

CHAPTER 239

CENTRAL FREIGHT BUREAU

Law
No. 26 of 1973.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE CENTRAL FREIGHT BUREAU OF SRI LANKA FOR THE PURPOSE OF CENTRALIZATION OF BOOKING OF FREIGHT FROM SRI LANKA TO SUCH FOREIGN PORTS AS MAY BE DETERMINED BY THE MINISTER BY ORDER PUBLISHED IN THE GAZETTE ; TO MAKE PROVISION FOR THE TERMINATION OF THE ACTIVITIES OF THE CEYLON FREIGHT BUREAU SET UP UNDER THE AEGIS OF THE SHIPPERS' COUNCIL OF CEYLON ; TO REGULATE THE POWERS AND DUTIES OF THE BUREAU AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st September. 1973.]

Short title.

1. This Law may be cited as the Central Freight Bureau of Sri Lanka Law.

(6) The Minister may, without assigning a reason, remove any Director from office, and such removal shall not be called in question in any court or tribunal whether by way of appeal or writ or in any other manner whatsoever.

Establishment of the Central Freight Bureau of Sri Lanka.

2. (1) There shall be established a Bureau which shall be called the Central Freight Bureau of Sri Lanka (hereinafter referred to as " the Bureau ").

(7) (a) If a Director vacates his office otherwise than by the expiration of his term of office the Minister may appoint any other person to be a Director in place of the Director who so vacates office.

(2) The Bureau shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(b) Any Director appointed under paragraph (a) of this subsection, unless he earlier vacates office, shall hold office for the unexpired period of office of the Director whom he succeeds.

Members of the Bureau.

3. The members of the Board of Directors of the Bureau shall be the members of the Bureau.

(8) Where a Director becomes, by reason of illness or other infirmity, or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint a fit person to act in his place for the period of such incapacity or absence.

Board of Directors.

4. (1) The Bureau shall have a Board of Directors consisting of not more than seven members appointed by the Minister.

(2) A person shall be disqualified for being appointed, or continuing, as a Director if he is a Member of Parliament.

(3) Every Director shall hold office for three years unless he earlier resigns, dies, or is removed from office.

5. All or any of the Directors may be paid such remuneration from the funds of the Bureau at such rates as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

Remuneration of members of the Bureau.

(4) A Director may resign his office by letter addressed to the Minister.

(5) A Director vacating his office by resignation or by the expiration of his term of office shall be eligible for reappointment.

6. A Director who is in any way directly or indirectly interested in any contract made or proposed to be made by the Bureau shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes

Members of the Bureau to disclose interest in contract proposed to be made by the Bureau.

of the Board of Directors, and such Director shall not take part in any deliberation or decision of the Board of Directors with respect to that contract:

Provided that the interest which any Director of the Bureau may have in a contract by virtue of his being an officer of a Government department or a public corporation, or a Director of a public corporation, shall be deemed not to be an interest within the meaning of this section.

Quorum for meeting of the Board and regulation of procedure.

7. The quorum for any meeting of the Board of Directors shall be three and subject to the provisions of this Law, the Board of Directors may regulate its own procedure in regard to meetings of such Board and transaction of business at such meetings.

Validity of acts or proceedings of the Board.

8. No act or proceeding of the Board of Directors shall be deemed to be invalid by reason only of the existence of any vacancy among its Directors or defect in the appointment of any Director thereof.

Members of the Board to administer the affairs of the Bureau.

9. The Board of Directors of the Bureau shall administer the affairs, may exercise the powers, and shall perform the duties of the Bureau.

Delegation of powers and duties of the Board.

10. (1) The Board of Directors may delegate to the Chairman, a Director or employee of the Bureau any of its powers and duties.

(2) Every person to whom any power or duty is delegated under subsection (1) shall exercise or perform such power or duty subject to the general or special directions of the Board of Directors.

Chairman of the Board.

11. (1) The Minister shall appoint the Chairman of the Board of Directors from among the Directors.

(2) If the Chairman of the Board of Directors is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one of the Directors to act in his place.

(3) The meetings of the Board of Directors shall be presided over by the Chairman appointed under subsection (1), if

present, but if such Chairman is not present at the time fixed for holding a meeting of the Board of Directors, the Directors present shall choose one of their number to preside.

