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L.N. 90 of 1993

PORT WORKERS ORDINANCE

(CAP. 171)

Port Workers Regulations, 1993

IN exercise of the powers conferred by section 17 of the Port Workers Ordinance, the Minister for Transport and Communications has, with the concurrence of the Minister of Finance, made the following regulations:—

1. (1) These regulations may be cited as the Port Workers Regulations, 1993.

Citation
and com-
mencement.

(2) These regulations shall be deemed to have come into force on the 1st January, 1993.

2. In these regulations, unless the context otherwise requires —

Interpreta-
tion.

“accompanied motor car” means a private motor car accompanied by a person travelling to or from Malta, but shall not include a private motor car imported into Malta for the first time by a resident of Malta after a visit abroad;

“Authority” means the Malta Maritime Authority established under the Malta Maritime Authority Act, 1991;

Act No. XVII
of 1991.

“Board” means the Port Workers Board established under section 12 of the Ordinance;

“Committee” means the committee established under the provisions of regulation 32 of these regulations;

“Contractor” has the same meaning as that assigned to it by section 2 of the Malta Maritime Authority Act, 1991;

“Director” means the Executive Director responsible for ports appointed under section 8 of the Malta Maritime Authority Act, 1991;

“Government Silo” means the Government silo situated at the Deep Water Quay at Pinto Road, Marsa;

“Kordin Silo” means the grain silo situated at Magazine Wharf against the seaward face of Kordin Hill;

“metric ton” means a ton of 1,000 kilograms;

“Minister” means the Minister responsible for ports, and includes any person acting under his authority;

“minor son” means a person who is the eldest or elder son —

(a) of a registered port worker who dies while so registered or who retires from port work on reaching retirement age, and

(b) who is over sixteen but under eighteen years of age at the time of his father's death or retirement, as the case may be;

Cap. 171.

"Ordinance" means the Port Workers Ordinance;

"port worker" has the same meaning as that assigned to "port worker" by section 2 of the Ordinance; and "port work" shall be construed according to "port work" in the said Ordinance;

"Port Workers Register" means the register required to be kept by the Director under subsection (1) of section 3 of the Ordinance;

"retiring age" means the age prescribed in terms of section 14 of the Ordinance;

"tourist coach" means a motor coach accompanying tourists on tour to/from Malta, but shall not include a motor coach imported into Malta for the first time by a resident of Malta after a visit abroad;

"unitised cargo" and "unit load" have the same meaning assigned to them by the Ordinance;

"week" for the purposes of regulation 44 of these regulations means a period of seven consecutive days.

Exemption
from port
work.

3. For the purposes of section 20 of the Ordinance, it is hereby prescribed that the Ordinance shall not apply to the handling of —

(a) cargo transported between the Islands of Malta and Gozo and Comino;

(b) coke or coal in bulk other than bagged coke or coal;

(c) oils or wines in bulk;

(d) cattle, horses or other animals;

(e) fish from fishing vessels.

Director
to have
overall
control.

4. The Director shall have overall control of all port work, including the supply of port workers for port work.

Port
workers
not required
to handle
certain
goods.

5. Port workers shall not be required to handle manually the goods specified hereunder:

(a) cement the temperature of which at any time exceeds 51.7°C;

- (b) caustic soda in bags of any type in loose form;
- (c) any package the weight of which exceeds 55 kilograms.

6. (1) The Director may, in his discretion and subject to the provisions of the Ordinance, issue a licence to any person to act as foreman of port workers.

Foremen.

(2) The Director shall not issue a licence under this regulation unless he is satisfied that the person applying for a licence —

- (a) is over the age of 25 years;
- (b) has had adequate experience of cargo handling operations;
- (c) is a fit and proper person to be licensed.

(3) The fee payable by a foreman in respect of a licence to act as foreman shall be Lm5 per annum payable on the issue and on each renewal of the licence.

7. (1) Foremen of port workers shall use the tools which in the opinion of the Director are deemed to be proper and suitable for the work in hand.

Responsibility of foremen.

(2) Disciplinary action as contemplated in section 5 of the Ordinance may be taken against foremen of port workers who by failing to use proper tools as required in paragraph (1) of this regulation cause damage to cargo.

8. (1) Port workers shall work with the tools and equipment chosen by the Ship Foreman.

Port workers to work with tools supplied by Ship Foreman

(2) Port workers who fail to comply with the requirements of paragraph (1) of this regulation shall be reported by the Authority to the Port Workers Board for any action the Board may deem proper to take.

9. (1) There shall be established a Prospective Port Workers Register.

Prospective Port Workers Register.

(2) The Board shall register on the Prospective Port Workers Register any Maltese national who requests to be so registered and who satisfies the requirements of these regulations with regard to his eligibility to be so registered.

10. There shall be established a Port Workers Register in which all port workers shall be registered.

Port Workers Register.

11. (1) Port workers shall be recruited from the Prospective Port Workers Register by the filling of vacancies occurring through the death or retirement of a port worker made in accordance with the provisions of these regulations.

Recruitment of port workers.

(2) The vacancies which shall be filled shall be those determined from time to time by the Director in order to maintain at all times the full complement of port workers in accordance with the provisions of these regulations.

(3) No person shall be eligible to be registered as a port worker unless he:

- (a) is over the age of 18 and under the age of 45 years;
- (b) is examined by a Medical Board appointed by the Minister and is found to be physically fit for port work;
- (c) satisfies the Board that he is a fit and proper person to be a port worker; and
- (d) has never been convicted, or has never been declared guilty, of theft or fraud.

Complement
of port
workers.

12. (1) All port workers appearing on the Port Workers Register shall form one homogeneous section and shall perform such duties consisting of all work from hold to truck, stacking ground or warehouse or vice-versa.

(2) The complement of port workers shall for the period starting 1st January 1993 be fixed at 400, and shall include winchmen, drivers and signalmen. The complement of port workers shall be reviewed every two years by a Board, consisting of a Chairman, who shall be nominated by the Minister, two members, representing the Authority, and two members, representing the port workers.

(3) In its determination of the required complement, the Board shall take into consideration the volume of port work, the availability of cargo handling equipment and the introduction of new port operations systems.

Eligibility
to fill
vacancies.

13. (1) Eligibility to fill a vacancy shall be limited to the son, or to the elder from among the sons, of a port worker who was registered as such as on the 17th September 1990, and who retires or who is medically boarded out under the provisions of these regulations or who dies:

Provided that such son satisfies the Board that:

- (a) he is a person eligible to fill a vacancy as provided for in paragraph (3) of regulation 11;
- (b) if he is an adopted son was not over the age of six years when adopted;
- (c) he has applied to the Director for port work prior to the date on which the vacancy occurs and has renewed in person such registration at the office of the Director during the month of January of each successive year.

Provided further that in the absence of a son of a retired or deceased port worker who was a port worker in the general cargo stevedores or port labourers section as on the 10th June, 1975, eligibility to fill a vacancy shall be limited to the brother or to the elder from among the brothers of such port worker, provided such brother satisfies the Board that he is a person eligible to fill a vacancy as provided for in paragraph (3) of regulation 11 and in paragraph (c) above.

(2) Where a vacancy occurs among port workers, the Director shall enter in the Prospective Port Workers Register established under regulation 9 of these regulations, and which he shall keep for the purpose, the name of the person who, in accordance with the provisions of paragraph (1) of this regulation, is eligible to fill that vacancy and who applies to be so registered.

(3) Saving the provisions of paragraph (2) of this regulation, the son of a port worker who retires or who is medically boarded out or who dies, or the brother of a port worker who retires or who dies, shall be registered in the Prospective Port Workers Register on the day of such retirement or medical boarding out or death, as the case may be.

(4) The order in which vacancies shall be filled shall be determined by the chronological order of the retirement or medical boarding out or death, but any person being the son or brother of a port worker who was so registered as on 10th June 1975 and who is registered in the Prospective Port Workers Register and who is still so registered on the day immediately prior to his forty-fifth birthday shall, subject to the provisions of these regulations, on that day be registered in the Port Workers Register, without affecting the rights of other persons registered in the Prospective Port Workers Register:

Provided that, when more than one person retires or is medically boarded out or dies on the same day, the order of preference shall be established by the date of birth of the prospective port worker, starting from the eldest.

(5) Registration in the Prospective Port Workers Register shall lapse if it is not renewed in person at the Office of the Director in the month of January of each year.

