services of the facilities provided by the Authority.
- (2) In particular, but without prejudice to the generality of subsection (1) and subject to the powers of the President and of the Minister under this Act, the Authority may—
  - (a) subject to subsection (3), construct any wharf, pier, landing stage, road, bridge, building or any other works required for the purposes of the Authority;

- (b) clean, deepen, improve or alter any harbour or the approaches to any harbour;
- (c) provide and use, within harbours and elsewhere ships—
  - (i) for the towage, protection or salvage of life or property;
  - (ii) for the carriage of goods and passengers;
- (d) appoint and license pilots and regulate their activities;
- (e) control the erection and use of wharves in any harbours or the approaches to any harbour;
- (f) operate trains and road transport for the purposes of the Authority;
- (g) carry on any business including land development necessary or desirable to be carried on for the purposes of the Authority and to act as agent for any of the services of the Government in the provision of any agreed functions;
- (h) acquire, construct, manufacture, maintain or repair waterworks or electric generating plant or any other works, plant or apparatus necessary or desirable for the supply or transmission of water or of electric energy for the purposes of the Authority;
- (i) determine, impose and levy rates, fares, charges, dues or fees for any service provided by the Authority or for the use by any person of the facilities provided by the Authority or for the grant to any person of a licence, permit or certificate;
- (j) prohibit, control and regulate—
  - (i) the use by any person of the services or the facilities provided by the Authority; or
  - (ii) the presence of any person, ship, vehicle, or goods within any harbour or on any premises occupied by the Authority for the purposes of the Authority;
- (k) sell, let or in any other way dispose of any movable or immovable property which the Board considers not necessary for the purposes of the Authority:

Provided that the Authority shall not sell, let or dispose of any building or land placed at its disposal by the Government except with the consent of, and under conditions imposed by the Government;
- (l) provide houses and other accommodation for employees of the Authority;
- (m) act as agent for any person engaged, whether within or outside the United Republic in the provision of services or facilities of a kind similar or complementary to those provided by the Authority;
- (n) enter into agreements with any person—
  - (i) for the supply, construction, manufacture, maintenance or repair by that person of any movable or immovable property necessary or desirable for the purposes of the Authority;
  - (ii) for the provision by that person of any of the services or the facilities which may be provided by the Authority;
  - (iii) for the payment, collection or apportionment of any fares, rates, charges or other receipts arising out of the provision by that person of any services or facilities, and for that purpose the Authority may finance or assist in financing the activities of that person, whether by way of loan, the holding of stocks, shares or securities, the guaranteeing of interest or the retention of any stocks, shares or securities or in any other way;
- (o) enter into agreement with any person carrying on business as a carrier or passengers or goods, whether within or outside the United Republic, providing for the carriage of

- passengers or goods by or on behalf of the Authority or by or on behalf of the Authority and that person, under one contract or at a through fare or rate;
- (p) hold shares in any other corporation, and may establish or acquire any subsidiary corporation or company; and
  - (q) enter into any arrangement with any body responsible for rail transport services in the United Republic which the Board consider necessary to promote or secure the provision, or improved provision, of any service or facilities which they may separately provide and, without prejudice to this general power to make such arrangements, any such arrangement or agreement may include provisions relating to—
    - (i) the use by either party of the facilities or equipment maintained by the other;
    - (ii) the temporary employment of staff of one party by the other on secondment or any other arrangement;
    - (iii) the charges made in respect of the use of any service or facility to which the arrangement or agreement relates;
    - (iv) the financing of any project by either or both parties;
    - (v) research connected with any existing service or facility provided by either party or in relation to any service or facility under consideration; and
    - (vi) the participation in the arrangement or agreement by any other person.
- (3) No harbour shall be constructed by the Authority unless prior to the construction a report of the proposed undertaking, and the advantages and disadvantages of any alternative undertaking, has been made by the Board to the Minister, and the President has signified his approval of the undertaking.
- (4) Subject to section 3, nothing in subsections (1) and (2) shall be construed as authorising the disregard by the Authority of any law.
- (5) In the exercise of the powers conferred on the Authority under this section to construct or improve any harbour, the Authority may construct or execute any works necessary on land vested in the Authority or on land placed at its disposal by the Government for the purposes of the Authority, or in the case of land not so vested in or placed at the disposal of the Authority, only with the agreement of the owner of the land on which the works are to be constructed or executed and where any land is required by the Authority for the purposes of the Authority, the Authority shall make representations to the President and the President may proceed to acquire the land in accordance with the provisions of any written law relating to the acquisition of land for public purposes.

## 7. Board of Directors

- (1) There shall be a Board of Directors of the Authority which shall, subject to this Act, carry out the functions and manage the business and affairs of the Authority.
- (2) The provisions of the First Schedule to this Act shall have effect as to the constitution and proceedings of the Board and in respect of other matters relating to the Board.
- (3) The Minister may, by order published in the *Gazette*, vary or replace all or any of the provisions of the First Schedule.

## 8. Powers of the Board

Subject to any directions which may be given to it by the Minister, the Board may—

- (a) approve any minor alteration in the tariffs, rates, fares and other charges;

- (b) approve any individual capital work, for the purposes of the Authority, not included within a programme of works approved by the Minister of which the estimated cost does not exceed such amount as the Minister may determine;
- (c) establish, from among its members, committees for the purposes of the Authority and delegate functions to any of those committees;
- (d) consider legislative proposals relating to harbours and recommend their enactment to the Minister;
- (e) subject to section 14, provide harbour services or facilities requested by the government of any neighbouring or friendly country; and
- (f) give directions to the Director-General.

## 9. Powers of the Minister

The Minister shall be responsible for the general direction and control of the Authority and may, for that purpose—

- (a) give directions of a general nature to the Board relating to the exercise by the Board of the functions of the Authority and the management of the business and affairs of the Authority;
- (b) approve any major alterations in the tariffs, rates, fares and other charges made for the services provided by the Authority;
- (c) approve any individual capital work, for the purposes of the Authority;
- (d) give particular directions to the Board concerning any matter involving agreement with, or the interest of, any foreign country;
- (e) establish, either as a subsidiary or as an organ of the Authority, a body corporate or a committee in relation to any harbour and delegate to such body corporate or committee all or any of the Authority's functions under this Act which that body corporate or committee may exercise in respect of the harbour for which it is established:

Provided that subject to the delegation made by the Minister the provisions of this Act shall apply in relation to such harbour as if references herein to the Authority were references to such body corporate or committee.

## Part III – Provisions relating to the performance by the Authority of its functions (ss. 10-14)

### 10. Power under law to survey

- (1) Any authorised employee of the Authority may for the purposes of the Authority, enter upon any land and survey such land or any portion of the land.
- (2) Where any damage to land is caused by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to compensation in accordance with this Act.