(4) The Chairman may resign the office of the Chairman by letter addressed to the Minister.

(5) The Minister may, without assigning a reason, terminate the appointment of the Chairman and such termination shall not be called in question in any court or tribunal whether by way of appeal or writ or in any other manner whatsoever.

(6) Subject to the provisions of subsections (4) and (5), the term of office of the Chairman shall be the period of his office as a member of the Board of Directors.

(7) The Chairman of any meeting of the Board of Directors shall, in addition to his own vote, have a casting vote.

12. (1) The seal of the Bureau shall be in the custody of the Board of Directors, or any officer of the Bureau authorized in that behalf by such Board.

Seal of the Bureau.

(2) The seal of the Bureau may be altered in such manner as may be determined by the Board of Directors.

(3) The seal of the Bureau shall not be affixed to any instrument or document except in the presence of two Directors both of whom shall sign the instrument or document in token of their presence, or where two Directors are not available, by one Director and an officer authorized specially for such purpose by the Board of Directors.

13. (1) The Minister may give to the Board of Directors directions in writing as to the performance of the duties and the exercise of the powers of the Bureau, and such Board of Directors shall give effect to such directions.

Powers of the Minister in relation to the Bureau.

(2) The Minister may, from time to time, direct in writing the Board of Directors to furnish to him, in such form as

he may require, returns, accounts and other information with respect to the property and business of the Bureau and such Board of Directors shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Bureau to be investigated and reported upon by such person or persons, as he may specify, and upon such order being made, the Board of Directors shall afford all such facilities, and furnish all such information, to the said person or persons as may be necessary to carry out the order.

Objects of the Bureau.

14. The object of the Bureau shall be—

- (a) to provide for a central freight booking office for allocation of freight space on any ocean going vessel, in respect of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (b) to ensure the aggregation of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka with a view to ensuring economic loads to ocean going vessels calling at the ports of Sri Lanka;
- (c) to rationalize the frequency of calls and the availability of vessels for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (d) to arrange for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (e) to take, such measures as are necessary to ensure efficient and regular services for the shipment of

goods, produce and merchandise from any port in Sri Lanka to any destination outside Sri Lanka;

- (f) to foster the development of the national merchant fleet;
- (g) to improve port performance, loading rate in the ports of Sri Lanka, the handling of cargo and other matters connected therewith or incidental thereto;
- (h) to negotiate with shipowners and shipping lines, individually or collectively, on matters such as freight rates, surcharges, adequacy, frequency and efficiency of shipping services and matters incidental thereto;
- (i) to enter into agreements with shipowners and shipping lines, individually or collectively, either on its own or on behalf of shippers, and to arrange for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (j) to reduce costs incurred by shippers;
- (k) to obtain most favourable freight rates and terms for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (l) to undertake research on shipping and freight rates ; and
- (m) to do all such other acts or things as are necessary for or incidental to the attainment of the objects hereinbefore mentioned.

15. (1) The Bureau shall have power to do anything necessary for, or conducive or incidental to, the carrying out of its objects.

General powers of the Bureau.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Bureau shall have power—

- (a) to centralize the bookings of freight space in respect of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (b) to allocate freight on ocean going vessels in such manner as to safeguard and promote the national interest in trade and shipping;
- (c) to determine the vessels on which goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (d) to negotiate with shipowners and shipping lines, individually or collectively, on matters such as freight rates, surcharges, adequacy, frequency and efficiency of shipping services and matters incidental thereto;
- (e) to enter into agreements with shipowners and shipping lines, individually or collectively, either on its own or on behalf of shippers, and arrange for the carriage of all goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (f) to construct, execute, carry out, equip, improve, work, develop, administer, manage or control in the ports of Sri Lanka, with the prior approval of the Port Commissioner,* such works and conveniences as may be necessary to facilitate the shipping of goods, produce and merchandise of whatsoever class or description from such ports;
- (g) to provide and to arrange for the provision of services for warehousing, wharfage and the shipping of all goods, produce and merchandise of whatsoever class or description, with the approval of the Sri Lanka Ports Authority ;
- (h) to transport and warehouse goods, produce and merchandise of whatsoever class or description for shipment from any port of Sri Lanka;
- (i) to levy charges and commissions for any services rendered or facilities afforded by the Bureau to shippers, shipping agents, and shipowners, including the booking, reservation and allocation of freight space;
- (j) to conduct research into all matters affecting the carriage from Sri Lanka of all goods, produce and merchandise of whatsoever class or description;
- (k) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of any immovable or movable property;
- (l) to do anything necessary for the purpose of advancing the skill of persons employed by the Bureau, or the efficiency of the equipment of the Bureau, or the manner in which such equipment is operated, including the provision by the Bureau and the assistance of the provision by others of facilities for training persons required to carry out the work of the Bureau ;
- (m) to enter into and perform, either directly or indirectly, through any officer or agent of the Bureau, all

