CHAPTER 352

PORTS AND SHIPPING ACT

To provide for the establishment of ports in Malta, for the registration and licensing of boats and ships and to regulate the use thereof within the territorial waters of Malta and to establish fees and dues and other matters ancillary to shipping.

2nd August, 1991;
1st January, 1992
1st May, 1993

ACT XVII of 1991 as amended by Acts: XV and XXIV of 1995, XIV and XVI of 1997; Legal Notice 141 of 1998; Acts XXIII of 2000, VII of 2004 and XXXII of 2007; Legal Notice 425 of 2007; and Act XV of 2009.

ARRANGEMENT OF ACT

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SCHEDULE

PART I

Preliminary

Short title.
Amended by:
XV. 2009.52.

1. The short title of this Act is the Ports and Shipping Act.

Interpretation.
Amended by:
XXXII. 2007.12;
XV. 2009.52.
Cap. 499.

2. In this Act, unless the context otherwise requires -

"the Authority" means the Authority for Transport in Malta established under the Authority for Transport in Malta Act;

"boat" means a small water craft, propelled by oars, sails, engines or other methods;

"charges" means the charges that may be levied under article 14;

"contractor" means a person acting in pursuance of an agreement entered into with the Authority in pursuance of article 10(2) of the Authority for Transport in Malta Act;

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"dues" means the dues that may be levied under article 14;

"fees" means the fees that may be levied under article 14;

"fishing vessel" means a vessel being used or registered to be used or, in the case of an application for registration, intended to be used, for, or in connection with, fishing;

"goods" includes baggage, animals (whether alive or dead) and other movable property of any kind whatsoever;

"laid-up vessel" means a vessel which is in any port and which is not regularly used in accordance with the uses proper for such type of vessel for a period exceeding fourteen days; and for the purpose of this definition "vessel" includes a floating dock, a floating crane, salvage or lifting equipment, whether afloat, submerged or mounted on any sea-craft, and a lighter, whether propelled by mechanical means or otherwise or towed, but does not include any boat or sea-craft, used solely for pleasure or in the fishing industry, or any vessel which is in any port to undergo repairs:

Provided that the Authority may, for the purposes of this definition, at its discretion, declare that a boat or sea-craft is not being used solely for pleasure or in the fishing industry, or that a vessel is not undergoing repairs, and any such vessel shall be treated as a laid-up vessel;

"master", when used in relation to any ship, means the person having command or charge of the ship for the time being, but does not include a pilot;

"Minister" means the Minister responsible for transport;

"officer" and "employee" in relation to the Authority includes a public officer detailed for duty with the Authority;

"owner" in relation to a ship includes the charterer or operator of the ship;

"port" means the place declared to be a port by or under article 3, and includes wherever appropriate a yachting centre unless a separate provision is made in respect of such centre;

"prescribed" means prescribed under this Act;

"public officer" has the same meaning as is assigned to it by article 124 of the Constitution;

"rates" means the rates that may be levied under article 14;

"ship" means every description of vessel used in navigation, whether self propelled or not, and it includes barges, oil rigs, pontoons, seaplanes, and any other craft and similar vessels;

"territorial waters" means all parts of the open sea within twelve nautical miles of the coast of Malta, or such other distance as may be established under article 3 of the Territorial Waters and Contiguous Zone Act, measured as in that Act provided, and includes any waters enclosed between the base lines therein mentioned and the coast; Cap. 226.

"vehicle" means any vehicle other than a ship;

"warehouse" means any shed, building, place, wagon, ship or vehicle when used by the Authority, or a contractor for the purpose of warehousing or depositing goods for the purposes of this Act;

"yacht" means a registered sea going ship used solely for pleasure and accepted as such by the Authority;

"yachting centre" means such place as is declared to be a yachting centre by or under article 3.

PART II

Declaration and Regulation of Ports

Declaration of ports. *Amended by: XV. 2009.52.*

3. (1) The Minister may, after consultation with the Authority, by order -

(*a*) declare any place together with any land area in Malta to be a port, or a yachting centre, within the meaning of this Act;

(*b*) establish the limits of any place declared to be a port, or yachting centre in accordance with paragraph (*a*) of this subarticle;

(*c*) declare any navigable water or land area to be an approach to a port or yachting centre, within the meaning of this Act.

