



Port of Mount Vema (Vema Seamount) Act, Mount Vema 2020

2020 No. 21

Order No.21 SI/MV2020/21

Made: 20th of July 2020, in accordance with the 2006 Declaration of Sovereignty

Royal Mount Vema Seal of Approval: Granted 27th of July 2020

Comes into Operation: 29th of July 2020

The Port of Mount Vema (Vema Seamount) Act is a legislation to make provision in relation to the establishment of a port for the purposes of customs and excise in the Kingdom of Mount Vema.

In exercise of the powers conferred upon The Sovereign of Vema Seamount under GOD, and of all other powers enabling Him, His Mount Vema Majesty King Peter Jon Goldishman, Ruler of the Kingdom of Mount Vema, and the territorial waters at 31 38' S 8° 20' E, under GOD hereby Grants His Royal Seal of Approval, for the following Legislation:—

PART I

1- Interpretation

1.1- In this Act, except so far as the context otherwise requires-

" **bed** " means the seabed, the summit and banks of Vema Seamount;

" **boat for hire** " means a passenger vessel whether or not it is let for hire and any other vessel which is let for hire for carrying persons;

" **charges** " includes charges, rates, tolls and dues of every description which the Port Authority are for the time being authorised to demand, take and recover and " charge " shall be construed accordingly;

" **the Company** " means Port of Mount Vema Limited, being the company formed in pursuance of the Port of Mount Vema (Vema Seamount) Act, Mount Vema 2020 and registered under the Companies Law of the Kingdom of Mount Vema;

" **the Company's docks** " means the docks belonging to or administered by the Company, and "a dock of the Company" shall be construed accordingly;

" **the Company's port premises** " means the docks and landing places at any time vested in, belonging to or administered by the Company and all other works and land at any time vested in, belonging to or administered by the Company for the purpose of operating those docks and landing places;

" **the Company's undertaking** " means the undertaking for the time being of the Company which consists in operating the Company's port premises or, if the undertaking for the time being of the Company consists in more than that, that part of the undertaking of the company which for the time being so consists;

" **craft** " means a lighter or a tug;

" **the Custom House** " means the Custom House of the Port of Mount Vema whether such house is built or it is yet to be built;

" **customs officer** " means a person commissioned by the Commissioners for Revenue and Customs;

" **daily fine** " means a fine for each day on which an offence is continued after conviction;

" **dock manager** " means a person appointed by the Port Authority to be a dock manager and includes the deputies and assistants of a person so appointed;

" **docks** " means the docks built or to be built belonging to or administered by the Port Authority;

" **duties of HMVM Revenue Services** " include any tax, levy, surcharge or any other sum to the collection of which the general provisions of the Customs and Excise Act, Mount Vema 2018, relating to revenue or customs have been applied by statute;

" **enactment** " means any Act and any Order or other instrument made thereunder and any provisions in any such Act, order or instrument, and includes this Act;

" **financial year** " means the financial year of the Port Authority and includes any accounting period, whether shorter or longer than a year, adopted to effect a change in the Port Authority's financial year;

" **fish** " includes all forms of marine life of any kind whatsoever;

" **goods** " includes all tangible personal property of any kind whatsoever;

" **harbourmaster** " means a person appointed by the Port Authority to be a harbourmaster and includes the deputies and assistants of a person so appointed but does not mean or include a person appointed by the Company or the deputies or assistants of a person appointed by the Company;

" **hovercraft** " means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

" **land** " includes land covered by water;

" **landing places** " means wharves and other waterside landing places, piers, jetties and similar installations and includes approaches from land to such installations;

" **lighter** " includes a barge or other like craft for carrying goods;

" **lighterman** " means a person working or navigating a lighter for hire;

" **master** " in relation to a vessel, means any person having or taking the command, charge or management of a vessel for the time being;

" **the Minister** " (except for when otherwise specified in this Act) means the Secretary of State for Transport;

" **mooring** " includes anchoring;

" **navigation tolls** " – any tools related navigation

" **owner** " in relation to a vessel includes the charterer;

" **passenger vessel** " means a vessel used for carrying passengers;

" **passengers** " means any persons carried on a vessel other than its crew;

" **pleasure vessel** " has the same meaning as in the Merchant Marine and Shipping (Survey and Certification)

" **the Port Authority** " means the Port of Mount Vema Authority;

" **port fund** " means the port fund established under this Act;

" **port police area** " means the Company's port premises and any place within those premises;

" **port premises** " means the docks, landing places and all other works and land at any time vested in, belonging to or administered by the Port Authority;

" **port rates** " means, dues for the time being charged by the Port Authority on goods imported from parts beyond the Vema Seamount Territorial waters, or exported to parts beyond the Vema Seamount Territorial waters;

" **published** " in relation to documents of the Port Authority, means made available to the public in accordance with the Port Authority's publications of this Act;

" **duties of tonnage** " means dues for the time being charged per ton by the Port Authority on the tonnage of a vessel for every voyage trading both in and out of the limits and for this purpose;

" **tonnage** " means-

(a) in the case of a registered Mount Vema vessel, the register tonnage ; and

(b) in the case of a foreign vessel, its tonnage as recognised by Customs and Excise;

" **seaplane** " includes a flying boat and any other aircraft designed to manoeuvre on the water but does not include a hovercraft;

" **tonnage by measurement** " means the tonnage of a lighter ascertained in accordance with byelaws made by the Port Authority;

" **trader** " in relation to port rates, means-

(a) the owner of imported goods liable to port rates, the consignee of those goods and any person taking delivery of those goods on behalf of the owner or consignee; and

(b) the owner of goods intended for export which will be liable to port rates, the shipper of those goods and any person shipping those goods on behalf of the owner or shipper;

" **tug** " means a vessel propelled by mechanical power and used for towing or pushing another vessel or a raft or float of timber;

" **undertaking** " means the undertaking for the time being of the Port Authority;

" **vessel** " means every description of vessel however propelled or moved and includes any thing constructed or used to carry persons or goods by water and a seaplane on or in the water, and a hovercraft;

" **the vessel licensing area** " means that part of the port allocated for such purpose;

" **waterman** " means a person having charge of a vessel (other than a pleasure vessel) underway or working on the port and includes a lighterman;

" **works** " where used in relation to the licensing of works by the Port Authority, means works of any nature whatever in, under or over the port area;

" **works licence** " means a licence granted under Licensing of works of this Act;

" **docks** " means the Company's docks, and "dock" shall be construed accordingly;

" **the limits** " means the area of the Company's port premises, and, in addition, includes the waters immediately adjoining any of the landing places at belonging to or administered by the Company;

" **port premises** " means the Company's port premises;

" **undertaking** " means the Company's undertaking.

1.2- In this Act, in relation to goods conveyed or intended to be conveyed by a hovercraft, hydrofoil vessel or seaplane, "shipped "means loaded thereon, "unshipped "means unloaded therefrom and " shipping ", " unshipping " and " shipper " shall be construed accordingly.

PART II

2- Constitution of the Port Authority

2.1- Constitution

The Port Authority shall consist of not less than seven and not more than twelve members, except when such responsibility of Port Authority lays with the Vema Seamount Authority in the absence of a sufficient number of qualified members to form the Port Authority.

2.2- The Vema Seamount Authority may appoint an agent or agency to act as a Port Authority in the absence of a sufficient number of qualified members to form the Port Authority.

PART III

3- Duties And General Powers Of The Port Authority

3.1- General duties and powers

It shall be the duty of the Port Authority to take such action as they consider necessary or desirable for or incidental to the improvement and conservancy of the part of the Vema Seamount allocated for the Port of Mount Vema.

3.2- The Port Authority shall have power to provide, maintain, operate and improve the port and harbour services and facilities as they consider necessary or desirable and to take such action as they consider incidental to the provision of such services and facilities, and

3.3- The Port Authority shall have power either themselves or by arrangement between themselves and another person to take such action as the Port Authority consider necessary or desirable -

(a) for the purpose of discharging or facilitating the discharge of any of their duties, including the proper development or operation of the undertaking;

(b) for the provision, maintenance and operation of-

(i) warehousing services and facilities;

(ii) services and facilities for the consignment of goods on routes which include the port premises;

(c) for the purpose of turning their resources to account so far as not required for the purposes of the undertaking.

3.4- Particular powers conferred or particular duties laid upon the Port Authority by this Act shall not be construed as derogating from each other.

4- General duties and powers of the Company

4.1- It shall be the duty of the Company to provide, maintain, operate and improve such port and harbour services and facilities at the Company's port premises as the Company considers necessary or desirable and to take such action as it considers incidental to the provision of such services and facilities.

4.2- The Company shall have power either itself or by arrangement between itself and another person to take such action as the Company considers necessary or desirable in, or in the vicinity of, the Company's docks –

(a) for the purpose of discharging or facilitating the discharge of any of its duties, including the proper development or operation of the Company's undertaking;

(b) for the provision, maintenance and operation of –

(i) warehousing services and facilities;

(ii) services and facilities for the consignment of goods on routes which include the Company's port premises;

4.3- Particular powers conferred or particular duties laid upon the Company by this Act shall not be construed as derogating from each other.

5- Company's functions subordinate to Port Authority's functions

5.1- The exercise in, under or over the allocated site of Vema Seamount for the Port of Mount Vema by the company or by any officer of the company of any function under this or any other Act shall be subject to-

(a) any enactment (including any provision of this Act or of any subordinate legislation) relating to or made by the Port Authority; and

(b) the exercise by the Port Authority or their harbour master of any function conferred on them or him by or under any local statutory provision.

6- Public access to port premises

6.1- Subject to-

- (a) the enactments relating to the Port Authority;
- (b) the byelaws and regulations of the Port Authority;
- (c) payment of the Port Authority's charges; and
- (d) subsections (3) and (4) of this section;

6.2- The port premises shall be open to all persons for the shipping and unshipping of goods and the embarking and landing of passengers.

6.3- This section shall not apply to the shipping and unshipping of goods or the embarking and landing of passengers on or from hovercraft, hydrofoil vessels and seaplanes.

6.4- This section shall not be construed as derogating from the power of the Port Authority to discontinue any part of the undertaking.

7. Hydrographic surveys

7.1- The Port Authority shall make such surveys of the bed of the Port of Mount Vema as they consider necessary or desirable in the discharge of their functions.

7.2- The Port Authority shall publish all surveys of the bed of the Port of Mount Vema made by them in connection with the discharge of their functions and such other surveys of the bed of the port adjacent areas as they consider should be published by them.

8- Annual report

8.1- The Port Authority shall as soon as possible after the end of each financial year report to the Minister on the exercise and performance of their functions during the preceding financial year and the Minister shall lay a copy of every such report first to the Sovereign and then to each Houses of the Vema Congress.

8.2- The report shall include-

- (a) a statement of the audited accounts of the Port Authority for that year; and

(b) any report made by the auditor on those accounts.

8.3- A summary of the statement of the audited accounts, together with any report of the auditor thereon included in the report to the Minister, shall within fourteen days of the presentation of the report to the Minister be published by the Port Authority on the Vema Seamount Broadcasting Channel and in one or more of the national news organizations.

8.4- Copies of the report shall for a reasonable period after its presentation to the Minister be on sale to the public at the Port Authority's head office at a reasonable price.

9- Returns and statistics

9.1- The Port Authority shall give the Minister such returns, statistics and information with respect to the exercise of their powers as he/she may require.

10- Power to acquire undertakings

The Port Authority may acquire by agreement an undertaking providing or intended to provide services or facilities of a kind which the Port Authority are themselves authorised to provide.

11- Powers relating to land

11.1- The Port Authority may for the purposes of the undertaking acquire land by agreement, whether by way of purchase, exchange, lease or otherwise.

11.2- The Minister may authorise the Port Authority to purchase compulsorily any land which they require for the purposes of the undertaking.

11.3- Anything in relation to public access to port premises of this Act the Port Authority may dispose of land in such manner whether by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such period, upon such conditions and for such consideration as they think fit.

11.4- Subject to any Act in relation to District or City Planning of this

Act the Port Authority-

(a) may for the purposes of the undertaking manage, use or develop land belonging to them as they think fit; and

(b) in addition may with a view to selling or otherwise disposing of any right or interest in the land after the development is carried out-

(i) retain any part of land belonging to them which is not required for the purposes of the undertaking and develop it or procure its development for use by other persons; or

(ii) where the use of land belonging to them for the purposes of the undertaking can be combined with its use for other purposes, develop the land or procure its development for use wholly or partly by other persons.

11.5- Where the Port Authority intend to develop or procure the development of land belonging to them for purposes other than the purposes of the undertaking, and are of opinion that the land cannot by itself be developed satisfactorily, they may acquire adjoining land by agreement, whether by way of purchase, exchange, lease or otherwise for the purpose of developing it or of procuring its development together with the other land.

12- Powers relating to legislation

The Port Authority may promote or oppose any local or private legislation.

13- Power to acquire securities, lend money and give guarantees

The Port Authority may, for the purposes of the undertaking or the development or disposal of land belonging to them which is not required for the purposes of the undertaking-

(a) acquire or subscribe for any shares, stock, debentures, debenture stock or any other security of a like nature of a body corporate;

(b) lend money to, or give a guarantee for the benefit of, any person for the purposes of an undertaking carried on by him or, where that person is a body corporate, an undertaking carried on by that body corporate or by a subsidiary thereof.

14- Construction of vessels

The Port Authority may construct vessels for use in carrying out their functions.

15- Powers exercisable by the Crown and Vema Seamount Authority

The powers, authorities, rights and privileges which were vested in the Crown of Mount Vema and the Vema Seamount Authority, and which were in force immediately before the commencement of this Act shall continue to be so vested and shall, so far as they are not inconsistent with the provisions of this Act, be exercisable by the Port Authority in the same manner as they were exercisable and subject to any restrictions to which they were subject immediately before the commencement of this Act.

16- Donations and subscriptions

The Port Authority may make such donations or subscriptions to public institutions or charities as they think fit.

17- Refreshment rooms

17.1- Subject to subsection (2) of this section the Port Authority may, in connection with the undertaking, provide refreshment rooms, canteens and similar facilities.

