

## **LIGHTHOUSE ACT, 1927**

**17 of 1927**

[ ]

### CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Appointment of officers
4. Advisory Committees
5. Management of general lighthouses by the Central Government and delegation of management
6. Power to inspect local lighthouses
7. Control of local lighthouses by the Central Government
8. Management of local lighthouses by the Central Government
- 8A. Power of Central Government to prohibit lights and regulate heights of buildings, structures and trees
9. Levy and collection of light-duty
10. Rates of light-dues leviable
11. Receipts for light-dues
12. Ascertainment of tonnage
13. Recovery of light-dues, expenses and costs
14. Refusal of port-clearance
15. Determination of disputes as to liability for payment
16. Light-dues payable at one port recoverable at another
17. Penalty for evading payment of light-dues
18. Exemption from payment of light-dues
19. Refund of excess payments
- 19A. Fees
20. Accounts, etc
- 20A. OMITTED
21. Power to make rules
22. Omitted

### **SCHEDULE 1 :- THE SCHEDULE**

## **LIGHTHOUSE ACT, 1927**

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[ ]

STATEMENT OF OBJECTS AND REASONS "Under the Revolution Rules, "lighthouses, (including their approaches) beacons light ships

and buoys" are a central subject, but are now administered by Local Governments as-agents of the Government of India under the rules made under s.45 A of the Government of India Act, 1915. Statutory powers are also vested in Local Governments by the Burma, Madras and Sind Coast-lights Acts. The object of the present Bill is to vest in the Governor-General in Council the statutory powers necessary for the discharge of his responsibilities in order that this subject may in future, be directly administered by the Central Government. Under the present system of administration there are considerable differences from province to province, not only in the method of administration, but also in finance. Light-dues are levied in some provinces, but not in others, and where levied, they vary in the method of calculation, as well as in amount. In Madras, there is a separate Coast-lights fund, to which light-dues are credited and from which all expenditure, on Coast-light is met. The Burma light-dues, on the other hand, are credited to Central Revenues and expenditure is met from grants voted by the Legislative Assembly. In Sind, again, light-dues are also credited to Central Revenue, and expenditure is met from grants voted by the Legislative Assembly. On the other hand, all light-houses in the Bombay Presidency proper, except the lights of Bombay Port and its approaches, are financed from the Bombay Minor Ports funds, to which passing trade contributes nothing. The whole coast of the perim lights and part of the coast of the Aden lights are borne by Central Revenues, and the Orissa lights are a charge partly on Central and partly on Provincial revenues. The general principles of the Bill are based on Part XI of the Merchant Shipping Act, 1894, and the Merchant Shipping (Mercantile Marine Funds) Act, 1898 and parts of the existing Coast-lights Acts are also incorporated, "Lighthouse" is defined so as to include "any light-vessel, fog-signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships.". This definition covers wireless beacons, wireless fog-signals and other direction giving apparatus used for the guidance of ships. All lighthouses will be classified as either:- (a) coast or general lighthouses, or (b) port or local lighthouses. , The superintendence and management of all general lighthouses will be vested in the Governor-General in Council. Local light-houses will be administered by a local light-house authority, which will usually be a port authority. Certain powers of inspection and control over local light-houses are reserved to the Governor-General in Council, as being the general light-house authority. Provision is also made for the

