

35. Powers generally

- (1) A port authority has all the powers it needs to perform its functions under this Act or any other written law.
- (2) A port authority may for the purpose of performing a function mentioned in subsection (1) —
 - (a) subject to Part 3, acquire, hold and dispose of real or personal property;
 - (b) manage, improve and develop real or personal property vested in it or acquired by it or arrange for property to be managed, improved or developed;
 - (c) carry out port works or arrange for port works to be carried out;
 - (d) provide, manage and operate port facilities or arrange for port facilities to be provided, managed and operated;
 - (e) provide port services or arrange for port services to be provided;
 - (f) enter into any contract or arrangement including a contract or arrangement with any person for the performance of the function by that person on behalf of the port authority;
 - (g) apply for the grant of any licence or other authority required by the port authority;
 - (h) acquire, establish and operate —
 - (i) any undertaking necessary or convenient for the performance of the function; and
 - (ii) any associated undertaking;
 - (i) produce and deal in any equipment, facilities or system associated with, the performance of the function;
 - (j) appoint agents or engage persons under contracts for services to provide professional, technical or other assistance to the port authority;
 - (k) subject to sections 39 and 40, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement;
 - (l) carry out any investigation, survey, exploration or feasibility study;
 - (m) collaborate in, carry out, or procure the carrying out of, research and publish information that results from the research;
 - (n) develop and turn to account any technology, software or other intellectual property that relates to the function and, for that purpose, apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights;
 - (o) issue licences and administer licensing schemes for activities and things in accordance with the regulations; and
 - (p) promote and market the port authority and its activities.
- (3) Subsection (2) does not limit subsection (1) or the other powers of a port authority under this Act or any other written law.

- (4) A port authority must get the Minister's approval before it issues a licence giving a person an exclusive right to provide port services of a particular kind.
- (5) The Minister is not to give approval under subsection (4) unless the Minister considers that the public benefits of exclusivity exceed the public costs and on providing such approval, the Minister must table in Parliament within 14 days, full reasons for his decision to grant an exclusive licence.
- (6) In —
- (a) entering into or negotiating a contract or arrangement for the purposes of subsection (2)(b) to (f); or
 - (b) issuing, or dealing with an application for, a licence authorising the holder to provide port services,
- a port authority must not —
- (c) impose, or purport to impose, an obligation on any person; or
 - (d) seek an undertaking from any person,
- as to the method by which, or manner in which, the person's employees are to be employed other than an obligation or undertaking that the method or manner be lawful.
- (7) A port authority may —
- (a) make gifts for charitable purposes or for other purposes of benefit to the community or a section of the community;
 - (b) make any *ex gratia* payment that the board considers to be in the port authority's interest;
 - (c) accept any gift, devise or bequest if it is absolute, or subject to conditions that are within the functions of the port authority.
- (8) For the purposes of port works and port facilities, a port authority is a local authority within the meaning of the *Public Works Act 1902*.
- (9) In this section —
- “business arrangement”** means a company, a partnership, a trust, a joint venture, or an arrangement for sharing profits;
- “participate”** includes form, promote, establish, enter, manage, dissolve, wind up, and do things incidental to participating in a business arrangement;
- “port activities”** means —
- (a) the movement, mooring, hauling out, maintenance and launching of vessels;
 - (b) the movement of, and provision of services to, passengers of vessels; and
 - (c) the movement, handling and storage of goods;
- “port services”** means —
- (a) carrying out port activities;
 - (b) dredging, engineering, marine civil construction, pollution management, security, pilotage, towage, vessel movement control, emergency response, shore stabilization and waste management services;

- (c) supplying provisions or equipment to vessels;
- (d) supplying water, fuel or electricity;
- (e) providing for the use or hire of port facilities;
- (f) providing labour for any purpose; and
- (g) any other services prescribed by regulation for the purposes of this definition;

“port works” means works for port purposes and includes —

- (a) designing, constructing, extending, maintaining, removing or demolishing —
 - (i) maritime structures and other buildings, structures and enclosures; and
 - (ii) railways, roads, bridges, dams and embankments;and
- (b) reclaiming land from the sea or a river.