(2) Without prejudice to the other provisions of this article the places specified in Part I and II of the Schedule to this Act are hereby declared to be ports; the places specified in Part III of the said Schedule are hereby declared to be compulsory pilotage ports and the places specified in Part IV of the said Schedule are hereby declared to be yachting centres.

(3) Without prejudice to his powers of revoking, varying or substituting any order made under this article, the Minister may also, after consultation with the Authority, by order revoke, vary or substitute the Schedule to this Act.

Registration and licensing of boats and ships with and by the Authority.
Amended by: XXIII. 2000.30' XV. 2009.52.
Cap. 234.

4. (1) No boat or ship shall be used in the territorial or inland waters of Malta unless such boat or ship is registered with the Authority in a Small Ships Register established in terms of regulations made under this article, or unless such boat or ship is registered under the Merchant Shipping Act, or unless such boat or ship is registered or documented to the satisfaction of the Authority under the law of any country other than Malta.

(2) No boat or ship shall be used for or in connection with any trade, business or calling in the territorial and inland waters of Malta -

(*a*) unless such boat or ship is duly licensed by the Authority for that specific trade, business or calling; or

(*b*) unless, when such boat or ship is being used as a fishing vessel, it is licensed for such purpose by the Minister responsible for fisheries.

(3) The Minister may make regulations:

(*a*) regulating the mode of registration of any boat or ship in a Small Ships Register mentioned in subarticle (1);

(*b*) prescribing the requirements that have to be satisfied for such registration, including its renewal and termination;

(*c*) prescribing without prejudice to the generality of this subarticle, the fees payable upon such registration and for any service in respect thereof;

(*d*) prescribing the requirements for the use of any boat or ship in the territorial and inland waters of Malta, and for the use of any boat or ship registered in the Small Ships Register provided for in this article; and

(*e*) regulating the use of any boat or ship in the territorial and inland waters of Malta;

(*f*) regulating -

(i) the services that are to be provided in a ship or boat licensed to be used in any trade, business or calling; and

(ii) the services that may or may not be provided under any licence as aforesaid;

(*g*) regulating the licensing of any trade business or calling involving the use of boats or ships referred to in subsection (2).

Information to be supplied on arrival of ship.
Amended by: XV. 2009.52.

5. The master of any ship arriving at Malta from any place beyond the seas shall produce to the Authority -

(*a*) the ship's register and the ship's papers;

(*b*) the manifest in duplicate of all cargo to be unshipped at Malta;

and shall also supply to the Authority such other information in relation to the ship and to the passengers, animals and cargo thereof as may be prescribed, and any information of a similar kind as the

Authority in its discretion may require.

Information to be given before proceeding outwards. *Amended by: XV. 2009.52.*

6. (1) Before applying for outward clearance from a port in accordance with the provisions of this Act and of any other law in force from time to time, the master of a ship shall produce to the Authority -

(*a*) a statement containing the number of passengers embarked in Malta;

(*b*) an account in writing of the kinds, quantities, weights and measurement of cargo landed or loaded in Malta;

and shall also supply to the Authority such other information relating to the ship and to the passengers, animals and cargo thereof, as may be prescribed or as the Authority in its discretion may require:

Provided that the master of a ship may be exempt from such duties where the owner or agent, or the representative of the owner of the ship guarantees to the satisfaction of the Authority that he will discharge such duties in lieu of such master within such time and under such conditions as may be prescribed or as the Authority may determine.

(2) The particulars required under subarticle (1) shall be produced or supplied in such form, in such number of copies and within such time as may be prescribed or as the Authority may require.

Information in respect of goods presented for shipment or warehousing. *Amended by: XV. 2009.52.*

7. (1) Any person presenting goods to the Authority or to a contractor for shipment or warehousing, or claiming the delivery of goods from a warehouse shall supply such information in relation to the goods as may be prescribed or as the Authority or the contractor may require.

(2) The particulars required under subarticle (1) shall be produced or supplied in such form and within such time as may be prescribed or as the Authority or the contractor may determine.

(3) Where the production of documents for the withdrawal of goods from warehouse is prescribed under this Act for the purposes of this article, the Authority or the contractor shall be relieved of all responsibility in respect of the delivery of the goods if the Authority or the contractor delivers the goods to which the documents relate to the person presenting such documents.

Ship in port to be properly manned. *Amended by: XV. 2009.52.*

8. The master and the agents of a ship shall be responsible to ensure that the ship is at all times while she is in port properly manned as required by the Authority:

Provided that the Authority may, in writing and under such conditions as it may deem appropriate, allow a ship in port to be manned by a reduced crew.