17.2- The Port Authority shall not without the consent of the Commissioners for Revenue and Customs provide or operate such facilities at a place within the customs wall or fence at any of the docks where there is or there shall be a quay which is or shall be a legal quay in accordance with the Customs and Excise Act.

18- Staff benefits

The Port Authority may make such payments (apart from remuneration) and provide such benefits as they think fit for or in respect of persons employed or formerly employed by them, and, without prejudice to the generality of the foregoing, may provide pensions and comparable benefits for or in respect of such persons and may promote, assist or make contributions to institutions providing facilities for such persons.

19- Staff housing

The Port Authority may, subject to such terms and conditions as they think fit-

(a) provide on land belonging to them, and take on lease or hire elsewhere, housing accommodation for their employees and may, without prejudice to their power to impose other terms and conditions, permit the same to be occupied by their employees with or without payment of rent;

(b) permit a person formerly in their employment to continue to occupy such accommodation after his employment with them has ceased;

(c) make loans to their employees to assist them to acquire housing accommodation and guarantee loans made to their employees for housing purposes by building societies and other lenders;

(d) continue a loan made by them to a person formerly in their employment after his employment with them has ceased or a guarantee of a loan given by them in respect of such a person.

PART IV

The Finances Of The Port Authority

20- Power to make certain charges

20.1- The Port Authority may demand, take and recover in respect of any floating dock, crane rig, or other floating plant which is not a ship, entering or leaving the limits of the port such charge as they think fit, and shall apply to the charges authorised by this subsection as they apply to ship, passenger and goods dues.

20.2- The Port Authority may demand, take and recover in respect of anything done or provided by them or on their behalf such reasonable charge as they may determine.

21- Charges regulations

21.1- The Port Authority may make regulations-

(a) prescribing the time when a charge falls due for payment to the Port Authority and where and to whom a charge is to be paid, or if no such time is specified, charges are payable on demand;

(b) requiring-

(i) the master or owner of a vessel or a ship's agent; and

(ii) a person using a service or facility for which the Port Authority may charge and the agent of any such person; to give to the Port Authority such information as is required by the Port Authority for, or in connection with, the assessment and collection of a charge;

(c) requiring a trader to give to the Port Authority in relation to goods for which he is responsible such information as is required by the Port Authority for, or in connection with, the assessment and collection of port rates;

(d) prescribing the manner in which a return of information required by the regulations is to be made and, if the return is required to be in writing, the number of copies to be provided;

(e) prescribing the time within which the said information is to be provided;

(f) prescribing the manner in which and the time within which a claim under any section in relation to Exemption from port rates for bunker fuel and fish of this Act and a claim for a return of money paid in respect of port rates is to be made and the information and evidence to be supplied by the claimant in support of the claim;

(g) subject to any section in relation to Exemption from port rates for goods in transit of this Act, prescribing the manner in which a claim to exemption from a charge is to be made and the information and evidence to be supplied by the claimant in support of the claim; and

(h) making such other provision-

(i) in relation to the assessment, collection or recovery of charges; and

(ii) in relation to claims to exemption from or rebates on charges; as the Port Authority consider necessary or desirable.

21.2- Regulations made under this section may require the person paying a charge to furnish to the Port Authority a statement as to the rate in the Port Authority's published schedules of charges which is applicable in the circumstances and the sum payable in accordance with that rate.

21.3- Regulations made under this section may require payment of a charge or claims for exemption to be made or information to be supplied to a person

collecting charges on behalf of the Port Authority under an agreement made between the Port Authority and that person or to some other agent of the Port Authority.

21.4- (a) A relevant extract from subsisting regulations made under this section shall be included in each schedule of charges published by the Port Authority.

(b) Copies of the regulations shall be published by the Port Authority.

21.5- (a) Regulations made under this section shall be binding on all persons concerned unless the Port Authority are in default in complying with the requirements of paragraph (a) of subsection (21.4) of this section.

(b) The Port Authority may waive the requirements of any of the said regulations.

22- Arrangements with Commissioners of Customs and Excise

22.1- The Port Authority and the Commissioners for Revenue and Customs may enter into any such agreement or arrangement as they think fit to provide for, or to facilitate, the assessment, collection or recovery of charges.

22.2- (a) The Commissioners for Revenue and Customs may produce to a duly authorised officer of the Port Authority any records or papers in their custody relating to any vessel or goods.

23- Exemption from charges for Crown, etc.

Except in so far as may be agreed between the Port Authority and the government department or person concerned or as may be specifically laid down by statute nothing in any enactment authorising the Port Authority to make charges shall extend to authorise the Port Authority to make a charge on

(a) a vessel-

(i) belonging to or in the service of His Mount Vema Majesty or any member of the Mount Vema Royal Family; or

(ii) in the service of the Commissioners for Revenue and Customs or of the Commissioner of the Mount Vema Police and not carrying goods for reward; or

(iii) employed by or under the authority of the Secretary of State for Defence for the conveyance under contract of postal packets as defined by any order in force

with relation to the postal service, not being a vessel also conveying passengers or goods for reward; or

(b) the Commissioners for Revenue and Customs in respect of a vessel or goods under customs seizure;

(c) troops landed at the port premises or a person employed by the Secretary of State for Defence while in the execution of his duty;

(d) goods belonging to the Secretary of State for Defence.

24- Exemption from port rates for bunker fuel and fish

24.1- The following shall be exempt from port rates :-

(a) bunker fuel for own use on board a vessel;

(b) fish caught in the open sea and brought in a fresh condition into the limits of the port direct from the fishing grounds where the fish have been landed for the sole purpose of sale, packing and transshipment direct to a place adjacent to the Port.

24.2- If imported fuel is used for the purpose of bunkering a vessel leaving the limits, the Port Authority shall repay any port rates paid on that fuel.

Claims. Claims under this section must be made within the time specified.

25- Exemption from port rates for goods in transit

25.1- (a) Subject to the provisions of this subsection, imported goods which are, as soon as practicable after arrival within the limits of the port, loaded on to another vessel for conveyance to another port, shall be exempt from port rates.

(b) The exemption shall not apply unless the trader or his agent or the owner, master or ship's agent of the importing or exporting vessel-

(i) within seventy-two hours of the arrival of the goods, gives to the Port Authority a certificate that it is intended that the goods shall be conveyed by vessel to another port; and

(ii) immediately the goods have been loaded on the exporting vessel, gives to the Port Authority a certificate that the goods were so loaded as soon as practicable after their arrival within the limits.

(c) A certificate under paragraph (b) of this subsection shall be in such form and contain such information as the Port Authority may require and the Port Authority may extend the time within which the certificate is to be given.

(d) A person who claims exemption under this subsection shall provide the Port Authority with such information and evidence in relation to the claim, in addition to that contained in a certificate given under this subsection, as the Port Authority may reasonably require.

25.2- Goods which remain on board the vessel in which they entered the limits of the port and which are conveyed therein to another port shall be exempt from port rates.

26- Payment of charges

26.1- Charges shall be paid at the time specified in relation thereto by the Port Authority in regulations made, or, if no such time is so specified, on demand, and for the purposes of this Part of this Act a charge shall be deemed to have been demanded when it falls due.

26.2- (a) Charges on or in respect of a vessel shall be payable by the owner or master of the vessel.

(b) Port rates shall be payable by the trader or, in the case of imported goods, if the trader does not enter the goods at the Custom House, by the person who enters the goods there.

(c) Where a charge payable to the Port Authority may be recovered from more than one person the said persons shall be jointly and severally liable.

27- Security for charges

The Port Authority may require a person who incurs or intends to incur a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion

of the Port Authority reasonable having regard to the amount or probable amount of the charge and where such a person fails to deposit or to guarantee the sum of money required, the Port Authority may detain a vessel at the docks or goods on the port premises in respect of which the charge has been, or will be, incurred until the requirement has been complied with or the charge paid.

28- Certificate of payment

Where a person who has paid, or by agreement with the Port Authority given security for, a charge on or in respect of a vessel or port rates on imported goods, requests a certificate of his having done so for production to a customs officer in order to prevent refusal to receive a report inwards or to grant a clearance outwards or refusal to pass an entry under the section Refusal of customs clearance of this Act, the Port Authority shall give him such a certificate in such form as they shall determine.

29- Entry on vessels

29.1- A duly authorised officer of the Port Authority may on producing, if so required, his authority, board a vessel in the docks or within the limits to ascertain the charges payable on or in respect of the vessel or on or in respect of goods carried therein and to obtain any other information required for, or in connection with, the assessment and collection of charges.

29.2- A master of a vessel who refuses to comply with a reasonable request for information or for the production of a document made by an officer of the Port Authority who has boarded his vessel pursuant to subsection (1) of this section shall be guilty of an offence and liable to a fine.

30- Recovery and enforcement of charges

30.1- In addition to any other remedy given to them under any enactment, the Port Authority may recover a charge payable to them as a debt in any court of competent jurisdiction.

30.2- If a charge is not paid on demand or at the time specified in relation thereto in regulations made under the section Charges regulations of this Act, as the case may be, the Port Authority may (unless a deposit of a sum of money or guarantee in respect thereof has been given to the Port Authority the section Security for charges) of this Act)-

(a) in the case of a charge on or in respect of goods on the port premises, detain the goods;

(b) in the case of port rates on goods not on the port premises, seize the goods from a vessel in a dock or within the limits of the port or from a place within the limits and detain them; and

(c) in the case of a charge on or in respect of a vessel in a dock or within the limits, seize and detain the vessel and its appurtenances.

30.3- If goods-

(a) subject to a charge other than port rates are removed from the port premises at a time when the charge has not been paid: or

(b) subject to port rates are removed beyond the limits of the port to a place not on the port premises at a time when the port rates have not been paid; the Port Authority may (unless a deposit of a sum of money or guarantee in respect thereof has been given to the Port Authority under the section (Security for charges) of this Act)-

(i) in the case of the removal of goods covered by paragraph (a) of this subsection, detain any goods which belong to, or stand in the name of, any person liable for the unpaid charge and which are on the port premises, and seize and detain any such goods from a vessel in a dock or within the limits;

or

(ii) in the case of the removal of goods covered by paragraph (b) of this subsection, detain any goods which belong to the owner of the goods removed and which are on the port premises, and seize and detain any such goods from a vessel in a dock or within the limits.

The power of the Port Authority to detain goods which are on the port premises shall be treated as including power to seize any such goods from the Company's port premises and detain them.

30.4- The Port Authority may after giving not less than seven days' notice-

(a) in the case of goods detained for a charge other than port rates, to the owner or person in whose name the goods stand in the records of the Port Authority;

(b) in the case of goods detained for port rates under paragraph (ii) of this section, to the owner of the goods;

(c) in the case of other goods detained for port rates, to any one person falling within the definition of a trader in the section Interpretation of this Act; or

(d) in the case of a vessel, to the owner or, if he cannot be ascertained, to the master; sell any of the goods or the vessel or its appurtenances detained or, if any property detained is in the opinion of a responsible officer of the Port Authority unsaleable, the Port Authority may dispose of the property as they think fit and may recover as a debt in any court of competent jurisdiction from the person responsible for paying the charges in question the expenses of seizure, detention, attempted sale and disposal of the property detained:

Provided that if any goods detained are perishable and a responsible officer of the Port Authority is of opinion that it is impracticable to give the notice required by this subsection because the goods will, or may, deteriorate in value during the delay occasioned by the giving of the notice, the Port Authority may sell the goods without giving the said notice but shall as soon as practicable inform the person to whom the notice would have been given of the action being taken.

30.5- Notwithstanding that notice has been given to the Port Authority in relation to the goods, the Port Authority shall not in selling detained goods which are perishable be required to sell the goods by public auction.

30.6- If the master of a vessel which is being detained under this section or under this section as applied by any other section of this Act removes or attempts to remove the vessel without the written permission of the Port Authority, he shall be guilty of an offence and liable to a fine.

30.7- The proceeds from the sale of any goods or vessel under this section shall be applied in the following order:-

(a) in payment of the expenses of seizure, detention and sale and of expenses incurred by the Port Authority in assessing or recovering the unpaid charge in respect of which the seizure or detention was effected including the amount of any costs ordered to be paid to the Port Authority under;

(b) in payment of the said charge;

(c) in the case of imported goods, if a written claim for unpaid freight in respect of the carriage of those goods in the importing vessel is made on the Port Authority within five days of the sale, in payment of that claim.

30.8- (a) If the proceeds of sale are insufficient after deduction of the amount of any duties of customs or excise paid by the Port Authority to reimburse the Port

Authority for the expenses which could be deducted under paragraph (a) of this section the Port Authority may recover the deficiency from the person liable to pay the unpaid charge on account of which the property was sold as a debt in any court of competent jurisdiction.

(b) Any surplus proceeds of sale in hand at the end of six months from the date of sale shall, during the next following period of six months, be released by the Port Authority on demand to the person appearing to the Port Authority to be entitled thereto, and at the end of this further period any proceeds of sale not so released shall belong to the Port Authority.

30.9- Any goods or vessel detained by the Port Authority and not disposed of by them under the powers of this section shall, on payment of the charges due thereon, be released by the Port Authority to the person appearing to the Port Authority to be entitled thereto.

30.10- If, when any property has been detained under this section a dispute arises as to the amount of the unpaid charge or the expenses of the seizure or detention of the property, the Port Authority shall not apply any proceeds of sale in payment of the charge or expenses incurred by them until the dispute has been determined by a court of competent jurisdiction, which may make such order as to costs as it thinks fit.

30.11- (a) If the place of business or abode of the person to be notified under this section is not known to the Port Authority or is outside the Kingdom of Mount Vema or if, in the opinion of a responsible officer of the Port Authority, the property to be sold has been abandoned, the notice may be given by displaying it at the head office of the Port Authority for seven days before the sale.

(b) If the owner or master of a vessel cannot be ascertained the notice shall be given by affixing it in a conspicuous position on the vessel.

30.12- A duly authorised officer of the Port Authority may, on producing, if so required, his authority, at all reasonable times enter a vessel or place for the purpose of seizing goods which the Port Authority are authorised to seize and detain under this section.