### 11. Power to enter land to prevent accidents

- (1) Any authorised employee of the Authority may for the purposes of preventing the occurrence of any accident, preserving the safety of navigation or the safe operation of any service provided by the Authority, or repairing any damage caused by the accident, enter upon any land and—
  - (a) cut down or remove any tree or other obstruction, not being a building, which obscures the view of any beacon or other fixed signal or which is likely to cause any obstruction or any danger to the safety of navigations or of any such service;

- (b) execute such other works as may be necessary to prevent the occurrence of any accident or to repair any damage caused as a result of any accident.
- (2) If any tree is cut down or removed or there is obstruction subsequent to the erection of any beacon or a fixed sign or to any other service provided at that place, no compensation shall be payable in respect of such entry, or the cutting down or removal of such tree or other obstruction.
- (3) Where any person erects any building which obscures the view of any beacon or other fixed signal or navigation or to the operation of any service provided by the Authority, the Authority may, unless such person has previously obtained the approval of the Director-General for the erection of such building or has modified it to the satisfaction of the Director-General, apply to a judge of the High Court for an order for the demolition or modification of such building or as the case may require, for the payment of the Authority of the cost incurred in resisting or replacing any fixed beacon, signalling equipment or otherwise necessary to prevent such obstruction or danger and the court, at its discretion, may grant such order and may make such order as to the payment of compensation and costs as it thinks fit.
- (4) The Rules of Court referred to in section 63(3) shall apply to an application under this section as they apply to the determination of compensation under that section.

## 12. Power to enter land and make alterations

- (1) The Authority, or any authorised employee, may, for the purposes of the Authority, enter upon any land and alter the position of any pipe for the supply of gas, oil, water or compressed air or the position of any electric, telephone or telegraphic wire or the position of any drain.
- (2) Where the Authority exercises any power under subsection (1) it shall give reasonable notice of its intention so to do to the authority or person having control of the pipes, water or drain—
  - (a) such authority or person may authorise a representative to superintend such work and may require the Authority to execute such work to the satisfaction of such representative;
  - (b) the Authority shall make arrangements for the maintenance of the supply of gas, oil, water, compressed air or electricity, for the continuance of the telephonic or telegraphic communications or for the maintenance of the drainage, as the case may be, during the execution of such work.
- (3) Where any damage is caused by reason of the exercise of the powers conferred by this section, the person suffering such damage shall be entitled to compensation in accordance with this Act.

## 13. Power to take water

The Authority may, for the purposes of the Authority, take any water from any natural watercourse within the United Republic subject to any written law regulating the taking of any such water or, if there is not such written law, subject to the approval of the President.

## 14. Authority not to be required to provide services at a loss

The Authority shall not provide to any person or authority, harbour facilities or services ancillary thereto, either gratuitously or at a rate or charge which is insufficient to meet the cost involved in the provision of the facilities or services by the Authority unless the person or authority concerned undertakes to make good the amounts of the loss incurred by reason of the provision of those facilities or services.

## Part IV – Declaration and control of harbours (ss. 15-28)

### 15. Declaration of harbours

- (1) The ports set out in Parts I and II of the Second Schedule to this Act are hereby declared to be harbours for the purposes of this Act.
- (2) The Board shall take all measures necessary to enable the Authority to perform its functions under this Act in relation to the ports declared to be harbours.
- (3) Subject to section 16, the President may by order published in the *Gazette*, amend, vary or replace the Second Schedule to this Act.

### 16. Harbour limits and jurisdiction over perimeters of harbour areas

- (1) The President may, by order published in the *Gazette*, define the limits of any harbour.
- (2) The President may, by order, confer upon the Authority jurisdiction to control planning and development or to carry out such development projects within such in shore or off shore area of any harbour as he may in such order specify.

### 17. Compulsory pilotage harbours

- (1) The harbours specified in Part II of the Second Schedule to this Act shall be compulsory pilotage harbours and all ships, other than exempted ships, navigating, whether by entering, leaving or moving within the limits of a compulsory pilotage harbour, shall be under the pilotage of a pilot.
- (2) For the purposes of this section, the following ships shall be exempted ships—
  - (a) ships owned or operated by the Government of the United Republic or the Government of Zanzibar;
  - (b) ships owned or operated by the Authority or the Corporation;
  - (c) ferry boats plying exclusively within the limits of a harbour;
  - (d) ships of less than 200 tonnes net register;
  - (e) ships trading exclusively between harbours within the United Republic;
  - (f) tugs, dredgers, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the harbour.
- (3) The Minister may, by notice in the *Gazette*, exempt compulsory pilotage any ship or class of ships either generally or in relation to any particular harbour.
- (4) The Director-General may exempt from compulsory pilotage any ship in any particular case.
- (5) Where any harbour is a compulsory pilotage harbour, the Minister may, by order, define the limits of such harbour for the purpose of compulsory pilotage.
- (6) The Authority shall not be responsible for any loss or damage caused through the act, neglect or default of any pilot.
- (7) The owner or master of a ship navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by ship or by any fault of the navigation of the ship in the same manner as he would if pilotage were not compulsory.

## 18. Passengers to be embarked only at harbour

No ship shall without lawful excuse, embark or disembark any passenger or goods at any place other than a harbour:

Provided that—

- (a) the Director-General may authorise the master of any ship to embark or disembark passengers or goods at any place other than a harbour;
- (b) nothing in this section shall apply to small boats carrying passengers or goods from and to any place within the United Republic or within such neighbouring country as the Minister may, by notice published in the *Gazette*, specify for the purposes of this section.

## 19. Master to supply information

The master of any ship arriving in a harbour shall, if required, produce to an authorised employee—

- (a) the ship's register and the ship's papers;
- (b) a list of the crew;
- (c) a list of the passengers, if any, showing particulars of their sex and occupation;
- (d) a list showing the deaths, if any, on the ship, and shall also supply such other information in relation to the ship, passengers and cargo thereof, as such employee may require.

## 20. Harbour rates may be levied

- (1) There shall be levied upon every ship entering a harbour such harbour rates and charges as the Authority may determine and publish in the Tariff Book.
- (2) At any harbour where there is a harbour office there shall be available for public inspection at such harbour office a notice specifying all harbour rates and charges applicable at the harbour.

## 21. Power to arrest ship for harbour charges

- (1) Where any harbour charges are owing in respect of any ship, an authorised employee may arrest the ship and the tackle, apparel and furniture thereof and may detain it until the amount of such charges is paid.
- (2) Where, after such arrest, any such harbour charges remain unpaid for a period of seven days, an authorised employee may cause the ship and the tackle, apparel and furniture thereof arrested to be sold and out of the proceeds of such sale he may retain the amount of any harbour charges which are owing and the expenses of the detention and sale thereof and shall deliver the balance, if any, to the person responsible under this Act for the payment of such harbour charges.
- (3) Where any ship, in respect of which harbour charges are owing and have not been secured to the satisfaction of any authorised employee, leaves any harbour and enters or is in any other harbour then such ship may be dealt with as if the harbour charges so owing and not secured were harbour charges owing in respect of such other harbour.

## 22. Refusal of outward clearance

The proper officer of customs of any harbour may refuse to give the master of any ship in such harbour outward clearance until—

- (a) all harbour rates and charges due in respect of the ship, and all penalties and expenses to which the ship and her master are liable under this Act, have been paid or secured to the satisfaction of an authorised employee;

- (b) he has received a certificate from an authorised employee stating that the master has complied with the provisions of this Act.

