

THE PORTS ACT 1998

**Regulations made by the Mauritius Ports Authority under
Section 65 of the Ports Act 1998**

1. These regulations may be cited as the Port (Fees) Regulations 2008.

2. In these regulations -

"Act" means the Ports Act 1998;

"Authority's quay" means any wharf, quay, jetty or buoy berth owned, operated, managed or controlled by the Authority;

"bulk cargo" means cargo in loose or unpacked form which is loaded or discharged by means of a conveyor belt, pipeline, grab or other mechanical means, but does not include frozen fish;

"coasting vessel" means a locally registered vessel plying exclusively between Mauritius and its dependencies;

"dangerous goods" has the same meaning as in the Port (Operations and Safety) Regulations 2005;

"fee" means any fee or charge specified in the First or Second Schedule;

"Operations and Commercial Manager" means the Operations and Commercial Manager of the Authority;

"Port Master" means the officer appointed as such under section 13 of the Ports Act;

"port operator" means a person who has been granted permission, or a licence, to operate stevedoring or cargo handling services within the port or port premises;

"service charges" means the charges specified in the Second Schedule;

"ton" means –

(a) 1,000 kilograms (Kgs); or

(b) one cubic metre;

"100 tons" or part thereof means the gross registered tonnage rounded to the nearest 25GT applying the proportionate charge;

"vessel fees" means the fees specified in the First Schedule.

3. (1) Subject to these regulations –
- (a) the vessel's agent shall, in respect of a vessel which puts in the port or outer port for the discharge and loading of cargo or for any other purpose, pay the fees specified in the First Schedule;
 - (b) every person who -
 - (i) hires equipment, harbour craft or a gangway from the Authority;
 - (ii) operates a vessel within the port or outer port;
 - (iii) is issued with an access pass;
 - (iv) uses the services of the Port Emergency and Environment Unit of the Authority;
 - (v) uses other services of the Authority,shall pay the charges specified in the Second Schedule;
 - (c) the vessel's agent shall, in respect of transshipment containers, general cargo and fish, pay the quay fees, provided that where transshipment cargo is re-shipped on a vessel, other than the vessel carrying the cargo to Port Louis, the quay fees shall be paid by the first carrier;
 - (d) for the purpose of payment to the Authority, fees expressed in US dollars -
 - (i) may be paid in US dollars; or
 - (ii) if they are to be paid in Mauritian rupees, shall be converted into rupees at the exchange rate applicable for the levying of ad valorem duty under the Customs Tariff Act;
 - (e) where during a vessel's stay in port, the rate of exchange changes, the rate prevailing at the date of entry of the vessel in the port shall be the rate appropriately chargeable.

- (2) (a) Subject to subparagraph (b) and paragraph (3), no dockage or seamen's welfare fee shall be levied in respect of a vessel which puts into the outer port –
- (i) owing to stress of weather;
 - (ii) for the purpose of discharging a sick, injured or dead seaman;
 - (iii) for the purpose of change of crew; or
 - (iv) for the purpose of repairs.
- (b) The fee for port dues shall, where a vessel puts into the outer port for the purposes specified in subparagraphs (a) (ii) and (iii), be half the rate specified in the First Schedule, provided that, in cases of prolonged stay in, the outer port, the Authority reserves the right to apply the normal rates.
- (3) No vessel to which paragraph (2) applies shall discharge any cargo unless –
- (a) the cargo is discharged to enable repairs to be effected to the vessel; and
 - (b) the cargo is intended for re-shipment.
- (4) Fees for pilotage, tug service (other than in respect of towage or assisting stranded vessels), and anchorage shall –
- (a) in respect of –
 - (i) a vessel which calls for the sole purpose of taking bunkers, ship's stores or fresh water, and stays in port for not more than 24 hours; or
 - (ii) a locally registered vessel other than a locally registered fishing vessel,be at half the rates specified in the First Schedule;
 - (b) in respect of a fishing vessel registered abroad be three quarters of the rates specified in the First Schedule;
 - (c) in respect of a locally registered fishing vessel, be at one quarter of the rates specified in the First Schedule.
- (5) Subject to paragraph (4), a locally registered vessel shall be entitled to a rebate of 20 percent of all the chargeable rates specified in the First Schedule except for the chargeable rates mentioned at paragraph (4) and the composite charge for small fishing vessels.
- (6) In calculating the fee which the vessel's agent is liable to pay under item 4 of the First Schedule, tug service shall be deemed to commence at the time a tug leaves its base and to end at the time it returns to base.