Laying-up of ship. *Amended by: XV. 2009.52.*

9. (1) The master, owner or agent of a ship, shall not lay up such ship or retain unduly a ship in a port except with the prior written permission of the Authority.

(2) In granting such permission the Authority may make such

conditions as it may deem appropriate and in particular may specify the time during which such ship be so laid up.

(3) Upon the expiry of such time, or on any contravention or non-compliance with any such condition as aforesaid, the permission granted by the Authority shall lapse, subject to the Authority renewing any such permission.

(4) The Authority may, upon giving not less than three days' notice cancel any permission granted under this article.

Laid-up ship. *Amended by: XXIV.1995.362; XV. 2009.52.*

10. (1) The Authority may direct any ship laid up in a port in Malta without permission to leave such port within such time as it may establish.

(2) It shall be the responsibility of the master, owner or agent of the ship, to comply with any direction given as aforesaid.

(3) Notwithstanding any other provision of law, a laid-up ship in any port in Malta shall, after being directed to leave, be liable to be sold as provided in this article.

(4) Upon fourteen days' notice to the master of the ship, the Authority may apply to the Civil Court, First Hall, for an order that the ship be sold judicially; and the judicial sale shall be held within forty-five days from the date on which the order of the court is made.

Security to cover dues, rates, etc. *Amended by: XV. 2009.52.*

11. The master, owner or agent of a ship, may severally, or jointly and severally, be required to produce such security to cover dues, rates, charges, fees or expenses due to the Authority in respect of such ship to such amount as the Authority may require.

Powers of Authority exercisable notwithstanding warrant. *Amended by: XV. 2009.52.*

12. The powers conferred by this Act on the Authority in respect of laid-up ships may be exercised by the Authority notwithstanding any warrant issued by any court in respect of the ship over which those powers are exercised, so however that where a warrant is issued in respect of that ship, such powers may only be exercised if the Minister declares that such exercise is necessary in the national interest; and such declaration by the Minister may not be challenged in any court.

Agent may not relinquish agency. *Amended by: XV. 2009.52.*

13. A ship agent, who has performed any act in respect of the ship required to be performed by any of the provisions of this Act or who has incurred or has made any payment or entered into any liability in respect of a ship in any port, shall for the purposes of this Act be deemed to be the agent of the ship, during the time such ship remains in Malta:

Provided that the said ship agent shall no longer be deemed the agent of the ship as aforesaid if the ship owner has replaced the said ship agent, and has appointed another ship agent to represent the ship whilst the said ship is still in Malta, in which case, the ship agent so replaced shall no longer be deemed to be the agent of the ship from the date of the appointment of the subsequent ship agent by the ship owner.

PART III

Port Dues, Charges and Rates

Levy of dues, etc.
Amended by: XV. 2009.52.

14. (1) The Authority shall levy the dues, rates, charges and fees which may from time to time be prescribed.

(2) The following persons shall be liable for the payment of any dues, charges or fees levied under this Act:

(*a*) the master or owner of the ship;

(*b*) the agent of the ship, who shall have paid or made himself liable to pay any charge on account of such ship:

Provided that the ship agent's liability for such charges shall not exceed a maximum of the amount up to which the agent enjoys a privilege under article 50 of the Merchant Shipping Act. Cap. 234.

(3) Where any dues, charges or fees levied under this article are paid by the agent or representative made liable for payment by subarticle (2)(*b*), such agent or representative may retain out of any moneys in his hands received on account of the ship, or the owner thereof, the amount paid by him together with any reasonable expense he may have incurred by reason of such payment or liability.

Lien or privilege in respect of rates.
Amended by: XV. 2009.52.

15. (1) For the amount of all rates leviable under this Act in respect of any goods, the Authority shall have a lien or privilege on such goods and shall be entitled to seize and detain the same until such rates are paid in full.

(2) Rates in respect of goods to be landed shall become payable immediately on the landing of such goods.

(3) Rates in respect of goods to be removed from warehouses, or to be shipped by sea, shall be payable before such goods are removed or loaded, as the case may be:

Provided that for the purpose of preventing delay, the Authority may allow goods to be placed on a ship before such rates are paid, and in such cases the Authority shall retain the ship's receipts as security for the payment of such rates.