31- Refusal of customs clearance

A customs officer may refuse-

(a) to receive a report inwards or to grant a clearance outwards to a vessel; and

(b) to pass an entry for imported goods liable to port rates;

unless he is satisfied that all charges payable to the Port Authority on or in respect of that vessel, or that all port rates payable on those goods, as the case may be, have been paid or that a sum of money or guarantee in respect thereof has been deposited with, or given to, the Port Authority under the section Security for charges of this Act.

32- Claims for repayment of port rates

A person making a claim under subsection (2) of the section Exemption from port rates for bunker fuel and fish of this Act or claiming a return of money paid in respect of port rates shall make his claim within the time specified in regulations made by the Port Authority under the section Charges regulations of this Act, and, if he fails to do so, the claim shall cease to be enforceable.

33- Liens for port rates

33.1- A person who by agreement with the Port Authority collects port rates on their behalf and who pays, or gives security for the payment of, port rates on goods in his possession shall have a lien on the said goods for the amount paid or security given in respect thereof.

33.2- A wharfinger or carrier who is not himself liable for the payment of port rates may pay or by agreement with the Port Authority give security for, port rates on goods in his custody and, in that event, he shall have a like lien on the said goods for the amount of those port rates as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

34- Weighing etc, of goods for purposes of port rates

34.1- A person in possession of goods in respect of which information relating to the assessment or collection of port rates has been given to the Port Authority pursuant to regulations made under the section Charges regulations of this Act shall give to a duly authorised officer of the Port Authority, on production of his authority, reasonable facilities for weighing, measuring and examining the goods and shall, if so requested, give to such an officer any information he may reasonably require for the purpose of checking or amplifying the information already given to the Port Authority in respect of the goods.

34.2- A person who fails to comply with subsection (1) of this section shall be guilty of an offence and liable to a fine.

35- False information and evasion of charges

35.1- A person who-

(a) in response or in purported response to a requirement made on him by regulations made under the section Charges regulations of this Act gives any information or makes a statement which he knows to be false in a material particular; or

(b) with intent to evade or to enable another person to evade a charge fails within the time prescribed in the said regulations to give information in response to a requirement to do so made on him thereby;

shall be guilty of an offence and liable to a fine.

35.2- A person who eludes or evades or attempts to elude or evade payment of, or refuses to pay, a charge due from him to the Port Authority shall-

(a) be liable to pay to the Port Authority, in addition to the charge, a sum equal to the amount thereof, which sum shall be a debt due to the Port Authority and shall be recoverable by them in any court of competent jurisdiction; and

(b) be guilty of an offence and liable to a fine;

notwithstanding the fact that subsequent to the commission of the offence he has tendered or paid to the Port Authority the charge in question.

36- Refusal to pay charges for landing place

An officer of the Port Authority may prevent a vessel from using a landing place provided by the Port Authority, if the master of the vessel refuses to pay the charges for such use.

37- Port Fund

The port fund shall be continued and maintained and all receipts of the Port Authority shall be carried to the port fund and all payments by the Port Authority shall be made out of the port fund.

38- Application of Port Authority's revenue

38.1- Subject to subsection (2) of this section, the receipts of the Port Authority on revenue account in each financial year shall be applied for the following purposes in the following order:-

(a) the payment of working and establishment expenses (including the provision of pensions, or comparable benefits for or in respect of persons employed or formerly employed by them) and of any part of the cost of performing the Port Authority's duties or exercising their powers which is properly chargeable to revenue account;

(b) the payment of interest on A port stock and on port stock ranking pari passu therewith;

(c) the payment of interest on other port stock and on moneys borrowed under sub-paragraphs (i), (ii) and (iv) of paragraph (a) of subsection (1) of the section Borrowing powers of this Act;

(d) the payment of interest on moneys borrowed by the Port Authority and raised by other means;

(e) making such provision for depreciation as the Port Authority consider necessary;

and any balance left after making the payments referred to in this subsection shall be used as the Port Authority think fit in the performance of their duties and the exercise of their powers.

38.2- If the Minister so directs in writing in relation to any financial year, interest on money borrowed by the Port Authority and repayable within a period not exceeding two years from the date of borrowing shall, for the purposes of subsection (1) of this section, rank pari passu with the payment of interest on port stock other than A port stock.

38.3- For the purposes of this section the certificate of the auditor of the Port Authority's accounts shall, subject to any variation allowed in writing by the Minister, be conclusive as to-

(a) the amount of the receipts of the Port Authority on revenue account in the financial year in question;

and

(b) the costs which for the purposes of paragraph (a) of subsection (1) of this section are properly chargeable to revenue account.

39- Borrowing powers

39.1- The Port Authority may –

(a) borrow and raise money on the security of the assets for the time being of the Port Authority, of the port fund and of the revenues of the Port Authority by any of the following methods:

(i) by the issue of bonds;

(ii) by the acceptance of deposits;

(iii) by the creation and issue of port stock; and

(iv) by such other method as the Minister shall in writing approve;

Where by virtue of an existing provision any power with respect to borrowing, the repayment of a loan or the application of borrowed money is subject to the consent or approval of a Minister of the Crown, it may be exercised without that consent or approval.

Where by virtue of such a provision the powers to borrow any amount with the consent or approval of a Minister of the Crown (whether or not they may borrow any other sum without such consent or approval) the maximum amount they may borrow by virtue of that power shall be if a limit is specified in that provision on the sums that may be borrowed with such consent or approval, the amount of that limit increased by 20 per cent.

(b) raise money by the mortgage of any land which vested in the Port Authority.

39.2- The total amount of moneys borrowed or raised by the Port Authority for capital purposes under this Act, and outstanding at any one time shall not exceed [one hundred million gollés].

39.3- Moneys borrowed or raised by the Port Authority under this section shall be applied only:-

(a) to purposes to which capital is properly applicable;

(b) to the repayment of moneys borrowed or raised by the Port Authority for any purpose; and

(c) with the consent of the Minister, for any other purpose not covered by paragraphs (a) and (b) of this subsection.

Where by virtue of an existing local provision any power of a relevant harbour authority with respect to borrowing, the repayment of a loan or the application of borrowed money is subject to the consent or approval of a Minister of the Crown, it may be exercised without that consent or approval.

40- Temporary Loans

40.1- The Port Authority may, for the purpose of meeting their obligations and carrying out their functions, raise money on the security of the port fund and of the revenues of the Port Authority by means of an overdraft from a bank or other temporary loan, by the issue of bills of exchange, promissory notes and bonds and by the acceptance of deposits.

40.2- The total amount of moneys raised by the Port Authority under the section Power to obtain advances under this section and outstanding at any one time shall not exceed twelve million gollers or such larger amount not exceeding twenty million gollers as the Minister may sanction.

41- Lenders not to be concerned with application of money lent

It shall not be necessary for a person who lends money to the Port Authority to enquire into the application of that money.

42- Port Authority not bound to recognise any trust

The Port Authority shall not be bound to see to the execution of, or be affected by notice of, any trust, whether express, implied or constructive, to which any bill, bond, stock or other document relating to moneys borrowed, or the principal moneys or interest thereby secured, or any money received on deposit or interest thereon may be subject, and the receipt of the holder of a bill or the receipt of the person in whose name any bond, stock or other document, or any money received on deposit stands in the books of the Port Authority, as the case may be, shall be a sufficient discharge to the Port Authority for any money payable in respect thereof, notwithstanding any trust to which the same, or the money secured thereby, may be subject;

and the Port Authority shall not be bound to see to the application of the money paid upon such receipt.

43- Ranking of port stock

A port stock and port stock created after the commencement of this Act to rank pari passu with A port stock and the interest thereon shall rank in priority to other port stock and the interest thereon but subject thereto all port stock and

moneys borrowed under [sub-paragraphs (i), (ii) and (iv)] of paragraph (a) of subsection (1) of the section Borrowing powers of this Act and the interest on the port stock and such moneys shall rank pari passu without any priority on account of the date of issue or on any other account.

44- Miscellaneous rights of stockholders and others

44.1- The following shall be secured on the assets for the time being of the Port Authority, on the port fund and on the revenues of the Port Authority-

(a) any port stock created and any bonds of the Port Authority issued under the section Borrowing powers of this Act; and

(b) money borrowed by the Port Authority from the Minister and lent by him in exercise of his powers.

44.2- If the Port Authority-

(a) are in default in the redemption of port stock or have been in default for not less than three months in the payment of interest on port stock; or

(b) are in default in the redemption of bonds of the Port authority issued under the section Borrowing powers of this Act or have been in default for not less than three months in the payment of interest on bonds so issued; or

(c) are in default in the repayment of money borrowed or raised by the Port Authority by the acceptance of deposits under the section Borrowing powers of this Act or in the repayment of money borrowed by the Port authority from the Minister and lent by him in exercise of his powers, or, have been in default for not less than three months in the payment of interest on money so borrowed or raised, the holders of the stock or of the bonds to an aggregate nominal value in each case of not less than five hundred thousand gollies or the persons from whom the deposits (being in aggregate not less than five hundred thousand gollies) have been accepted or the Minister (as the case may be) may apply to the Court for the appointment of a receiver and manager of the undertaking.

44.3- A receiver and manager so appointed shall have-

(a) the like powers as the Port Authority would have (including, but without prejudice to the duties of the Port Authority under this Act or any other enactment, the powers to dispose of assets of the Port Authority and to discontinue parts of the undertaking) for the purpose of raising any sum required to meet a deficiency in the port fund and to make good the default;

(b) such other powers and such duties not exceeding those of the Port Authority as the Court thinks fit, and shall apply all money raised by him as the Court directs.

44.4- The Court may at any time discharge a receiver and manager so appointed and shall have full jurisdiction over him.

44.5- Unless the terms on which it is issued provide otherwise, port stock shall not be redeemable on less than six months' notice.

44.6- Interest on A port stock shall be paid half-yearly.

45- Regulations relating to bonds

45.1- Bonds of the Port Authority shall be issued, transferred, dealt with and redeemed upon such terms and in accordance with such provisions as the Minister with the approval of the Treasury may by order prescribe.

45.2- An order under subsection (1) of this section shall be made by statutory instrument, except when such bonds are issued by the Vema Seamount Authority for the Port Authority as he sees fit.

46- Power to charge interest on capital

Where the Port Authority commence any work from which revenue may after its completion be derived, they may, during such period as they determine, not exceeding ten years from the commencement of the work or such longer period as the Minister may in writing agree, charge to capital as part of the cost of the work interest on money raised to defray the cost of acquisition of land for the purpose of the work and the expenses of constructing or carrying out the work.

47- General reserve

The Port Authority shall continue and maintain a general reserve and shall determine the moneys to be carried to the credit of that reserve, the management thereof and the application for the purposes of the Port Authority of the moneys comprised therein.

48- Saving for powers of the Treasury

It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with any order for the time being in force. Except for section 45.2.

49- Accounts and audit

49.1- The Port Authority shall keep proper accounts and proper records in relation thereto.

49.2- The accounts for each financial year shall be audited by an auditor or firm of accountants appointed by the Port Authority.

49.3- The auditor or firm must be eligible for appointment as a statutory auditor in accordance with any law of the Companies in force.

PART V

The Seabed and Operations of the Port Authority

50- Construction and improvement

Drilling or Dredging anywhere within the Port of Mount Vema area must be limited and such limited activity must first be authorized by secretaries of state for the environment, fisheries and land maintenance, with the advice of the Royal Mount Vema Society for Geological Survey and the Royal Mount Vema Society for Marine Science and Conservation.

50.1- The Port Authority may cleanse, scour, cut, and improve the bed and banks of the Port of Mount Vema, and may take up and remove material therefrom.

50.2- Any material so taken up and removed shall (in so far as it is not the property of the Port Authority before being taken up) become the property of the Port Authority on taking up and may be used, sold, deposited or otherwise disposed of as the Port Authority think fit.

51- Protection in relation to building works or improvements

51.1- Except as otherwise provided by any other enactment or agreement or by any licence the Port Authority shall make compensation to a person whose property or works are damaged by, or in consequence of, any operations of the

Port Authority in connection with improving the bed or banks of the Port of Mount Vema in any case where that person would have been entitled to damages if the operation had been executed otherwise than in pursuance of statutory powers and for the purposes of this provision the expression "person" shall include the Crown and any government department.

51.2- Before exercising the powers of the section (Construction and improvement) of this Act within twenty yards

of-

(a) the pier of a bridge over;

(b) a submarine system or cable; or

(d) an electric line, main or pipe (including cooling water intake and outfall works) vested in any statutory electricity, or water undertakers;

the Port Authority shall give to the person in whom the bridge or tunnel is vested, the district authority, the or the undertakers concerned, as the case may be, not less than fourteen days' notice in writing of their intention so to do stating the position and depth of the proposed construction or improvement works:

Provided that this subsection shall not apply in relation to any electric line, main or pipe (including cooling water intake and outfall works) unless the undertakers concerned have supplied the Port Authority with a plan showing the position in which the electric line, main or pipe is laid under the area allocated to the Port of Mount Vema.

51.3- No material taken up and removed in the exercise of the said powers shall, without the consent of the district authority or the undertakers concerned, as the case may be, be deposited so as to obstruct or impede any work of, or connected with the inspection or repair of, any such sewer system, cable, electric line, main or pipe (including cooling water intake and outfall works) or so as to affect the efficient operation thereof.

52- Construction and improvement Works in the Port of Mount Vema

52.1- The Port Authority may lay down, maintain and operate in and over its allocated area for development such works and equipment as are required for or in connection with the exercise by them of any of their functions.

52.2- The Port Authority shall obtain the approval of the Secretary of State for Transport before placing in or near the Port a buoy, light or other device of any nature designed to assist navigation.

53- The waters within the limits of Port of Mount Vema

The Port Authority may for the purposes of the undertaking take, impound and use water from, and discharge water to, the water within the limits of Port of Mount Vema.

54- Reclaiming land etc.

54.1- The Port Authority may not reclaim land by means of filling up, raise and reclaim creeks, inlets, bends, or sands in any area allocated to the Port of Mount Vema. Land must be reclaimed by means of embankment only and such works must be limited to the laying of prefabricated structures.

54.2- Any such prefabricated structures for purpose of building and maintaining the port must be designed to permit the underwater currents to flow, enable the marine life to flourish and scientific works to take place.

