

BERMUDA STATUTORY INSTRUMENT

SR&O 5/1969

CARGO REGULATIONS 1969

*[made under section 76 of the Marine Board Act 1962 [title 22 item 3] and
brought into operation on various dates between 1 June 1969 and 1
September 1969]*

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Interpretation

- 1 In these Regulations, unless the context otherwise requires—

"cargo" means goods, produce, or merchandise which have been unloaded from or which it is intended should be loaded on, any ship;

"consignee" means the person to whom cargo is consigned or the person in possession of a bill of lading or other document entitling him to cargo;

"delivery order" means a document in such form as may be approved by the Ports Authority issued by or on behalf of the consignee to any person authorizing that person to take delivery of cargo;

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"handle" includes moving by means of any device or machine;

"licence" means a licence to act as a terminal operator issued under Regulation 2, and cognate expressions shall be construed accordingly;

"shipping order" means a document issued by or on behalf of the shipper of any cargo, and endorsed by or on behalf of the shipping company to show the ship in which the cargo is to be loaded, to a terminal operator authorizing the terminal operator to accept cargo for the purpose of shipment from Bermuda ;

"terminal operator" means a person who handles cargo within the docks of the ports of Bermuda.

Licence to act as terminal operator

2 (1) The Ports Authority may on application made under this Regulation, issue a licence to any person to act as a terminal operator.

(2) An application made under this Regulation shall be in writing in such form as may from time to time be prescribed by the Ports Authority and shall contain such information as, in the opinion of the Ports Authority, is necessary to enable it to consider the application.

(3) If the Ports Authority intends to refuse a licence to any applicant the Ports Authority shall give to the applicant notice of its intention to do so and an opportunity of making representations in writing and shall after considering such representations inform the applicant of its decision in the matter.

(4) A licence shall be in such form as the Ports Authority may determine and may be subject to such terms and conditions as the Ports Authority may think fit to specify therein.

(5) A licence may be revoked if, in the opinion of the Ports Authority—

- (a) the holder has ceased to carry on business as a terminal operator; or
- (b) the holder is in breach of any of the terms and conditions specified in the licence; or
- (c) the holder has acted in contravention of these Regulations:

Provided that before revoking a licence the Ports Authority shall give notice to the holder of its intention to do so and an opportunity of making representations in writing and shall after considering such representations inform the holder of the licence of its decision in the matter.

Only licensed terminal operator to handle cargo

3 (1) No person other than a licensed terminal operator shall handle cargo within the ports.

(2) For the purposes of this regulation a person shall not be deemed to handle cargo if—

- (a) the purpose of such handling is the storing of the cargo on a vehicle under that person's control upon which the cargo is being removed from the port; or
- (b) that person is an officer of the Customs Department, a police officer or other public officer acting in the course of his duties as such.

Presentation of bills of lading; delivery orders; shipping orders

4 (1) No person shall obtain delivery of cargo from a port, unless that person presents to a terminal operator, either—

- (a) a bill of lading relating to such cargo; or
- (b) a delivery order relating to such cargo.

(2) No terminal operator shall accept delivery of any cargo for shipment from a port unless there is delivered with that cargo a shipping order.

Maximum charges

5 A terminal operator shall not charge the consignee or shipper of cargo for the delivery or acceptance of cargo in the ports rates greater than those approved by the Ports Authority by notice published in the Gazette.

Special licensing provisions

5A (1) Nothing in these Regulations shall derogate from the powers and responsibilities of the Corporation of Hamilton or the Corporation of St. George's or the West End Development Corporation to maintain, supervise and operate their respective docks.

(2) Where acting in pursuance of any written special or general directions of the Ports Authority given under section 73(1) of the Marine Board Act 1962 [*title 22 item 3*] the Corporation of Hamilton or the Corporation of St. George's or the West End Development Corporation enter into an exclusive licensing agreement with any person under the Municipalities Act 1923 [*title 4 item 1*] or the West End Development Corporation Act 1982 [*title 20 item 6*], as the case may be, to act as a terminal operator at any dock within their jurisdiction regulation 2 shall have no effect save as provided in paragraph (5) of this regulation, but the following paragraphs shall apply.

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(3) Any such exclusive licensing agreement shall be subject to the written approval of the Ports Authority and from the date of such approval a licence shall be deemed also to have been issued by the Ports Authority under regulation 2 to the person concerned for the duration of the agreement and in accordance with the terms and conditions thereof.

(4) Where an exclusive licensing agreement has been issued in respect of a particular dock and in accordance with paragraph (3) a licence is deemed to have been issued by the Ports Authority under regulation 2 no other licence shall be issued in respect of that dock, save as provided in paragraph (5).

(5) Where the Ports Authority considers it expedient that a terminal operator be licensed to perform a specific stevedoring operation on a dock in respect of which an exclusive licensing agreement is in force, the Ports Authority may, subject to the directions (if any) of the Minister given under section 7(1) of the Marine Board Act 1962 [*title 22 item 3*] and after consultation with the Corporation of Hamilton or the Corporation of St. George's or the West End Development Corporation, as the case may be, issue a licence under regulation 2 to an applicant for the purpose of performing that operation.

Commencement

6 [omitted]

[Amended by
BR 59/1987]