(4) The lien or privilege for such rates shall have priority over all other privileges and hypothecs on the goods and a claim in respect of such rates shall be paid in preference to all other claims, whether privileged or hypothecary, on such goods notwithstanding any other provision of law to the contrary.

Lien for freight and other charges. *Amended by: XV. 2009.52.*

16. (1) If the master or owner of a ship or an agent or representative of any such person, or the person by whom the goods are landed, gives reasonable notice in writing to the Authority that any goods that are about to be landed or have been landed at any warehouse are subject to a lien or privilege for freight, general average, or charges to an amount mentioned in such notice, the Authority may retain such goods, at the risk and expense of the owner of the goods, until the lien or privilege is discharged as hereinafter mentioned or until it is entitled, under the provisions hereinafter specified, to sell them, or until the goods are transferred to a Government warehouse as defined in the Customs Ordinance in accordance with the provisions of that Ordinance.

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(2) Nothing in this article shall be construed as requiring the Authority or a contractor, as the case may be, to take into custody any goods which the Authority or the contractor may refuse to accept under the provisions of this Act, or as requiring the Authority to inquire into the validity of any claim made in any notice given under subarticle (1).

Discharge of lien. *Amended by: XV. 2009.52.*

17. Upon production to the Authority of a document purporting to be a receipt for the amount claimed as due, or a release for the amount of any lien or privilege to which goods are liable under article 15 from the person by whom or on whose behalf notice has been given, the Authority may permit such goods to be removed without regard to the lien or privilege, provided the Authority has used reasonable care in establishing the authenticity of such document.

Power of Authority to sell goods. *Amended by: XV. 2009.52.*

18. (1) Notwithstanding any lien or privilege mentioned in articles 15 and 16, if the rates payable to the Authority in respect of any goods are not paid, the Authority may, after the expiration of ninety days from the time the goods were placed in its custody or that of the contractor, or if the goods are of a perishable nature after such earlier period, not being less than twenty-four hours, after the landing of the goods, as the Authority considers appropriate, sell by public auction the said goods or so much as is necessary to meet the expenses, and pay the rates and other claims hereinafter directed to be paid out of the proceeds of such sale.

(2) Before making such sale ten days' notice of the same shall be given in the Gazette unless the goods are of so perishable a nature as, in the opinion of the Authority, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case requires.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents delivered to the Authority, or is otherwise known, and such address is in Malta notice shall also be given to the owner of such goods by letter delivered at such address or sent by post; but the title of a *bona fide* purchaser shall not be invalidated by reason of the omission to send the said notice, nor shall such purchaser be required to inquire whether such notice has been sent.

(4) If at the auction held under this article any of the goods remain unsold, the Authority shall dispose of them in such manner

as it deems fit.

Application of proceeds for sale. *Amended by: XV. 2009.52.*

19. (1) The proceeds of any sale or disposal of goods in accordance with article 18, shall be applied as follows and in the following order:

(*a*) in payment of the expenses of the sale or disposal;

(*b*) in payment of the rates and expenses due to the Authority in respect of the goods;

(*c*) in payment of the freight and other claims or lien or privilege of which notice has been given under article 16;

(*d*) in payment of any customs or excise duty or levy which may be due on the goods;

and any surplus, if any, shall be paid to the owner of the goods on demand:

Provided that where the proceeds of any such sale or disposal are not sufficient to cover the duties or levies referred to in paragraph (*d*) hereof, the said sale or disposal shall still be proceeded with and the said duties or levies shall be deemed to be reduced to such sum, if any, as remains for the payment thereof.

(2) If no such demand as aforesaid is made within one year from the sale of goods, the surplus shall be retained by the Authority, and thereupon all rights of the owner to the same shall be extinguished.

Clearance to be withheld until rates are paid. *Amended by: XV. 2009.52.*

20. If any amount in respect of dues, rates, fees or other charges leviable in accordance with the provisions of this Act against any ship is outstanding, then, at the request of the Authority, such ship shall not be given any discharge or clearance outwards under the Customs Ordinance until -

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(*a*) the amount of such dues, rates, charges or fees has been paid; or

(*b*) security has been given to the satisfaction of the Authority for the payment thereof.

Authority may board ship. *Substituted by: XV. 2009.52.*

21. The Authority may authorize any of its officers and employees or any other person to board any ship, within or outside a port, to establish the proper amount payable in respect of such ship.