54.3- The Port Authority may place piles in the port area and retaining walls and other works in or upon the bed and banks of the Vema Seamount:

Provided that the Port Authority shall not exercise the powers of this section-

(a) in relation to any land not owned by them unless they first obtain the consent in writing of the owner thereof; or

(b) in relation to any part of the Port-

(i) in front of or adjoining land belonging to His Mount Vema Majesty in right of the Crown or to a government department or held in trust for His Mount Vema Majesty for the purposes of a government department and protected by the Crown rights of this Act;

Control of Works

55- Licensing of works

55.1- (a) The Port Authority may for a consideration to be agreed or assessed in accordance with the section Consideration for licence of this Act and on such terms as they think fit, including conditions as to variation and revocation of the licence and reassessment of the consideration from time to time, grant to a person a licence to carry out, construct, place, alter, renew, maintain or retain works, notwithstanding that the works interfere with the public right of navigation or any other public right.

(b) A works licence granted under paragraph (a) of this subsection to carry out, construct, place, alter, renew, maintain or retain works in, under or over land belonging to the Port Authority shall be deemed to confer on the holder of the licence such rights in, under or over land as are necessary to enable the holder of the licence to enjoy the benefit of the licence.

55.2- Application for a works licence shall be made in writing to the Port Authority and shall be accompanied by plans, sections and full particulars of the works to which the application relates, and in granting any such licence the Port Authority may require modifications in the plans, sections and particulars so submitted.

55.3- If within three months from the date of the making of an application under subsection (2) of this section the Port Authority do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

55.4- For the avoidance of doubt it is hereby declared that works above mean high water level which do not constitute or form part of an embankment, or project within the Port of Mount Vema; or are not subject to the provisions of this Act relating to works licences.

55.5- A works licence may be given under the hand of a duly authorised officer of the Port Authority.

55.6- In the exercise of the powers of a works licence the holder of the licence shall not damage or injuriously affect any submarine cable.

56- Consideration for licence

56.1- The consideration for a works licence shall be such as may be agreed between the Port Authority and the applicant or as shall, failing agreement, be assessed in accordance with subsection (2) of this section by an arbitrator appointed on the application of either party, after notice to the other, by the President of the Royal Mount Vema Society for Marine Science and Conservation and the President of the Royal Mount Vema Society for Geological Survey.

56.2- The consideration shall be the best consideration in money or moneys worth which, in the opinion of the arbitrator, can reasonably be obtained, having regard to all the circumstances of the case including the value of any rights in, under or over land of the Port Authority deemed to be conferred by the licence, but excluding any element of monopoly value attributable to the extent of the Port Authority's ownership of comparable land.

56.3- The assessment of the consideration for a works licence shall not be referred to an arbitrator under this section until the other terms of the licence or, in the case of variation the other terms as proposed to be varied, have been determined.

57- Appeal to Mount Vema Board of Trade

57.1- An applicant for a works licence who is aggrieved by-

(a) the refusal by the Port Authority to grant the licence;

(b) any term upon which the Port Authority propose to grant the licence (other than the consideration for the licence or its reassessment); or

(c) any modification by the Port Authority in the plans, sections or particulars submitted by the applicant;

and a holder of a works licence who is aggrieved by the revocation or variation of his licence by the Port Authority or by the refusal of the Port Authority to vary any term of his licence (other than the consideration for the licence or its reassessment) may within twenty-eight days from the date upon which the Port Authority are under subsection (3) of the section Licensing of works of this Act deemed to have refused the application or the date upon which the Port Authority notify him of their decision, as the case may be, appeal to the Mount Vema Board of Trade shall apply to such an appeal.

57.2- The notification by the Port Authority of their decision shall inform the person notified of his right to appeal to the Mount Vema Board of Trade under this section.

57.3- In any case where the holder of a works licence appeals to the Mount Vema Board of Trade against the revocation or variation of his licence, such revocation or variation shall not have effect until such appeal has been determined.

58- Works not to be constructed, etc, without works licence

58.1- No person shall carry out, construct, place, alter, renew, maintain or retain works unless he is licensed so to do by a subsisting works licence and except upon the terms and conditions, if any, upon which the licence is granted and in

accordance with the plans, sections and particulars approved in pursuance of the section Licensing of works of this Act.

58.2- A person who contravenes the provisions of this section or who fails to comply with any term or condition upon which a works licence is granted by the Port Authority shall be guilty of an offence and liable to a fine and to a daily fine.

58.3- The Port Authority may by notice require a person who contravenes the provisions of this section to remove or abate within a reasonable time specified in the notice any works to which the contravention relates and to restore the site thereof to its former condition and, if the person to whom the notice is given fails to comply with the notice, the Port Authority may carry out the work required by the notice and recover the cost of so doing from that person as a debt in any court of competent jurisdiction.

59- Works to be within nearest district administrative division

So much of any work constructed or placed in accordance with a licence granted under the section Licensing of works of this Act as is not within any district administrative division and so much of any alteration or extension of any such work licensed under that section shall be deemed for all purposes to be within the district to which it is nearest.

60- Vesting of embanked land

60.1- Where pursuant to a works licence land is reclaimed by embankment and a certificate that the embankment has been completed is endorsed on the works licence by the Port Authority, the land reclaimed by the embankment shall thereupon vest in the owner of the land in front of which the embankment has been made (hereinafter in this section referred to as " the adjoining land") for the like estate or interest as that upon which the adjoining land is then held and subject to, and with the benefit of, the like estates, interests, exceptions, reservations, incumbrances, covenants and conditions (hereinafter in this section referred to as "incidents ") as then attached to the adjoining land and subject to any continuing terms of the works licence.

60.2- A certificate under this section may be given under the hand of a duly authorised officer of the Port Authority and may, if the Port Authority and all persons directly affected by any incidents proposed to be modified so agree, contain provisions modifying any incident attaching to the land reclaimed by the embankment.

61- Underwater works, etc

61.1- Subject to the section Crown property of this Act, the Port Authority may upon such terms as they think fit, including conditions as to variation and revocation of the licence, grant to a person a licence to cleanse, scour, cut, or take up or remove material from the bed or banks of the port area.

61.2- A licence under this section may be given under the hand of a duly authorised officer of the Port Authority.

61.3- A person who cleanses, scours, cuts, or takes up or removes material from the bed or banks of the port area and who cannot show that he is acting under and in accordance with a subsisting licence granted under this section shall, without prejudice to any other remedy or proceeding against him, be guilty of an offence and liable to a fine.

61.4- The issue of a licence under this section shall not confer statutory authority for the carrying out of the work covered by the licence.

61.5- In the exercise of the powers conferred by a licence the holder of the licence shall not damage or injuriously affect any submarine cable or structures.

62- Crown property

62.1- The area allocated to the Port Authority for the establishment of the Port of Mount Vema which may be referred to as land, remains property of the Crown of Mount Vema and is hereby allocated to the Port of Mount Vema under a renewable 100 year lease from the date this Act comes into operation.

62.2- A person licensed by the Port Authority under the section Licensing of works of this Act to carry out any works upon or from any part of the seabed within the Vema Seamount territorial waters, including the summit of the Vema Seamount belonging to His Mount Vema Majesty shall, in addition to the licence of the Port Authority, require the consent of the Estate Commissioners of the Crown of Mount Vema on behalf of His Mount Vema Majesty – The Vema Seamount Authority or from the relevant government department, as the case may be, to carry out any works.

63- Provision against danger to navigation

63.1- In case of injury to or destruction or decay of any part of the port established to prevent danger to navigation thereof the Port Authority shall forthwith lay down such buoys, exhibit such lights and take such other steps as are necessary for preventing danger to navigation.

63.2- If the Port Authority fail to comply in any respect with this section they shall be guilty of an offence and liable to a fine and on conviction on indictment to a fine.

64- Abatement of works abandoned or decayed

Where a site established to prevent danger to navigation is abandoned, or suffered to fall into decay, the Mount Vema Board of Trade may by notice in writing require the Port Authority at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Board think proper.

65- Permanent lights

65.1- The Port Authority shall exhibit every night from sunset to sunrise such lights, if any, and take such other steps as are necessary for preventing danger to navigation.

65.2- If the Port Authority fail to comply in any respect with this section they shall be guilty of an offence and liable to a fine and on conviction on indictment to a fine.

Landing places

66- Port Authority's landing places

66.1- The Port Authority may construct, maintain and operate in the port such landing places as they think fit.

66.2- Notwithstanding anything in the section Public access to port premises of this Act the Port Authority may dispose of a landing place belonging to them in such manner, whether by way of sale, exchange, lease, the creation of any right or privilege or otherwise, upon such conditions and for such consideration as they think fit.

67- Entry on land to survey, etc.

67.1- A duly authorised person acting on behalf of the Port Authority may, on producing if so required his authority, enter on land in or near the Port of Mount Vema at any reasonable time for the purpose of-

(a) carrying out a survey of the bed of the port under the section Hydrographic surveys of this Act;

(b) ascertaining whether any work has been constructed, placed, altered, renewed, maintained or retained contrary to the section Works not to be constructed, etc., without works licence of this Act; and

(c) ascertaining whether a landing place or embankment is in such an insecure condition or want of repair that action is necessary under the subsections related to landing places and embankments of this Act:

Provided that no land shall be entered under this section unless the Port Authority, not less than seven days before the date of the first entry and not less than twenty-four hours before any subsequent entry, have given notice in writing to the owner and occupier of the land.

67.2- The power of survey conferred by subsection (1) of this section includes power to bore for the purpose of ascertaining the nature of the subsoil.

67.3- Where property is damaged in the exercise of a power conferred by this section, any person interested in the property may recover from the Port Authority compensation for the damage to be determined in case of dispute by a Tribunal and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the property.

67.4- In exercise of the powers of this section in relation to any land occupied or used by any statutory undertakers in connection with the manufacture, storage or supply of water, or electricity an authorised person shall observe any precautions reasonably required by the undertakers in the interests of safety and for preventing interference with the supply of water, electricity or other utility services.

68- Times when public use of the waters adjacent to the Port of Mount Vema may be restricted

68.1- Without prejudice to any other powers exercisable in that behalf, the Port Authority may exclude the public from, or restrict public use of, a part of the waters adjacent to the Port of Mount Vema in an emergency and for any of the following

purposes:-

(a) to preserve public order;

(b) to allow or facilitate the carrying out of any public works (including works of the Port Authority) affecting the port or adjoining land;

(c) to facilitate the safe and orderly conduct of a procession, boat race, regatta or similar event and to prevent accident to the spectators.

68.2- Subsection (1) of this section shall not be construed as empowering the Port Authority to impose a permanent exclusion or restriction.

68.3- Where practicable the Port Authority shall give notice, in whatever manner they consider appropriate, of their intention to exercise the powers conferred by this section.

69- Abatement of nuisances

For the purpose of maintaining and improving the port as a navigable waterway, or of improving the flow of water therein, the Port Authority may abate or remove annoyances and nuisances for the area including the seabed or on its banks.

PART VI

Regulation of vessels in the Port and the docks

70- General rules for navigation

A master who navigates his vessel within the limits of the Port of Mount Vema-

(a) without due care and attention; or

(b) in a manner liable to injure or endanger persons, other vessels, the banks of the Port (whether above or below mean high water level) or any structure or installation in or beside the Port; shall be guilty of an offence and liable to a fine on conviction and on indictment to a fine.

71- Vessels adrift

71.1- The owner or master of a vessel adrift within the limits of the Port of Mount Vema or in the docks shall be guilty of an offence and liable to a fine.

71.2- It shall be a defence to the owner or master of a vessel charged with an offence under subsection (1) of this section to prove that the vessel did not become adrift as the result of any neglect or default on his part.

72- Overcrowding of vessels

72.1- Subject to subsection (2) of this section the master of a vessel shall not carry in that vessel in the within the limits of the Port of Mount Vema a number of persons greater than it is licensed by the Port Authority as fit to carry, or, if it is not so licensed, than it is reasonably fit to carry.

72.2- A master who contravenes this section shall be guilty of an offence and liable on conviction to a fine.

73- General directions to vessels within the Port of Mount Vema

73.1- The Port Authority may, subject in each case to the agreement of the Pilotage Authority, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation within the limits of the Port of Mount Vema, and, without prejudice to the generality of the foregoing, for any of the following purposes:-

(a) for designating areas, routes or channels within the port which vessels are to use or refrain from using for movement or mooring;

(b) for securing that vessels move only at certain times or during certain periods;

(c) for prohibiting-

(i) entry into or movement within the Port of Mount Vema by vessels at times of poor visibility due to the weather or to the presence of dust or smoke; and

(ii) entry into the port by a vessel which for any reason would be, or be likely to become, a danger to other vessels in the area;

(d) for requiring vessels which fall outside the scope of any formal risk assessment in respect of safety of navigation carried out by the Port Authority and currently valid, to submit to a specific risk assessment before entering the port or any specified part of the port;

(e) requiring the master of a vessel to give to a harbour-master information relating to the vessel reasonably required by the harbourmaster in order to effect the objects of this subsection.

73.2- Directions given under subsection (1) of this section may apply-

(a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction;

(b) to the whole of the Port of Mount Vema or to a part designated, or the designation of which is provided for, in the direction; and

(c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction made under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

73.3- The Port Authority may revoke directions given under this section, or, with the agreement of the Pilotage Authority and, amend them.

74- Special directions to vessels within the Port of Mount Vema

74.1- A direction under this section may be given-

(a) by a harbourmaster to a vessel anywhere in the Port of Mount Vema; and

(b) by a dockmaster to a vessel in a part of the Port of Mount Vema adjacent to a dock and designated by the Port Authority as an area in which the power to give directions under this section shall be exercisable by a dockmaster.

74.2- A direction under this section may be given for any of the following purposes :-

(a) requiring a vessel to comply with a requirement made in or under a general direction;

(b) regulating or requiring the movement, mooring or unmooring of a vessel;

(c) regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores.