(6) Notwithstanding the provisions of paragraphs (2) and (3) of this regulation the Director may register in the Prospective Port Workers Register the minor son of a registered port worker who dies while so registered or who retires from port work on reaching retirement age:

Provided that:

(a) such son applies for registration within one month from the death or retirement of his father, as the case may be, and thereafter renews such registration as provided for in this regulation;

(b) the registration of such son in the Prospective Port Workers Register shall not entitle him to compete for the filling of vacancies until such time as he reaches eighteen years of age and, notwithstanding the provisions of paragraph (4) of this regulation he shall, for the purpose of the order in which vacancies are filled, be placed after the person then appearing last on that register.

(8) The minor son of a port worker who died or retired during the period between the 17th day of September, 1990 and the 31st day of December, 1992, shall not be deemed to have been required to apply to the Director for port work prior to the date on which a vacancy had occurred and shall not be deemed to have been registered in the Prospective Port Workers Register and to have renewed such application as provided for in this regulation during the period aforesaid, but such son —

(a) shall apply for registration in the Prospective Port Workers Register within twenty-one days from the date of publication of these regulations, even though he may be over eighteen years of age at the time;

(b) notwithstanding the provisions of paragraph (4) of this regulation shall, for the purposes of the order in which vacancies are filled, be registered in the Prospective Port Workers Register after the person appearing last on that Register at the time of such son's registration; and

(c) after being so registered shall renew such registration as provided for in this regulation.

(9) A minor son who qualifies for registration in the Prospective Port Workers Register in terms of this regulation shall not eventually be registered as a port worker if he is not a person eligible to be so registered as provided for in paragraph (3) of regulation 11 of these regulations.

Replacements.

14. No port worker who is registered in the Port Workers Register shall on death or retirement or on being medically boarded out be replaced by a son or brother as the case may be:

Provided that port workers who prior to the 10th day of June 1975 were licensed to work in the general cargo stevedores or in the lightermen or in the port labourers section shall continue to be replaced by a son or a brother, subject to the provisions of these regulations;

Provided further that port workers who were so licensed as on the 23rd day of October, 1992, shall be replaced by a son subject to the provisions of these regulations; and

Provided also that port workers who have retired or died between the 17th September 1990 and the 23rd October 1992 shall also be replaced by a son subject to the provisions of these regulations.

15. (1) When the Director determines that a vacancy shall be filled the Board shall, upon the production of such documents and certificates as it may require, register as a port worker in the Port Workers Register a person:

Filling of
vacancies.

(a) who is registered on the Prospective Port Workers Register; and

(b) who satisfies the requirements of these regulations with regard to his eligibility to be so registered.

(2) Vacancies in the complement of workers, as established from time to time in accordance with regulation 12 of these regulations, shall be filled within thirty days of the occurrence of such vacancies.

16. Notwithstanding the provisions of paragraph (2) of regulation 11 of these regulations, a son —

Registration
of son of
port worker
who dies
following
accident on
port work.

(a) of a port worker who dies as a result of injuries sustained while performing port work; or

(b) of a port worker who, being over forty-five but under fifty-five years of age on his last birthday, is certified to be medically unfit for port work by a medical board appointed by the Minister and whose licence is cancelled for this reason;

shall be registered in the Port Workers Register, provided such son is a person eligible to be so registered in accordance with paragraph (3) of regulations 11 and 13 of these regulations:

Provided that the son of a port worker certified to be medically unfit for port work in accordance with the provisions of paragraph (b) of this regulation shall not be registered in the Port Workers Register before the lapse of a period of three months from the date of the cancellation of his father's licence.

17. A port worker, who is over fifty years of age, may apply to the Board to have his registration cancelled in favour of his son, and if such port worker was so licensed as on the 10th day of June, 1975, in favour of his son or brother:

Voluntary
retirement.

Provided —

(a) that such port worker on having his registration cancelled shall forfeit all rights to a pension or gratuity; and

(b) the son is a person eligible to be a port worker in accordance with the provisions of regulation 11 of these regulations.

Certificate of
registration
and identity
card.

18. (1) On registration in the Port Workers Register, the Director shall issue to a port worker —

(a) a certificate of registration valid up to the 31st December of the current year in such form as the Director may establish; and

(b) an identity card.

(2) Such identity card shall remain the property of the Authority and shall be returned to the Director by any port worker or his widows and heirs, as the case may be, when he ceases to be registered.

(3) A port worker shall not transfer his identity card to any person.

(4) Unless exempted by the Director a port worker shall wear his identity card whenever he is employed in port work and shall produce it on demand to the Director, or to his employer, or to the Authority.

(5) Where the Director is satisfied that an identity card has been lost or damaged, he may issue a duplicate card to a port worker on payment of a fee of Lm1.

Renewal of
registration.

19. (1) Every registered port worker shall apply in person at the Authority or at such other place as the Director may determine, in the month of January of each year as required by the Director to renew his registration.

(2) The fee payable by a port worker in respect of a licence to act as a port worker shall be Lm5 per annum payable on the issue and on each renewal of the licence.

(3) Any registered port worker who is unable to renew his registration in accordance with paragraph (1) of this regulation owing to incapacity for work, shall do so on the working day immediately following the end of the period of incapacity and shall produce to the Director a medical certificate in respect of the whole period of incapacity, and if he satisfies the Director that he was unable to apply in person to renew his registration owing to such incapacity, the Director may renew such registration.

(4) Where the registration of a port worker is not renewed as provided for in paragraphs (1) and (3) of this regulation, an application for the renewal of such registration shall be referred for decision by the Board.

Duties of
Authority.

20. (1) When the Authority becomes aware that —

(a) any unregistered person is working or attempting to obtain work as a port worker in a port, or

(b) any person is making use of an identity card to which he is not entitled, or

(c) any person who is working in the port has failed to produce his identity card on demand,

it shall forthwith report the matter to the Director who may take such steps as he may deem proper in the circumstances and may also for the purpose of further investigation impound any card which in his opinion is being improperly used.

(2) Where any employer disputes any bill for port work or fails to pay any such bill, the Authority shall, unless the matter is settled by him, report the fact to the Director and shall refrain from supplying port workers to an employer failing to pay any bill for port work if the Director, after giving the employer an opportunity of making representations, so instructs.

21. For the purposes of the definition of port worker in section 2 of the Ordinance, it is hereby prescribed that the cargo referred to in that definition in relation to the handling thereof from transit shed or stack on open quay to vehicle shall be —

Cargo for purposes of definition of port worker.

- (a) cereals, canary seed, sugar, seed potatoes, salt, in bags;
- (b) frozen meat;
- (c) timber;
- (d) liquid gas cylinders;
- (e) bitumen and asphalt in drums;
- (f) any substances in bags or in drums for use in the oil industry;
- (g) in an enclosed port area —
 - (i) the packing and unpacking of containers; and
 - (ii) the consolidation of unit loads for loading on board a ship.

22. (1) The Authority shall immediately report to the Port Disputes Board any case involving the disruption of a roster in which port workers may at the time be organized.

Disruption of rosters.

(2) The Port Disputes Board shall investigate such report and if it finds to its satisfaction that a roster was wilfully or negligently disrupted by an employer of port workers, or by a person acting on behalf of such employer, it shall award compensation, not exceeding five hundred Malta Pounds (Lm500), against such employer in favour of the port workers prejudiced by such disruption.

(3) When two or more employers of port workers are found by the Port Disputes Board to have wilfully or negligently concurrently disrupted a roster, the Port Disputes Board may determine the

proportion of the amount of compensation to be paid by each of such employers, but in determining such proportions, the said Board shall take into account the extent to which each of such employers has been in default.

(4) In any case involving the disruption of a roster, the Authority shall operate such roster in accordance with the order of allocations obtaining at the time the disruption was discovered.

Administrative
surcharge.

23. In accordance with the provisions of subsection (3) of section 9 of the Ordinance it is hereby prescribed that the percentage of the gross wages of port workers which may be levied on employers of port workers for the purpose of the administrative surcharge shall be six per centum.

Tariffs:
Foremen.

24. Ship Foremen and Shore Foremen shall be paid in accordance with the tariffs of fees and the rates thereto set in the First Schedule hereto.

Tariffs:
By employers of
port workers
to Authority.

25. Employers of port workers shall effect payment for port work to the Authority in accordance with the tariffs of fees and rates thereto set out in the Second Schedule, and in accordance with the levy set out in the Eighth Schedule hereto.