Weighing and measuring of goods in case of dispute. *Amended by: XV. 2009.52.*

22. If any differences arise between the Authority and the master or owner of a ship, or the owner of any goods, or the agent of any such person as aforesaid, concerning the weight or measurement of the goods in respect of which any dues, rates or charges are payable, the Authority shall cause all such goods to be weighed or measured and may, if it deems it so expedient, detain the ship from which such goods have been discharged until they have been weighed or measured.

Payment of expenses of weighing or measuring. *Amended by: XV. 2009.52.*

23. (1) If the weight or measurement of such goods proves to be more than that shown by the particulars delivered by the master or the owner of the goods, or the agent of any such person in accordance with articles 5, 6 and 7, the expenses of such weighing or measuring shall be paid to the Authority by the master of the ship, or the owner of the goods, or the agent of any such person, in accordance with the provisions of this Act and shall be recoverable in the same manner as dues, rates or charges leviable under this Act.

(2) If the weight or measurements of such goods proves to be the same as, or less than, that shown by the particulars delivered as aforesaid, the Authority shall bear all the expenses of such weighing or measuring.

Order restraining ship. *Substituted by: XV. 2009.52.*

24. (1) Without prejudice to any other remedy allowed by law, if the master of a ship in respect of which dues, rates or charges leviable under this Act are payable refuses or neglects to pay such dues, rates or charges on demand, the Authority may issue an order restraining such ship from sailing.

(2) Such dues, rates or charges, which are certain, liquid and due, and which are leviable under this Act shall, following the issue of an order by the Authority restraining such ship from sailing, constitute and be deemed to be an executive title in favour of the Authority, enforceable solely against the said ship, for the purposes of article 253 of the Code of Organization and Civil Procedure.

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Indemnity where goods are claimed by more than one person. *Amended by: XV. 2009.52.*

25. Where -

(*a*) any goods or the proceeds of the sale or disposal of any goods are in the possession of the Authority or a contractor 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 or of a contractor does not produce the documents, showing that he is entitled to take delivery thereof,

the Authority or the contractor may withhold delivery of such goods or proceeds until the person appearing to the Authority or the contractor to be entitled thereto has given an indemnity to the satisfaction of the Authority and the contractor against the claims that may be advanced by any other person with respect to such goods or proceeds.

Other rights of the Authority. *Amended by: XV. 2009.52.*

26. Notwithstanding anything contained in this Act, the Authority may take any judicial action under any other law for the recovery of any dues, rates, charges, expenses, costs and other debts or, in the case of sale, to recover the balance thereof when the proceeds of the sale are insufficient.

Power to make regulations to levy dues, charges or fees. *Amended by: XV. 2009.52.*

27. (1) Subject to the provisions of this Act, the Minister may, after consultation with the Authority, make regulations -

(*a*) for the levying of dues, charges or fees upon any ship, that is to say -

(i) dues, charges or fees in respect of ships entering or leaving a port, or being within a port or in the territorial waters of Malta;

(ii) port dues, charges or fees in respect of passengers, animals or cargo carried by any ship;

(iii) pilotage, lighting, mooring, buoyage, anchorage or accostage dues or other dues, charges or fees on ships;

(*b*) for the levying of any charges or of rates for the use of any works, appliances or equipment provided or any service performed or to be performed in respect of any ship or of any goods, by the Authority or by a contractor, and without prejudice to the generality of the foregoing, for any of the following:

(i) the landing, shipping, wharfage, craneage, storage, carriage or demurrage of goods discharged from, or loaded on, or presented for loading on, any ship;

(ii) the use by any ship, or person of any wharf, quay, pier, dock, landing place or other facility or installation owned by the Authority or over which it exercises authority;

(iii) the use of any gear, tackle, tools, instruments, equipment, staging or vehicles supplied by the Authority or by a contractor;

(iv) the use of any ship or lighter, or any engine, boat or vehicle, or of any appliance for the extinction of fire owned or administered by or in the possession of the Authority or a contractor;

(v) the towing of, the rendering assistance and service to, any ship, in any place;

(vi) for the supply of water to any ship by the Authority or by a contractor;

(vii) the charges or rates payable by consignees, consigors or shippers of goods to persons undertaking the unloading, landing, loading, shipping, or handling of goods between ship's hold or deck and rail, ramp, door or ship's tackle or any wharf or other place appointed for the purpose or between ship's rail, ramp, door or ship's tackle and any wharf;