### **23. Powers of authorised employee in relation to a harbour**

- (1) An authorised employee may—
  - (a) remove any obstruction to harbour or its approaches or any boat, timber, raft or other thing floating in a harbour which endangers or obstructs, or is likely to endanger or obstruct, the free navigation of the harbour or the use of any wharf or dock therein;
  - (b) in case of urgent necessity, take any action in a harbour which in his opinion may be necessary to prevent any danger to life or shipping;
  - (c) enter upon any ship or into any building in a harbour if it is necessary for him so to do in the performance of any duty under this Act or if he has reasonable ground for believing that an offence against this Act has been, or is about to be committed therein.
- (2) The owner of any thing removed by an authorised employee under subsection (1)(a) shall, without prejudice to any other action which may be taken against him, be liable to pay the reasonable expenses of such removal; and such thing may be detained by such employee until such expenses are paid.
- (3) Where any thing is removed under subsection (1)(a) and the expenses of removal have not been paid within seven days of such removal, the Authority may sell such thing by public auction and may, out of the proceeds of sale, retain the expenses of such removal, detention and sale and shall deliver the balance, if any, to the person appearing to the Director-General to be entitled thereto.
- (4) The provisions of this section are in addition to, and not in derogation of, the provisions of any law relating to wreck.

### **24. Power of Health Officer in harbour**

- (1) A Health Officer may board in any ship at harbour and—
  - (a) medically examine any person;
  - (b) inspect the provisions, medicines and accommodation;
  - (c) require the master to produce the log-book and any other documents which such Health Officer may think necessary for the purpose of ascertaining the state of health of persons and the master shall produce such log-book or documents;
  - (d) question any person for the purpose of ascertaining the state of health of such person;
  - (e) prohibit any person who appears to be infected with, or who has been exposed to the risk of infection of, any infectious or contagious disease from leaving such ship or cause any such person to be landed and detained in any hospital or quarantine station.
- (2) In this Act the expression "Health Officer" means a medical practitioner appointed by the Authority to discharge the duties of a health officer at a harbour and includes any person deputed to perform port health duties by the Health Officer.

### **25. Authority may retain goods until freight paid**

- (1) Where the master of a ship from which any goods have been landed at a harbour and accepted by the Authority for handling or warehousing, or for delivery to the consignee, notifies the Director-General in writing that freight or other charges, to the amount specified in the notice, remain

unpaid in respect of the goods, the Authority may retain the goods and refuse delivery thereof to the consignee or any other person until—

- (a) the production of a receipt for, or a release from, the payment of such amount signed, or purporting to be signed, by or on behalf of the ship owner; or
  - (b) payment of such amount, together with any rates, charges and duties due in respect of such goods has been made by the person entitled to take delivery thereof.
- (2) Where the Authority delivers any goods in respect of which a notice has been given under subsection (1) to a person producing such receipt or release or making such payment as is referred to in that subsection, the Authority shall be freed from all liability to any person in respect of the goods.
- (3) The Authority shall be entitled to such charges as may be determined under this Act in respect of the custody of any goods delivered to it in accordance with this section and may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods and shall have a lien on the goods for such charges and any other expenses so incurred.
- (4) Nothing in this section shall be construed as requiring the Authority to take into the custody of the Authority any goods which would not otherwise be receivable by the Authority under the provisions of this Act or as requiring the Authority to inquire into the validity of any claim for freight or any other charges made in any notice given by any master under subsection (1).

## **26. Liability for demurrage**

The Authority shall not be liable by any demurrage which may occur or be due on any ship however such demurrage may have been caused.

## **27. Master responsible for contravention of Act in respect of ship**

The master of a ship shall be responsible for the compliance in respect of such ship with the provisions of this Act and, in the event of a contravention thereof, may be proceeded against and held responsible for such contravention.

## **28. Act to be available to master**

The Authority shall, in every harbour, maintain for the inspection of the master of any ship arriving at such harbour a copy of this Act and any harbour regulations made thereunder and of any law relating to quarantine.

## **Part V – Responsibility of the Authority as a warehouseman (ss. 29-30)**

### **29. Liability for loss of goods**

Subject to this Act, or of any contract the Authority shall not be liable for the loss, misdelivery or detention of, or damage to, goods delivered to, or in the custody of the Authority except where such loss, misdelivery, detention or damage is caused by want of reasonable foresight and care of the part of the Authority or any employee:

Provided that—

- (a) the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from—
  - (i) an act of God;
  - (ii) an act of war;

- (iii) seizure under legal process;
  - (iv) an act or order of the Government;
  - (v) an act or omission of the consignor, consignee, depositor or of the servant or agent of any such person;
  - (vi) fire, flood, tempest, riots, civil commotions, strikes, lock-outs, stoppage or restraint or labour from any cause whether partial or general;
  - (vii) an inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
  - (viii) deficiency in the contents of unbroken packages; or
  - (ix) an insufficient or improper packing or leakage from defective drums, containers or packages;
- (b) the liability of the Authority for the loss, misdelivery or detention of or damage to goods accepted by the Authority for warehousing in relation to which an account false in any material particular has been given under section 32 (1) shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

### **30. Limitation of liability for loss of goods deposited in cloakroom**

- (1) The liability of the Authority for any loss or misdelivery of, damage to, or delay in the delivery of any goods deposited in a cloakroom shall not in any case exceed one hundred shillings unless at the time of such deposit the person depositing the goods declared that the value thereof exceeded that amount and paid, or agreed to pay, such additional charge as may be determined in the Tariff Book in respect of such excess value; and thereupon the liability of the Authority shall not in any case exceed such declared value.
- (2) For the purpose of this section the expression "cloakroom" means any place provided by the Authority as a facility for the temporary deposit of goods by persons using the services provided by the Authority.

## **Part VI – Operations of the Authority (ss. 31-40)**

### **Goods (ss. 31-36)**

#### **31. Authority may determine conditions for handling and warehousing of goods**

- (1) The Authority may, subject to the provisions of this Act—
  - (a) determine the conditions upon which goods shall be handled or warehoused by the Authority and different conditions may be determined in different cases; and such conditions shall be published in the Tariff Book and shall, subject as aforesaid, have effect from the date of such publication or from such later dates as may be specified;
  - (b) determine the rates and charges for the handling or warehousing of goods and for any other service or facility; and such rates and charges shall be published in the Tariff Book and shall, subject as aforesaid, have effect from the date of such publication or from such later date as may be specified.
- (2) Notwithstanding subsection (1) the Authority may, in relation to the special circumstances of any particular case determine conditions, rates and charges applicable to such case for the handling or warehousing of goods by the Authority or for any other service or facility and such conditions, rates and charges shall have immediate effect in relation to such cases:

Provided that such conditions, rates and charges shall, if they are of continuing nature, be available to the public on request.

### 32. Description of goods to be delivered

- (1) The consignor of, or the person tendering, any goods to the Authority for handling or warehousing, and, on request by an authorised employee the consignee if, or the person receiving, any goods which have been handled or warehoused by the Authority, shall deliver to an authorised employee an account in writing signed by such consignor, person or consignee, as the case may be, containing such description of the goods as may be sufficient to enable such employee to determine the rates and charges payable in respect of the handling or warehousing thereof the Authority.
- (2) Any authorised employee may, for the purpose of checking any account delivered under subsection (1), require such consignor, person or consignee, as the case may be, to permit him to examine such goods.
- (3) If such consignor, person or consignee fails to deliver the account referred to in subsection (1), or to permit such goods to be examined as required under subsection (2), an authorised employee may refuse to accept the goods for such handling or warehousing unless in respect thereof a rate or charge not exceeding the highest rate or charge payable for any class of goods is paid; or in respect of goods which have been handled or warehoused the Authority may refuse to deliver such goods unless in respect thereof a rate or charge not exceeding such highest rate or charge is paid.
- (4) If in respect of goods which have been handled or warehoused by the Authority, an account delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, an authorised employee may refuse to deliver such goods unless, in respect of the handling or warehousing of such goods, a rate or charge not exceeding double the highest rate charge payable for any class of goods is paid.