Port workers'
tariffs.

26. The Authority shall, on receipt of payment of bills by employers of port workers, deposit in a port workers' wages account the moneys due to port workers in accordance with the tariffs of fees and notes thereto set out in the Third Schedule hereto.

Methods of
calculating
the tariffs.

27. The fees specified in the tariffs of fees contained in the Third Schedule hereto shall be calculated in accordance with the methods set out in the Fourth Schedule hereto.

Method of
payment to
port workers.

28. The method of payment to port workers shall be in accordance with the provisions of the Fifth Schedule hereto.

Regular
working
hours and
public
holidays.

29. The hours of work, leave and public holidays shall, in respect of port workers, be in accordance with the provisions of the Sixth Schedule hereto.

Ordering of
labour —
cancellation of
orders

30. The organisation, duties, ordering and supply of labour and the cancellation or amendment of such orders shall, in respect of port workers, be in accordance with the provisions of the Seventh Schedule hereto.

Pension and
Contingency
Fund.

31. There shall be established a fund to be known as the Pension and Contingency Fund, hereinafter referred to as "the Fund".

Fund
Committee.

32. The Fund shall be administered by a Committee appointed by the Minister. The Committee shall be composed of:

- (a) an officer in the public service who shall be Chairman;
- (b) a representative of the Authority;

(c) two representatives of the employers of port workers nominated by the organisations represented on the employers' side of the Port Labour Joint Council;

(d) one representative of the Contractor;

(e) two representatives of port workers nominated by their trade union;

(f) two persons appointed by the Minister;

(g) a Secretary who shall have no vote.

33. (1) The Committee shall be responsible to the Minister for the good and proper administration of the Fund. Administration of the Fund.

(2) The Committee shall not incur expenditure exceeding five hundred liri per annum without the prior authority of the Minister, provided that this regulation does not limit payments of benefits made to port workers or to persons who have served as port workers, or their widows and heirs as laid down in these regulations.

(3) Furthermore the Committee shall effect such payments out of the Fund as may from time to time be authorised by the Minister.

(4) Payments out of the Fund shall be made by the Authority, who shall:

(a) keep proper books of accounts approved by the Committee; and

(b) submit to the Committee monthly statements of accounts in such form as the Committee may deem fit.

(5) Every three months the Committee shall refer to the Minister a statement of accounts showing the state of the Fund.

34. (1) The Committee shall submit to the Minister not later than the 31st day of May of each year, a report in respect of the transactions made and benefits paid during the year ending on the 31st day of March of that same year. Annual reports and information.

(2) The report mentioned in paragraph (1) of this regulation shall include all the reports made by the auditor of the Committee during the year in respect of which such report is made.

(3) Such auditor shall be nominated by the Committee and appointed by the Minister.

35. The Committee may with the approval of the Minister invest moneys remitted to the Fund. Investment of moneys remitted to the Fund.

Auditing.

36. (1) The books of the Fund shall be examined at least once every three months by the auditor nominated and appointed in accordance with the provisions contained in paragraph (3) of regulation 34 of these regulations.

(2) The Committee shall make available to the auditor such books of accounts and such other documents, and shall provide him with such information as may enable him to carry out proper examinations.

(3) The auditor shall, every three months, compile reports on the examinations made and shall submit such reports to the Minister and to the Committee.

Committee to regulate procedure.

37. Subject to the provisions of these regulations the Committee may regulate its own procedures.

Financing the Fund.

38. The Authority shall remit to the Fund:

(a) the difference between the fees payable by employers of port workers and the wages paid to port workers;

(b) the levy specified in the Eighth Schedule hereto;

(c) any moneys which may be passed to it by the Director for the remittance to the Fund.

Pension.

39. (1) Port workers who on or after the fourth day of April, 1973, but not later than the fourth day of January, 1980, had attained the retiring age and who had their registration cancelled by the Director, shall continue to receive a pension or a gratuity under the conditions and at the rates specified in regulation 42 of, and in Schedule 9 to, these regulations.

(Cap. 318)

(2) Port workers who on or after the fifth day of January 1980, have attained the retiring age shall have their registration cancelled by the Director but retaining their pension rights under the Social Security Act, 1987.

Pension to widows and heirs.

40. (1) The balance of a pension due to a port worker who dies before the lapse of five years from the date of his retirement shall be paid to the widows and heirs of such port worker:

Provided that the pension paid to a port worker before his death and the balance payable to his widows and heirs shall in total not exceed the amount that would have been paid to such port worker during a maximum period of five years from the date of his retirement.

(2) In cases where a port worker who is retired on pension dies after the lapse of five years from the date of his retirement, the widows and heirs of such port worker shall receive a gratuity equivalent to one annual pension rate received by that port worker.

(3) The provisions of paragraphs (1) and (2) of this regulation shall not apply to a port worker:

(a) who retired from port work during the five year period ended on the fourth day of April, 1973, and who during that same period was replaced by a son or brother;

(b) who has reached the retiring age on or after the fifth day of January, 1980.

41. (1) A port worker, who, being forty-five years of age or over on his last birthday, has his registration cancelled on being certified to be medically unfit for port work by a medical board appointed by the Minister shall, if he has a son eligible to replace him in accordance with these regulations, receive a pension as follows:

Retirement on medical grounds.

(a) during such time as such son is not registered in the Port Workers Register — full pension;

(b) from the date on which such son is registered in the Port Workers Register until the port worker reaches retiring age — such part of the full pension as the Minister may, on the advice of the Committee, from time to time determine; and

(c) on reaching retiring age — full pension.

(2) A port worker who, being forty-five years of age or over on his last birthday, has his registration cancelled on being certified to be medically unfit by a medical board appointed by the Minister shall, if he has no son or brother to replace him in accordance with these regulations, receive a pension as follows:

(a) until he reaches retiring age — such part of the full pension as the Minister responsible for ports may, on the advice of the Committee, from time to time determine; and

(b) on reaching retiring age — full pension.

(3) The provisions of sub-paragraph (c) of paragraph (1) and of sub-paragraph (b) of paragraph (2) of this regulation shall not apply to port workers who after the twenty-second day of January, 1979, have their licence cancelled under the provisions of this regulation, if they reach the retiring age on or after the fifth day of January, 1980, saving their pension rights under the Social Security Act.

(4) Saving the provisions of paragraph (3) of this regulation, a person who is registered as a port worker after the thirtieth day of May, 1978, shall not be eligible to receive a pension as specified in paragraphs (1) and (2) of this regulation if he does not satisfy the requirements laid down in regulation 42 of these regulations.

42. (1) A person who is registered as a port worker after the 30th day of May, 1978, shall qualify for a pension on completing ten years continuous service as a registered port worker; and

Service to qualify for pension.

(2) Notwithstanding the provision of paragraph (1) of this regulation, a son or brother of a port worker whose licence is cancelled

at his own request in accordance with the provisions of regulation 17 of these regulations shall, on being registered in the Port Workers Register, qualify for a pension on completing fifteen years continuous service as a registered port worker.

Gratuity on retirement.

43. (1) A port worker on reaching the retirement age of 61 years shall receive a gratuity of Lm500 paid out of the Fund.

(2) This gratuity shall also be paid to those port workers who have retired on reaching the 61 years between the 17th September, 1990, and the date of coming into force of these regulations.

Insurance Policy.

44. (1) Port workers shall be provided with a Personal Accident and Sickness Insurance Policy on a basis of twenty-four hours, which will provide benefits to them and their dependents covering Accidental Death, Permanent Disablement and Temporary Total Disablement due to accident and/or sickness.

(2) The compensation contemplated in such Insurance Policy shall as a minimum include:

(a) In the event of Accidental Death: Lm10,000 per capita;

(b) In the event of Permanent Disablement: up to Lm10,000 per capita; and

(c) In the event of Temporary Total Disablement following accident and/or sickness: Lm77 per week for a period of six weeks.

(3) The premium for the Insurance Policy referred to in paragraph (1) of this regulation shall be defrayed from the Fund.

Power of the committee to investigate claims.

45. In examining any claim made by a person under these regulations, the Committee may make any investigation and may require the production of any evidence, including documentary evidence, it may deem necessary.

Recovery of gratuity in respect of injury caused by wilful act or negligence.