* See the Sri Lanka Ports Authority Act.

such contracts or agreements, as may be necessary, for the exercise of the powers of the Bureau, and the carrying out of the objects of the Bureau;

- (n) to borrow money from whatsoever source for the purposes of the Bureau, in such manner and upon such security as the Bureau may, with the approval of the Minister, determine;
- (o) to receive and disburse monies for the accomplishment of its objects ;
- (p) to appoint, employ, remunerate and control its officers, servants and agents, and to direct and decide all matters connected with the administration of its affairs;
- (q) to provide welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Bureau ;
- (r) to make rules in respect of the administration of the affairs of the Bureau;
- (s) to formulate schemes to give effect to the objects of the Bureau.

reservation of freight or cargo space with a shipowner or his agent for the carriage of such goods to such destination;

- (b) no person shall ship such goods to such destination on any ocean going vessel unless freight or cargo space has been booked, reserved or allocated for the carriage of such goods by the Bureau ; and
- (c) any booking, reservation or allocation of freight or cargo space for the carriage of such goods to such destination in contravention of the preceding provisions of this subsection, and any contract of affreightment in respect of such carriage entered into between a shipper and any owner, agent or master of an ocean going vessel shall be deemed for all purposes to be null and void and to have no force or effect whatsoever.

16. (1) The Minister may, from time to time, by Order published in the Gazette, vest in the Bureau, with effect from such date as may be specified in the Order, the exclusive right to book, reserve or allocate freight or cargo space on any ocean going vessel for the carriage of goods other than the goods specified in the Order, from any port in Sri Lanka to any destination specified in the Order.

(2) On and after the date with effect from which the exclusive right to book or reserve freight or cargo space for the carriage of any goods to any destination has been vested in the Bureau under subsection (1)-

- (a) no person other than the Bureau shall make any booking or

17. On and after the date with effect from which the exclusive right to book or reserve freight or cargo space in respect of the carriage of any goods to any destination has been vested in the Bureau under subsection (1) of section 16, no shipper of such goods from any port in Sri Lanka to such destination shall enter into any agreement or arrangement with any shipowner or shipping line, individually or collectively, whereby such shipper undertakes to confine shipment from Sri Lanka of any such goods whether it be for his own account or for the account of his associates or principals, to any ocean going vessel provided by such shipowner or shipping line, on such shipowner or shipping line agreeing to pay such shipper, any sum of money whether by way of rebate, discount or otherwise, or agreeing to carry on a " contract rate ", and any such agreement or arrangement subsisting on the day immediately preceding the aforesaid date, or entered into any time thereafter, shall be deemed for all purposes to be null and void.

Exclusive right to book freight.

and void and to have no force or effect in law whatsoever:

Provided that the preceding provisions of this section shall not apply in the case of the Bureau entering into any such agreement or arrangement for or on behalf of any such shipper.

Charges that may be made by the Bureau.

18. (1) Charges and commissions that may be made by the Bureau for any services rendered or facilities afforded including the booking, reservation and allocation of freight or cargo space by the Bureau to shippers, exporters, shipping agents and shipowners shall be fixed by the Bureau with the approval of the Minister and may be revised from time to time with like approval.

(2) Charges and commissions referred to in subsection (1) shall become payable within thirty days after demand by the Bureau.