management of general lighthouses by a local authority, or of local lighthouses by the Governor-General in Council, by arrangement and on payment. This would be a matter of convenience and economy. For the purposes of lighthouse administration, it is proposed that the coasts of India should be divided into districts, based on the major ports. The Port Officer of the major port would be the Superintendent of Light-houses in the district, and would be in executive control of the general lighthouse administration. For technical supervision, the Bill provides for the appointment of a Chief Inspector of Light-houses in British India, and also for the appointment of District Inspectors, who would be engineers, with practical experience of light-house engineering. It is intended that lighthouse expenditure should no longer be a charge on general revenues, but should be covered by dues levied on shipping. The Bill, therefore, provides for the maintenance of a separate account of lighthouse receipts and expenditure, and it is intended that this account should be maintained on commercial lines, showing that expenditure is covered by dues, and that receipts from dues are spent on lighthouse services. The Bill also provides for the appointment of a Central Advisory Committee, which will consist of persons representing the interests affected or having special knowledge of the subject. The Central Advisory Committee will correspond in the constitution and functions of the Advisory Committee on new lighthouse Works in the United Kingdom. The annual accounts and budget will be placed before them, and they will be asked to advise on new works, the position and character of existing lighthouses, the rates of light-dues, rules, and on the lighthouse system generally; District Advisory Committees to advise on local questions may also be appointed, if desirable. The cost of local light-houses will ordinarily be met, as at present, from port dues levied under the Indian Ports Act, 1908. But clause 9 of the Bill permits receipts from light-dues to be used "for the purpose of providing or maintaining lighthouses..... for the benefit of ships voyaging to or from British India or between ports in British India." And grants from light-dues may be given for the provisions or maintenance of local light-houses which are also used as marks by passing trade. The Bill extends to the whole of British India which is the limit of the legislative power of the Indian Legislature. But in addition to light-houses in British India, the Government of India already administer light-houses in the Persian Gulf and in the southern part of the Red Sea. And it is possible that they may also be asked to administer the colonial lights at Minicoy and in Ceylon,

which are now managed direct by the Board of Trade. It is possible also that some arrangement may be made in respect of light-houses in Indian States similar to the arrangement which already exists in Madras. In that event, it may be desired to bring all such lighthouses into a single administration with an uncommon account of revenue and expenditure. In order, therefore, to recover a possible extension on these lines, clause 9 of the Bill has been drafted so as to permit the expenditure of light-dues levied in British India on light-houses "whether within or beyond the limits of British India", provided always that such light-houses are "for the benefit of ships voyaging to or from British India, or between ports in British India." [But the Select Committee deleted the words, "whether within or beyond the limits of British India" as they are unnecessary.] Clause 10 of the Bill provides that every ship arriving at or departing from a port in British India shall pay a light-due, not exceeding two annas per net register ton, subject to a periodical limit of thirty days. Different rates may be prescribed for different classes of ships. Clause 18, following the existing Acts, exempts altogether ships of less than thirty tons. It also empowers the Governor-General in Council by notification to exempt any ships or classes of ships or ships performing specified voyages from payment of dues either wholly or in part. The powers taken in clauses 6 and 7 of the Bill for the inspection and control of local light-houses follow generally the powers of general light-house authorities in s.652 and 653 of the Merchant Shipping Act, 1894. In the United Kingdom, however, a local light-house authority cannot erect or remove any lighthouse, buoy or beacon or vary its character without the previous sanction of the general lighthouse authority. But the control of the general light-house authorities in the United Kingdom is much closer than is possible or desirable in a country of great distances like India. The Bill, therefore, only requires that one month's previous notice of any change should be given to the Governor-General in Council, and also empowers the local light-house authority to take immediate action, without previous notice in cases of emergency. Statutory power to inspect a local light-house is vested only in the Chief Inspector of light-houses. No Superintendent or District Inspector may inspect without the order in writing of the Governor-General in Council. The Bill further provides that a direction by the Governor-General in Council under clause 7 shall only be made after inspection or such other enquiry as he thinks fit, when he has satisfied that it is necessary for the safety, or otherwise in the interests, of shipping.