### 33. Goods may be sold to pay rates

- (1) Where any person fails to pay on demand made by an authorised employee any rate or charge due from him in respect of any goods, the Authority may detain the whole or any part of the goods or, if they have been removed from the possession of the Authority, any other goods of such person which may be in, or may thereafter come into, the possession of the Authority.
- (2) Where any goods have been detained under subsection (1) the Authority may, if the rate or charge due is not sooner paid, sell by public auction sufficient of such goods to produce the rate or charge so owing and all the expenses of such detention and sale; and in the case of—
  - (a) perishable goods, such auction may take place at once; or
  - (b) any other goods, such auction may take place on the expiration of at least fifteen days' notice of the intended auction published in one or more local newspapers:

Provided that no imported goods shall be sold under this section until they have been entered for home consumption in accordance with the provisions of the customs laws.

- (3) The Authority may, out of the proceeds of any sale effected under subsection (2), retain a sum equal to the rate or charge due and expenses of the detention and sale; and shall deliver the balance, if any, as remain unsold to the person appearing to the Director-General to be entitled thereto:

Provided that if such person fails, after notice so to do, to remove within a reasonable time the goods remaining unsold, the Authority may sell such goods and dispose of the proceeds of such sale in accordance with the provisions of this section.

- (4) Nothing in this section shall prejudice the right of the Authority to recover any such rate or charge, or any part thereof, by any other lawful means.

### 34. Unclaimed goods in possession of the Authority

- (1) Where any goods in possession of the Authority are not claimed by the owner or any other person appearing to the Authority to be entitled thereto, the Authority shall, if such owner or person is known, take all reasonable steps to cause a notice to be served upon him requiring him to remove the goods.
- (2) If—
  - (a) the owner of any goods in the possession of the Authority is not known and no person appears to be entitled; or
  - (b) the notice referred to in subsection (1) cannot, for any reason, be served; or
  - (c) there has been a non-compliance with the provisions of any notice served under subsection (1),

the Authority may, within a reasonable time not being less (except in the case of perishable goods) than three months, sell the goods and dispose of the proceeds of sale:

Provided that no imported goods shall be sold under this section until they have been entered for home consumption in accordance with the provisions of the customs laws.

### 35. Indemnity where goods claimed by two persons

Where—

- (a) any goods, or the proceeds of the sale of any goods, are in the possession of the Authority and such goods, or proceeds, are claimed by two or more persons; or
- (b) any person claiming any goods in the possession of the Authority does not produce the documents showing that he is entitled to take delivery,

the Authority may withhold delivery of such goods, or proceeds, until the person appearing to the Director-General to be entitled thereto has given an indemnity to his satisfaction against the claim or any other person with respect to such goods or proceeds.

### 36. Dangerous or offensive goods

- (1) No person shall tender to the Authority for handling or warehousing any goods to which this section applies without giving notice of the nature of such goods to the employee to whom such goods are so tendered.
- (2) An authorised employee may—
  - (a) refuse to accept such goods for handling or warehousing or accept them only under, and in accordance with, any special provisions dealing with the handling or warehousing of any such goods;
  - (b) require any such goods to be marked and packed in such manner as he may reasonably direct.
- (3) Where any authorised employee has reason to believe that any goods to which this section applies are being handled or warehoused, or have been accepted for handling or warehousing, in contravention of subsection (1) or subsection (2), he may examine such goods and if, on examination, they are found to be goods to which this section applies he may order their removal from any vehicle of, or premises occupied by, the Authority.
- (4) The goods to which this section applies shall be of dangerous or offensive nature which are likely to cause damage to person or property.
- (5) Nothing in this section shall derogate from the provisions of any law relating to the possession or transport of explosives, petroleum, firearms or ammunition.

### General (s. 37)

#### 37. Authority to prepare Tariff Book, etc.

- (1) The Authority shall cause to be prepared and published in such manner as it may think fit—
  - (a) a Tariff Book containing all matters which under this Act are required to be contained therein together with such other matters as may be determined by the Authority;
  - (b) such other books and documents as may be required to be kept under this Act.
- (2) There shall be available for public inspection at every harbour office a copy of the Tariff Book containing all amendments for the time being in force.

### Accidents (ss. 38-40)

#### 38. Accidents to be reported

Where any accident occurs in any harbour, then if that accident—

- (a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to any person or property;
- (b) involves any collision between ships or vehicles carrying passengers;
- (c) involves the derailment of any train, or any part thereof, carrying passengers;
- (d) is of such other kind as the Minister may specify,

the Director-General shall, as soon as practicable, give notice of the occurrence of such accident to the Minister and the Board and, in the case of any such accident involving injury to any person, also to the police station or administrative authority nearest to the scene of such accident.

#### 39. The Minister or the Board may order inquiry

- (1) The Minister or the Board may order such inquiry into any accident which occurs in any harbour as the Minister or the Board may think fit.
- (2) In the case of an accident of the kind referred to in section 38 the Board shall submit to the Minister and the Attorney-General a report on such accident setting out *inter alia* the probable cause of such accident and the steps, if any, which have been taken or directed, shall be taken, with a view to avoiding a repetition.
- (3) The Director-General shall make to the Minister and the Board a return, in such form and at such intervals as the Board may direct, of all accidents occurring in any harbour whether or not any of such accidents is attended with injury to any person.

#### 40. Shipping casualties

Sections 38 and 39 shall not apply where in respect of any shipping casualty under any law relating to merchant shipping, a formal investigation is to be held.

## Part VII – Administrative and financial provisions (ss. 41-51)

### 41. Appointment of Director-General and other employees

- (1) The President shall appoint a Director-General of the Authority who shall be the chief executive officer of the Authority.
- (2) The Board may appoint such number of other employees of the Authority as it may deem necessary for the proper and efficient conduct of the business and the activities of the Authority.

### 42. Remuneration of members of the Board

- (1) Subject to subsection (2) the members of the Board shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon the recommendation of the Board, determine.
- (2) No remuneration, fees or allowances, except such allowances for expenses as may be expressly authorised by the Minister, shall be paid to any member of the Board who is a public officer.

### 43. Superannuation benefits

The Board may, with the approval of the Minister—

- (a) grant gratuities or other retirement allowance or benefit to the employees of the Authority;
- (b) establish and contribute to a superannuation fund or a medical benefits fund for the employees of the Authority;
- (c) require any employee of the Authority to contribute to the superannuation fund or medical benefits fund and fix the amount and method of payment of the contribution.

