

CHAPTER 139.

HARBOUR DUES.

ARRANGEMENT OF SECTIONS.

SECTION.

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CHAPTER 139.

HARBOUR DUES.

8 of 1943.

An Ordinance to provide for the levying of harbour dues in respect of animals and goods in ships entering and leaving Freetown Harbour and for matters connected therewith.

[1ST DECEMBER, 1943.]

Short title.

1. This Ordinance may be cited as the Harbour Dues Ordinance, and shall apply to the Colony and Protectorate.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
- “ animals ” includes horses, mules, donkeys, cattle, sheep, goats and swine, except in the definition of “ cargo ” where the expression “ animals ” includes animals of all kinds;
- “ cargo ” includes all kinds of personal property other than
- (a) passengers' baggage passed as such by the Comptroller; and
 - (b) animals;

“ Comptroller ” means the Comptroller of Customs and, in respect of any specified duty or power imposed or vested in the Comptroller by this Ordinance, includes any officer of Customs authorised by the Comptroller to perform such duty or exercise such power;

“ Harbour ” means the Freetown Harbour as specified and delimited in the Ports and Inland Waters Ordinance.

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3. Subject to such exemptions as may be prescribed, there shall be raised, levied and paid upon—

Imposition of harbour dues.

(a) every animal and all cargo embarked or shipped in the harbour in any ship leaving the harbour by sea; and

(b) every animal and all cargo disembarked or unshipped in the harbour from any ship entering the harbour by sea,

such sums as may be prescribed by way of harbour dues. Such dues shall be paid to the Comptroller in the manner hereinafter provided.

4. Any officer of Customs may, either alone or with such other persons as he may authorise to accompany him, board and examine any ship within the harbour in order to ascertain the dues payable in respect of such ship or for any other purpose in connection with this Ordinance.

Power of Customs officers to board ships.

5. (1) The master of every ship of more than seven tons burden—

Delivery of documents, etc., by master.

(a) shall, within twenty-four hours after the arrival of such ship within the harbour, deliver to the Comptroller an account in writing of all passengers and animals and of the kinds, quantities and tonnage of all cargo intended to be unshipped or landed within the harbour; and

(b) shall, when applying for the clearance outwards of his ship, deliver to the Comptroller an account in writing of all passengers and animals and of the kinds, quantities and tonnage of all cargo embarked or shipped on board the ship while within the harbour.

(2) Any report, passenger list, parcels list, or transire delivered by the master in accordance with the provisions of this Ordinance shall be deemed to be an account for the purpose of this section.

(3) The master shall, at the time of delivering the account to the Comptroller, also deliver to him a summary thereof in the prescribed form.

(4) The master shall, if required to do so by the Comptroller, produce to him all copies of bills of lading and other documents relating to the cargo.

(5) The master shall, if required to do so by the Comptroller, give to him three hours' notice of the time at which the cargo of the ship or any part thereof is intended to be unshipped or any passenger or animal is intended to be landed.

(6) The master of any ship who—

(a) contravenes any of the preceding provisions of this section or fails to comply with any requirement given thereunder; or

(b) delivers any false account or summary, or produces any false document relating to the cargo or animals or gives any false notice relating to the cargo,

shall be liable to a fine not exceeding one hundred pounds sterling.

Power to weigh or measure cargo in case of dispute.

6. Where any difference arises between the Comptroller and the master of any ship, concerning the weight or quantities of the cargo in respect of which any dues are payable, the Comptroller may cause all or a part of such cargo to be weighed or measured at his discretion and, if necessary, he may detain the ship until such time as the cargo or part thereof has been so weighed or measured.

Payment of the expenses of weighing or measuring cargo.

7. If the weight or measurement of such cargo be more than that shown by the manifest, bill of lading, account, or statement delivered by the master of the ship, the expenses of such weighing or measuring shall be paid to the Comptroller by the master and shall be recoverable by the same means as are herein provided for the recovery of dues; but if the weight or quantity of such cargo be the same as or less than that shown by the manifest, bill of lading, account or statement so delivered, the Comptroller shall pay all the expenses of such weighing or measuring and of any unreasonable delay of the ship.