(*c*) conferring power on the Authority to assimilate for any of the purposes of article 14, any work, service or facility which is not specifically mentioned in any regulations made under this subarticle to those specifically mentioned in such regulations with which, in the opinion of the Authority, they bear an analogy;

(*d*) prescribing the conditions under which any work or service in respect of which a rate or a charge is levied will be performed or provided by the Authority or a

contractor;

(*e*) providing for the exemption of any ship, or class or classes of ships, or any passenger, animal or goods from all or any dues, rates, charges or fees or for the refund or remission thereof, or of part thereof;

(*f*) prescribing fees in respect of any licence or permit issued or given by the Authority under any of the provisions of this Act;

(*g*) prescribing anything that is to be, or may be prescribed, under this Act;

(*h*) generally for giving better effect to any of the provisions of this Act.

(2) For the avoidance of doubt, regulations made under this article may -

(*a*) prescribe different dues, rates, charges or fees for different ports and for yachting centres;

(*b*) prescribe different dues, rates, charges or fees for different classes of ships, or passengers, animals or goods;

(*c*) make provision allowing the Authority to enter into special agreements with respect to any matter referred to in this article in place of any dues, rates, charges or fees leviable under this Act.

Application of this Part.
Amended by: XV. 2009.52.

28. The provisions of this Part of this Act shall apply to goods which are the property of the Government, but shall not apply to -

(*a*) any ship registered in Malta and used exclusively or mainly in the fishing industry or fishing trade;

(*b*) any ship belonging to a foreign Government, provided she does not engage in trade or commerce;

(*c*) seacraft, whether self-propelled or not, below ten gross tons.

PART IV

Legal Proceedings

Limitation of action.
Amended by: XV. 2009.52.

29. Notwithstanding the provisions of any other law, no action shall lie against the Authority or a contractor in relation to their responsibilities under this Act, or for any loss or damage caused to any person, vessel, goods, vehicles or other things whatsoever on board a ship unless -

(*a*) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Authority or the contractor, as the case may be, not later than six months after the date on which the goods were accepted by the Authority or the contractor;

(*b*) the action is commenced within twelve months from the date aforesaid:

Provided that the Authority or the contractor, as the case may be, may extend the period specified in paragraph (*a*) by such further period not exceeding six months as it may deem fit if it is satisfied that the claim could not reasonably have been made within the period specified as aforesaid:

Provided further that the Authority or the contractor, as the case may be, shall not be liable beyond such limits or amounts established by law, or in such circumstances as may be prescribed.

Overcharge or undercharge. *Amended by: XV. 2009.52.*

30. If the amount paid to the Authority or the contractor for any dues, rates, charges or fees due under this Act, is found to be incorrect, then if such amount is -

(*a*) an overcharge, the person who paid the dues, rates, charges or fees shall be entitled to a refund of the amount on the overcharge;

(*b*) an undercharge, the Authority or the contractor shall be entitled to collect the amount of the undercharge from the person who paid the dues, rates, charges or fees:

Provided that, notwithstanding the provisions of any other law, any such overcharge or undercharge shall not be recoverable unless a notice in writing, containing such particulars as may reasonably be necessary, is given by the party claiming the refund or collection to the party from whom it is claimed, not later than two years after the acceptance of the goods by the Authority or the contractor, as the case may be, so however that where the undercharge is due to any description or other information subsequently found to be incorrect the period of two years aforesaid shall commence on the date on which the Authority or the contractor, as the case may be, first discovers the incorrectness of the description or information.

Service of notice. *Amended by: XV. 2009.52.*

31. Any notice or other document required or authorised by or under this Act to be served on any person by the Authority or a contractor may be served -

(*a*) by delivering it to the person; or

(*b*) by sending it by registered post addressed to the person at his usual or last known address;

and if service is made as provided for in paragraph (*b*) it shall be sufficient to prove service to show that the notice or other document was properly addressed and posted.

PART V

Offences and Penal Provisions

Offences in respect of lighthouses, buoys, etc. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

32. Any person who, wilfully or negligently -

(*a*) removes or alters any lighthouse, buoy, beacon or other light placed by the Authority, or

(*b*) rides by, or makes fast to, or runs foul of any lighthouse, buoy, beacon or other light as aforesaid,

shall be guilty of an offence and be liable, on conviction, to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500).