46. The Committee shall have the right to claim by civil action the amount of any gratuity paid or payable under these regulations —

(a) from any person, other than the port worker entitled to such gratuity, where an injury in respect of which the gratuity is paid or payable was caused by the wilful act or the negligence of such person or of any other person for whom, under the provisions of the Civil Code, the first mentioned person is responsible;

Cap. 16.

(b) without prejudice to the generality of sub-paragraph (a) of this paragraph, where the injury was caused on account of or through the non-compliance by himself, or by any other person for whom such employer is responsible under the Civil Code, with any obligation imposed by the Factories Ordinance or by any regulations made thereunder.

Cap. 107.

(2) Nothing in this regulation shall prejudicially affect any right to claim and obtain compensation or damages which the injured person, or those claiming under him, may have under the provisions of the Civil Code against the person through whose wilful act or negligence the injury was caused; but in assessing the amount of such compensation or damages the Court shall take into account the gratuity recovered or recoverable by the Committee as provided in paragraph (1) of this regulation.

(3) Any amount recovered by the Committee under this regulation shall be carried to the credit of the Fund.

47. (1) The Minister may authorize the payment out of the Fund of a cost of living increase or bonus or of any other increase in the wages of port workers together with a percentage thereon as an administrative charge by the Authority at such rates and under such conditions as he may from time to time prescribe.

Increase in wages
of port workers.

For the purposes of this paragraph the percentage laid down in regulation 13 of these regulations shall apply.

(2) The provisions of paragraph (1) of this regulation shall be deemed to have come into force on the 4th day of April, 1973.

(3) To qualify for the receipt of any payment authorized under paragraph (1) of this regulation in respect of any one day a port worker may be required to prove to the satisfaction of the Authority that he was available for work on that day.

48. (1) The earnings of port workers shall be guaranteed at the level of the average earnings realized during the five year period ending on the 31st day of December of the year immediately preceding the year in respect of which this guarantee applies.

Guaranteed
earnings.

(2) For the purposes of this regulation the earnings of port workers shall be deemed to be the global earnings of port workers taking into account the number of port workers as on the 31st day of December of each year.

(3) Payments to bring such earnings to the guaranteed level shall be made out of the Fund.

(4) There shall be published in the Gazette, in respect of each calendar year ending on the 31st day of December, the global earnings of port workers, taking into account the number of port workers as on the 31st day of December of that year.

49. The Port Workers Regulations, 1966, and the Port Labour (Determinations) Order, 1966, are hereby revoked.

Revokes L.N. 45
and 46 of 1966.

FIRST SCHEDULE

(Regulation 24)

Fees payable to Foremen

Tariff A

Unitised Cargo

Ship Foremen and Shore Foremen engaged in the supervision of the handling of unit loads or unitised cargo shall be paid the following fees:

<i>Item</i>	<i>Description</i>	<i>Fee</i>
1.0	To Ship Foremen engaged in the supervision of the:	
1.1	unloading of unitised cargo, per ton	1c7
1.2	loading of unitised cargo —	
1.2.1	locally manufactured goods, per ton	1c3
1.2.2	other cargo, per ton	1c7
1.3	unloading or loading of transshipment cargo —	
1.3.1	motor vehicles, mobile, unpacked, per unit	1c3
1.3.2	other cargo in unit loads, per ton	1c5
2.0	To Shore Foremen engaged in the:	
2.1	unloading of unitised cargo, per ton	4c2
2.2	loading of unitised cargo —	
2.2.1	locally manufactured goods, per ton	3c0
2.2.2	other cargo, per ton	4c2
2.3	unloading or loading of transshipment cargo —	
2.3.1	motor vehicles, unpacked, mobile, per unit	1c3
2.3.2	other cargo in unit loads, per ton	3c4
3.0	Note: The fees payable to Shore Foremen include a charge for the provision of tarpaulins on lighters and quays until delivery is effected in terms of the Malta Maritime Authority Act, 1991, dunnage and tools.	

Tariff B**General Cargo**

Ship Foremen and Shore Foremen engaged in the supervision of the handling of cargo, other than cargo in unit loads, shall be paid the following fees:

<i>Item</i>	<i>Description</i>	<i>Fee</i>
1.0	To Ship Foremen:	
1.1	engaged in the handling of coal and coke in bulk, per ton	2c7
1.2	engaged in the handling of bulk cargo other than coal and coke and other than bulk cargo handled at the Government Silo, per ton	2c0
1.3	engaged in the handling of general cargo, per ton	2c3
1.4	engaged in the handling of bulk cargo at the Government Silo, per ton	1c0
2.0	To Shore Foremen:	
2.1	engaged in the handling of coal and coke in bulk, per ton	2c7
2.2	engaged in the handling of bulk cargo other than coal and coke, per ton	2c0
2.3	engaged in the handling of general cargo (inclusive of the charge for the provision of tarpaulins on lighters and quays until delivery is effected in terms of the Malta Maritime Authority Act, 1991, dunnage and tools), per ton	5c8.

SECOND SCHEDULE

(Regulation 25)

Fees payable by Employers of Port Workers**PART I**

1. In respect of the work described in Column 1 of the following table there shall be paid to the Authority the fees appearing in Columns 2 and 3 by the persons specified at the head of each of the two columns in respect of port workers engaged on port work.

Column 1	Column 2	Column 3
<i>Description of Work</i>	<i>Payable by the owner, master or agent of a ship</i>	<i>Payable by other persons on whose behalf work ashore is performed</i>

SECTION A

(a)	Loading of unitised cargo:		
(i)	locally manufactured goods	30c per tonne	25c per tonne
(ii)	all other cargo	30c per tonne	50c per tonne
(b)	Unloading of unitised cargo	30c per tonne	50c per tonne

SECTION B

Transshipment of unitised cargo:

(a)	loading or unloading of motor vehicles, unpacked, mobile—		
(i)	motor cars	Lm2.50 per unit for each operation	—
(ii)	vans	Lm3.75 per unit for each operation	—
(iii)	trucks and chassis	Lm7.50 per unit for each operation	—

Provided that when the number of units unloaded from and/or loaded on the same ship in one operation exceeds 500, the fees in respect of units in excess of 500 shall be at the rate of 50 per centum of those specified in this item.

Column 1	Column 2	Column 3
<i>Description of Work</i>	<i>Payable by the owner, master or agent of a ship</i>	<i>Payable by other persons on whose behalf work ashore is performed</i>
(b) Loading or unloading of other unitised cargo	50c per tonne	—
SECTION C		
(1) Shifting of unitised cargo:		
(a) Motor vehicles, unpacked, mobile, shifted during the loading or unloading of transshipment cargo in unit loads:		
(i) motor cars	75c per unit for each operation	—
(ii) vans	100c per unit for each operation	—
(iii) trucks and chassis	125c per unit for each operation	—
(b) Other cargo in unit loads, including motor vehicles, unpacked, mobile, not being shifted in the course of transshipment operations as specified in sub-item (a) of item (1) of this Section	30c per tonne for each operation	—
(2) Loading or unloading of empty containers	535c per unit	—
(3) Loading or unloading of empty trailers .	50c per unit	—
(4) Loading or unloading of empty containers on trailers	570c per unit	—
(5) Road transport vehicles or bowlers, (excluding ship's equipment used to tow, push, carry or move unitised cargo), rolled off or rolled on a RORO ship to load or unload cargo, as the case may be	250c per unit in addition to the charges on cargo carried	—
(6) Folding collapsible containers, loaded or unloaded interlocked into one another	55c per tonne of 1,000 kilograms	—

2. For the purpose of calculating the fees specified in the tariff in this Part of this Schedule, the provisions of the Fourth Schedule shall apply.
3. The tonnage of unitised cargo on which fees are calculated shall be the actual tonnage of the cargo loaded or unloaded or shifted, excluding the equipment used to form unit loads or to tow, push, carry, or otherwise move such cargo:

Provided that in the case of trailers and containers, fees shall be calculated according to the following fixed tonnage:

Containers	20 ft	23 tons
Containers	40 ft	45 tons
Trailers	20 ft	25 tons
Trailers	40 ft	45 tons
Trailers Supercube	40/43 ft	58 tons

Refrigerated containers containing frozen meat, frozen fish and frozen by-products of such commodities:

Containers/Trailers	20 ft	18 tons
Containers/Trailers	40 ft	26 tons

4. When the actual weight and measurement of cargo in respect of each bill of lading relative to unitised cargo are not recorded in ship's manifests, or bills of lading, the fees specified in the tariff of this Schedule shall, notwithstanding the provisions of paragraph 2 hereof, be calculated on the basis of the overall measurement, subject to the provisions of paragraph 3 above.