- The rest of the Bill requires no detailed explanation." - Gazette of India, 1927, Part V, page 53. Amending Act 37 of 1976:- The Indian Light-house Act, 1927 consolidates and amends the law relating to the provision, maintenance and control of light-houses by the Government of India. 2. For the purpose of maintaining or providing light-houses for the benefit of ships, the Act empowers the Central Government to cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in India. According to section 10(1) of the Act, as amended in 1959, the maximum rate at which such dues may be levied is fifty paise per ton. This rate is not at all adequate to meet the cost of the services which have to be rendered and improvements in relation thereto. It is, therefore, proposed to raise the maximum rate to Rs. 1.50 per ton. 3. Apart from providing and maintaining light-houses, it has also become necessary to render other assistance to ships, and vessels under the Act for calibrating their wireless direction finders and for other services. It is, therefore, proposed to insert a provision in the act for charging fees in respect of such services. 4. Section 20A of the Act provides for the delegation of powers exercisable by the Central Government under the Act to the Director-General of Shipping. As the Department of Light-houses and Light Ships is no longer under this authority, it is proposed to omit this section. 5. It is proposed to avail of the present opportunity to make certain changes which have become necessary by reason of the repeal and replacement of the Sea Customs Act, 1878 and the Indian Merchant Shipping Act, 1923 by the Customs Act, 1962 and the Merchant Shipping Act, 1958 respectively. Accordingly, the references in the Act to the Customs Collector under the Sea Customs Act, 1878 are proposed to be replaced by references to the proper officer as defined in the Customs Act, 1962. Likewise, it is proposed to provide that the various words and expressions used but not defined in the Act would have the same meanings as in the Merchant Shipping Act, 1958. Further, the provisions relating to ascertainment of tonnage contained in section 12 of the Act are proposed to be suitably modified so as to bring them in conformity with the provisions of the Merchant Shipping Act, 1958 and the rules made thereunder. 6. It is also proposed to avail of the present opportunity to include the usual provision for laying of rules before each House of Parliament, in section 21 of the Act relating to the power to make rules. 7. The Bill seeks to achieve the above objects. Gaz. of India, 6-1-1976, Pt. II, S. 2, Ext., p. 91. Act 66 of 1985.- The Lighthouse

Act does not provide an independent definition of "sailing vessel. " Therefore, it has become necessary to include in section 2 a definition of the expression "ship" to the effect that "ship" includes a sailing vessel. 2. Consequent upon the change in the designation of officers mentioned in section 3, section 6 and section 21 of the Act, it has become necessary to substitute the same by appropriate designations presently in vogue. 3. At present there is no provision in the Act to preserve the validity of the acts or proceedings of the Central Advisory Committee appointed under section 4(1), from challenge on the ground of existence of any vacancy in or defect in constituting the Committee or any irregularity of procedure not affecting the merits of the case. A new section 4(4) for this purpose has been proposed for insertion in the Act. 4. The Lighthouses and other aids to navigation are vital for the shipping traffic and it is imperative that their functions should in no way be allowed to be obstructed. Since the Act does not contain any provision for the removal of obstructions, it has become necessary to confer powers in this behalf on the Central Government by incorporating suitable enabling provisions in the Act. The new section 8A is proposed to be inserted for meeting such contingencies. 5. According to section 10(1) of the Act, as amended in 1976, the maximum rate at which light-dues may be levied is Rs. 1.50 per tonne. The rate is, not at all adequate to meet the cost of services which have to be rendered. The enhancement of the rates of light-dues by resorting to amendments of section 10(1) has proved to be a long and time consuming process resulting in a considerable loss of revenue to the Department. In view of this position, it is proposed to amend section 10(1) of the Act so as to enable the Central Government to prescribe by notification in the Official Gazette such rates as are necessary to provide for the purpose mentioned in section 9 of the Act at which light-dues shall be payable and lay such notification before each House of Parliament. 6. At present, no light-dues can be levied on the additional cargo carried on the deck and thereby a considerable amount of revenue is being lost. Accordingly, it has become necessary to section 12(1) of the Act. 7. The Bill seeks to achieve the above objects. -Gaz. of Ind., 23-8-1985, Pt. II, S. 2, Ext., p. 5 (No. 50).

### **1. Short title, extent and commencement :-**

(1) This Act may be called The <sup>1</sup>[\* \* \*] Lighthouse Act, 1927.

(2) It extends to the whole of India <sup>2</sup>[\*\*\*].

(3) It shall come into force on such date as the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup> [Official Gazette], appoint.