75- Directions to vessels at the docks

75.1- The Port Authority may give directions applicable to all vessels, or to a specified class of vessels, at the docks, for the purpose of ensuring the safety of vessels at the docks, preventing injury to persons at, or to property at, or forming part of, the docks or of securing the efficient conduct of the business carried on at the docks, and, without prejudice to the generality of the foregoing, such directions may relate to-

(a) the movement, berthing or mooring of a vessel;

(b) the dispatch of its business at the dock;

(c) the disposition or use of its appurtenances or equipment;

(d) the use of its motive power;

(e) the embarking or landing of passengers;

(f) the loading or discharging of cargo, fuel, water or ship's stores;

(g) the use of ballast.

75.2- A dock manager or dockmaster may give a direction requiring the removal from a dock of a vessel if-

(a) it is on fire;

(b) it is in a condition where it is liable to become immobilised or waterlogged, or to sink;

(c) it is making an unlawful or improper use of the dock;

(d) it is interfering with the use of the dock by other vessels, or is otherwise interfering with the proper use of the dock or the dispatch of business therein;

(e) the removal is necessary to enable maintenance or repair work to be carried out to the dock or to an adjacent part of the port premises.

75.3- A dock manager or dockmaster may give a direction to a vessel at the docks for the following purposes-

- (a) any of the purposes referred to in subsection (1) of this section;
- (b) requiring the vessel to comply with a general direction made under this section.

75.4- In this section reference to a vessel at a dock includes reference to a vessel entering or about to enter a dock and to a vessel leaving or having just left a dock.

76- Publication of designations and general directions

76.1- Notice of the designation of an area of the Port under subsection (1) of the section Special directions to vessels in the Port of this Act or of the revocation of such a designation, and, except in an emergency, notice of a general direction and of the amendment or revocation of a general direction, shall, so soon as practicable after it is made, be published by the Port Authority once in the Vema Seamount Broadcasting Channel or some other media specialising in shipping news, and, if the notice relates to the making of a designation or the making or amendment of a general direction, it shall state a place at which copies of the designation or direction may be inspected and bought and the price thereof.

76.2- In an emergency notice of a general direction or of the amendment or revocation of a general direction may be given in any manner the harbourmaster, dock manager or dockmaster considers appropriate.

77- Manner of giving special directions

A special direction may be given in any manner considered appropriate by the person giving it.

78- Master's responsibility to be unaffected

The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

79- Failure to comply with directions

79.1- The master of a vessel who fails to comply with a general or special direction shall be guilty of an offence and liable to a fine.

79.2- It shall be a defence to the master of a vessel charged with an offence under subsection (1) of this section to prove that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable.

80- Enforcement of directions

80.1- Without prejudice to any other remedy available to the Port Authority, if a special direction is not complied with within a reasonable time, the harbourmaster, dock manager or dockmaster may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

80.2- If there is no one on board a vessel to attend to a special direction, the harbourmaster, dock manager or dockmaster may proceed as if the direction had been given and not complied with:

Provided that the powers of this subsection shall not be exercised-

(a) in relation to a vessel other than a lighter, unless, after reasonable inquiry has been made, the master cannot be found; or

(b) in relation to a lighter unless it is obstructing the access to or exit from a dock or otherwise interfering with navigation.

80.3- Expenses incurred by the Port Authority in the exercise of the powers conferred by subsection (1) of this section shall be recoverable by the Port Authority as if they were a charge of the Port Authority in respect of the vessel.

81- Regulation of crowds

81.1- The Commissioner of the Mount Vema Police may with a view to maintaining order and securing the safety of the public give such orders as he thinks expedient for the purpose of regulating the passage of vessels on such part of the Port as lies within his jurisdiction on any occasion when large crowds may assemble thereon.

81.2- If the master of a vessel disobeys a constable engaged in keeping order on such an occasion he shall be guilty of an offence and liable on conviction to a fine.

81.3- (a) Any superintendent, inspector or sergeant of a police force may enter a vessel the master of which refuses to comply with any orders given in pursuance of this section for the purpose of taking such measures as may be necessary for carrying into effect the objects of this section or any orders given under this section.

(b) A person obstructing the entry on his vessel of any superintendent, inspector or sergeant in pursuance of this subsection or impeding his efforts to carry this section into effect shall be guilty of an offence and liable to a fine.

Obstructions and similar hazards to navigation

82- Power to raise and remove vessels sunk, etc.

82.1- If, in the opinion of the harbourmaster or dockmaster, a vessel sunk, stranded or abandoned in the Port or the docks is, or is likely to become, an obstruction, impediment or danger to the safe and convenient navigation or use of the Port or the docks, or part thereof, the Port Authority shall cause the vessel to be raised, removed, blown up or otherwise destroyed.

82.2- shall be treated (if, apart from the provision made by this paragraph, it would not have been treated) as if-

(a) as regard the opinion of the harbourmaster there mentioned the reference were only to a vessel sunk, stranded or abandoned in the Port which is, or is likely to become, an obstruction, impediment or danger to the safe and convenient navigation or use of the Port; and

(b) as regards the opinion of the dockmaster so mentioned, the reference were only to a vessel sunk, stranded or abandoned in the docks which is, or is likely to become, an obstruction, impediment or danger to the safe and convenient navigation or use of the docks.

82.3- Where the Port Authority have exercised any of their powers under subsection (1) of this section, they may, and if required by the person who is or was the owner of the vessel at the time of the sinking, stranding or abandonment thereof shall, cause the vessel or its cargo or anything else

associated with the vessel which may be removed or saved from the vessel to be sold in such manner as they think fit and shall out of the proceeds of such sale discharge any sums payable in respect of the property sold by way of duties of customs or excise, or purchase tax, and may retain the expenses incurred by them in the exercise of their powers under this section and also any expenses incurred by them in marking, buoying, watching, lighting or otherwise controlling the vessel or its cargo, in removing or saving the cargo or anything else associated with the vessel, or giving warning to shipping of the presence of the vessel and shall on demand pay the surplus, if any, to the person entitled thereto.

82.4- If the proceeds of sale are insufficient, after discharging the said duties or purchase tax, to reimburse the Port Authority for the said expenses the Port Authority may recover the deficiency, or if there is no sale, the whole of the expenses from the person who is or was the owner of the vessel at the time of the sinking, stranding or abandonment thereof as a debt in any court of competent jurisdiction.

82.5- Except where there is, in the opinion of the harbourmaster or dockmaster, as the case may be, an emergency, subsection (1) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said subsection, the Port Authority have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires the Port Authority receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so, and the Port Authority shall not exercise the powers of the said subsection in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation or the business at the dock which may be given to him by the harbourmaster or dockmaster, as the case may be.

82.6- If the owner of a vessel to whom notice is to be given under this section is not known to the Port Authority, or if his place of business or abode is not known to the Port Authority or is outside the Kingdom of Mount Vema, the notice may be given by displaying it at the head office of the Port Authority for the period of its duration.

82.7- (a) Expenses incurred by the Port Authority in the exercise of their powers under this section in relation to a vessel which has at any time been registered or licensed by them, may, if they cannot be recovered under this section, be recovered from a person whose name appears as owner of the vessel in the last licence or certificate of registration issued by the Port Authority in respect of the vessel:

Provided that this subsection shall not apply-

(i) if he gives the Port Authority not less than ten clear days' notice of his intention to dispose of the vessel and supplies the name and address of the intended disponent; and

(ii) if he has obtained the Port Authority's consent to the disposition by him of the vessel to the person named in the notice.

(b) The Port Authority shall not unreasonably withhold consent under this subsection to a disposition and shall be deemed to have consented at the time when the notice given under this subsection expires unless they have previously informed the person giving the notice that they do not consent.

82.8- In this section " expenses " shall include an element for depreciation calculated on the straight line method and based on the replacement cost of the vessels, plant and equipment used by the Port Authority for the purposes of raising, removing or destroying the vessel, and a sum representing interest on the capital invested in the said vessels, plant and equipment, and for this purpose the capital invested at the time of the operation shall be deemed to be half the replacement cost.

83- Removal of obstructions other than vessels

83.1- The Port Authority may remove-

(a) anything, other than a vessel, causing or likely to become an obstruction or impediment in any part of the Port or in a dock;

(b) anything, other than a vehicle, causing or likely to become an obstruction or impediment to the proper use of a towpath on the Port.

83.2- (a) If anything removed by the Port Authority under subsection (1) of this section is so marked as to be readily identifiable as the property of any person, the Port Authority shall within one month of its coming into their custody give notice, as required by this section, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Port Authority.

(b) If anything removed by the Port Authority under subsection (1) of this section which is not so marked is not within three months of its coming into the custody of the Port Authority proved to the reasonable satisfaction of the Port Authority to belong to any person, it shall thereupon vest in the Port Authority.

83.3- The Port Authority may at such time and in such manner as they think fit dispose of anything referred to in paragraph (b) of subsection (2) of this section which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Port Authority under this section, and if it is sold the proceeds of sale shall be applied by the Port Authority in payment of the expenses incurred by them under this section in relation to the thing, and any balance-

(a) shall be paid to any person who within three months from the time when the thing came into the custody of the Port Authority proves to the reasonable satisfaction of the Port Authority that he was the owner thereof at that time; or

(b) if within the said period no person proves his ownership at the said time, shall vest in the Port Authority.

83.4- If anything removed under this section-

(a) is sold by the Port Authority and the proceeds of sale are insufficient to reimburse the Port Authority for the amount of the expenses incurred by them in the exercise of their powers of removal; or

(b) is unsaleable;

the Port Authority may recover as a debt in any court of competent jurisdiction the deficiency or the whole of the expenses, as the case may be, from the person who was the owner at the time when the thing removed came into the custody of the Port Authority or who was the owner at the time of its abandonment or loss.

83.5- A notice given under paragraph (a) of subsection (2) of this section shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Port Authority possession may be retaken at a place named in the notice within the time specified in the notice, being not less than fourteen days after the date when the notice is served.

83.6- The Port Authority shall not under the powers of this section remove anything placed or constructed by a district authority or statutory undertakers under the provisions of a statute or of a consent or licence given or issued by the Port Authority thereunder.

84- Removal of projections

84.1- In this section-

"projection" means anything which projects over the port and includes stairs and any tree, or other plant but does not include any such thing authorised by or under statute or by a works licence to be placed or constructed.

84.2- (a) If any projection is a danger to the navigation of the Port, the Port Authority may remove it and recover the expenses of removal from the owner or occupier of the land on which the projection was situated as a debt in any court of competent jurisdiction.

(b) Before exercising their powers under this subsection the Port Authority shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the land on which the projection is situated.

(c) In proceedings to recover expenses under paragraph (a) of this subsection the court may inquire whether the Port Authority might reasonably have proceeded instead under subsection (3) of this section, and, if the court determines that the Port Authority might reasonably have proceeded instead under the said sub-section (3), the Port Authority shall not recover the expenses.

84.3- (a) If any projection is an obstruction or inconvenience to the navigation of the Port but not a danger thereto, the Port Authority may by notice in writing require the owner or occupier of the land on which the projection is situated to remove the projection within such time, not being less than seven days, as may be specified in the notice.

(b) If a person to whom notice is given under paragraph (a) of this subsection fails to comply with the notice within the time stated in the notice, or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor, the Port Authority may themselves remove the projection and recover the expenses of removal from the person on whom the notice was served as a debt in any court of competent jurisdiction.

84.4- A notice under paragraph (a) of subsection (3) of this section shall have annexed to it a copy of this section.

84.5- A person aggrieved by a notice served by the Port Authority under subsection (3) of this section may appeal to a magistrates' court.

85- Repair of landing places and embankments

85.1- Without prejudice to the section Removal of projections of this Act, the Port Authority may by notice require the owner or occupier of a landing place or embankment which in the opinion of the Port Authority is, or is likely to become, by reason of its insecure condition or want of repair-

- (a) dangerous to persons or vessels using the Port;
- (b) injurious to the condition of the Port as a navigable waterway; or
- (c) a hindrance to the navigation of the Port;

to remedy its condition to the satisfaction of the Port Authority's chief engineer within a reasonable time specified in the notice.

85.2- If a person to whom notice is given under this section fails to comply with the notice within the time stated in the notice, or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor-

(a) he shall be guilty of an offence and liable to a fine and to a daily fine; and

(b) the Port Authority may carry out the work they consider necessary to remedy the conditions of the landing place or embankment in question and may recover the expenses of so doing from the person on whom the notice was served as a debt in any court of competent jurisdiction.

85.3- A notice under subsection (1) of this section shall have annexed to it a copy of this section.

85.4- A person aggrieved by a notice served by the Port Authority under subsection (1) of this section may appeal to a magistrates' court.

Registration of lighters, tugs and boats

86- Unlicensed vessels not to be navigated

86.1- Subject to subsection (2) of this section, a vessel shall not be navigated, worked or moored within the vessel licensing area unless:-

(a) there is in force in relation to it a relevant licence issued by the Port Authority in accordance with byelaws made by the Port Authority; and

(b) the name of the vessel and such other particulars as may be prescribed in byelaws made by the Port Authority are displayed on the vessel in the manner prescribed by those byelaws.

86.2- Subsection (1) of this section shall not apply to-

(a) a vessel which is navigated, worked or moored only occasionally in the vessel licensing area;

(b) a pleasure vessel;

(c) a hovercraft or seaplane;

(d) any vessel (other than a ship registered under the Merchant Marine and Shipping Act or any vessel usually used for navigation) which is used primarily as a place of habitation, or as a place for accommodating or receiving persons for the purposes of shelter, recreation, entertainment or refreshment, or as club premises or offices, while it is moored;

(e) a vessel to which survey requirements apply under the Merchant Marine and Shipping (Survey and Certification) Regulations or under any other rules or regulations made, or having effect as if made, under the Merchant Marine and Shipping Act;

(f) a vessel operated by a member of the Kingdom of Mount Vema Search and Rescue Organisation and declared to the Coastguard as a dedicated resource; and

(g) such other vessels as may be from time to time exempted by byelaws made by the Port Authority.

86.3- For the purpose of this section the Port Authority may issue a licence –

(a) in relation to all or any part of the vessel licensing area; and

(b) on such terms and conditions and subject to such restrictions as they think appropriate in the interests of safety.