PART II

1. In respect of work, other than the handling of unitized cargo, performed by port workers, there shall be payable to the Authority the fees established by means of the provisions of a regulation in terms of the Ordinance.

THIRD SCHEDULE

(Regulation 26)

Tariff of Fees Payable to Port Workers

PART I

General Cargo

Port Workers employed to handle the cargo specified in Column 1 of this Tariff shall be paid the fees shown in Column 4, such fees being the total amount of the fees indicated in Column 2 and in Column 3 thereof.

Column 1	Column 2	Column 3	Column 4
<i>Nature of Cargo</i>	<i>For handling from hold/deck to ship's rail or vice-versa</i>	<i>For handling from ship's rail to quay or shed or vice-versa</i>	<i>Total payable in respect of whole operation</i>
a. Cement — in big bags or on pallets per ton	68c*	48c*	116c*
Cement — in 50 kg bags per ton	116c*	96c*	212c*
b. Soda, Sulphur and Coal — in bags per ton	68c*	52c*	120c*
c. Onions, carobs, oats, pollard, cotton seed, oil cake, barley, bran, coke and malt — in bags per ton	83c*	66c*	149c*
d. Potatoes per ton	60c*	53c*	113c*
e. Iron joists, beams, girders, rails, metal rods including angle iron and sheets, ingots per ton	56c*	58c*	114c*
f. Refrigerated cargo: Fruit in cases or cartons per ton	100c*	60c*	160c*

Column 1	Column 2	Column 3	Column 4
<i>Nature of Cargo</i>	<i>For handling from hold/deck to ship's rail or vice-versa</i>	<i>For handling from ship's rail to quay or shed or vice-versa</i>	<i>Total payable in respect of whole operation</i>
Other, per ton	82c*	60c*	142c*
g. Fruit in cases or cartons (not refrigerated)			
per ton	60c*	46c*	106c*
h. Scrap metal (other than aluminium) — loose			
per ton	68c*	71c*	139c*
i. Scrap aluminium — loose			
per ton	117c*	130c*	247c*
j. Motor and aviation spirit in cans or drums, and explosives including ammunition and pyrotechnics			
per ton	46c*	45c*	91c*
k. Chairs, loose or in bundles — each	2c	2c	4c
Willows, canes et similia, in bundles			
per bundle	2c	2c	4c
Empty drums of a capacity of 40 gallons and over			
each	2c	2c	4c
l. Empty wine and beer casks			
each	13c	15c	28c
m. Accompanied cars (other than cars driven on or off a car ferry)			
each	152c	179c	331c
n. Tourist coaches (other than tourist coaches driven on or off a car ferry)			
each	250c	250c	500c

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Nature of Cargo</i>	<i>For handling from hold/deck to ship's rail or vice-versa</i>	<i>For handling from ship's rail to quay or shed or vice-versa</i>	<i>Total payable in respect of whole operation</i>
o. All other cargo other than cargo in bulk			
per ton	46c*	46c*	92c*

Note:

(a) Where denoted by an asterisk, tariff figures shall be subject to an additional overall payment of 5 per centum, which shall be payable to port workers actually employed on a particular operation.

(b) The fees shown above include all remuneration due for the carrying of cargo necessary for the performance of the whole operation.

PART II

Unitised Cargo

1. Port Workers allocated to handle cargo in unit loads shall be paid the fees shown in Column 2 of this Tariff in respect of the work specified in Column 1 thereof:

<i>Column 1</i>	<i>Column 2</i>
<i>Nature of Work</i>	<i>Rate</i>

(a) Unloading or loading of transhipment cargo in unit loads:

Column 1	Column 2
<i>Nature of Work</i>	<i>Rate</i>
(i) motor vehicles unpacked, mobile —	
(a) motor cars	Lm2.50 per unit for each operation
(b) vans	Lm3.75 per unit for each operation
(c) trucks and chassis	Lm7.50 per unit for each operation
Provided that when the number of units unloaded from and/or loaded on the same ship in one operation exceeds five hundred, the fees in respect of units in excess of 500 shall be reduced by 50 per centum;	
(ii) all other cargo	50c per tonne
(b) Unloading or loading of unitised cargo, other than that mentioned in items (a) and (b) of this paragraph	55c per tonne
(c) Shifting of unitised cargo —	
(1) Motor vehicles, unpacked, mobile, shifted during the loading or unloading of transshipment cargo in unit loads:	
(a) Motor cars	75c per unit for each operation
(b) Vans	100c per unit for each operation
(c) Trucks and chassis	125c per unit for each operation
(2) Other cargo in unit loads including motor vehicles unpacked, mobile, not being shifted in the course of transshipment operations as specified in item (d) (1) in this tariff	25c per ton for each operation
(d) Loading or unloading of empty containers	535c per unit
(e) Loading or unloading of empty trailers	50c per unit
(f) Loading or unloading of empty containers on trailers	570c per unit

Column 1	Column 2
<i>Nature of Work</i>	<i>Rate</i>
(g) Road transport vehicles and bowlers (excluding ship's equipment used to tow, push, carry or move unitised cargo) rolled on or off a RORO ship to load or unload cargo .	250c per unit in addition to the fees in respect of cargo carried
(h) Folding or collapsible containers loaded or unloaded interlocked into one another	55c per ton of 1000 kilogrammes

PART III

Bulk Cargo

Port Workers employed to handle the cargo specified in Column 1 of this tariff shall be paid the fees shown in Column 4, such fees being the total amount (where applicable) of the fees indicated in Column 2 and in Column 3 thereof:

Column 1	Column 2	Column 3	Column 4
<i>Nature of Cargo</i>	<i>For handling from hold to ship's rail or vice-versa</i>	<i>For handling from ship's rail to quay or shed or vice-versa</i>	<i>Total payable in respect of whole operation</i>
	<i>Per Ton</i>	<i>Per Ton</i>	<i>Per Ton</i>

A. Bulk cargo loaded or unloaded by suction plant feeding in hold ex chutes at Government Silo:

(i) Wheat	16c
(ii) Oats and barley	22c
(iii) Soya beans, oil cake, pollard and beans	45c
(iv) Other bulk cargo	16c

B. Bulk cargo not loaded or unloaded by suction plant:

a. Wheat	30c
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Column 1	Column 2	Column 3	Column 4
<i>Nature of Cargo</i>	<i>For handling from hold to ship's rail or vice-versa</i>	<i>For handling from ship's rail to quay or shed or vice-versa</i>	<i>Total payable in respect of whole operation</i>
	<i>Per Ton</i>	<i>Per Ton</i>	<i>Per Ton</i>
b. Carobs, oats, cotton seed and barley			55c
c. Other grains			31c
d. Salt, sand, grit and marble chipping			124c
e. Alfalfa, grass pellets, soya bean pellets and sunflower meal ..	93c	85c	178c
f. Other bulk cargo			33c
C. Bulk cargo handled by suction plant feeding in hold other than at the Government Silo			27c

Note:

1. The above fees include all remuneration due for the carrying of cargo necessary for the performance of the whole operation.

2. Bagging and tying of damaged bulk wheat which cannot be unloaded by suction shall be paid at double the fee for bulk wheat not unloaded by suction; and the normal fees applicable to bagged cargo shall be paid for its unloading.

3. The fee for the unloading of wheat in bulk not unloaded by suction from deep tanks shall be 75 per centum in addition to the normal fee specified in this Part of this Tariff.

4. The unloading of wheat in bulk between pipes not unloaded by suction in the deep tanks shall be charged at double the normal fee shown in this Part of this Tariff and the quantity of wheat so discharged shall be established by agreement between the master (or the chief officer) and the Authority.

5. Where bulk cargo is not loaded or unloaded at the Government Silo, port workers employed to handle from ship's tackle to stack on quay or in shed or vice versa the cargo in bulk specified in Column 1 of this note shall be paid the fees shown in Column 2 and in Column 3 thereof:—

Column 1	Column 2	Column 3	Column 4
<i>Nature of Cargo</i>	<i>For handling from hold to ship's rail or vice-versa</i>	<i>For handling from ship's rail to quay or shed or vice-versa</i>	<i>Total payable in respect of whole operation</i>
	<i>Per Ton</i>	<i>Per Ton</i>	<i>Per Ton</i>
(a) Wheat		8c	44c
(b) Carobs, oats, cotton seed and barley		13c	76c
(c) Other grains		8c	47c
(d) Deffun, marble chippings		12c	66c
(e) Other bulk cargo		8c	49c

Note:

The above fees include all remuneration due for any trimming which may be necessary.

