

Bill Summary

The Major Port Authorities Bill, 2016

- The Major Ports Authorities Bill, 2016 was introduced in Lok Sabha on December 16, 2016 by the Minister of State for Shipping, Mr. Pon Radhakrishnan. The Bill seeks to provide greater autonomy and flexibility to major ports. The Bill repeals the Major Port Trusts Act, 1963. Key features of the Bill include:
 - **Application:** The Bill will apply to the major ports of Chennai, Cochin, Jawaharlal Nehru Port, Kandla, Kolkata, Mumbai, New Mangalore, Mormugao, Paradip, V.O. Chidambaranar, and Vishakhapatnam. The central government may notify more major ports.
 - **Major Port Authorities Board:** Under the 1963 Act, all major ports are managed by the respective Board of Port Trusts that have members appointed by the central government. The Bill provides for the creation of a Board of Major Port Authority for each major port. The Boards will succeed the existing Port Trusts.
 - **Composition of Board:** The Board will comprise of a Chairperson and a deputy Chairperson, both of whom will be appointed by the central government on the recommendation of a select committee. The Board will also include one member each from (i) the respective state governments, (ii) the Railways Ministry, (iii) the Defence Ministry, and (iv) the Customs Department. The Board will also include three to four independent members, and one member representing the interests of the employees of the Major Port Authority.
 - **Powers of the Board:** The Bill allows the Board to use its property, assets and funds as deemed fit for the development of the major port. The Board can also make rules on: (i) declaring availability of port assets for port related activities and services, (ii) developing and providing infrastructure facilities such as setting up new ports, jetties, and (iii) providing exemption or remission from payment of any charges on any goods or vessels.
 - **Fixing of rates:** Currently, the Tariff Authority for Major Ports, established under the 1963 Act, fixes the scale of rates for assets and services available at ports. Under the Bill, the Board or committees appointed by the Board will determine these rates. They may determine rates for: (i) services that will be performed at ports, (ii) the access to and usage of the port assets, and (iii) different classes of goods and vessels. Such fixing of rates must be consistent with the provisions of the Competition Act, 2002, or any other laws in force, subject to certain conditions.
- **Financial powers of the Board:** Under the 1963 Act, the Board has to seek prior sanction of the central government to raise any loan. Under the Bill, to meet its capital and working expenditure requirements, the Board may raise loans from any (i) Indian scheduled bank or financial institution, or (ii) any financial institution outside India that is compliant with all the laws. However, for loans above 50% of its capital reserves, the Board will require prior sanction of the central government.
- **Public Private Partnership (PPP) projects:** The Bill defines PPP projects as projects taken up through a concession contract by the Board on a revenue or royalty sharing basis. For such projects, the Board may only fix the tariff for the initial bidding purposes. The appointed concessionaire will be free to fix the actual tariffs based on market conditions. The revenue share in such projects will be on the basis of the specific concession agreement.
- **Adjudicatory Board:** The Bill provides for the central government to create an Adjudicatory Board. The Board will consist of a Presiding Officer and two members, as appointed by the central government. Functions of the Adjudicatory Board will include: (i) certain functions being carried out by the Tariff Authority for Major Ports, (ii) adjudicating on disputes or claims related to rights and obligations of major ports and PPP concessionaires, (iii) reviewing stressed PPP projects, and (iv) looking into complaints received from port users regarding port services.
- **Penalties:** Under the 1963 Act, there are different penalties for contravening different provisions of the Act. For example, (i) the penalty for setting up any structures on the harbours without permission may extend up to Rs 10,000, and (ii) the penalty for evading rates may extend up to 10 times the rates. Under the Bill, any person contravening any provision of the Bill or any rules or regulations will be punished with a fine of up to one lakh rupees.

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