86.4- The owner of a vessel which is navigated, worked or moored in contravention of subsection (1) of this section, or in contravention of any term, condition or restriction imposed by a licence issued under subsection (3) of this section shall be guilty of an offence and liable:-

(a) on summary conviction, to a fine; and

(b) on conviction on indictment to a fine.

86.5- In this section –

"navigation authority" means any person who has a duty or power under any enactment to work, maintain, improve or control or license vessels within the harbour or dock.;

"relevant licence" means a licence applicable to the area in which the vessel in question is being navigated, worked or moored, and for the purpose of subsection 2(a) of this section a vessel is navigated, worked or moored only occasionally in the vessel licensing area if –

(a) it is navigated, worked or moored within that area not more than three times in any period of 12 months; and

(b) on each such occasion it is navigated, worked or moored within the vessel licensing area for no more than 48 hours.

87- Power to refuse or revoke or suspend a licence

87.1- Subject to the section Appeals of this Act, the Port Authority may refuse to licence or may revoke or suspend the licence of a vessel, in relation to the whole or to any part of the vessel licensing area, if they are satisfied that:-

(a) the vessel is not fit for its intended purpose;

(b) the vessel cannot be safely navigated, worked or moored in the vessel licensing area, or any part of it; or

(c) in the case of a boat for hire it is in the interests of safe navigation to prohibit boats for hire in a part of the vessel licensing area or to restrict the number of boats for hire in the vessel licensing area or in part of the vessel licensing area.

87.2- In considering for the purposes of this section the fitness of a vessel the Port Authority may have regard, amongst other things, to its life-saving equipment, fire extinguishing appliances, navigational equipment arrangements, machinery for mechanical propulsion and other auxiliary machinery.

87.3- The Port Authority may, for the purpose of their licensing functions and subject to the provisions of the section Appeals of this Act, require the owner of the vessel to give them such information or reports as they may reasonably require as to its fitness.

87.4- Nothing in this section shall be taken as imposing an obligation on the Port Authority to undertake a structural survey of a vessel for the purpose of discharging their licensing functions.

88- Appeals

88.1- If the Port Authority under the section Power to refuse or revoke or suspend a licence of this Act-

(a) refuse to licence a vessel; or

(b) revoke or suspend the licence of a vessel; or

(c) require the owner of the vessel to give them information or reports as to its fitness;

they shall give written notice to the owner of the vessel of their decision or requirement and the notice shall inform the owner of his right under subsection (3) of this section to appeal against the decision or requirement.

88.2- On issuing a licence under subsection (3) of the section Unlicensed vessels not to be navigated of this Act the Port Authority shall give written notice to the owner of the vessel in question of his right under subsection (3) of this section to appeal against any conditions, restrictions or limitations attaching to the licence.

88.3- The owner of a vessel who is aggrieved by any such decision, requirement, condition, restriction or limitation as is referred to in subsection (1) or (2) of this section may, within a time specified in the notice referred to in those subsections, being a date not earlier than twenty-eight days after the service of

the notice on the owner, appeal to the Secretary of State, and any applicable Schedule to this Act shall apply in relation to such an appeal.

89- Inaccurate or lost licences

If the Port Authority are satisfied that a licence for a vessel issued by them under the section Unlicensed vessels not to be navigated of this Act and in force is-

(a) inaccurate, they shall issue to the owner of the vessel a corrected licence and shall amend their records accordingly;

(b) lost or destroyed, they shall issue to the owner of the vessel a duplicate of the licence.

90- Registers to record mortgages, etc., and to be open to inspection

90.1- The Port Authority shall on the written application by the mortgagee or assignee of a vessel licensed by the Port Authority under the section Unlicensed vessels not to be navigated of this Act register particulars of a subsisting mortgage of the vessel or of a subsisting assignment of the vessel by way of security or in trust for the benefit of creditors.

90.2- The records relating to vessels kept by the Port Authority under this Part of this Act shall be open to inspection by any person at a reasonable time and upon payment of a reasonable fee.

91- Charges in relation to vessels

The Port Authority may make reasonable charges in respect of the exercise of their functions under this Act.

Miscellaneous

92- Lights detrimental to navigation

92.1- The Port Authority may by written notice require a person placing or using on or near the Port a light which is likely to mislead persons navigating on the Port or to interfere with the safe navigation of vessels, to screen, alter, extinguish or remove the light within a reasonable time specified in the notice.

92.2- A person who-

(a) fails to comply with a notice given under this section; or

(b) after complying replaces or again uses the light or places or uses in lieu thereof another light in respect of which the Port Authority would be entitled to give a notice under this section;

shall be guilty of an offence and liable to a fine and to a daily fine.

93- Damage by a vessel

93.1- (a) The owner of a vessel shall be liable to pay to the Port Authority the cost of making good any damage done by any means whatsoever by the vessel or by any person employed on or about the vessel to-

(i) any part of the port premises in the Port; or

(ii) equipment in the Port belonging to the Port Authority.

(b) The Port Authority may recover from the owner of the vessel as a debt in any court of competent jurisdiction the cost of making good any such damage.

93.2- Where any damage has been done to a dock entrance or any part of the port premises not in the Port by a vessel through the wilful act or negligence of the master or a person on or about the vessel, the Port Authority may, without prejudice to any other remedy available to them, detain the vessel until the cost of making good the damage has been paid, or security therefor given, to the Port Authority.

94- Interfering with moorings

A person who unlawfully casts off, the mooring or fastening of a vessel in the Port or in a dock shall be guilty of an offence and liable to a fine.

95- Giving false draught

95.1- The master of a vessel entering or leaving or intending to enter or leave a dock shall if required to do so by the dock-master state the draught of his vessel.

95.2- The master of a vessel who in response to a requirement under subsection (1) of this section gives incorrect information shall, without prejudice to any right of the Port Authority to compensation for loss or damage occasioned thereby, be guilty of an offence and liable to a fine.

95.3- For the purposes of this section "draught" in relation to a hovercraft or hydrofoil vessel means its draught when afloat and not supported on a cushion of air, on foils or by any other means and in relation to a seaplane means its draught when afloat.

96- Boarding vessels

A duly authorised officer of the Port Authority may, on producing if so required his authority, enter and inspect a vessel in the Port or the docks-

(a) for the purposes of any enactment relating to the Port Authority or of any byelaw of the Port Authority including the enforcement thereof;

(b) to prevent or extinguish fire.

In so far as section 96 relates to the purposes of any enactment relating to the Port Authority or of any byelaw of the Port Authority (as distinct from the purposes of any enactment relating to the Company or of any byelaw of the Company) or to the prevention or extinguishing the fire, the reference in that section to the docks shall be treated as including a reference to the Company's docks.

97- Identity of master

97.1- The owner of a vessel shall, on written application to him by the Port Authority, give to the Port Authority in writing all information in his power as to the person who at any particular time was the master of the vessel and any owner refusing to give such information or by his own negligence or default being unable to give the name and address of such person shall be guilty of an offence and liable to a fine not exceeding.

97.2- In any proceedings relating to the vessel or its master the written information given pursuant to subsection (1) of this section shall be admissible as evidence for the purpose of determining the identity of the master of the vessel at a particular time.

PART VII

GOODS TRAFFIC

General

97- Account of imports to be given to Port Authority

97.1- The master of a vessel carrying cargo which enters the docks shall, within twelve hours after entering the docks or being reported at the Custom House, whichever first occurs give the Port Authority two copies of the manifest or report of the cargo signed by him.

97.2- A master who fails to comply with this section shall be guilty of an offence and liable to a fine.

98- Power to survey goods

98.1- The Port Authority may survey and examine-

(a) goods at the port premises; and

(b) goods on board a vessel at the port premises when those goods are to be or have been handled by the Port Authority or when the master of the vessel asks for a survey or examination to be made by the Port Authority.

98.2- The Port Authority may make a reasonable charge for a survey or examination carried out under this section.

98.3- Where a written report is made on a survey or examination under this section, the Port Authority shall on request supply a copy of the report at a reasonable price to the owner or consignee of the goods and, if the survey was requested by the master of a vessel, to that master.

99- Power to remove goods

99.1- The Port Authority may remove to another part of the port premises or to a place of storage elsewhere goods-

(a) which are obstructing or interfering with the use of the port premises; or

(b) which remain at a place used for the deposit or storage of goods for a longer time than that specified in relation to that place in a schedule of charges published by the Port Authority;

and such removal and storage shall be carried out at the risk and expense of the owner.

99.2- Remedies available to the Port Authority for the recovery of their charges on or in respect of goods shall be available to them for the recovery of the expenses of removal and storage of goods removed under this section.

99.3- Goods removed under this section to a place of storage outside the port premises shall be deemed to be on the port premises for the purposes-

(a) of the provisions in this Act relating to recovery of the Port Authority's charges on or in respect of goods by the seizure, detention and sale of goods; and

(b) of those provisions as applied by subsection (2) of this section.

100- Removal and disposal of offensive goods

100.1- The Port Authority may by notice require the owner of goods at the port premises which are, or have become, offensive to remove the goods from the port premises within such a period not being less than twenty-eight days as is specified in the notice.

100.2- If a person to whom notice is given under subsection (1) of this section fails to comply with the notice within the time specified, the Port Authority may dispose of the goods at such time and in such manner as they think fit and may recover the expense of so doing from the person to whom the notice under this section was given as a debt in any court of competent jurisdiction.

101- Customs entry by Port Authority

101.1- An authorised officer of the Port Authority may make and a customs officer may accept a customs entry relating to imported goods at the port premises which-

(a) the Port Authority intend to remove under the section Power to remove goods, the section Removal and disposal of offensive goods or the section As to entry of dangerous goods of this Act; or

(b) it is expedient to enter for customs in order to prevent their removal to a Warehouse by a customs officer, or for any other good and sufficient reason.

102.2- An officer of the Port Authority when making an entry under subsection (1) of this section shall not be obliged to provide more information about the goods to be entered than is-

(a) within his personal knowledge; or

(b) ascertainable from any label or mark on the packing or from any document in the Port Authority's possession relating to the goods in question.

102.3- The Port Authority may charge for making a customs entry under this section.

102.4- Remedies available to the Port Authority for the recovery of their charges on or in respect of goods shall be available to them for the recovery of duties of customs or excise and purchase tax paid by them on goods entered under this section.

103- Warrants for goods

103.1- The Port Authority may at the request of a person-

(a) warehousing or depositing goods in a warehouse or place at the port premises specially appropriated for the purpose; or

(b) entitled to goods so warehoused or deposited;

issue to him a warrant for the delivery of the goods so warehoused or deposited or such part thereof as may be specified in the warrant:

Provided that the Port Authority shall not issue a warrant under this section relating to imported goods if they have been given notice effective under subsection (2) of this section that the goods in question are subject to-

(i) a claim for freight by the owner of the vessel in which the goods were imported; or

(ii) a claim to which the goods were subject before being warehoused or deposited with the Port Authority.

103.2- A notice under subsection (1) of this section-

(a) shall not be effective unless it is given-

(i) within seven days of the discharge of the goods in question from the importing vessel; and

(ii) before the Port Authority have issued a warrant relating to the goods specified in the notice;

(b) shall remain effective for twenty-eight days and may be renewed for successive periods of twenty eight days.

103.3- (a) Unless the contrary is clearly stated on the face of the warrant, goods which are the subject of a warrant issued under this section shall not be liable to detention or sale by the Port Authority on account of an unpaid charge of the

Port Authority on or in respect of those or other goods incurred before the issue of the warrant.

(b) In this subsection "charge" includes expenses incurred by the Port Authority in relation to goods which by virtue of this Act are recoverable by the same means as a charge.

103.4- A warrant issued under this section shall be transferable by endorsement and shall entitle the person named therein or the last endorsee thereof to the delivery of the goods specified therein and the goods so specified shall for all purposes be deemed to be his property.

103.5- A warrant under this section may be issued under the hand of an officer of the Port Authority authorized for that purpose.

104- Passes for goods

104.1- A member of the Port Authority's police force, or other person appointed by the Port Authority to act as gatekeeper at-

(a) the port premises; or

(b) may refuse to allow goods to leave the port premises, unless the person having charge of the goods produces to the police officer, or other person appointed by the Port Authority as gatekeeper, a pass for the goods signed, in the case of goods leaving the port premises, by a duly authorised officer of the Port Authority.

104.2- The Port Authority may make regulations relating to the duties of a gatekeeper, the removal of goods from the port premises, and the form of pass to be provided under subsection (1) of this section.

105- Accommodation for customs officers

The Port Authority shall, so long as it is required for use by customs officers-

(a) provided, maintain, and carry out repairs to, any accommodation at the port premises for customs officers immediately after the commencement of this Act; and

(b) by agreement with the Commissioners for Revenue and Customs, provide at new works forming part of the port premises accommodation for customs officers on a similar scale to that provided by the Port Authority at or immediately after the commencement of this Act.

Safety precautions

106- As to entry of dangerous goods

106.1- The Port Authority may-

(a) refuse entry into the port premises of any goods which in their opinion would endanger or be liable to endanger persons or property; or

(b) permit the entry of any such goods subject to compliance with such terms and conditions (including the part or parts of the port premises where such entry is permitted) as they think fit.

106.2- The Port Authority shall publish a schedule of such goods-

(a) entry of which is forbidden by them; and

(b) entry of which is permitted by them only upon terms and conditions specified in the schedule.

106.3- A person who after publication of the schedule referred to in subsection (2) of this section-

(a) brings or causes or permits to be brought into the port premises any goods the entry of which is forbidden; or

(b) fails in relation to any goods brought into the port premises to comply with any terms or conditions imposed by the Port Authority under subsection (1) of this section;

shall-

(i) be guilty of an offence and liable to a fine, and on conviction on indictment, to a fine; and

(ii) indemnify the Port Authority against all claims, demands, proceedings, costs, damages and expenses which may be made against or recovered from or incurred by the Port Authority in consequence of the commission of the offence;

and the Port Authority may remove the goods in question and may recover from the owner or offender the costs of such removal and of placing or storing the goods elsewhere.

107- Under declaration of weight of goods

107.1- If a person knowingly under-declares the weight of any goods brought into the port premises, he shall be guilty of an offence and liable to a fine.

