



# Bombay Government Gazette

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

## PART V.

### PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

*(To be translated into Maráthi and Gujaráti and the translations to be published in the "Bombay Government Gazette." The dates of publication to be reported.)*

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 22 of the Rules for the conduct of business at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations:—

#### Bill No. IV of 1897.

*A Bill further to amend the Bombay Port Trust Act, 1879.*

Whereas it is expedient further to amend the Bombay Port Trust Act, 1879, in manner hereinafter appearing: It is enacted as follows:—

Bo. A. VI of 1879.

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1. In the Bombay Port Trust Act, 1879, which is hereinafter referred to as the said Act, after the second paragraph of section 13, the following shall be added, viz.:—

"Provided always that nothing in the foregoing paragraph shall prevent a person being elected or appointed for a shorter period than three months in the place of an absent trustee, on the application of the Board if the absentee be an elective trustee, or at the discretion of Government if he be a nominee trustee."

2. For section 14 of the said Act the Amendment of section 14. following shall be substituted, viz.:—

"No person shall be qualified to be Disqualifications for office of trustee. a trustee if such person

(a) is an uncertificated bankrupt or insolvent; or

(b) has been sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed; or

(c) holds any office or place of profit under the Board; or

(d) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Board.

Provided that no person shall be so disqualified, or be deemed to have any share or interest in such contract or employment by reason only of his having a share or interest in

Proviso.

(e) any lease, sale, exchange or purchase of immovable property, or any agreement for the same; or

(f) any license by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway sidings or any berth for vessels in the docks belonging to the Board; or

(g) any agreement for the loan of money, or any security for the payment of money only; or

(h) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(i) any joint-stock company which shall contract with, or be employed by or on behalf of the Board; or

(j) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades; or

(k) any contract which has been specially authorised by the Governor in Council."

Insertion of new sections after section 14. shall be inserted :—

Trustee who becomes disqualified to cease to be a trustee.

(a) becomes disqualified for any of the reasons mentioned in the last preceding section; or

(b) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or without the permission of the Board from six consecutive meetings of the Board, other than special meetings; or

(c) acts in contravention of the provisions of the next succeeding section;

shall cease to be a trustee, and his office shall thereupon become vacant.

" 14 B. A trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of or vote on any matter in which he has directly or

When trustee may not take part in the discussion of or vote on any matter at any meeting of the Board or a Committee thereof.

3. After section 14 of the said Act the following sections

" 14 A. Any trustee who

indirectly by himself or his partner any share or interest such as is described in the proviso to section 14, or in which he is interested either professionally on behalf of a client or as agent for any person."

4. In section 15 of the said Act for the proviso contained in the second paragraph thereof there shall be substituted the following, viz. :—

" Provided that no trustee shall be paid more than thirty rupees for his attendance at any number of meetings other than special meetings, held during any one week.

Every trustee other than the Chairman shall be entitled to a fee of fifteen rupees for each special meeting of a Committee called under clause (5) of section 16 at which a quorum is present and which he attends from the beginning to the end thereof."

5. In the proviso to section 21 of the said Act as amended by Bombay Act III of 1883, in place of the word and figure " and 6 " there shall be substituted the following, namely " 6 and 7."

6. To section 22 of the said Act there shall be added the following, viz. :—

" for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any of such officers and servants killed, in the execution of their duty."

7. In section 23 of the said Act for the first twenty-two words thereof there shall be substituted the following, viz. :—

" Subject to the provisions of the schedule for the time being sanctioned by the Board under section 21 and of the regulations for the time being in force."

8. In section 37 of the said Act after the first sentence ending with the word " thoroughfare " there shall be inserted the following, viz. :—

" Provided that in respect of any such road or thoroughfare wholly constructed after the \* \* \* day of \* \* \* "

A. III of 1888, s. 16 (g).

A. III of 1888, s. 16 (j).

Act III of 1888, s. (g).

189 the Commissioner before making such declaration may further require to be satisfied that the same has been drained, and that lamps, lamp-posts and such other apparatus as he deems necessary for the lighting thereof have been provided by the Board."

9. The last three paragraphs of section 43 of the said Act are repealed

Repeal of part of section 43. Insertion of two new sections after section 43. 10. After section 43 of the said Act, the two following sections shall be inserted, viz. :—

"43 A. The Board may also frame a Scale of charges for use of dock, etc. scale of charges to be levied

(a) for the permission to use, and for the use of, any dock in the possession of the Board and for services which the Board renders to and for gear, tackle, tools, instruments, utensils, staging or materials supplied by the Board for the purpose of any vessel using, or any person working in, any such dock,

(b) subject to the provisions of section 68, for the use of water-boats, barges and fire-engines belonging to or maintained by the Board, and for water supplied by the Board in accordance with the provisions of section 68, and

(c) for the towing of, and rendering assistance of the nature referred to in clause (a) of section 68 to, vessels outside the limits of the port.