Exhibition of lights which may be mistaken for lighthouses, etc. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

33. (1) Whenever any light is exhibited in any place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, buoy or beacon, or other light placed by the Authority, the Authority may serve a notice on the owner or occupier of the place where the light is exhibited or on the person having charge of the light, directing the owner, occupier or other person, to take, within a reasonable time to be specified in the notice, effectual means for extinguishing or effectually screening the light and for preventing the same or similar light being exhibited thereafter.

(2) Such notice may also be served by affixing the same in some conspicuous spot near the light to which the notice relates.

(3) Any owner, occupier or other person on whom a notice is served under this article who fails without reasonable cause to comply with the directives contained in the notice, shall be guilty of an offence and be liable, on conviction, to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500) and to a further fine (*multa*) not exceeding two hundred and fifty euro (€250) for every day during which the offence continues.

Obstructing authorised entry. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

34. Whosoever wilfully obstructs any officer of the Authority in the performance of his duties under this Act, or any person in the performance of any act he is authorised to perform by the Authority, shall be guilty of an offence and be liable, on conviction, to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding six months or to a fine (*multa*) not exceeding four thousand and seven hundred and fifty euro (€4,750), or to both such fine and imprisonment.

Navigation without pilot. *Amended by: L.N. 425 of 2007. Substituted by: XV. 2009.52.*

35. If -

(*a*) any ship navigates without a pilot in circumstances in which a pilot is to be engaged under any of the provisions of this Act or any regulations made thereunder, or

(*b*) the master of the ship refuses to comply with any request made under this Act, or makes or is privy to the making of any false statement in answer to such request,

the master of such ship shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding four thousand and seven hundred and fifty euro (€4,750).

Breach of duty by pilot. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

36. (1) Any pilot who, while piloting a ship by wilful breach of duty, or by neglect of duty or by reason of drunkenness -

(*a*) does any act tending to the immediate loss, destruction or serious damage of such ship or tending immediately to endanger the life or limb of any person; or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction or serious damage, or preserving

any person from danger to life or limb,

shall be guilty of an offence and be liable, on conviction, to imprisonment for a term not exceeding one year or to a fine (*multa*) not exceeding eleven thousand and seven hundred and fifty euro (€11,750), or to both such imprisonment and fine.

(2) Any pilot who fails to comply with the provisions of article 38 shall be guilty of an offence and be liable, on conviction, to a fine (*multa*) not exceeding one thousand and one hundred euro (€1,100).

Illegal piloting. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

37. Any person who offers his services as a pilot or acts as a pilot without the permission of the Authority and without being duly licensed, or whilst his licence as a pilot is cancelled, suspended or revoked, and any pilot who lends his licence to, or allows his licence to be used by, any other person, or who pilots ships outside the limits specified in his licence or who acts as a pilot while under the influence of drink or drugs, shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a period not exceeding one year or to a fine (*multa*) not exceeding eleven thousand and seven hundred and fifty euro (€11,750), or to both such imprisonment and fine.

Evasion of dues, rates, etc. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

38. If the master, owner or agent of a ship or the owner or consignor or consignee of any goods, evades or attempts to evade, by any means whatsoever, the payment of any dues, rates, charges or fees leviable under this Act, he shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding twelve months or to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500), or to both such imprisonment and fine, and shall in addition be liable to pay to the Authority a penalty triple the amount of the dues, rates, charges or fees he evaded or attempted to evade.

Failure of compliance with articles 5 and 6. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

39. Any master of a ship who contravenes any of the provisions of articles 5 or 6, shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a period not exceeding three months or to a fine (*multa*) not exceeding one thousand and two hundred euro (€1,200) or to both such imprisonment and fine.

False returns. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

40. Any person who makes, whether knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is requested or authorised to be made by or under this Act, shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a period not exceeding twelve months or to a fine (*multa*) not exceeding seven thousand euro (€7,000), or to both such imprisonment and fine.

Persons endangering life or property. *Amended by: L.N. 425 of 2007; XV. 2009.52.*

41. If any person taking part in the loading, unloading or warehousing of goods in any port endangers the safety of life, limb or property -

(*a*) by contravening any of the provisions of this Act or of any regulations made or deemed to be made thereunder; or

(*b*) by any rash or negligent act,

he shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a period not exceeding six months or to a fine (*multa*) not exceeding two thousand and three hundred euro (€2,300) or both to such imprisonment and fine.