107.2- It shall be a defence to a person charged with an offence under subsection (1) of this section to prove that the safety of persons handling goods at the port premises was not, or was not likely to be, endangered as a consequence of the under-declaration of the weight of the goods in question.

107.3- Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against.

107.4- In subsection (3) of this section, "director" in relation to any body corporate which is established by or under any enactment for the purpose of carrying on or under national ownership any industry or part of an industry or undertaking the affairs of which are managed by the members thereof, means a member of that body.

PART VIII

THE PORT AUTHORITY'S POLICE FORCE

108- Appointment, etc, of police officers

108.1- The Port Authority may appoint persons to be police officers and a person so appointed shall, on appointment, be attested as a police officer by making a declaration before a justice of the peace in the form set out in this Act.

108.2- The Port Authority may suspend or terminate the appointment of a person appointed under this section.

108.3- If the Port Authority terminate the appointment of a person appointed under this section, that person shall thereupon cease to be a police officer.

109- Area of authority

109.1- A police officer appointed under the section 108 Appointment, etc., of police offices of this Act may act as such-

(a) in the port police area; and

(b) elsewhere in the circumstances described in subsection (2) of this section;

and, whilst he is so acting, he shall have all the powers and privileges of a police officer.

109.2- A police officer who, in the course of his duties as a member of the Port Authority's police force, pursues a person from the port police area, shall have the same powers of arrest in respect of that person outside the port police area as he would have within that area.

110- Powers of police officers

110.1- In this section "police officer" means a police officer appointed under section 108 Appointment, etc., of police officers of this Act.

110.2- A police officer may enter and search a vessel within the port police area (taking with him persons to assist him if he thinks it necessary)-

(a) if he, with reasonable cause, suspects that an [indictable] offence has been, or is about to be, committed on board the vessel; or

(b) in order to arrest a person whom he may lawfully arrest; or

(c) if he, with reasonable cause, believes that by so doing he will be able to facilitate the detection of an [indictable] offence committed, or the prevention of an [indictable] offence which he, with reasonable cause, suspects is about to be committed, within the port police area;

and he may detain anything found on board which he, with reasonable cause, suspects to have been stolen or otherwise unlawfully obtained.

110.3- A police officer may within the port premises and any specified premises enter and search a vessel or vehicle if he, with reasonable cause, suspects that anything which has been stolen or otherwise unlawfully

obtained-

(a) on or from the port premises;

(b) on or from a vessel either in a dock of the Port Authority or at a pier provided by the Port Authority;

or

(c) on or from any specified premises;

may be found therein, and he may detain anything found on board the vessel or in the vehicle, as the case may be, which he with reasonable cause suspects to have been so stolen or obtained.

110.4- No power conferred on a police officer by this section shall derogate from, take away or in any way diminish any other power which the police officer may have.

111- Unlawful possession

111.1- A police officer may within the port police area stop and search a person whom he, with reasonable cause, suspects of having or conveying in any manner anything which has been stolen or otherwise unlawfully obtained-

(a) on or from the port premises;

(b) on or from a vessel either in a dock of the Port Authority or at a pier provided by the Port Authority;

or

(c) on or from specified premises;

112- Impersonating a port police officer

A person who, with intent to deceive, impersonates a member of the Port Authority's police force, or makes any statement or does any act calculated falsely to suggest that he is a member of the Port Authority's police force, shall be guilty of an offence and liable to imprisonment or to a fine.

PART IX BYELAWS

113- Byelaws for port premises

The Port Authority may make byelaws for the port premises for any of the following purposes-

- (a) to regulate the use of the port premises and of services and facilities provided there;
- (b) to regulate the conduct of vessels, including the use of their motive power and equipment;
- (c) to regulate goods traffic;
- (d) to promote the safety of persons working at the port premises;
- (e) to protect property at, or forming part of, the port premises from damage, defacement or theft;
- (f) to regulate the admittance of persons to the port premises;
- (g) to prescribe what persons, other than the Port Authority's staff, may be employed at the port premises;
- (h) to prevent trespassing;
- (i) to regulate vehicle traffic;
- (j) to prevent nuisances and other misuses of the port premises; and
- (k) to prevent pollution of the water in the docks.

114- Port byelaws

114.1- The Port Authority may make byelaws for the Port of Mount Vema for any of the following purposes-

- (a) to secure the conservation and improvement of the Port as a harbour and a navigable waterway and to promote ease and convenience of navigation;
- (b) for the regulation of vessels in the Port and their entry into and departure from the Port and, without prejudice to the generality of the foregoing, to

prescribe rules for navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels;

(c) for prescribing parts of the Port-

(i) where vessels or a specified class of vessels may not moor, anchor or be otherwise secured; or

(ii) which vessels of a specified class may not enter;

(d) to regulate the use and to prevent the misuse of services and facilities provided by the Port Authority in or beside the Port;

(e) to promote the safety of persons and vessels in the Port;

(f) to regulate the conduct of persons using the Port or its banks, whether for business, recreation or any other purpose;

(g) to prohibit bathing anywhere in the Port or in specified areas of the Port;

(h) to prevent nuisances in or beside the Port;

(i) subject to subsection (2) of this section, to prevent or regulate the exhibition of advertisements on or over the Port.

(j) to regulate the licensing of vessels for the purpose of the applicable sections of this Act;

(k) for regulating the equipment of vessels and requiring vessels to carry specified equipment in the interests of safety;

(l) in relation to any vessels other than pleasure vessels, to impose requirements as to the standards of competence and experience required by persons navigating or working vessels and requirements as to the number, competence and experience of its crew.

115- Confirmation of byelaws

115.1- Byelaws made by the Port Authority under this Act shall not come into operation until they have been confirmed by the confirming authority.

115.2- The confirming authority shall be the Minister.

115.3- (a) At least one month before an application for confirmation of byelaws is made by the Port Authority to the confirming authority, notice of the intention to apply for confirmation and of the place at which and the times during which a copy of the byelaws shall be open to inspection shall be published

as follows:-

(i) once in the Vema Seamount Broadcasting Channel;

(ii) Not later than the first date on which the notice under paragraph (a) of this subsection is published, the Port Authority shall send a copy of the notice-

(iii) to the Secretary of State for Defence;

(b) During a period of at least one month before application is made for confirmation of the byelaws a copy of the byelaws shall be kept at the head office of the Port Authority and shall at reasonable hours be open to public inspection without payment.

(c) The Port Authority shall supply a copy of the byelaws or of part of the byelaws to a person who shall apply for it on payment of a reasonable charge.

115.4- During the period of one month after completion of the publication of any notice required by paragraph (a) of subsection (3) of this section any person may make in writing to the confirming authority any objection to or representation respecting the byelaws to which the notice relates.

115.5- The confirming authority may confirm the byelaws in the form submitted to him with such modifications as he thinks fit:

Provided that where the confirming authority proposes to make a modification which appears to him to be substantial, he shall inform the Port Authority and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Port Authority and by other persons who have been informed of it.

115.6- When confirmed the byelaws shall be published by the Port Authority.

116- Proof of byelaws

A copy of a byelaw of the Port Authority duly confirmed purporting to be printed by direction of the Port Authority and being authenticated by their seal and the signature of their secretary shall for all purposes be prima facie evidence of such byelaw and of the due making and confirmation thereof without proof of such seal or signature.

In so far as section 116 relates to:-

(a) a byelaw of the Company; or

(b) a byelaw of the Port Authority applies in relation to the Company's docks or the Company's port premises;

the reference to authentication of a copy of the byelaw by the seal of the Port Authority and the signature of their secretary shall be treated as a reference to authentication of a copy of the byelaw.

PART X MISCELLANEOUS PROVISIONS

117- Application of District and City Planning to Port Authority's land

117.1- It is hereby declared that for the purposes of the District and City Planning rules, anything done by the Port Authority in the exercise of the powers conferred by the section General duties and powers or by the section Powers relating to land of this Act, so far as those sections relate to development of land for use otherwise than for the purposes of the undertaking, does not constitute the carrying on by the Port Authority of their statutory undertaking and, in particular, that land which is used, or in which an interest is held, by the Port Authority exclusively for the purpose of exercising those powers does not constitute operational land.

117.2- Without prejudice to subsection (1) of this section and subject to subsection (3) of this section, any development of operational land by the Port Authority in the exercise of the said powers shall not for the purposes of the said Acts constitute development of operational land.

117.3- Subsection (2) of this section shall not apply to development if-

(a) the development comprises development by the Port Authority for the purpose of carrying on the undertaking or is development for a purpose which includes that purpose ; and

(b) the development is such that so much of it as is exclusively referable to the exercise by the Port Authority of the said powers cannot fairly be treated for the purposes of the said Acts as separate development.

117.4- Any question under subsection (3) of this section whether part of any development can fairly be treated as separate development shall be determined by the local planning authority to whom application is made for permission for the development in question, or, where an application for permission for the development in question is referred to the District Government and the Minister for Housing, by the Minister; and where part of any development is so treated this section and the said Acts shall apply to the parts of the development in all respects as if they were separate development.

117.5- If an applicant is aggrieved by a determination of a district planning authority under subsection (4) of this section, he may appeal to the Minister for Housing, and any such appeal shall be determined by the Minister for Housing, the District Government and the Minister. The provisions of the said Acts and of any development order as to the time and manner for appealing to the Minister against planning decisions of district planning authorities shall apply, subject to any necessary modifications, to an appeal under this subsection.

117.6- The provisions of the said Acts as to the validity, and proceedings for challenging the validity, of decisions of the Minister on applications for planning permission referred to him under those Acts or on appeals to him under those Acts against planning decisions of district planning authorities shall apply to any determination of the Minister for Housing and District Government and the Minister under this section as if a reference to this section were included in those provisions.

118- Removal of vehicles at port premises

118.1- (a) If a vehicle is left without the permission of the Port Authority-

(i) in a parking place provided by the Port Authority for a longer period than twenty-four hours;

(ii) in any part of the port premises where the parking of vehicles is prohibited by notice erected by the Port Authority; or

(iii) in any place where it is likely to obstruct or interfere with the use of the port premises;

the Port Authority may remove the vehicle to a place of safe custody.

(b) Any such notice as is referred to in sub-paragraph (ii) of paragraph (a) of this subsection shall be conspicuously posted in or in proximity to the place to which it relates.

118.2- Where the Port Authority in exercise of the powers of this section remove a vehicle, or use the services of any other person to remove a vehicle, the

expenses of and incidental to the removal and safe custody shall be recoverable by the Port Authority from the owner of the vehicle as a debt in any court of competent jurisdiction.

118.3- If the Port Authority in exercise of the powers of this section remove a vehicle, they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) rule, or any other regulations having the same effect for the time being in force, at his last known address, his registered address or at the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this section and of the place to which the vehicle has been removed.

118.4- A notice stating the general effect of paragraph (a) of subsection (1) of this section shall be displayed in a prominent position at each entrance to any parking place provided by the Port Authority and at each place where a road accessible to vehicles enters any part of the port premises and shall be endorsed on any tickets issued to persons leaving vehicles in any such parking place or elsewhere at the port premises.

119- Access for government officers

A person employed by the Minister or the Mount Vema Board of Trade and a customs officer shall have free access to the port premises while in the execution of his duty.

120- Authentication of Port Authority's documents

120.1- Any notice, licence or other document given or issued by the Port Authority under any enactment shall, unless the contrary intention is expressed in the enactment in question, be sufficiently authenticated if signed by the secretary of the Port Authority or by one of his deputies, and need not be sealed by the Port Authority.

120.2- Without prejudice to the generality of subsection (1) of this section all documents relating to goods at the port premises or to the management of the business at a dock shall be sufficiently authenticated if signed by a duly authorised officer of the Port Authority and need not be sealed by the Port Authority.

120.3- A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of the Port Authority if made, accepted or endorsed in the name of, or by or on behalf of, or on account of the Port Authority by a duly authorised officer of the Port Authority.

121- Service of documents

121.1- Any document required or authorised by or under this Act to be given to or served on a person-

(a) being a corporation, society or association, shall be duly given or served if it is given to or served on the secretary or clerk of the corporation, society or association;

(b) being a partnership, shall be duly given or served if it is addressed to the partnership identifying it by the name or style under which its business is carried on.

121.2- Subject to the provisions of this section, any notice, consent, approval, demand or other document required or authorised by or under this Act to be given to or served on any person may be given or served

either-

(a) by delivering it to that person ; or

(b) by leaving it at his proper address ; or

(c) by post;

so however that, where such a document is sent by post otherwise than in a letter sent by the recorded delivery service, it shall be deemed not to have been given or served if it is proved that it was not received by the person to whom it was addressed.

121.3- For the purposes of this section, the proper address of any person to or on whom such a document is to be given or served shall-

(a) in the case of the secretary or clerk of a corporation, society or association, be that of the registered or principal office of the corporation, society or association;

(b) in the case of a partnership, be the principal place of business of the partnership ; and

(c) in any other case, be the usual or last known place of abode of the person to whom the document is given:

Provided that, where the person to or on whom such a document is to be given or served has furnished an address for service in accordance with arrangements agreed to in that behalf, his proper address for the purpose of this subsection shall be the address so furnished.

121.4- If the name or address of any owner or occupier of any premises to or on whom any such document is to be given or served cannot after reasonable inquiry be ascertained by the person seeking to give or serve the document, the document may be given or served by addressing it to the person to whom it is to be given or on whom it is to be served by the description of "owner" or "occupier" of the premises (describing them) to which the document relates, and by delivering it to some responsible person at the premises, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

121.5- The provisions of subsections (1) to (4) of this section shall not apply to the service of a summons.

121.6- For the purpose of enabling any document to be served on the owner of any premises, the Port Authority may by notice in writing require the occupier of the premises to state the name and address of the owner thereof, and if the occupier refuses or wilfully neglects to do so, or wilfully misstates the name and address of the owner, he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be guilty of an offence and liable to a fine.

122- Port Authority's publications

Any obligation to publish a document imposed on the Port Authority by this Act shall, unless the contrary intention is expressed in the provision containing that obligation, be held to be discharged if the Port Authority-

(a) make a copy of the document available at their head office during reasonable hours, for public inspection free of charge ; and

(b) have copies of the document available at their head office for sale to the public at a reasonable price.