"43 B. (1) Every scale framed by the Board under either of the two last preceding sections, shall be submitted to Government for sanction; and, when so sanctioned and published in the *Bombay Government Gazette*, shall have the force of law; and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

"2) The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section,"

Rates may be remitted in special cases.

11. After clause (5) of section 49 of the said Act, the following clause shall be inserted, viz. :—

"(6) The payment of pensions, gratuities and compassionate allowances granted by the Board to officers and servants of the Board injured, or to the surviving relatives of such officers and servants killed, in the execution of their duty."

12. To section 50 of the said Act there shall be added the following, viz. :—

"(4) The payment of pensions, gratuities and compassionate allowances granted by the Board to pilots and other officers and servants engaged in the pilot-service, who have been injured, and to the surviving relatives of pilots, officers and servants so engaged, who have been killed, in the execution of their duty."

13. After section 67 of the said Act there shall be inserted the following new section, viz. :—

"67 A. Notwithstanding any thing contained in the seven Alternative remedy by suit sections last preceding and in section 85, the Board may recover by suit any tolls, dues, rents, rates, charges, damages, expenses, costs, or in case of sale, the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to or recoverable by the Board under this Act or under any by-laws made in pursuance thereof."

14. In section 68 of the said Act between clause (7) and the proviso thereto, the following shall be inserted, viz. :—

"(8) the extinguishment of fires on the property of the Board, and the equipment, maintenance and use of engines for that purpose;

"(9) the equipment of vessels, steam tugs or other boats and their use as well within the limits of the Port as on the High Seas beyond those limits, and whether in territorial waters or otherwise for the purpose of towing or rendering assistance to any vessel whether entering or leaving the Port, or bound elsewhere and for the purpose of saving or protecting life or property;

"(10) the supply of water to shipping in the Port, and the equipment, maintenance and use of boats and barges for that purpose;

"(11) the extinguishment of fires in the Port, and the equipment, maintenance and use of engines for that purpose :

Provided that if the Municipal Commissioner of Bombay shall, on the thirtieth day of September in any year, have given notice to the Board in writing that in exercise of the powers vested in him in that behalf, he will, from the first day of April then next ensuing, undertake either the works specified in clause (10) or the works specified in clause (11) or both, as shall be stated in such notice, the following consequences shall ensue :

(1.) On the first day of April next following the receipt of such notice :

(a) the authority vested in the Board

(i) to undertake, and

(ii) to levy charges for the use thereafter of

the works stated in the notice shall determine, but without prejudice to the right of the Board to recover any charges theretofore leviable in respect of such use ;

(b) The Municipality of Bombay shall take over and acquire from the Board all such boats and engines other than stationary engines and all such machinery, appliances and plant theretofore

employed by the Board for the purposes of the works specified in the notice, as the Board may require the Municipality so to take over and acquire ; and

(2) the Municipality shall pay to the Board, as the price of all boats and other property taken over and acquired under this section, such sum or sums as may be fixed in respect thereof by two persons who shall be nominated, one by the Board and the other by the Municipality for the purpose, or in case such persons differ in opinion, then such sum or sums as Government may determine."

15. For the proviso to section 78 of the said Act there shall be substituted the following, viz. :—

"Provided that nothing in this section shall apply to a person who is declared not to be disqualified or to be deemed to have any share or interest in any contract or employment by the second sub-section of section 14."

16. To section 84 of the said Act, the following words shall be added, viz. :—

"unless the damage caused is in no way attributable to the order, act, or improper omission of such officer."

17. The enactments mentioned in the Schedule are repealed to the extent specified in the third column thereof.

### SCHEDULE.

(SEE SECTION 17.)

Enactments.	Subject.	Extent of Repeal.
Bombay Act VI of 1879.	Bombay Port Trust Act.	In section 3, subsection (2), the words from "and until" to the end of the subsection. Section 9 to, and including, the words "in every other case." Section 10 to, and including the words "in every other case." Section 21 the words from "until a schedule" to "foregoing provisions." In section 43 the words from "until a scale" to "published under this section." Section 57.
Bombay Act III of 1883.	Bombay Port Trust amending Bombay Act VI of 1879.	Section 5.

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to effect the following amendments, which it is desirable to make, for the reasons hereinafter stated, in the Bombay Port Trust Act, 1879 :—