(3) Where a shipper, exporter, shipping agent or shipowner fails or refuses to pay, within thirty days after demand, any sum which he is required to pay as a charge or commission under this section, to the Bureau, such sum may, on application made by the Bureau to the Magistrate's Court having jurisdiction over the last known place of business or residence of such shipper, exporter, shipping agent or shipowner, be recovered in like manner as a fine imposed by such Court, notwithstanding that such sum may exceed the amount of the fine which the Court may impose in the exercise of its ordinary jurisdiction.

Penalty for default.

19. (1) Where the Bureau has booked, reserved or allocated freight or cargo space on a» ocean going vessel for shipment of any goods from a port in Sri Lanka to any destination, at the request of a shipper and such shipper fails without reasonable cause in the opinion of the Bureau, to utilize the whole or any part of such freight or cargo space by the shipment of such goods, the Bureau may after giving such shipper an opportunity of being heard either in person or by a representative, impose a penalty not exceeding a sum of one thousand rupees on such shipper.

(2) A shipper aggrieved by a decision of the Bureau under subsection (1) may within ten days, after the communication of such

decision to him, make a written appeal from such decision to the Minister and the Minister may, on any such appeal, confirm, vary or quash the decision from which such appeal is made.

(3) The decision of the Minister upon an appeal and, where no appeal has been preferred under subsection (2) within the time allowed therefor, the decision of the Bureau, shall be final and conclusive and shall not be called in question in any court or tribunal, whether by way of appeal or writ or in any other manner whatsoever.

(4) Where a shipper refuses or fails to pay to the Bureau any sum which he has been required to pay as a penalty under the preceding provisions of this section, such sum may be recovered from him by the Bureau upon an application made by the Bureau to the Magistrate's Court having jurisdiction over the last known place of business or residence of such shipper, in like manner as a fine imposed by that Court, notwithstanding that such sum may exceed the amount of the fine which that Court may in the exercise of its ordinary jurisdiction impose.

(5) Nothing in subsection (4) shall be construed as to require or to authorize a Magistrate before whom an application in terms of that subsection is made, to consider, examine or decide the correctness or legality of such penalty.

20. (1) Where by reason of the neglect indemnity. or default on the part of a shipper to utilize by the shipment of any goods, from any port in Sri Lanka to any destination, the whole or any part of the freight or cargo space booked, reserved or allocated by the Bureau, for such shipper, on any ocean going vessel, the Bureau is called upon to pay any sum as damages or otherwise to the owner of such vessel, the Bureau shall be entitled to be indemnified to the full extent of such sum, by such shipper, on the production by the Bureau of a duly authenticated acknowledgment by or on behalf of the owner of such vessel, of the payment by the Bureau of such sum.

(2) A shipper who within a period of thirty days after being requested by the Bureau, to make payment, fails or neglects

to pay to the Bureau any sum which he is liable to pay, by way of indemnity under subsection (1), shall be guilty of an offence under this Law.

Vesting of property of the Ceylon Freight Bureau in the Central Freight Bureau of Sri Lanka.

21. (1) On and after the appointed date, all property, both movable and immovable, belonging to the Ceylon Freight Bureau, whether held in the name of the said Ceylon Freight Bureau or in the name or names of any person or persons in trust for the said Ceylon Freight Bureau, shall be and the same is hereby vested in the Central Freight Bureau of Sri Lanka constituted under this Law, and the said property both movable and immovable, shall be held by the said Central Freight Bureau of Sri Lanka for the purposes of this Law.

(2) All debts and liabilities of the Ceylon Freight Bureau referred to in subsection (1), existing on the appointed date shall be paid by the Central Freight Bureau of Sri Lanka constituted under this Law, and all debts due-to, and subscriptions, contributions and all sums of money payable by way of penalties to the said Ceylon Freight Bureau on such date, shall be paid to the said Central Freight Bureau of Sri Lanka.

No compensation for loss incurred by reason of vesting exclusive right to reserve space in the Bureau.

22. No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, by reason of the fact that the exclusive right to reserve freight or cargo space in any ocean going vessel for the carriage of any goods from any port in Sri Lanka to any destination outside Sri Lanka has been vested in the Bureau.