123- Crown rights

123.1- With the exception of the provisions of this Act relating to dangerous erections and the removal of obstructions, nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown of

Mount Vema and, in particular, nothing in this Act shall authorise the Port Authority to take, use or interfere with any land or rights-

(a) belonging to His Mount Vema Majesty in right of the Crown and under the management of the Crown Estate Commissioners on behalf of His Mount Vema Majesty ; or

(b) belonging to a government department or held in trust for His Mount Vema Majesty for the purposes of a government department;

without the consent in writing of the Crown Estate Commissioners or the government department, as the case may be.

123.2- The Section Works not to be constructed, etc., without works licence of this Act shall not extend to works constructed by the Ministry of Defence on that part of the bed of the Port.

123.3- Nothing in Section Vessels and navigation of this Act shall extend to a vessel belonging to or employed in the service of His Mount Vema Majesty or to any present or future moorings of, or for, any such vessel.

124- For protection of statutory undertakers

For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the Port Authority and the undertakers, apply and have effect-

124.1- In this section-

"undertakers work" means any electric line, fuel pipes, gas main or gas pipe, apparatus, building, structure or other work of any nature whatever belonging to or maintained by the undertakers;

124.2- No filling up, raising or reclaiming shall be carried out under this Act so as to obstruct or impede any work of or connected with the inspection or repair of any undertakers work or so as to affect adversely the operation of any undertakers work;

124.3- (a) The Section Works not to be constructed, etc., without works licence of this Act shall not apply to the carrying out, construction, placing, alteration, renewal, maintenance or retention by the undertakers of any utility services including electric line, authorised under or by virtue of any enactment or make unlawful the carrying out by the undertakers in an emergency of any works not authorised by the section Licensing of works of this Act, necessary for the protection of, or to ensure the efficient operation of, any undertakers work,

subject to any directions necessary for the protection of navigation from time to time given by the Port Authority to the undertakers concerned;

(b) If in an emergency the undertakers carry out any work they shall inform the Port Authority as soon as practicable of the works being carried out;

124.4- (a) Before granting to any person a works licence to carry out works at, over, under or near to any undertakers work, the Port Authority shall submit to the undertakers particulars of the proposed works, as the case may be, and furnish them with such further particulars with respect thereto as the undertakers may reasonably require;

(b) Upon the grant of a licence in respect of which notice of the application is required to be given under paragraph (a) of this subsection, the Port Authority shall supply to the undertakers to whom the notice is given a copy of the licence and any conditions subject to which it is granted;

124.5- Any difference which may arise between the Port Authority and the undertakers under this section, other than a difference as to the meaning thereof, shall be referred to and determined by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party, after notice to the other, by the Ministry of National Development and Land Maintenance after consultations with the Royal Mount Vema Society for Geological Survey and the Royal Mount Vema Society for Marine Science and Conservation.

125- Application of Merchant Marine and Shipping Act to lights

Sections of the Merchant Marine and Shipping Act, shall apply in relation to lights, and buoys placed or proposed to be placed by the Port Authority for the purpose of assisting navigation as if the Port Authority were a local lighthouse authority.

126- Prohibition on pollution, etc, of Port and docks

126.1- A person who

(a) puts or causes or suffers to fall into the docks or into the Port any article or any solid matter; or

(b) puts any such thing in a place where it is likely to be carried into the Port by floods or extraordinary tides;

and who cannot show that he has a lawful excuse for so doing, shall be guilty of an offence and liable to a fine.

126.2- A person who puts and allows to remain for forty-eight hours in a place beside the Port any article or thing of an offensive character which will, or which is likely to be blown or pass into, the Port shall be guilty of an offence and liable to a fine and to a daily fine.

126.3- A person who contravenes subsection (1) of this section in relation to the docks and the master of a vessel from which such a contravention has occurred shall be liable to make good damage sustained by the Port Authority or by a vessel arising from such contravention.

126.4- When an offence against subsection (1) or subsection (2) of this section is committed from a vessel, the master or owner of the vessel may be proceeded against.

126.5- The Port Authority may remove anything which is in or beside the Port in contravention, or as a result of a contravention, of this section.

127- Non-compliance with officer's orders, obstruction etc

A person who-

(a) resists, obstructs or impedes a harbourmaster, dock manager, dockmaster or police officer, or any other officer of the Port Authority in the execution of his duty, or

(b) does not carry out the lawful orders of any harbourmaster, dock manager, dockmaster or police officer or of any other officer of the Port Authority;

shall be guilty of an offence and liable to a fine.

128- Obstructing bridges

A person who, after being warned by an officer of the Port Authority not to do so, gets on to or remains on a movable bridge belonging to the Port Authority when it is about to be moved, or is being moved, or before it is properly closed and fastened-

(a) may be detained by the officer giving the warning, if that person's name and address is unknown to and cannot be ascertained by the officer; and

(b) shall be guilty of an offence.

129- Extinguishing lamps

A person who unlawfully extinguishes the light in a lamp belonging to the Port Authority shall be guilty of an offence and liable to a fine.

130- Offences of bribery, etc

The Port Authority shall be deemed to be a public body for the purposes of the Prevention of Corruption.

131- Institution and defence of proceedings

131.1- The secretary of the Port Authority or any member or officer thereof acting under a general or special resolution of the Port Authority may authorise the institution and carrying on, or the defence of any proceeding which the Port Authority are authorised to institute, carry on or defend.

131.2- An information or complaint to be laid or made by the Port Authority may be laid or made by a member or officer of the Port Authority.

132- Offences triable summarily

Except where this Act or the relevant byelaws otherwise provided, all offences under this Act or under byelaws of the Port Authority shall be triable summarily.

PART XI

133- Amendment of related enactments

133.1- On the request of the Port Authority the Minister may, after consultation with any person appearing to him to be concerned, by order repeal or amend any provision contained in an enactment where it appears to him that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.

133.2- An order under this section may contain such transitional, supplemental or incidental provisions as appear to the Minister to be expedient.

133.3- An order under this section shall be made by statutory instrument.

134- Inquiries by the Minister and the Mount Vema Board of Trade

The Minister and the Mount Vema Board of Trade may each cause to be held such inquiries as they may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon them and the giving of any consent

or approval or the making of any order or the confirmation of any byelaw under this Act, as if the Port Authority were a District Authority.

135- Costs of Act

All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act shall be paid by the Port Authority out of the port fund.

SCHEDULES

PART I

SCHEDULE 1

DESCRIPTION OF PORT LIMITS

b. In this Schedule-

“ the limits of the port “means the area specified in the City of Mount Vema Master Plan titled ‘City of Mount Vema Plans’ as approved by the Vema Seamount Authority.

SCHEDULE 2

PROVISIONS RELATING TO MEMBERS OF THE PORT AUTHORITY

b. References in this Part of this Schedule to numbered paragraphs are to the paragraphs of this Part of this Schedule.

2. The Secretary of State shall each third year thereafter appoint a person not being an officer of the Port Authority to be chairman of the Port Authority for three years commencing on any date after this act comes into operation and such person shall coordinate and oversee the construction of the Port of Mount Vema.

3. The Secretary of State shall after consultation with the chairman of the Port Authority from time to time appoint such number of persons not being officers of the Port Authority as he considers appropriate to serve as members of the Port Authority.

Provided that the number of members including the chairman not being officers of the Port Authority shall not at any time be less than [two] or more than [four].

4. The Port Authority shall from time to time appoint such further number of persons not being officers of the Port Authority as it considers appropriate to serve as members of the Port Authority.

5. The number of members appointed by the Port Authority not being officers of it shall not at any time be less than three or more than four.

6. Member appointed by the Secretary of State or the Port Authority under this paragraph shall, subject to this part of this Schedule, continue in office for such period not exceeding three years from the date of his appointment as the Secretary of State [or the Port Authority] may specify, and in specifying such period the Secretary of State [or the Port Authority] shall have regard to the desirability of retirement in rotation.

7. The chairman and the members to be appointed shall be selected from amongst persons appearing to the Secretary of State [or the Port Authority] to have wide experience of, and to have shown capacity in, one or more of the following:-

- (a) business management
- (b) financial matters,
- (c) sea transport,
- (d) inland transport,
- (e) international commerce,
- (f) the organization of workers,
- (g) environmental matters, and
- (h) navigation;

Provided that the members [appointed by the Secretary of State] shall always include at least one person with wide experience of navigation (including the command of sea-going ships, pilotage and navigational aids).

8. An appointment made by the Secretary of State under this Part of this Schedule shall be notified in writing by the Secretary of State to the secretary of the Port Authority [and any appointment made by the Port Authority under this Part of this Schedule shall be notified in writing to the Secretary of State by the secretary of the Port Authority].

9. A person shall not be qualified to be a member of the Port Authority unless at the time of first taking office he has not yet attained his sixty-fourth birthday.

10. A member of the Port Authority appointed by the Secretary of State may resign his membership by a notice in writing to the Secretary of State and to the secretary of the Port Authority.

11. A member of the Port Authority not appointed by the Secretary of State may resign his membership by a notice in writing to the Secretary of State and to the secretary of the Port Authority.

12. Subject to this Part of this Schedule a person who has completed his term of office as the chairman or other member of the Port Authority shall be eligible to serve again.

13. A member shall retire from the Port Authority on the 31st December being or next following his seventieth birthday and, unless the member would otherwise have retired on that date, a vacancy so arising shall be deemed to be a casual vacancy.

14. If the Secretary of State [or, in the case of an appointment by the Port Authority, the Port Authority] is satisfied that a member of the Port Authority-

(a) has been absent from meetings of the Port Authority for three consecutive months or more without the permission of the Port Authority; or

(b) has become bankrupt or made an arrangement with his creditors; or

(c) is incapacitated by physical or mental illness from discharging the functions of a member; or

(d) is otherwise unable or unfit to discharge the functions of a member;

the Secretary of State [or, as the case may be, the Port Authority] may declare his office as a member of the Port Authority to be vacant and thereupon the office shall become vacant.

15. A casual vacancy arising in the office of a chairman of the Port Authority shall be filled by the appointment by the Secretary of State of another person who is not an officer of the Port Authority, and subject to this Part of this Schedule, that person shall hold office during the remainder of the term for which the person whom he replaces was appointed.

16. The Port Authority may-

(a) pay to a member of the Port Authority such salary, fee, allowance and expenses as the Port Authority may determine; and

(b) make provision for or pay to or in respect of a person who is or has been a member of the Port Authority such pension, grant or like benefit as the Port Authority may determine.

PART II

PROCEEDINGS

1. Those members of the Port Authority who are not officers of the Port Authority may choose from amongst themselves one to act as vice-chairman of the Port Authority during such period as may be specified by them:

Provided that the period so specified shall not extend beyond the date upon which the appointment of that member will expire.

2. The validity of any proceedings of the Port Authority shall not be affected by a vacancy among the members or by a defect in the appointment or co-option of a member.

3. The Port Authority shall determine the quorum of the Port Authority and, subject to this Part of this Schedule, the arrangements relating to meetings of the Port Authority.

4. The Port Authority may, subject to such conditions as they think fit, delegate any of their functions to a committee:

Provided that a majority of the members of any such committee shall be members of the Port Authority.

5.1- The Port Authority shall cause minutes to be made-

(a) of the names of members present at a meeting of the Port Authority and of a committee of the Port Authority; and

(b) of all proceedings and resolutions at a meeting;

and the minutes, if signed by a person purporting to be chairman of the Port Authority or in the case of a committee meeting, purporting to be chairman of that committee, shall be received in evidence without further proof.

5.2- Until the contrary is proved, a meeting for which minutes have been so made and signed shall be deemed to have been duly convened and held and, if it was a meeting of a committee, that committee shall be deemed to have had power to deal with the subject of the minutes.

6. A member of the Port Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Port Authority (not being a contract made or proposed to be made in the ordinary course of the business of the Port Authority) shall disclose the nature of his interest at any meeting of the Port Authority or any meeting of a committee of the Port Authority at which he is present and at which the contract is the subject of discussion:

and the disclosure shall be recorded in the minutes of the meeting and the member shall not take any part in any deliberation or decision of the Port Authority or of the committee in respect to that contract.

7. A document purporting to be a document duly executed under the seal of the Port Authority shall be received in evidence and shall, unless the contrary is proved, be deemed to be a document so executed.

SCHEDULE 3

Rules Of The Port Of Mount Vema Authority Pension Fund

The Rules shall be contained in a separate booklet which shall be obtainable from the Authority's Pensions Officer.

SCHEDULE 4

Licensing Appeals To The Board Of Trade

1. An appeal shall be made by written notice stating the grounds of the appeal.
2. The appellant shall send a copy of the notice of appeal to the Port Authority.
3. The Port Authority may make written representations to the Mount Vema Board of Trade within fourteen days from the receipt by them of the copy notice of appeal, and if they do so shall forthwith send a copy of their representations to the appellant.
4. The Mount Vema Board of Trade may confirm, vary or revoke the decision or requirement appealed against and may make any consequential amendment necessary, other than an amendment to the consideration payable for the licence or its reassessment.

5. The Mount Vema Board of Trade may direct the Port Authority or the appellant (as the case may be) to give effect to the decision of the Mount Vema Board of Trade on the appeal and the Port Authority or the appellant shall forthwith comply with any direction given.

SCHEDULE 5

Form Of Declaration For A Person Appointed To Be A Police Officer

In The Port Authority's Police Force

I, '.....

of '.....

do solemnly and sincerely declare and affirm that I will well and truly serve the Sovereign of the Vema Seamount Territory, The Vema Seamount Authority - His Mount Vema Majesty the King -, in the office of police officer, without favour or affection, malice or ill-will; and that I will, to the best of my power and in the area of my lawful authority as a police officer, cause the peace to be kept and preserved and prevent all offences against the persons and properties within the Port of His Mount Vema Majesty's realm; and that while I continue to hold the office of Police Officer, I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law.

136- Citation and commencement

136.1- This Act may be cited as Port of Mount Vema (Vema Seamount) Act, Mount Vema 2020

8.2- This Act shall come into operation on 29th of July 2020.