1. The word "Indian" omitted by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), S. 2(15-4-1976).

2. The words "except Part B States" were omitted by the Indian Lighthouse (Amendment) Act, 1953 (18 of 1953), section 2 (6-5-1953). ..

3. The Act came into force on 1 -4-1929, see Gaz. of India, 1929, Pt, I, p. 96.

4. Substituted for the words "Governor-General in Council" by A.O., }937.

## **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context,- <sup>1</sup>[(a) x xx x] (b) "district" means an area defined as a district for the purposes of this Act under section 3 , (c) "General lighthouse" means any lighthouse which the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], declare to be a general lighthouse for the purposes of this Act; (d) "lighthouse" includes any light-vessel, fog-signal, buoy, beacon, by any mark, sign or apparatus exhibited or used for the guidance of ships; (e) "local lighthouse" means any lighthouse which is not a general lighthouse; (f) "local lighthouse authority" means a <sup>4</sup>[Slate Government], local authority or other person having the superintendence and management of a local lighthouse; (g) "owner" includes any part-owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned; (h) "port" means any port, as defined in the Indian Ports Act, 1908 to which that Act extends; <sup>5</sup>[x x x]. <sup>6</sup>[(hh) "proper officer" in relation to any functions to be performed under this Act, means the officer of Customs who is assigned those functions by the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963, and includes any person appointed by the Central Government to discharge the functions of a proper officer under this Act.] <sup>7</sup>[(hha) "ship" includes a sailing vessels]. (i) Words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the <sup>8</sup> [Merchant Shipping Act, 1958.]

1. Clause (a) omitted by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 4(i) (15-4-1976).

2. Substituted for the words "Governor-General in Council" A.O.,

1937.

3. The Central Government has declared the lighthouse at Short Island in the Orissa State to be a general lighthouse for the purposes of this Act with effect from 1-1-1960; see Notification No. S.O. 2842, dated 18-12-1959, Gaz. of India, 26-12-1959, ft. II, S. 3(ii), p. 3509.

4. Substituted for the words "Provincial Government" by A.L.O., 1950.

5. The word "and" omitted by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 4(ii) (15-4-1976).

6. Inserted by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 4(iii) (15-4-1976).

7. Inserted, by the Indian Lighthouse (Amendment) Act, (66 of 1986), section 2(l-2-1986).

8. Substituted for the words "Indian Merchant Shipping Act, 1923" by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 4(iv) (15-4-1976).

### **3. Appointment of officers :-**

The <sup>1</sup>[Central Government] may, by notification in the <sup>1</sup>[Official Gazette],- (a) define areas to be districts for the purposes of this Act; <sup>3</sup> [(b) appoint persons to be the Director of Lighthouses and Lightships in each district; (c) appoint persons to be Deputy Directors-General of Lighthouses and Lightships; and (d) appoint a person to be the Director-General of Lighthouses and Lightships. "We are of opinion that the administration and control of lighthouses would be more efficient if the technical staff at Inspectors were placed at the disposal of the Chief Inspector of Lighthouses at his own headquarters, so that he will be in a position to send the most suitable man for a particular piece of work; and to concentrate his staff where required. For this purpose, it is suggested that the District Inspectors should be called "Inspectors" and that their powers should not be confined to a particular district. We have amended clause 3 accordingly, and have made consequential amendments in clauses 6 and 21."~S.C.R.

1. Substituted for "Governor-General in Council" by A.O., 1937.

3. Substituted for "Gazette of India": by A.O., 1937

### **4. Advisory Committees :-**

(1) The <sup>1</sup>[Central Government] shall appoint a Central Advisory Committee and shall consult it in regard to- (a) the erection or position of lighthouses or of any works appertaining thereto; (b) additions to, or the alteration or removal of, lighthouses; (c) the

variation of the character of any lighthouse or of the mode of use thereof; (d) the cost of any proposals relating to lighthouses; or (e) the making or alteration of any rules or rates, of dues under this Act.

