

Bill Summary

The Major Port Authorities Bill, 2020

- The Major Port Authorities Bill, 2020 was introduced in Lok Sabha by the Minister of State for Shipping, Mr. Mansukh Mandaviya, on March 12, 2020. The Bill seeks to provide for regulation, operation and planning of major ports in India and provide greater autonomy to these ports. It seeks to replace 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.
 - **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. These Boards will replace 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 selection committee. Further, it will 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 two to four independent members, and two members 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 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, among others. Such fixing of rates will not be with retrospective effect and 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) scheduled bank or financial institution within India, 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.
- **Corporate Social Responsibility:** The Bill provides that the Board may use its funds for providing social benefits. This includes development of infrastructure in areas such as education, health, housing, and skill development. These benefits could be provided for the Board's employees, customers, business partners, local communities, environment and the society at large.
- **Public Private Partnership (PPP) projects:** The Bill defines PPP projects as projects taken up through a concession contract by the Board. For such projects, the Board may fix the tariff for the initial bidding purposes. The appointed concessionaire will be free to fix the actual tariffs based on market conditions, and other conditions as may be notified. The revenue share in such projects will be on the basis of the specific concession agreement.
- **Adjudicatory Board:** The Bill provides for the constitution of an Adjudicatory Board by the central government. This Board will replace the existing Tariff Authority for Major Ports constituted under the 1963 Act. It 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, and (iii) reviewing stressed PPP projects.
- **Penalties:** Under the 1963 Act, there are various penalties for contravening 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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