### 44. Power of Board to delegate

- (1) Subject to subsection (4), the Board may, by instrument in writing under the seal of the Authority, delegate to any committee of the Board or to any employee of the Authority any of its functions or powers under this Act and where such delegation has been made the delegated function or power may be exercised by the delegate in accordance with the terms of the instrument of delegation.
- (2) A delegation under this section may be made to the holder of an office under the Authority specifying the office but without naming the holder, and in that case each successive holder of the office in question and each person who acts in, occupies or performs the duties of that office may, without any further authority, exercise the delegated function or power in accordance with the delegation made.
- (3) The Board may at any time revoke a delegation made under this section and no delegation made under this section shall prevent the Board from itself exercising the function or power delegated.
- (4) The Board shall not delegate—
  - (a) its power to delegate; or
  - (b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of account.

### 45. Authorised capital

The authorised capital of the Authority shall be such sum as the Minister may declare after consultation with the Minister for the time being responsible for finance.

#### 46. Principles of operation and power to invest

- (1) The Authority shall conduct its business according to commercial principles and shall perform its functions in such manner as to secure that, taking one year with another, its revenue is not less than sufficient to meet its outgoings which are properly chargeable to revenue account including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension, liabilities and interest and other provision for the repayment of loans and shall further ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Authority of such a percentage as the Minister may, from time to time, determine.
- (2) For the purposes of subsection (1)—
  - (a) "net operating income" shall be determined by subtracting from gross operating revenue all operating and administrative expenses including any taxes (if any) and adequate provision of maintenance and depreciation; and
  - (b) "value of the net fixed assets in operation" shall be the value of the assets less the amount of accumulated depreciation shown in the statement of accounts of the Authority, but if the amounts shown in the statement of accounts do not reflect a true measure of value of the assets concerned because of currency revaluations, changes in prices or similar factors the value of the fixed assets shall be adjusted adequately to reflect those currency revaluations, changes in prices or similar factors.
- (3) With the prior approval of the Minister, the Board may invest any part of the moneys available in any fund of the Authority and which is not required for the purposes of the business of the Authority in such investments as are authorised investments in relation to investment of funds by a trustee under the Trustee Investments Act<sup>1</sup>.

#### 47. Power to borrow

- (1) The Board may, with the approval of the Minister and with the consent of the Minister responsible for finance, obtain loans and other credit facilities from any person for the purposes of the Authority upon such terms and conditions relating to repayment of the principal and the payment of interest as it may deem fit.
- (2) The Board may, with the approval of the Minister and with the consent of the Minister responsible for finance, borrow money for the purposes of the Authority by the issue of stock or otherwise.
- (3) Stock issued under subsection (2) and the interest payable thereon shall be charged upon all the property and revenue of the Authority.
- (4) A person lending any money or according any credit facility to the Authority shall not be bound to enquire whether the necessary consent has been obtained and the Authority shall be liable in respect of the transaction notwithstanding that such consent was not obtained.

#### 48. Annual and supplementary budget

- (1) In this Act "financial year" means any period not exceeding twelve consecutive months designated by the Board as the accounting period of the Authority.
- (2) The first financial year of the Authority shall commence on the date of the commencement of this Act and may be of a period longer or shorter than twelve months.

- (3) Not less than two months before the beginning of every financial year (other than the first financial year) the Board shall, at a meeting, pass a detailed budget (in this Act called the "annual budget") of the amounts respectively—
  - (a) expected to be received; and
  - (b) expected to be disbursed,by the Authority during that financial year, and whenever circumstances so require, the Board may pass a supplementary budget in any financial year.
- (4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may approve.
- (5) Forthwith upon passing any annual budget or any supplementary budget the Board shall submit to the Minister for his approval the annual budget or, as the case may be, the supplementary budget.
- (6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove it or may approve it subject to such amendment as he may consider fit.
- (7) Where the Minister approves any annual or supplementary budget, with or without amendment, that budget, as approved by him, shall be binding on the Board subject to subsection (8), and the Board shall confine the disbursements of the Authority within the items and amounts contained in the relevant budget as approved by the Minister.
- (8) The Board may—
  - (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that such disbursement is not provided for in any budget;
  - (b) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of the expenditure becoming necessary.

#### 49. Accounts and audit

- (1) The Board shall cause to be provided and kept proper books of accounts and records with respect to—
  - (a) the receipt and expenditure of moneys by, and other financial transactions of, the Authority;
  - (b) the assets and liabilities of the Authority,and shall cause to be made out of every financial year a balance sheet showing the details of the income and expenditure of the Authority and all its assets and liabilities.
- (2) Within six months of the close of every financial year accounts including the balance sheet of the authority in respect of the financial year shall be audited by the Tanzania Audit Corporation<sup>2</sup>.
- (3) Every audited balance sheet shall be placed before a meeting of the Board and, if adopted by the Board, shall be endorsed with a certificate that it has been so adopted.
- (4) As soon as the accounts of the Authority have been audited, and in any case not later than nine months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report, if any, on that statement made by the auditors.

## 50. Annual report

- (1) The Board shall cause to be prepared and submitted to the Minister within nine months after the close of each financial year an annual report dealing generally with the activities and operations of the Authority during that year, and it shall include—
  - (a) a statement of all directions given under this Act by the President and by the Minister to the Authority during that year;
  - (b) such other information as the Minister may, by writing, request.
- (2) The Board shall submit to the Minister such other reports on its financial affairs as the Minister may by writing request.

## 51. Audited accounts and annual report to be laid before National Assembly

The Minister shall, as soon as practicable after receiving them lay before the National Assembly the audited accounts together with the annual report of the Authority.

### Part VIII – Provisions relating to offences (ss. 52-61)

## 52. Major offences

Any person who unlawfully—

- (a) does any act which obstructs, or might obstruct, the working of any equipment or vehicle of the Authority used in the operation of a harbour and which endangers, or might endanger the life of any person therein; or
- (b) damages or in any way interferes with any ship, vehicle, signal, points, rail, sleeper, lighthouse, buoy, mark, beacon or other property of the Authority in such a manner as to endanger, or as might endanger, the life of any person,

commits an offence against this Act and on conviction is liable to imprisonment for a term not exceeding fifteen years.

## 53. Minor offences

Any person who—

- (a) not being specifically authorised in that behalf by the Authority—
  - (i) is found during the hours of darkness on any premises occupied by the Authority;
  - (ii) is found in any area designated by the Authority as dangerous by the erection of noticeboards to that effect; or
  - (iii) discharges any firearms or does anything which may cause ship or vehicle thereof, after being lawfully warned to do so by an employee or police officer;
- (b) being on any premises occupied by the Authority or upon any ship or vehicle of the Authority—
  - (i) refuses when called upon by an employee or police officer to give his name and address or knowingly gives a false name or address;
  - (ii) is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of any other person;
  - (iii) discharges any firearms or does anything which may cause injury to any person on such premises or upon such ship or vehicle;