Penalty for evading payment of dues.

8. Every person, who is knowingly concerned in evading or attempting to evade payment of the dues payable in respect of any ship, shall on summary conviction be liable to a fine not exceeding one hundred pounds.

9. If the master or agent of any ship in respect of which any dues are payable refuses or neglects to pay the same, or any part thereof, the Comptroller may go on board such ship and demand such dues, and where such dues are not paid in full forthwith, he may on his own authority arrest such ship and seize the tackle, apparel and furniture, or any part thereof, belonging thereto and detain the ship and articles so arrested and seized until such time as the dues are paid, and in case any of the said dues shall remain unpaid for the space of seven days next after the arrest or seizure has been so made, the Comptroller may cause the ship and articles, or any part thereof, to be sold, and with the proceeds of such sale shall satisfy the dues so unpaid together with the expenses of taking, keeping and selling the ship and articles and he shall render the overplus, if any, to the master or agent of such ship on demand.

Recovery of dues by distraint of ship and tackle.

10. Where any dispute shall arise concerning the amount of dues payable or the charges occasioned by any arrest or seizure under the last preceding section of this Ordinance, the Comptroller may detain the ship and articles so arrested and seized until such time as the amount of the dues payable or the charges of such arrest or seizure be ascertained by the Magistrate's Court at Freetown, which, upon application made for that purpose, shall determine the same and award such costs to be paid by either party to the other as it shall consider reasonable.

Decision of disputes.

11. All ships arrested and articles seized for any dues and charges payable under the provisions of this Ordinance shall be publicly sold at such time and place as the Comptroller shall, by public notice of not less than six days, appoint for that purpose, and such ship and articles shall be sold to the highest bidder; and the money arising from the sale thereof shall be applied in the first place in payment of the dues and charges for which the same respectively shall have been sold, and the overplus, if any, shall be paid to the master or owner, or other person having the command or charge of the ship in respect of which such dues and charges shall have been incurred, or to any other person authorised to receive the same.

Procedure on sale of articles seized.

12. The following persons and each of them, in addition to the master of the ship, shall be liable for the payment of dues payable under this Ordinance, that is to say, the owner of the ship and every agent or consignee of such ship, where such agent or consignee shall have paid or made himself liable to pay any charge on account of such ship in the harbour.

Liability for payment of dues.

Power to
refuse to give
clearance.

13. The Comptroller shall refuse to give clearance to any ship until such time as the prescribed dues and forfeits, if any, have been paid or until such time as he is satisfied that sufficient security has been given for the payment thereof, or if there be any dispute as to the amount of dues payable, until such time as he is satisfied that sufficient security has been given for the payment of the dues when ascertained, together with any expenses arising from such dispute:

Provided that where clearance has been refused for the reason of the non-payment of any forfeit and it has been held by the Court that such forfeit is not payable clearance shall no longer be refused for that reason only.

Dues
recoverable
in Court.

14. All dues payable and penalties incurred under this Ordinance shall be recoverable by suit in the name of the Comptroller in the Magistrate's Court at Freetown.

Power of
Governor in
Council to
make Rules.

15. (1) The Governor in Council may make rules for the following purposes—

(a) prescribing the dues for the time being payable under this Ordinance;

(b) exempting any animals or cargo or any class of animals or cargo either wholly or partly, from the payment of dues, subject to such conditions as he may think necessary;

(c) the calculation of tonnage by measurement; and

(d) generally for the further and better carrying out of this Ordinance.

(2) Any rule which increases the prescribed dues shall come into operation on such day not being earlier than two months after the date of the publication of the rule, as may be specified therein.

Schedule.
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(3) Unless and until amended, varied or revoked by the Governor in Council under this section, the Rules set out in the Schedule to this Ordinance shall have effect as if they had been duly made under this section and shall come into force simultaneously with this Ordinance.

* The schedule, being Rules, is to be found with the subsidiary legislation, under this Chapter.