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

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

<sup>2</sup> [(4) No act or proceeding of the Advisory Committee shall be invalidated merely by reason of-

(a) any vacancy in. or any defect in constitution of, the Advisory Committee;

(b) any defect in appointment of a person acting as a member of the Advisory Committee; or

(c) any irregularity in the procedure of the Advisory Committee not affecting the merits of the case.]

"Sub-clause (1), as drafted, would make it optional on the Governor-General in Council to consult the Central Advisory Committee, and, as we understand that it is the Governor-General in Council's intention invariably to consult the Committee on the matters specified in this sub-clause, we have made an amendment to give effect to the real intention. The question of inserting a provision requiring that the advice of the Central Advisory Committee should always be accepted was discussed and we strongly recommend to Government that its advice should in all ordinary cases be accepted.-S.C.R.

1. Substituted for the words "Governor-General in Council" by A.O., 1937.

2. Inserted by Lighthouse (Amendment) Act (66 of 1985), section 4 (1-2-1986).

## **5. Management of general lighthouses by the Central Government and delegation of management :-**

( 1 ) The superintendence and management of all general lighthouses are vested in the <sup>1</sup>[Central Government].

(2) The <sup>1</sup>[Central Government] may require any local lighthouse

authority to undertake the superintendence and management of any general lighthouse situated in or adjacent to the local limits within which the authority exercises its powers, and shall pay to the authority such sums to defray the cost of superintendence and management as the <sup>1</sup> [Central Government] may determine.

1. Substituted for the words "Governor-General in Council" by A.O" 1937.

#### **6. Power to inspect local lighthouses :-**

(1) The <sup>1</sup>[Director-General of Lighthouses and Lightships] may, at any time, and any <sup>2</sup>[Director or Deputy Director-General of Lighthouses and Lightships] may, if authorised in this behalf by a general or special order in writing of the <sup>1</sup>[Central Government], enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit.

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

(3) Every local lighthouse authority shall furnish to the <sup>2</sup>[Central Government] all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as the <sup>2</sup> [Central Government] may require.

1. Substituted for "Governor-General in Council" by A.O., 1937.

2. Substituted for the words "Chief Inspector of Lighthouses" and "Superintendent or Inspector of Lighthouses" by Lighthouse (Amendment) Act (66 of 1985), section 5 (1-2-1986).

#### **7. Control of local lighthouses by the Central Government :-**

(1) If, after an inspection under section 6 or such other inquiry as <sup>1</sup>[it] thinks fit, the <sup>2</sup>[Central Government] is satisfied that a direction under this sub-section is necessary or expedient for the safety, or otherwise in the interest, of shipping <sup>2</sup>[it] may direct any local lighthouse authority-

(a) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the

character or mode of use of any such lighthouse, or

(b) to erect, place or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within which the local lighthouse authority exercises its powers.

(2) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the <sup>1</sup>[Central Government] at least one month's notice in writing of its intention so to do:

Provided that, in cases of emergency, a local lighthouse authority may take such action as it deems necessary and shall give immediate notice of the same to the <sup>2</sup>[Central Government] and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse,

(3) If a local lighthouse authority-

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

(b) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or

(c) fails to make adequate financial provision for the performance of any such duty, the <sup>1</sup>[Central Government] may, by order in writing, require the local lighthouse authority to comply with the direction, or to make arrangements to the <sup>2</sup>[satisfaction of the Central Government] for the proper exercise of the power, or performance of the duty, or to make financial provision to the <sup>1</sup>[satisfaction of the Central Government] for the performance of the duty, as the case may be, within such period as <sup>2</sup>[the Central Government] may specify.

(4) If the local lighthouse authority fails to comply with an order made under sub-section (3) within the specified period or within such further time as the <sup>10</sup>[Central Government] may allow, the <sup>2</sup>[Central Government] may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the <sup>12</sup>[Central Government] any expenditure incurred by <sup>1</sup> [it] in so

doing.

1. Substituted for "Governor-General in Council" by A.O., 1937.
2. Substituted for "he", by A.O., 1937.
10. Substituted for the words "his satisfaction," by A.O., 1937.
12. Substituted for "him" by A.O., 1937.