- (1). Some practical inconvenience has been found to arise from the restricted powers conferred in the last paragraph of section 13 of the Act, which allows of an election or appointment to fill up a temporary vacancy, only when such vacancy has lasted or is expected to last for more than three months. It occasionally happens that a trustee, qualified by special technical knowledge, is absent for a shorter period than three months, and it is desirable that even during such shorter period some expert should be available in his place. It is proposed by section 1 of the Bill to remove the limitation which at present operates to deprive the Board of such assistance.
- (2). Section 14 of the Act deals with the disqualifications for the office of trustee. The trustees being in possession of the docks and wharves, and of most of the warehouses and lands used in the trade of the port, it is practically impossible for any one connected with commerce or shipping to carry on business without entering into arrangements with the Trust which partake more or less of the nature of contracts. If the provisions of section 14 were strictly applied, the result would be the practical exclusion from service on the Board of the members of any firm which might use, under some form of contract (such as a lease), the accommodation afforded by the Trust. The Board are further restrained from purchasing from a firm, one of whose members is a trustee at the time, any machinery or other article urgently needed by the Trust, which that firm alone may have to dispose of. Of the thirteen trustees constituting the Board, eight are representatives of the commerce of the port. It is very desirable to have a strong representative body, and to fill these places with persons who are largely interested in trade and shipping; such persons are, however, for that very reason, the more likely to have extensive dealings with the Trust.

For these reasons it is necessary to amend section 14 of the Act, and it is proposed for this purpose closely to follow the wording of certain similar provisions in the Bombay City Municipal Act, 1888, *e. g.* section 16 (2) (g) and (2) (l) and clause (p) of section 36 of that Act. At the same time two new provisions (clauses (f) and (k) of new section 14) have been embodied in the Bill, so as to meet the peculiar circumstances of the Trust.

It has been found advisable to embody these various provisions in three new sections, 14, 14A and 14B which will replace section 14 of the Act and are to be found in sections 2 and 3 of the Bill.

- (3). Clause (e) of section 14 would disqualify a trustee if absent from six consecutive special meetings of the Board. This is considered too stringent, and in clause (b) of new section 14A (section 3 of the Bill) it is proposed that the disqualification should not arise unless the six consecutive meetings which the trustee fails to attend are ordinary meetings.
- (4). Section 15 of the Act limits the fees of trustees to Rs. 30 a week, however many may be the meetings attended. But it is deemed unreasonable to expect trustees, who are all business men or officials with heavy demands on their time, to attend, without remuneration of any kind, special meetings which may from time to time be urgently required. Section 4 of the Bill contains an amendment excepting special meetings from the restriction as to fees for attendance, and also provides for the payment of Rs. 15 to trustees attending special Committee meetings called by the Chairman, for which at present no fee is payable.

- (5). In order to enable the Board to give pensions, gratuities or compassionate allowances to such officers and servants engaged by the Board or in the pilot services, as may be injured, or to the surviving relatives of such as may be killed, in the execution of their duty, it has been necessary to amend sections 21, 22, 49 and 50 of the Bombay Port Trust Act. The amendments proposed for this purpose are embodied in sections 5, 6, 11 and 12 of the Bill.
- (6). In section 10 of the Bill it is proposed to bring section 37 of the Bombay Port Trust Act into accord with section 306 of the Bombay City Municipal Act, 1888, which requires *inter alia* that private streets should be drained, and that the necessary apparatus for the lighting thereof should be provided, before the Corporation can become liable for the maintenance of such streets.
- (7). Section 43 of the Act does not, as it stands, admit of a scale of charges being framed by the trustees and sanctioned by Government for the use of a dry-dock. The Merewether Dry-dock has recently been added by the trustees to the many useful works which they provide and manage for the benefit of the shipping and trade of the port. It is right that they should be empowered to levy proper charges for its use and also for the services and other conveniences which they may furnish to the public. The Board have also made provision for the supply of water for shipping in the port, for the extinguishing of fire both on their own premises and among the shipping, and for assistance to vessels outside the limits of the port. But they have at present no authority under the Act to undertake, or to charge for, such matters. The object of sections 9 and 10 of the Bill is to give the trustees these powers, while in section 14 of the Bill due provision is made, in a manner understood to be acceptable to the Municipality of Bombay, in case that body should determine to perform such of those services in the port as lie within the range of their statutory powers.
- (8). In section 13 of the Bill it is proposed to give the Board an alternative remedy for the recovery, by suit, of rates, charges, penalties, &c., at present recoverable only by detention and sale of goods. The present exclusive remedy is found unsatisfactory, as not infrequently goods detained may prove unsaleable, and even in some cases, if kept long, a nuisance and injurious to health.
- (9). Section 15 of the Bill proposes to amend section 75 of the Act so as to bring the latter into consonance with section 14 of the Act, as amended in this Bill.
- (10). Section 16 provides for a slight amendment of the Act which is necessary to enable the Board to recover compensation for any damage or mischief done to its property by any vessel with a pilot on board, when such damage or mischief is not attributable to any fault of the pilot.
- (11). Section 17 and the Schedule will effect the repeal of certain portions of Bombay Act VI of 1879 and of Act III of 1883 which are already spent or have become obsolete.

Bombay, 2nd December 1897.

(Signed) W. C. HUGHES.

*By order of His Excellency the Right Honourable the Governor,*

S. L. BATCHELOR,

Secretary to the Council of the Governor of Bombay

Bombay, 3rd December 1897.

for making Laws and Regulations.

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