- (iv) commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language;
- (v) without lawful excuse contravenes any lawful direction given by any employee;
- (vi) save with the express permission of the Director-General hawk, sells or exposes for sale any article or touts, applies for or solicits custom of any description; or
- (vii) smokes in any part of such premises, ship or vehicle bearing a notice that smoking is not permitted in that part;
- (c) writes, draws or affixes any profane, obscene, indecent or abusive work, matter, representation or character upon any premises occupied by the Authority or upon any ship or vehicle of the Authority;
- (d) defaces the writing on any board or any notice authorised to be maintained upon any premises occupied by the Authority or upon any ship or vehicle of the Authority;
- (e) damages or, without lawful excuse, interferes with any property of the Authority;
- (f) without lawful excuse, does any act which obstructs, or is likely to obstruct, the free navigation of any harbour or the use of any wharf, pier, landing stage or dock therein;
- (g) without lawful excuse, enters or leaves any ship or vehicle of the Authority, or any train within premises occupied by the Authority while it is in motion or elsewhere than at the place appointed by the Authority for passengers to enter or leave or opens any outer door of any train while it is in motion;
- (h) being a driver or conductor of any vehicle, disobeys while upon premises occupied by the Authority any reasonable direction given to him in respect of such vehicle by any police officer or, not being an employee of the Authority, disobeys any such direction given by an authorised employee;
- (i) in the absence of a gate-keeper, omits to shut and fasten, if any form of fastener is provided, any gate on any railway within premises belonging to the Authority, as soon as such person or any animal, vehicle or other thing under his charge has passed through such gate;
- (j) knowing, or having reason to believe, that a train is approaching or without having exercised due care to ascertain whether a train is approaching, opens any gate, chain or bar set up on either side of a railway or drives any animal, vehicle or other thing on to or across such railway;
- (k) fails to deliver at the earliest possible opportunity to an authorised employee any property which there is reason to believe has been lost, forgotten or found on any premises occupied by the Authority or on any ship or vehicle of the Authority;
- (l) wilfully obstructs or impedes an employee of the Authority in the discharge of his duties;
- (m) gives or offers to any employee any money or anything of value for the purpose of avoiding payment of any sum due to the Authority;
- (n) unlawfully removes any property of the Authority;
- (o) being an employee of the Authority, receives from any passenger, or from any other person delivering goods to the Authority for any of the purposes of the Authority or from any other person making use of the facilities provided by the Authority, any amount of money and fails within a reasonable time, not exceeding half an hour, to issue a receipt in respect of such amount of money;
- (p) travels, without the permission of an authorised employee, in or upon any part of a ship or vehicle of the Authority other than the part ordinarily provided for passengers during travel; or

- (q) contravenes any direction given by a Health Officer under the provisions of this Act or refuses to answer any question put to him by a Health Officer under the provisions of this Act or gives in reply thereto any information which is false in a material particular,

commits an offence against this Act and on conviction is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

#### **54. False returns**

Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is required or authorised to be made for the purposes of the Authority under this Act commits an offence against this Act and on conviction is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

#### **55. Unlawfully transporting dangerous goods**

- (1) Any person who, in contravention of the provisions of section 36 of this Act delivers any goods to which that section applies to the Authority for handling or warehousing an offence against this Act and on conviction is liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years, or to both.
- (2) Any person who is convicted of an offence under this section shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so delivered to the Authority for handling or warehousing; and the court which convicts such offender may order him to pay the amount of any such loss, injury or damage to the person suffering it and in default of such payment may impose a further term of imprisonment not exceeding twelve months.

#### **56. Offences by master of vessel**

Any master of a ship who contravenes any of the provisions of sections 18, 19 or of subsection (1) of section 24 of this Act, or produces any document or gives any information which is false in any material particular, commits an offence against this Act, and on conviction is liable to a fine not exceeding five thousand shillings or in default of payment thereof to imprisonment for a term not exceeding twelve months.

#### **57. Navigating without pilot in compulsory pilotage harbour**

If, after a pilot has offered his services, any ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the pilotage of a pilot, the master thereof commits an offence against this Act and on conviction is liable to a fine not exceeding five thousand shillings or in default of payment thereof to imprisonment for a term not exceeding twelve months.

#### **58. Employee endangering safety of operation**

Any employee of the Authority who, while on duty, endangers the safety of any person—

- (a) by contravening any of the provisions of this Act;
- (b) by contravening any lawful order, direction or rule given to such employee or made in respect of his service;
- (c) by being under the influence of alcohol or drugs; or
- (d) by any rash or negligent act,

commits an offence against this Act and on conviction is liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years or to both.

### 59. Employee demanding improper amount

Any employee of the Authority who, with intent to defraud, demands, solicits or receives from any person delivering goods to the Authority for handling or warehousing or from any person making use of the facilities provided by the Authority, any greater or lesser amount than he should demand or receive, or any other thing or value, commits an offence against this Act and on conviction is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

### 60. Arrest of employee

- (1) Where the safe operation of any harbour, or any service ancillary thereto, would be endangered by the immediate arrest, whether with or without a warrant, of any employee thereof, the police officer whose duty is to make such arrest shall—
  - (a) request the officer in charge of such harbour to relieve such employee from his duties as soon as practicable; and
  - (b) refrain from arresting such employee until he is so relieved and shall, until he is so relieved, take all necessary steps to ensure that such employee does not escape.
- (2) Where any request is made to the officer in charge of a harbour under this section, it shall be his duty to relieve the employee in respect of whom the request is made with the least possible delay.

### 61. Power of arrest, removal and place of trial

- (1) Any person who commits any offence mentioned in sections 52, 53 or 58 of this Act may be arrested without warrant by any authorised employee of the Authority or police officer and shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or to commit him for trial.
- (2) Any person who commits any offence against this Act, other than an offence mentioned in subsection (1), may be arrested without warrant by any authorised employee of the Authority or police officer if—
  - (a) there is reason to believe that such person will abscond; or
  - (b) he refuses on demand to give his name and address; or
  - (c) there is reason to believe that the name or address given by him is incorrect,and shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or commit him for trial:

Provided that except where there is reason to believe that such person will abscond, he shall, if his true name and address are ascertained be released on his executing a bond without sureties for his appearance before a magistrate when required.

- (3) Any person who commits any of the offences set out in sections 53 or 55 of this Act, may be required by any authorised employee of the Authority or police officer to leave the premises occupied by the Authority or the ship or the vehicle thereof, as the case may be, in which such person is at the time of Commission of the offence, and if such person fails to comply with such requirement he may be removed therefrom with such force as may be reasonably necessary in the circumstances.
- (4) Any person charged with any offence against this Act may be proceeded against, tried and punished in any place in which he may be in custody for that offence as if the offence had been committed in such place, and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial or punishment thereof be deemed to have been committed in that place:

Provided that nothing herein contained shall preclude the prosecution, trial and punishment of such person in any place in which, but for the provisions of this Section, such person might have been prosecuted, tried and punished.

## Part IX – Legal provisions (ss. 62-72)

### 62. Protection of members of the Board

Without prejudice to the provisions of this Act relating to offence or of section 284A of the Penal Code<sup>3</sup> or of Public Officers (Recovery of Debts) Act<sup>4</sup>, no act or thing done or omitted to be done by any member of the Board or by any employee of the Authority shall, if done or omitted *bona fide* in the execution or purported execution of his duties as a member of the Board or an employee of the Authority, subject him to any action, liability or demand of any kind.

### 63. Compensation

- (1) Where, in the exercise of the powers conferred by this Act any damage is caused by the Authority to any person, no action or suit for compensation shall lie but that person shall, subject to subsection (2), be entitled to compensation for the damage and, in the case of dispute, the liability to, and the amount of, compensation shall be determined in accordance with the provisions of this section.
- (2) No person shall be entitled to compensation—
  - (a) for any damage suffered unless he would have been entitled to it independently of this section; or
  - (b) for any damage suffered as a result of the use by the Authority of any works authorised under this Act unless the damage results from negligence in the use of the works; or
  - (c) for any damage in respect of which it is expressly provided in this Act or any other written law that no compensation shall be payable.
- (3) Where any person is entitled to compensation under this section the compensation shall be determined by a judge of the High Court in accordance with the provisions of Rules of Court to be made for that purpose, which Rules of Court may provide for assessors to sit with the judge.