### **8. Management of local lighthouses by the Central Government :-**

The <sup>1</sup>[Central Government] may, at the request of a local lighthouse authority, undertake the superintendence and management of any local lighthouse on its behalf, and the local lighthouse authority shall pay to the <sup>1</sup> [Central Government] such sums to defray the cost of superintendence and management as may be agreed.

1. Substituted for "Governor-General in Council" by A.O., 1937.

### **8A. Power of Central Government to prohibit lights and regulate heights of buildings, structures and trees :-**

(1) If the Central Government is of opinion that it is necessary or expedient so to do for unobstructed" functioning of any lighthouse, it may, by notification in the Official Gazette, direct that,-

(i) no light shall be established without prior permission of the Central Government in case of general lighthouse and without the prior permission of the local of the local lighthouse authority in case of local lighthouse on any land within such radius, not exceeding one kilometre from the lighthouse, as may be specified in the notification; and

(ii) no building or structure higher than such height as may be specified in the notification shall be constructed .or erected, or no tree, which is likely to grow or ordinarily grows higher than such height as may be specified in the notification, shall be planted, on any land within such radius, not exceeding one kilometre from the lighthouse, as may be specified in the notification.

(2) Where any light has been established without or contrary to the permission referred to in clause (i) of sub-section ( 1 ), the Central Government or the local lighthouse authority, as the case may be, may, in addition to any other action that may be taken under this Act, make an order directing that such light shall be removed by the owner or the person having control of the light, within such period as may be specified in such order.

(3), Where any building or structure has been constructed or erected or any tree has been planted in contravention of the directions contained in clause (ii) of sub-section (1), the Central Government or the local lighthouse authority, as the case may be, may, in addition to any other action that may be taken under this Act make an order directing that the height of such building or structure or tree shall be reduced to the extent specified in such notification, by the owner or the person having control of the building or structure or the tree, as the case may be, within such period as may be specified in such order.

(4) No order under sub-section (2) or sub-section (3) shall be made unless the owner or the person has been given, by means of a notice, a reasonable opportunity of showing cause why such order shall not be made,

(5) If any person fails to remove the light in pursuance of direction contained in the order issued under sub-section (2) or reduce the height of the building, structure or tree in pursuance of any direction contained in the order issued under sub-section (3), within the period specified in such order, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the Central Government or the local lighthouse authority, as the case may be, in this behalf to remove such light or to reduce the height of such building, structure or tree and the expenses of such removal or reduction shall be recoverable from such person as a land revenue.

(6) The orders referred to in sub-sections (2) and (3) and the notice referred to in sub-section (4) shall be served on the owner or the person having the control of the light, building, structure or tree, as the case may be,-

(i) by delivering or tendering it to such owner or person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain, or failing service by these means;

(iii) by post.

(7) If any person wilfully fails to comply with any direction contained in any notification issued under sub-section(1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(8) Every notification issued by the Central Government under sub-section (1) shall be laid, as soon as may be after it is published in the Official Gazette, before each House of Parliament, while it is in session, for a total period of thirty days which maybe comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the notification.]

**9. Levy and collection of light-duty :-**

for the purpose of providing or maintaining or of providing and maintaining lighthouses for the benefit of ships voyaging to or from <sup>1</sup>[India] or between ports in <sup>1</sup>[India], the <sup>3</sup>[Central Government] shall, subject to the provisions of this Act, cause light -dues to be levied and collected in respect of every ship arriving at or departing from any port in <sup>1</sup> [India].

1. Substituted for the words "the Provinces by A.L.O., 1950

3. Substituted for the words "Governor-General in Council" by A.O.; 1937.

**10. Rates of light-dues leviable :-**

<sup>1</sup>[(1) The Central Government may, by notification in the Official Gazette, prescribe such rates, as it may deem necessary to provide for the purpose mentioned in section 9, at which light-dues shall be payable, and may prescribe different rates for different classes of ships or sailing vessels, or for ships or sailing vessels of the same class when in use for different purposes or in different circumstances.]