6. Port workers employed in the handling of bulk cargo to perform the operations specified in Column 1 of this note shall be paid the fees shown in Column 2 thereof:—

Column 1	Column 2
	<i>Rate per ton</i>
(a) Bagging and tying	17c
(b) Suction plant feed on deck or lighter	17c
(c) Bucket conveyor feeding:	
(i) Grain other than wheat	27c
(ii) Wheat	16c

Note:

The fees shown against item (a) shall be in addition to the fees shown in note 5 of this Part of this Schedule, and the fees shown against items (b) and (c) shall be in lieu of the fees shown in Column 3 of note 5 of this Part of this Schedule.

7. Notwithstanding anything contained in this Part of this Schedule, port workers employed to load or unload wheat in bulk or other bulk cargo through the Kordin Silo shall be paid the fee of 2c5 per metric ton:

Provided that when wheat in bulk or other bulk cargo is transferred from Kordin Silo to other silos or to warehouses for local use or consumption, such wheat in bulk or other bulk cargo shall be deemed to have been handled at the Government Silo and the appropriate fees specified in this Part of this Schedule shall be payable.

8. The fee of 2c5 per metric ton shall be deemed to include all remuneration for all work that may be necessary for the whole loading or unloading operation.

PART IV

Shed or Stack to Transport

Port Workers employed to handle, from shed or stack on open quay to transport, the cargo specified in Column 1 of this Tariff shall be paid the fees shown in Column 2 or in Column 3 thereof according to the type of operation performed:

Column 1	Column 2	Column 3
<i>Nature of Cargo</i>	<i>Carrying from shed or stack on open quay, loading and stacking on truck</i>	<i>Receiving at tail board of truck and stacking on trucks</i>
Frozen meat		
per ton	51c	—
Cereals including bran, pollard, and canary seed and salt, in bags		
per ton	40c	21c
Oil cake in bags		
per ton	63c	21c
Sugar in bags		
per ton	40c	22c
Timber		
per ton	44c	—
L.P. Gas Cylinders		
per cylinder	5c	—
Seed potatoes		
per bag	4c	—

Column 1	Column 2	Column 3
<i>Nature of Cargo</i>	<i>Carrying from shed or stack on open quay, loading and stacking on truck</i>	<i>Receiving at tail board of truck and stacking on trucks</i>
Bitumen and Asphalt in drums		
per ton	29c	—
Any substances in bags or in drums for use in the oil industry	33c	22c

Note:

The fee shown in Column 2 in respect of the item "Oil cake in bags" shall be levied irrespective of the average weight of, or the weight of individual bags, and includes all remuneration due for the handling of bags for weighing purposes.

PART V

Accompanied Cars to/from Ferry Ship

1. There shall be paid to Port Workers a fee of Lm1.25c per unit in respect of—

- (i) accompanied cars; or
- (ii) caravans, luggage, trailers, boats, or empty horse boxes on tow of accompanied cars; or
- (iii) boats or inflatable rafts carried on accompanied cars;

not carried under a Bill of Lading:

Provided the accompanied cars and any of the items (ii) and (iii) specified above are driven on or off a ship and do not require handling between decks.

2. There shall be paid to Port Workers a fee of Lm5 per unit in respect of tourist coaches:

Provided the tourist coaches are driven on or off a ship and do not require handling between decks.

PART VI

Miscellaneous

1. Any port worker employed as a winchman, extra driver, heavy plant driver or extra signalman for any one operation, shall be paid a fee of Lm3 per hour, subject to a minimum period of 4 hours.

2. Port workers employed to perform the following port work in enclosed port areas, with regard to the handling of unitised cargo, that is:

- (a) the packing and unpacking of containers;
- (b) the loading and unloading of trailers;
- (c) the dismantling of other unit loads on quay or in warehouse or stacking ground;
- (d) the sorting of cargo so handled according to main bill of lading marks and the stacking of such cargo on quay or in warehouse; and
- (e) the consolidation of unit loads for loading on board a ship;

shall be paid:—

(1) when engaged in the morning, a fee of Lm3 per man per day or part thereof, unless they request to be and are released from port work before noon, in which case they shall be paid a fee of Lm1.50 for the half day or part thereof ending at noon;

(2) when engaged to work between 1300 hours and 1700 hours, a fee of Lm1.50 per man for the half day or part thereof.

FOURTH SCHEDULE

(Regulation 27)

Methods of calculating the Tariff of Fees payable to Port Workers

Meaning
of grain.

1. For the purposes of this order "grain" includes any corn, rice, paddy, pulse (i.e. peas, beans and other seeds of leguminous plants), seeds, nuts or nut kernels, and any mixture or combination or offals thereof.

Methods of
calculation
of Tariffs.

2.1 Where a fee shown in the Third Schedule is payable per ton, it shall be calculated per ton weight of 1,000 kilos or ton measurement of 40 cubic feet, whichever is the greater.

2.2 The provisions of paragraph 2.1 above shall not apply in respect of the cargo specified in Column 1 of the Table immediately following in paragraph 3 below, in respect of which cargo the fees shown in the Third Schedule shall be calculated as specified in Column 2 of the said Table.

3. The Table mentioned in paragraph 2.2 above is the Table, following:—

TABLE

	Column 1	Column 2
3.1.1	Flour, grain, sugar, carozo nuts, briar wood, onions, and coal and coke, in bags	on a weight basis
3.1.2	bulk cargo	on a weight basis
3.1.3	frozen meat	on a weight basis
3.1.4	wine in casks	on a weight basis
3.1.5	earthenware pipes, bends and fittings	on a weight basis
3.1.6	loose scrap metals	on a weight basis
3.1.7	scrap aluminium loose, packed or bundled	on a weight basis
3.2	Groundnuts in bags	at three times the weight
3.3	Empty drums of a capacity of 40 gallons and over	per drum
3.4	Chairs in bundles or loose	per chair
3.5	Willows, canes et similia in bundles .	per bundle
3.6	Unpacked mobile equipment consigned to or shipped by the Malta Government	where measurement exceeds weight by more than five times, at five times the weight
3.7	Bagged cargo wet at time of handling	at double rate
3.8	Corpses	at double general cargo rate
3.9	Accompanied motor cars and tourist coaches	per car or tourist coach

	Column 1	Column 2
	3.10 Potatoes in bags, chests, boxes or similar packing	at one and a half times the dead weight tonnage of 1,000 kilos per ton
	3.11 Folding or collapsible containers loaded or unloaded interlocked into one another	on a weight basis.
Drums.	4. The measurement tonnage of drums shall be calculated by multiplying the square of the diameter of the base of the drum by the height of the drum.	
Scrap metal.	5. Scrap metals in drums or bales, other than aluminium in bales or bundles, shall be considered as general cargo for the purposes of the Third Schedule.	
Glass — loose broken.	6.1 The tariff for loading broken glass delivered loose on quay shall be double the normal tariff for other bulk cargo.	
	6.2 The tariff for loading glass delivered in open drums shall be the normal tariff for other bulk cargo.	
Difference in tonnage.	7.1 The fees payable for the handling of salt shall be calculated on the weight shown on the bill of lading, but if the actual weight landed exceeds the weight shown on the bill of lading, the fees shall be calculated on the actual tonnage landed.	
	7.2 The fees in respect of wheat in bulk not landed at the Government Silo shall be payable on the tonnage shown on the bill of lading; any difference between that tonnage and the tonnage actually landed shall be paid by the employer, or if more than one by the employers in proportion to their allocation, and if wheat is wholly or partly unloaded by shoulder, such difference shall be payable at shoulder rates.	
Ammunition.	8.1 All ammunition shall, for the purposes of establishing the fees payable in respect thereof, be treated as explosives unless the employer —	
	8.1.1 informs the Authority, before the operation starts, that the cargo in question is free from explosives; and	
	8.1.2 supports that declaration by documents.	
Cargo short-landed.	9. Where any cargo is short-shipped or lost in transit and duly vouched for in the ship's documents, no payment shall be due to port workers; other cargo short-landed shall be paid for as per ship's bill of lading, but shall not be charged for again by port workers if eventually handled.	