Non compliance with direction of Authority or with any provision of this Act.
Amended by: L.N. 425 of 2007; XV. 2009.52.

42. Any person who fails to comply with any direction given by the Authority in exercise of its powers under this Act, or who fails to comply with any provision of this Act or of any regulations made thereunder, shall be guilty of an offence and, unless another penalty is established for such offence in this Act, be liable, on conviction, to a fine (*multa*) not exceeding eleven thousand and six hundred euro (€11,600), or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment, and in the case of a continuing offence to a further fine (*multa*) not exceeding one thousand and one hundred euro (€1,100) for every day during which the offence continues.

Contractor to be deemed public officer for purposes of Criminal Code.
Amended by: XV. 2009.52.
Cap.171.
Cap. 499.
Cap. 9.

43. A contractor and any of his employees, other than port workers registered under the provisions of the Port Workers Ordinance, whilst acting within the scope of his employment in pursuance of an agreement entered into between the Authority and the contractor under article 7(5) of the Authority for Transport in Malta Act shall be deemed to be a public officer or employee for the purposes of the Criminal Code and of any other law of a penal nature.

Saving for other penal provisions.
Amended by: XV. 2009.52.
Cap. 9.

44. The punishments provided by or under this Act shall apply unless the act constitutes a more serious offence under the Criminal Code or some other law, in which case such Code or other law shall apply, so however that no person shall be punished twice for the same act or omission.

PART VI

Saving

Saving.
Amended by: XV. 2009.52.
Cap. 170.
Cap. 100.
Cap. 499.

45.* (1) All regulations, orders and other subsidiary legislation made under or kept in force by the Ports Ordinance† or by the Port Dues Ordinance†, before it was repealed by the Malta Maritime Authority Act or by the Malta Maritime Authority Act‡ before it was amended by the Authority for Transport in Malta Act, and in force immediately before the coming into force of this article, shall continue in force thereafter as if they had been made under the corresponding provision of this Act and shall be treated accordingly.

(2) Any funds established by or under any of the provisions of the enactments referred to in sub-article (1) shall, notwithstanding such repeal and as from the date thereof, continue in operation as if they had been established under the corresponding provision of this Act, and shall be treated accordingly.

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*This article originally consisted of five subarticles. The original subarticles (1) and (2) have been omitted under the Statute Law Revision Act, 1980.
†Repealed by this Act.
‡the short title of this Act before it was amended by Act XV of 2009.

(3) Any licence, permission or other authority granted under any of the provisions of the enactments referred to in sub-article (1), and still in force immediately before the coming into force of this Act, shall continue in force thereafter as if it were a licence, permission or authority granted under the corresponding provisions of this Act, and shall be treated accordingly.

Malta Freeports Act.
Amended by: XV. 2009.52.
Cap. 334.

46. Saving the provisions of article 45, none of the rights, duties, powers and obligations vested in the Authority under this Act shall diminish or alter any of the rights, duties, powers and obligations vested in the Freeport Authority by the Malta Freeports Act.

SCHEDULE

Amended by: L.N. 141 of 1998; XV. 2009.52.

(Articles 3 and 30)

PART I

The Grand Harbour of Valletta but excluding the following areas:

(*a*) the area of land bordered in red on plan L.D. 91A/98

(*b*) the area of land bordered in red on plan L.D. 97/98

(*c*) the area of land bordered in green on plan L.D. 91B/98

(*d*) the area of land bordered in green on plan L.D. 91C/98.

Plans L.D. 91A/98, L.D. 97/98, L.D. 91B/98 and L.D. 91C/98 are annexed to the deed dated 1st June, 1998 published by Notary Vincent Miceli and entered into between the Government of Malta and the former Malta Maritime Authority.

PART II

1. Marsamxett Harbour
2. Marsaxlokk Harbour
3. Saint Paul's Bay
4. The landing places at -
   (*a*) Ramla-il-Bir;
   (*b*) Iċ-Ċirkewwa
5. Mġarr, Gozo

PART III

1. The Grand Harbour of Valletta other than those areas thereof excluded in Part I.
2. Marsamxett Harbour
3. Marsaxlokk Harbour
4. Mġarr, Gozo.

PART IV

1. Ta' Xbiex Yachting Centre
2. Msida Yachting Centre
3. Sliema Yachting Centre
4. Mġarr Yachting Centre, Gozo