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

from, any port in <sup>1</sup>[India]:

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

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

<sup>1</sup> [(4) Every notification issued by the Central Government under sub-section (1) shall be laid, as soon as may be after it is published in the Official Gazette, before, each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the notification.]

"In sub-clause (2) we have made a small amendment in order to give greater precisions to the date from which tht period of thirty days shall run in the case of dues paid on departure. We have also added a third sub-clause which will provide that foreign shipping will have notice of any alteration in the scale of light-dues.\* \* \* "- S.C.R.

1. Substituted for "Gazette of India" by A.O., 1937.

3. Substituted for "the Provinces" by A.L.O., 1950.

### **11. Receipts for light-dues :-**

Light-dues shall be paid to the <sup>1</sup> [proper officer] who shall grant to the person paying the same a receipt in writing specifying-

(a) the port at which the dues have been paid;

(b) the amount of the payment;

(c) the date on which the dues became payable; and

(d) the name, tonnage and other proper description of the ship in respect of which the payment is made.

1. Substituted for "Customs Collector" by the Indian Lighthouse

(Amendment) Act, 1976 (37 of 1976), section 3 (15-4-1976).

## **12. Ascertainment of tonnage :-**

**1**[(1) For the purposes of levy of light-dues, the tonnage of a ship or sailing vessel shall be reckoned as under the Merchant Shipping Act, 1958 for dues payable on a ship's tonnage including the tonnage of any space added under the said Act to the tonnage of ships by reason of such space being utilised for carrying cargo.]

(2) In order to ascertain the tonnage of any ship for the purpose of levying light-dues, the **2**[proper officer] may-

**3**[(a) if the ship is registered under any law for the time being in force in India or under the law of any country, other than India, being a country the ships of which are recognised or accepted by the Central Government to be of the tonnage denoted in their certificates of registry or other national papers under any order Made under any enactment repealed by sub-section (1) of Section 461 of the Merchant Shipping Act, 1958 , and continued in force under clause-(a) of sub-section (3) of that section or Under any rule made under clause (b) of sub-section (2) of section 74 of the said Act (any such ship being hereafter in this section referred to as registered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same. for inspection and if such owner, master or other person refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the-proper officer as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained; or

(b) if the ship is not a registered ship and the owner or master fails to satisfy the **1**[proper officer] as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to the such mode.

(3) If any person refuses or neglects to produce any register or other appers or otherwise to satisfy the **2** [proper officer] as to-the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage, and, if the ship is a registered ship, shall further on conviction by a Presidency

Magistrate or Magistrate of the first class having jurisdiction in the port where the ship lies or in any port to which she may proceed, be punishable with fine which may extend to one thousand rupees.

1. Sub-section (1) substituted by the Lighthouse (Amendment) Act, (66 of 1985), section 8 (1-2-1986).

2. Substituted for "Customs Collector" by the Lighthouse (Amendment) Act, (37 of 1976), section 3.

3. Substituted for clause (a) by the Lighthouse (Amendment) Act, section 6(ii).

### **13. Recovery of light-dues, expenses and costs :-**

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

(2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the <sup>1</sup>[proper officer] may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

1. Substituted for the words "Customs Collector" by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 3 (15-4-1976).

### **14. Refusal of port-clearance :-**

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

### **15. Determination of disputes as to liability for payment :-**

If any dispute arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Act or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by a Presidency Magistrate or Magistrate

of the first class having jurisdiction at the place where the dispute arises, and the decision of such Magistrate shall be final.

**16. Light-dues payable at one port recoverable at another :-**

(1) If the master of any ship in respect of which any light-dues are payable at any port, cause the ship to leave such port without having paid the same, the <sup>1</sup>[proper officer] at that port may by writing require the <sup>1</sup>[proper officer] at any port in <sup>3</sup>[India] to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

(2) Any <sup>1</sup>[proper officer] to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Act at the port at which he is the <sup>1</sup>[proper officer], and a certificate by the <sup>1</sup> [proper officer] at the port at which the light-dues first became payable stating the amount payable, shall be sufficient proof in any proceeding under section 13 or section 15 that such amount is payable.