10. For the purposes of calculating the fees in respect of unitised cargo specified in the Second Schedule, the provisions of this Schedule shall apply:

Applicability
of this
Schedule.

Provided that the tonnage of unitised cargo on which fees are calculated shall be the actual tonnage of the cargo loaded or unloaded or shifted excluding the equipment used to form unit loads or to tow, push, carry, or otherwise move such cargo;

Provided further that in the case of trailers and containers, fees shall be calculated according to the following fixed tonnage:

Containers	20 ft	23 tons
Containers	40 ft	45 tons
Trailers	20 ft	25 tons
Trailers	40 ft	45 tons
Trailers Supercube	40/43 ft	58 tons

Refrigerated Containers containing frozen meat, frozen fish and frozen by-products of such commodities:

Containers/Trailers	20 ft	18 tons
Containers/Trailers	40 ft	26 tons

11.1 For the purposes of paragraphs (a) and (b) of regulation 38 of these regulations, employers of port workers shall pay to the Authority:—

Charges
payable by
employers of
port workers.

11.1.1 the fees specified in the Second Schedule hereto; and

11.1.2 the levy specified in the Eighth Schedule hereto.

FIFTH SCHEDULE

(Regulation 28)

Method of payment to Port Workers

The payment of a cost of living increase or bonus or of any other increase in the wages of port workers together with the relative fees due to them under the Third Schedule shall be made in the following manner —

(a) a cost of living increase or bonus or any other increase in the wages shall be paid to port workers on the 15th day of each month:

(b) the earnings due to port workers for the previous month shall be distributed equally, after all requisite deductions have been made, amongst port workers, on the 15th day and the last day of the month:

Provided that if such 15th day or such last day of the month happens to be a Saturday, Sunday or National or Public Holiday, payment shall be made on the preceding or subsequent day nearest to the 15th day or the last day of the month.

SIXTH SCHEDULE

(Regulation 29)

Hours of Port, Leave, National and Public Holidays and Allowances

1. The working hours of the port shall be 24 hours, seven days a week.

2. Port work shall be organized as follows:

(a) On a day basis:

From 0800 hours to 1700 hours including a one hour's break between 1200 and 1300 hours; or

(b) On a twenty-four hour shift basis:

Day shift from 0800 hours to 1600 hours

Evening shift from 1600 hours to 2400 hours

Night shift from 2400 hours to 0800 hours; or

(c) On a fourteen hour shift basis:

Day shift from 0800 hours to 1500 hours

Evening shift from 1500 hours to 2200 hours.

Provided that shift work on a 24 hour basis could start either at 0800 hours, or at 1600 hours or at 2400 hours.

Provided further that port work could be carried out also on the basis of any two consecutive eight hour shift or on a single eight or seven hour shift.

3. To each port worker actually employed during night shift or on Sundays or National or Public Holidays, there shall be paid in addition to the fees specified in the Third Schedule, the following fees:—

In respect of work performed:

(a) On night shift from Monday to Saturday: Lm 5 per man

(b) On Sundays and National or Public Holidays: Lm10 per man

4. It shall not be obligatory for port workers to work on the 31st day of March, Good Friday, the first day of May, Christmas Day and New Year's Day, on the afternoon of the 24th December (Christmas Eve) and after 5.00 p.m. on the 31st December (New Year's Eve), except for work which the Director may authorise in circumstances which constitute an emergency in respect of any ship or cargo, or for port work which the Director may authorise after consultation with the employers and the port workers' representatives.

For the purpose of this paragraph, the handling of baggage to, on, or from emigrant ships, the handling of mails to, on, or from, a vessel which is leaving port on any of the aforesaid days, and the handling of cargo on or from a ship on fire, shall constitute an emergency for which no consultation shall be required.

5. For the purposes of this Schedule, "national holiday" and "public holiday" mean any day which is to be kept as a national or a public holiday in terms of, or by virtue of any order made under, the National Holidays and other Public Holidays Act.

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6. (1) Port workers may be allowed leave of absence by the Authority for a period not exceeding thirty days in any one year and by the Director for such further period as he may consider justified.

(2) The Director may also allow port workers emigration leave not exceeding thirty months in any five year period.

SEVENTH SCHEDULE

(Regulation 30)

Organisation, Ordering, Allocation and Suspension/Cancellation of Labour

1. All port workers appearing on the Port Workers Register shall form one homogeneous section and shall, in conformity with the provisions of section 2 of the Ordinance, perform port work consisting of or involving:

(a) operations on a ship and from ship's hold/deck to ship's rail or vice-versa, in connection with all cargo, including cargo in bulk;

(b) operations under ship's tackle including slinging and unslinging, stowing and stacking on lighters, trailers or other equipment or on quay at ship's side; operations from lighters to quay, from lighters, or quay to stack in warehouse or on quay or stacking ground or on truck or vice-versa, including the identification and sorting of goods to bill of lading shipping marks, the stacking or stowing to such marks as directed by the employer and the provision of drivers for mechanical handling equipment other than fork lift trucks and cranes;

(c) the handling of such cargo as is prescribed in regulation 21 of these regulations;

(d) shed work when they are employed for this work by the Director or his contractor as the case may be, provided that they may be required to work on a quay and/or in a warehouse with complete flexibility and without being tied down to specific jobs;

(e) the handling of unitized cargo on a ship, on a quay and in a warehouse, including the lashing, unlash, slinging, unslinging, hooking and unhooking, of cargo in unit loads from ship to quay or stacking ground or warehouse and vice-versa, provided that port work on shore shall be performed only when it constitutes a continuous operation while cargo is in the custody of the Director or of his contractor, as the case may be;

(f) bagging and tying;

(g) the duties applicable to winchman, driver, heavy plant driver, and signalman.

2. Orders for labour are to be made to the Authority in all cases.

3. The order in which port workers shall be supplied to ships shall, save as otherwise provided, be the working priority of the ship, that is to say the order of the ship's arrival in port:

Provided that if a ship not yet in port has ordered night work gangs, that ship shall be deemed to have arrived at noon and any other ship arriving in port and wishing to work on that day shall be supplied with port workers according to her time of arrival, so however that a ship arriving between 11.00 a.m. and noon shall be deemed to have arrived at 12.01 p.m. for the purposes of establishing her working priority.

4. Subject to the provisions of this paragraph, an order for port workers to start work may be placed at any time of the day:

Provided that:

- (1) For night shift, an order in writing shall be placed by noon of the previous day;
- (2) For Saturday or national or public holiday work, an order in writing shall be placed by 1700 hours on the previous evening, while for Sunday work it shall be placed by noon of the previous Saturday:

Provided further that:

(i) when work is required on a Saturday which follows a national or public holiday, the order shall be placed by noon of the said national or public holiday; and

(ii) when work is required on a national or public holiday which follows a Sunday or another national or public holiday, the order shall be placed by noon of the Sunday or of the said other national or public holiday, as the case may be.

5. (1) When placing a request for labour, the owner, or master or agent of a ship or any other employer of port workers, shall provide the Authority with the following information:

- (a) the approximate time when port work is due to start;
- (b) the volume and nature of cargo which is to be handled;
- (c) whether he opts to work on a day basis or on a twenty-four or fourteen hour shift basis; or whether he opts to work on the basis of two consecutive eight hour shift or on a single eight or seven hour shift;

together with any other further information which the Authority may request.

(2) The information requested in sub-paragraph (1) of this paragraph must reach the Authority not less than twenty-four hours prior to the arrival of ship in port:

Provided that in the case of voyages which would take less than twenty-four hours in order that ship reaches Malta, this information shall reach the Authority as early as possible but in no case later than four hours before ship enters harbour.

6. (1) In response to orders placed by the employers, the Authority shall supply port workers subject to the provisions of this Schedule:

Provided that if there is danger that a ship may leave with incoming mail or without loading outgoing mail, the Authority may make all reasonable arrangements for the unloading or loading of such mail, and need not supply port workers according to the roster.

(2) The number of port workers inclusive of drivers, winchmen and/or signalmen, where applicable, to be allocated for an operation and the approximate time necessary to complete the operation, shall be determined jointly by two representatives of the Authority and a representative of the port workers. The decision reached shall be final:

Provided that the employer of port workers, may, while the operation is in progress, request a revision of the decision:

Provided further that if a dispute arises, the matter shall be brought for the consideration of the Port Disputes Board in accordance with the provisions of the Ordinance, without the stopping of port work, unless in case of evident danger.