### 64. Liability for damage caused by fire

- (1) The Authority shall not be liable for any loss or damage caused by fire from any engine upon any land occupied by the Authority to any building, or any property therein, if any part of such building is within two hundred feet of the rails or any railway.
- (2) Subject to the provisions of subsection (1), the Authority shall be liable for any loss or damage caused by fire from any engine upon any land occupied by the Authority where there is negligence in the working or the construction of such engine.
- (3) Subject to the provisions of subsection (1), the Authority shall be liable for any loss or damage caused by fire from any engine upon any land occupied by the Authority without proof of any such negligence as is mentioned in subsection (2) if—
  - (a) such loss or damage is caused to the owner or occupier of any land which is contiguous with land occupied by the Authority; and

<sup>3</sup>

[Cap. 16](#)

<sup>4</sup>

[Cap. 76](#)

- (b) at the time of such loss or damage such owner or occupier maintained upon such land a firebreak in good condition; and
- (c) where no firebreak in good condition was maintained at that time by the Authority, such owner or occupier had given notice in writing of such fact to the Director-General at least one month prior to the occurrence of such loss or damage; and
- (d) the owner or occupier suffering any such loss or damage gives to the Director-General—
  - (i) within fourteen days of the occurrence of such loss or damage, notice in writing thereof; and
  - (ii) within twenty-one days of the occurrence of such loss or damage, particulars in writing of his claim and of the loss or damage suffered by him:

Provided that the maximum compensation payable by the Authority under the provisions of this subsection shall be ten thousand shillings.

## 65. Burden of proof

In any proceedings against the Authority for compensation under the provisions of section 29 of this Act it shall not be necessary for the person claiming compensation to prove how such loss, misdelivery, detention, damage, delay or deviation was caused.

## 66. Notice of claim

- (1) No person shall be entitled to compensation for non-delivery of the whole of a consignment of goods, or for any separate package forming part of such consignment, accepted by the Authority for handling or warehousing unless a claim in writing, giving such particulars as may reasonable be necessary, is given to the Director-General within six months of the date upon which such goods were accepted by the Authority.
- (2) No person shall be entitled to compensation for any goods missing from a packed or unpacked consignment or for misdelivery of, or damage to any goods accepted by the Authority for handling or warehousing unless—
  - (a) the Director-General is notified of such fact in writing within four days of the date upon which such goods were delivered to the consignee or person entitled to take delivery thereof; and
  - (b) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Director-General within one month of such date.
- (3) Where the person claiming compensation proves that it was impracticable for him to notify the Director-General, or give the Director-General his claim, as set out in subsections (1) and (2) within the time specified therein and that such notification or claim was made or given in reasonable time nothing in those subsections shall prejudice the right of such person to obtain compensation.

## 67. Limitation

Where any action or other legal proceeding is commenced against the Authority for any act done in pursuance or execution, or intended execution, of this Act or of any public duty or authority, or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the following provisions shall have effect—

- (a) the action or legal proceeding shall not be commenced against the Authority until at least one month after written notice containing the particulars of the claim, and of intention to commence the action or legal proceeding, has been served upon the Director-General by the plaintiff or his agent;

- (b) the action or legal proceeding shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default, complained of or, in the case of a continuing injury or damage, within six months next after the cessation thereof.

#### **68. Restriction on execution against property of Authority**

Notwithstanding anything to the contrary in any law—

- (a) where any judgment or order has been obtained against the Authority, no execution or attachment or process in the nature thereof, shall be issued against the Authority or against any property of the Authority, but the Director-General shall cause to be paid out of the revenue of the Authority such amounts as may, by the judgment or order, be awarded against the Authority to the person entitled thereto;
- (b) no property of the Authority shall be seized or taken by any person having by law, power to attach or distrain property without the previous written permission of the Minister.

#### **69. Overcharge and undercharge**

- (1) Where the amount paid for harbour or other charges to the Authority is found to be incorrect, then, if such amount is—

- (a) an overcharge, the person who paid the charge shall be entitled to a refund to the amount of the overcharge;
- (b) an undercharge, the Authority shall be entitled to collect the amount of the undercharge from the person who paid the charge:

Provided that such overcharge or undercharge shall not be refunded or collected, as the case may be, unless a notice in writing, containing such particulars as may be reasonably necessary is given—

- (i) by the person claiming such overcharge to the Director-General; or
- (ii) by the Director-General, to the person against whom the amount of such undercharge is claimed,

within six months after such harbour or other charge was incurred, so however that where such undercharge is caused by any information or description subsequently found to be incorrect, such period of six months shall commence from the discovery by the Authority of the correct information or description.

- (2) Where the person claiming a refund under subsection (1) proves, to the satisfaction of the Director-General that it was impracticable for him to notify the Director-General of his claim within the time specified in that subsection and that such notification was made, or given, in reasonable time, nothing in that subsection shall prejudice the right of such person to obtain such refund.

#### **70. Medical examination of person claiming compensation**

Whenever any person claims compensation against the Authority in respect of any injury alleged to be suffered by him as a result of operations of the Authority, any court or person having by law, or consent of the parties, authority to determine the claim may order that the person injured be examined by a medical practitioner named in the order and may also make such order with respect to the costs of the examination as may be thought fit.

## 71. Service of notice on the Director-General

- (1) Any notice or other document required or authorised under this Act to be served by any person on the Authority or the Director-General may be served—
  - (a) by delivery of the notice or other document to the Director-General or to any authorised employee; or
  - (b) by leaving it at the office of the Director-General; or
  - (c) by sending it by registered post to the Director-General.
- (2) For the purpose of subsection (1) "office of the Director-General" shall include the principal office of the Authority.

## 72. Service of notice by the Director-General

Any notice or other document required or authorised under this Act to be served on any person by the Authority or the Director-General or any employee may be served—

- (a) by delivering it to that person; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending each by registered post addressed to that person at his usual or last known address.