1. Substituted for the words "Customs Collector" by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 3 (15-4-1976).

3. Substituted for the words, "the Provinces" by A.L.O., 1950.

**17. Penalty for evading payment of light-dues :-**

(1) If the owner or master of a ship evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Act, he shall, on conviction by a Presidency Magistrate or Magistrate of the first class having jurisdiction in any port to which the vessel may proceed or in which she may be found, be punishable with fine which may extend to five times the amount of the sum payable.

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

**18. Exemption from payment of light-dues :-**

The following ships shall be exempted from the payment of light-

dues under this Act, namely:-

(a) any ship belonging to <sup>1</sup>[Government] <sup>2</sup>[\* \* \*] or to a foreign Prince or State and not carrying cargo or passengers for freight or fares; and

(b) any ship of a tonnage of less than fifty tons; and the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup> [Official Gazette], exempt any other ships, or classes of ships or ships performing specified voyages from such payment, either wholly, or to such extent only as may be specified in the notification,

1. Substituted for "His Majesty" by A.I..O., 1950.
2. The words "or the Government" were omitted by the A.O., 1937.
3. Substituted for, "Governor-General in Council" by A.O., 1937.
4. Substituted for "Gazette of India," by A.O., 1937.

**19. Refund of excess payments :-**

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

**19A. Fees :-**

Fees may be charged for providing assistance to ships for calibrating their Wireless Direction Finders and for rendering other services to vessels, at such rates the Central Government may specify in the rules made under this Act.]

**20. Accounts, etc :-**

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

(2) The <sup>1</sup> [Central Government] shall cause to be laid before the Central Advisory Committee before the close of each financial year a statement of the estimated receipts under, and expenditure for the purposes of, this Act during the forthcoming year.

1. Substituted for the words "Governor-General in Council" by A.O., 1937.

**20A. OMITTED :-**

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## **21. Power to make rules :-**

(1) The <sup>1</sup>[Central Government <sup>2</sup>[may, by notification in the Official Gazette, make rules] consistent with this Act to carry into effect the purposes thereof.

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

<sup>3</sup>[(a) the powers and duties of the Director-General of Lighthouses and Lightships and Directors and Deputy Directors-General of Lighthouses and Lightships.]

(b) the procedure and conduct of business of Advisory Committees constituted under this Act; <sup>4</sup>[(bb) the manner in which the light may be removed and the light of the building, structure or tree may be reduced under sub-section (5) of section 8A ;

(c) the rate of travelling and subsistence allowance payable to members of Advisory Committees; <sup>5</sup>[xx]. <sup>6</sup>[(cc) the rates of fees for providing assistance to ships for calibrating their Wireless Direction Finders and for rendering other services to vessels;]

(d) the period in respect of which and the form in which the separate account referred to in sub-section (1) of section 20 shall be kept and the forms in which that account and the statement referred to in sub-section (2) of that section shall respectively be presented to the Central Advisory Committee.

<sup>6</sup> [(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Substituted for "Governor-General in Council" by A.O., 1937.
2. Substituted for the words "may make rules" by the Indian Lighthouse (Amendment) Act, 1976 (37 of 1976), section 21(i) (15-4-1976).
3. Substituted by Lighthouse (Amendment) Act (66 of 1985), section 9 (1-2-1986).
4. Inserted, by the Indian Lighthouse (Amendment) Act.
5. Omitted by the Indian Lighthouse (Amendment) Act, section 21(ii)(a).
6. Inserted by the Indian Lighthouse (Amendment) Act, section 21(ii)(b) and (c). ;

**22. Omitted :-**

Repealed by the Repealing Act, 1938 (1 of 1938), section 2 and Schedule.]

SCHEDULE 1

THE SCHEDULE

.- [Repealed by the Repealing Act, 1938 (1 of 1938), section 2 and Schedule.]
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