7. The Authority shall supply port workers in the order in which they appear on the roster.

All port workers, engaged on a shift basis, shall be allocated to a particular ship or operation at the same time and in the order in which they are registered on the roster.

Port workers who are requested to perform part of a shift shall be considered as if they have worked a whole shift.

8. When port workers have been allocated to a ship or to an operation, no increase or decrease in the number of port workers shall be allowed, save as provided for in this Schedule.

9. When labour is supplied to a ship or to an operation:

(a) Port workers allocated to port work on a day basis shall be re-registered on the roster in the order in which work at a particular hold of a ship is completed;

(b) Port workers allocated to port work on a shift basis shall be re-registered on the roster as soon as the ship completes work in the same order in which port workers were allocated to the particular ship:

Provided that if more than one ship, hold or shift completes at the same time, then the men concerned shall be re-registered in the same order as that in which they were allocated to the work just completed:

Provided further that port workers, allocated to shift work, but who did not attend to port work at any time, shall be re-registered on the roster before those port workers who have actually worked on that particular shift.

10. (1) Port workers due for work shall remain available near the offices of the Authority until they are allocated work or released.

(2) If a port worker fails to comply with the requirements of sub-paragraph (1) of this paragraph or fails to report for work with no valid reason to justify his absence, the Authority may make a proportionate deduction from the earnings of that particular port worker and shall report the matter to the Port Workers Board for any action the Board may deem proper to take.

(3) A master, agent or owner of a ship, or importer who informs the Authority that he intends to place an order for port workers on that same day shall, if an order is not placed, pay the sum of Lm2 per man per hour or part thereof in respect of such port workers retained after 1100 hours to be allocated in accordance with that order.

11. When the master of a ship or his agent fails to place an order for labour in the order of the working priority of the ship, that ship shall forthwith forfeit her working priority until the following morning.

12. The cancellation of orders shall be governed by the following rules:

(a) an order for night shift on a ship not yet in port may be cancelled up to noon of the previous day.

(b) an order for work on a Saturday, a Sunday or a national or public holiday may be cancelled up to the time limit specified in sub-paragraph (2) of paragraph 4 of this Schedule for the making of the relative order;

(c) if an order for night shift or for Saturday, Sunday or national or public holiday work is cancelled after the time limits set out in sub-paragraph (a) or (b) of this paragraph, the owner, master or agent of the ship in question shall pay a fee of Lm2 per man allocated to a ship or operation together with any night shift, Sunday or national or public holiday allowances, where applicable, which amounts shall be distributed equally amongst port workers, and

(d) for the purposes of this paragraph an order is cancelled when the employer notifies the Authority of his definite intention not to employ the port workers ordered.

13. (1) No port worker shall absent himself from work without justifying his absence to the satisfaction of the Authority.

(2) In the case of illness, port workers shall produce a medical certificate issued by a medical officer appointed by the Port Workers Board.

(3) No medical certificates produced by a port worker in connection with absence due to illness or with any other matter connected with port work shall be accepted as being valid for the purposes of this order unless such certificate:

(a) is issued by a medical officer appointed for such purposes by the Port Workers Board;

(b) clearly specifies the duration of time in respect of which it is made; and

(c) is produced to the Authority on the same date on which it is signed or early on the following day.

(4) If a port worker fails to comply with the requirements of sub-paragraph (1) and (2) of this paragraph, the Authority shall report the matter to the Port Workers Board for any action the Board may deem proper to take.

14. The number of port workers allocated port work on Deep Water Quays shall be deemed to include at least one driver for mechanical handling equipment other than fork lift trucks and cranes.

15. Leakages on board ship shall be gathered and packed or bagged by port workers.

EIGHTH SCHEDULE

(Regulations 25 and 38)

Levy on Cargo

1. The owner, master or agent of a ship which loads or unloads cargo in a port or any other person who employs port workers or on whose behalf port workers are employed, shall pay to the Authority a levy of 32c5 per ton of cargo loaded or unloaded.

2. For the purpose of calculating the levy specified in this Schedule the provisions of the Fourth Schedule to these regulations shall apply.

3. The tonnage of unitised cargo on which fees are calculated shall be the actual tonnage of the cargo loaded or unloaded excluding the equipment used to form unit loads or to tow, push, carry or otherwise move such cargo.

4. The provisions of this Schedule shall not apply to:

- (i) Locally manufactured goods loaded on a ship for export.
- (ii) Transshipment cargo.
- (iii) Cargo unloaded and eventually re-loaded on a ship in the process of shifting cargo on, from, or to that ship.
- (iv) Empty containers.
- (v) Empty trailers.
- (vi) Road transport vehicles and bowsters rolled on or off a RORO ship to load or unload cargo.

NINTH SCHEDULE

(Regulation 39)

Pensions and Gratuities

1. The full pension rate shall be Lm580 per man per annum.

2. Port workers who, during the five year period ending on the fourth day of April, 1973, have reached the age of 63 years or more and who have not been reporting for work, or who resigned but were not replaced by a son, or brother, shall, in respect of the period of absence shown in Column 1 of the following table, receive a pension at the rates shown in Column 2 thereof:

Column 1	Column 2
<i>Period of Absence</i>	<i>Pension Rate</i>
(a) Between 4 and 5 years	Lm116 per man per annum
(b) Between 3 and 4 years	Lm232 per man per annum
(c) Between 2 and 3 years	Lm348 per man per annum
(d) Between 1 and 2 years	Lm464 per man per annum
(e) Less than 1 year	Lm580 per man per annum.

3. For the purpose of paragraph 2 of this Schedule, the period of absence shall be calculated as follows:

(a) "year" shall be taken to mean the period between the fourth day of April of any one year and the third day of April of the next following year; and

(b) the period of absence in respect of port worker shall be deemed to be the period between his last attendance for port work and the fourth day of April, 1973:

Provided that —

(i) where the period between the last and previous attendances is one year or more, such period shall be calculated as being a period of absence; and

(ii) where during the five year period ending on the fourth day of April, 1973, periods of absences have not been continuous, the period of absence between one attendance and another shall be taken into account if such period of absence is one year or more.

4. When a port worker who is on certified sick leave receives full earnings as a member of his regular gang, his absence on such certified sick leave shall not count as being a period of absence.

5. Port workers who, before the fourth day of April, 1973, —

- (a) were 63 years of age or over;
- (b) have not registered for work or who, having resigned, were not replaced by a son or brother; and
- (c) have been absent from work for a period of time in excess of five continuous years from the fourth day of April 1973, shall be paid a once for all gratuity of Lm276, notwithstanding that their claim for a gratuity had been approved before the ninth day of April, 1973.

6. (1) Port workers who, during the five year period ended on the fourth day of April, 1973, had reached the age of 61 years or more and who had resigned during the five year period ended on such date and were replaced by a son, or brother, shall, in respect of the periods of absence shown in Column 1 of the following table, receive a pension at the rates shown in Column 2 thereof:

Column 1	Column 2
<i>Period of Absence</i>	<i>Pension Rate</i>
(a) Between 4 and 5 years	Lm116 per man per annum
(b) Between 3 and 4 years	Lm232 per man per annum
(c) Between 2 and 3 years	Lm348 per man per annum
(d) Between 1 and 2 years	Lm464 per man per annum
(e) Less than 1 year	Lm580 per man per annum.

(2) Port workers who during the five year period ended on the fourth day of April, 1973, had resigned when they were over forty-five but under sixty-one years of age and who were replaced by a son or brother shall receive such part of the full pension as the Minister responsible for ports may, on the advice of the Committee appointed under regulation 32 of these regulations, from time to time, determine after taking into account the period of absence of such port worker:

Provided that such port workers shall be required to prove to the satisfaction of such Committee that they had resigned on medical grounds.

7. Notwithstanding the provisions of this Schedule, a port worker who, having been registered in the Bulk Cargo Workers Section only, qualifies for a pension in terms of these regulations and who, during the twelve months immediately preceding his retirement, earned his total income shown in Column 1 of the following table shall be paid a pension at the rate as shown in Column 2 thereof:

Column 1	Column 2
<i>Income</i>	<i>Pension Rate</i>
Between Lm200 and Lm400	Lm377
Earned less than Lm200 or no income at all	Lm259.