## Part X – Miscellaneous provisions (ss. 73-75)

### 73. Regulations

- (1) The Minister may make regulations generally with respect to the services performed and the functions provided by the Authority, for the maintenance of order in any harbour or on any ship or vehicle of the Authority, and in particular, but without prejudice to the generality of the description of this power, the Minister may make regulations with respect to—
  - (a) the berths and stations to be occupied by ships and the removal of ships from one berth, station or anchorage to another and the time within which the removal shall be effected;
  - (b) ships while taking on or discharging ballast or cargo or while bunkering or provisioning;
  - (c) the anchoring, fastening, mooring and unmooring and warping of all ships and the use of warps, mooring buoys, chains and other moorings;
  - (d) the use by ships of navigating lights or signals and of signal lights;
  - (e) the prohibition of smoking in any portion of any ship, premises or vehicle;
  - (f) the proper control and management of foreshores and harbours and their entrances, the prevention and removal of obstructions in the foreshores and harbours and the regulations of any work, service or facility performed or provided at the foreshores and harbours;
  - (g) subject to the provisions of any law relating to merchant shipping—
    - (i) the taking of measures for the prevention of ships from leaving any harbour if overloaded, improperly loaded, improperly found, insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety or if unseaworthy for any other reason;
    - (ii) the examination and certification of masters, mates and engineers of ships engaged in local trade, tugs, dredgers, fishing boats, and light craft and the charges and licence fees payable in respect of any of those matters;

- (iii) the registration, licensing, inspection and control of ferries, tugs, launches, hulks, fishing or ferry boats or other craft, the charges to be paid for any of those matters and the number of passengers to be carried in any of these vessels or craft;
  - (h) subject to the provisions of any law relating to merchant shipping, the protection of ships and cargoes and the removal, destruction, sale or abandonment of stranded ships and their cargoes and appurtenances which obstruct, or are likely to obstruct the fairway of any harbour, the payment of expenses in connection with any of those matters and the levy and recovery of rent for the right of a hulk, wreck or wreckage of lie in any harbour;
  - (i) the examination, registration and licensing of pilots, the charges to be made by pilots and their duties and obligations and the limitation of their liability for negligent navigation;
  - (j) the licensing of ferrymen, boatmen, porters, landing agents, shipping agents, baggage and parcel agents and contractors for the supply of water or ballast, or other persons concerned in harbour work, and the regulation of charges leviable by them, and their duties and the hours of their attendance at work;
  - (k) anything or any matter which may or is required to be prescribed or provided for under this Act.
- (2) Regulations made under this paragraph shall be published in the *Gazette*.
  - (3) Until regulations are made by the Minister under this section, all subsidiary legislation, other than subsidiary legislation relating to pensions, gratuities or other superannuation benefits, made under the East African Harbours Corporation Act shall apply, with necessary modification, as if such subsidiary legislation were made under this Act.
  - (4) Until such time as a Tariff Book is published under this Act, the Tariff Book published by the Corporation under the East African Harbours Corporation Act shall continue in force as the Tariff Book published under this Act and may be amended and replaced accordingly.
  - (5) All beacons erected under the authority of the East African Harbours Corporation Act shall be deemed to have been erected under this Act.

#### **74. Authority may assume Corporation's functions**

Until such time as the Corporation ceases to exist or the President, by order published in the *Gazette*, declares that the East African Harbours Corporation Act of the Community shall cease to extend and apply to the United Republic, it shall be lawful for the Authority to assume from the Corporation or any other person or authority in whom the functions of the Corporation have been lawfully vested, the management of the affairs, properties and operations of the Corporation as at the assumption by the Authority of such management, and the Authority shall manage such affairs, properties and operations of the Corporation subject to such directions as the Minister may give in that behalf, and the provisions of this Act shall apply as if such affairs, properties and operations were the affairs, properties and operations of the Authority.

#### **75. Transitional provisions**

The President may, by order in the *Gazette*, make such provisions as he may consider necessary or desirable for the maintenance of continuity between the operations of the East African Harbours Corporation and those of the Authority and for the effective assumption by the Authority of the responsibility for the operations, projects and activities of the Corporation, and upon the occurrence of either of the events referred to in section 74 the President may, by order in the *Gazette*, provide for any of the matters which he may provide for under section 9 of the Public Corporations Act<sup>5</sup>, as if the Corporation were a statutory corporation and the Authority were a public corporation as defined in that Act.

## First Schedule (Section 7)

### Board of Directors

#### 1. Composition of Board

- (1) The Board shall consist of—
  - (a) a Chairman, who shall be appointed by the President;
  - (b) the Director-General;
  - (c) not less than seven but not more than nine other members, who shall be appointed by the Minister.
- (2) When appointing members under paragraph (1)(c), due regard shall be paid to the experience and involvement of the person in commerce, industry, agriculture, finance or administration.

#### 2. Vice-Chairman

The members of the Board shall elect a member from amongst themselves to be the Vice-Chairman of the Board, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

#### 3. Tenure of appointment

- (1) A member of the Board, other than the Director-General, shall, unless this appointment is sooner terminated by the appointing authority, or he ceases in any other way to be a member, hold office for the period specified in the instrument of his appointment or, if no period is so specified, for a period of three years from the date of his appointment and shall be eligible for re-appointment.
- (2) Any member of the Board, other than the Director-General, may at any time resign his office by giving notice in writing addressed to the appointing authority, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.

#### 4. Appointment of temporary member

When any member of the Board, other than the Director-General, is by reason of absence from the United Republic or illness or other sufficient cause unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member expires, whichever occurs first.

#### 5. Meeting of Board

- (1) The Board shall ordinarily meet for the the transaction of business at the time and at the places decided upon by the Board, but shall meet at least once every two months.
- (2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board, and shall call a special meeting upon a written request by a majority of the members of the Board in office.
- (3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board. In the absence of both the Chairman and the Vice-Chairman the members present shall appoint a member from amongst themselves to preside over the meeting.

#### 6. Quorum

The quorum at a meeting of the Board shall be the majority of the members in office.

**7. Decisions of the Board**

- (1) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.
- (2) Notwithstanding subparagraph (1), a decision may be made by the Board without a meeting by circulation of the relevant papers among the members of the Board, and the expression of the views of the majority of the members of the Board in writing, but any member shall be entitled to require that the decision be deferred and the subject-matter be considered at a meeting of the Board.

**8. Minutes of meetings**

The Board shall cause to be recorded and kept minutes of all proceedings of its meetings, and the minutes of each meeting of the Board shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.

**9. Vacancies not to invalidate proceedings**

The validity of any act or proceeding of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

**10. Execution of contracts**

- (1) The application of the official seal of the Authority shall be authenticated by two signatures, namely—
  - (a) the signature of the Chairman of the Board or some other member of the Board, other than the Director-General, authorised by the Board in that behalf; and
  - (b) the signature of the Director-General or some other employee of the Authority authorised by the Board to act for that purpose in place of the Director-General.
- (2) Any instrument or contract which, if executed or entered into by a person other than a body corporate, would not be required to be under seal, may be executed or entered into on behalf of the Authority by the Director-General or any other member of the Board if that member has previously been authorised, either specifically or generally by resolution of the Board, to execute or enter into that particular instrument or contract or that class of instrument or contracts.
- (3) Every document purporting to be a document executed or issued by or on behalf of the Authority and to be—
  - (a) sealed with the official seal of the Authority authenticated in the manner provided by subparagraph (1); or
  - (b) signed by the Director-General or by a member of the Board authorised in accordance with subparagraph (2) to act for that purpose,shall be deemed to be so executed or issued until the contrary is proved.

**11. Board may regulate its own proceedings**

Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

**12. Proof of document**

Any document purporting to be a document duly executed or issued under the seal of the Authority or on behalf of the Authority shall be received in evidence and be deemed to be a document so executed or issued (as the case may be) without further proof unless the contrary is shown.

## **Second Schedule (Sections 2(1), 15 and 17)**

### **Harbours**

#### **Part I**

Bagamoyo  
Chake Chake  
Kilwa Kivinje  
Kilwa Kisiwani  
Lindi  
Mikindani  
Mkokotoni  
Pangani  
Wete  
Mafia (Chole)

#### **Part II**

Dar-es-Salaam  
Zanzibar  
Mtwara  
Tanga