Application of provisions of the Public Corporations (Financial Control) Act, and the financial year of the Bureau.

23. (1) The provisions of the Public Corporations (Financial Control) Act, shall, *mutatis mutandis*, apply to the financial control and accounts of the Bureau.

(2) The financial year of the Bureau shall be the calendar year.

Appointment of officers and servants of the Bureau.

24. (1) The Bureau shall have the power—

(a) to appoint such officers and servants as may be necessary for the purposes of the Bureau;

(b) to exercise disciplinary control over and dismiss any officer or servant of the Bureau.

(2) The officers and servants of the Bureau shall be remunerated at such rates as the Bureau may determine.

25. All officers and servants of the Bureau shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of Bureau deemed to be public servants.

26. The Bureau shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Bureau deemed to be scheduled institution within the meaning of the Bribery Act.

27. (1) The Bureau may issue directions for the purpose of carrying out or giving effect to the principles and provisions of this Law or the regulations made thereunder, to any shipper of goods from Sri Lanka or to any person or body carrying on business as shipping agent in Sri Lanka. All such persons shall carry out every such direction.

Directions of the Bureau.

(2) Any person who contravenes or fails to comply with any directions issued by the Bureau under this Law shall be guilty of an offence.

28. (1) No suit or prosecution shall lie—

Protection for action taken under this Law or on the direction of the Bureau.

(a) against the Bureau for any act which in good faith is done or is purported to be done by the Bureau under this Law, or

(b) against any member, officer, servant or agent of the Bureau for any act which in good faith is done or is purported to be done by him under this Law or on the direction of the Board of Directors.

(2) Any expense incurred by the Bureau in any suit or prosecution brought by or against the Bureau before any court shall be paid out of the funds of the Bureau and any costs paid to, or recovered by, the Bureau in any such suit or prosecution shall be credited to the funds of the Bureau.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Bureau shall, if the court holds that such act was done in good faith, be paid out of the funds of the Bureau, unless such expense is recovered by him in such suit or prosecution.

Regulations.

29. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as may be convenient after its publication in the Gazette, be laid before Parliament and if Parliament, within the period of one month after the regulation is so laid before it, resolves that the regulation be annulled, the regulation shall thereupon cease to have effect but without prejudice to the validity of anything previously done thereunder. Any regulation not so annulled shall be deemed to be approved by Parliament.

(4) Every regulation made by the Minister shall, when deemed to be approved by Parliament, be as valid and effectual as if herein enacted.

(5) Any person who contravenes the provisions of any regulation made under this Law shall be guilty of an offence under this Law.

Offences, &c.

30. Any person who is guilty of an offence under this Law shall be liable, on conviction after summary trial before a Magistrate, to imprisonment of either description for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine.

31. The provisions of this Law shall have effect notwithstanding anything contained in any other written law, and in the event of any conflict or inconsistency between the provisions of this Law and such other law, the provisions of this Law shall prevail.

This Law to prevail in case of conflict with other written law.

32. (1) Where any immovable property is required to be acquired for any purpose of the Bureau and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose, and may accordingly be acquired under the Land Acquisition Act, and be transferred to the Bureau.

Acquisition of immovable property.

(2) Any sums payable for the acquisition of any immovable property under the Land Acquisition Act for the Bureau shall be paid from the funds of the Bureau.

33. In this Law, unless the context otherwise requires—

Interpretation.

"appointed date" means the 1st day of September, 1973;

"Ceylon Freight Bureau" means the organization established by the Shipper's Council of Ceylon in November 1971, in consequence of letter No. SH/03/053 dated October 16th 1971, and signed by the Permanent Secretary, Ministry of Shipping and Tourism;

"contract rate" means a lower freight rate agreed to between a shipper and a shipowner in respect of carriage of goods by sea in consideration of which such shipper agrees to ship goods exclusively in ships owned by such shipowner;

"goods" means goods, produce or merchandise of whatsoever class or description;

"public corporation" means any corporation, board or other body that was or is established by or under any written law other than the Companies Ordinance*, with capital wholly or partly provided by the Government by way of loan, grant or other form.

* Repealed and replaced by the Companies Act, No. 17 of 1982.