- (7) The fees specified in item 2 of the First Schedule –
 - (a) shall be levied in respect of a vessel remaining in port for more than 3 months, in addition to all fees applicable as per the First Schedule; and
 - (b) shall be paid by the vessel's agent in advance on the first day of the month provided –
 - (i) the vessel has no cargo on board;
 - (ii) the vessel is not used for storage purposes; and
 - (iii) the articles of agreement with the crew of the vessel have been closed.
- (8) No fee for dockage or removal of garbage shall be levied in respect of a vessel while it is in the dry dock.
- (9) Fees for port dues, pilotage, tug service (other than in respect of towage or assisting stranded vessels), anchorage and seamen's welfare dues shall –
 - (a) in respect of vessels in excess of 35,000 GT which call for the sole purpose of taking bunkers, have sliding scale charges applicable;
 - (b) in respect of cruise ships and pure car carriers, be capped at 35,000GT.
4. The Authority shall not provide tug assistance for mooring, unmooring, remooring, berthing or unberthing of a vessel unless the vessel is under pilotage.
5.
 - (1) No person shall, unless he has obtained the written permission of the Operations and Commercial Manager, make use of any mechanical handling equipment in the port premises for the landing, removal or loading of goods.
 - (2) The written permission obtained under paragraph (1) shall, on demand, be produced to any officer of the Authority.
6.
 - (1) Subject to paragraph (2), a vessel's tonnage shall, for the purpose of determining the vessel's fees payable under the First Schedule, be the gross tonnage specified in its certificate of registration or other national papers.
 - (2) Where a vessel has dual tonnage, the vessel's higher tonnage shall be its gross tonnage.

7. With respect to pilotage –

- (a) a surcharge of 25 percent shall be payable -
 - (i) where a vessel is not ready to be moved 30 minutes after the notified time or 30 minutes after the pilot has boarded, whichever is later;
 - (ii) where the request for the pilotage service is cancelled at any time within 60 minutes prior to the notified time and such service is scheduled within the following 8 hours; and
 - (iii) where a request for a pilotage service is cancelled at any time after the pilot has boarded;
- (b) a surcharge of 50 percent shall be payable where the pilotage service was booked and cancelled without any subsequent rescheduling within the following 8 hours;
- (c) the first application by a port user for cancellation and rescheduling of a service shall not be subject to any surcharge, if it is made more than 60 minutes prior to the notified time.

8. With respect to tug service -

- (a) a surcharge of 25 percent shall be payable -
 - (i) where a request for tug service has been booked and the vessel is not ready to be moved 30 minutes after the notified time or 30 minutes after the pilot has boarded, whichever is the later;
 - (ii) where a request for tug service is cancelled at any time within 60 minutes prior to the notified time and the service is rescheduled within the following 8 hours; and
 - (iii) where a request for tug service is cancelled at any time after the pilot has boarded;
- (b) a surcharge of 50 percent shall be payable where tug service has been booked and cancelled without any subsequent rescheduling within the following 8 hours;
- (c) the first application by a port user for cancellation and rescheduling of a service shall not be subject to any surcharge, if it is made more than 60 minutes prior to the notified time;
- (d) subject to a minimum charge of US \$ 1920, tug service for assisting stranded vessels or for towage beyond the outer port shall be provided after prior agreement, or in case there is no agreement at the Authority's absolute discretion.

9. (1) Pilotage and tug service fees may be charged where a vessel is required to unberth to allow another vessel to berth for port convenience.
- (2) The type and number of craft allocated for a pilotage or tug service shall be at the discretion of the Port Master, whose decision shall be final.
10. Anchorage fees shall be paid at the normal rate where loading and unloading operations cannot take place for reasons beyond the control of the Authority.
11. Notwithstanding the contents of a manifest, the Authority may calculate quay fees payable under the First Schedule by the weight of the cargo or by its volume, whichever is higher.
12. (1) Subject to the express permission of the Operations and Commercial Manager and to such conditions as the Operations and Commercial Manager may impose, no dunnage or ship's stores shall be loaded or discharged.
- (2) Dunnage and ship's stores loaded or discharged under paragraph (1) shall be deemed to be cargo for the purposes of these regulations.
13. (1) Subject to paragraph (2), a person who is liable to pay a fee under these regulations shall promptly pay the amount due.
- (2) (a) The Authority may agree that payment of a fee due under these regulations shall be made -
 - (i) within a delay which shall not exceed 21 days from the date of the claim in respect of the amount due in Mauritian rupees; or
 - (ii) within a delay which shall not exceed 30 days from the date of the claim in respect of the amount in US dollars.
- (b) The Authority may request the vessel's agent or other port user to make a cash deposit before any service is rendered.
- (c) Where there is any shortfall in the cash deposit, the vessel's agent or other port user shall immediately make good this shortfall to the satisfaction of the Authority.
- (d) The Authority may request a vessel's agent or other port user to submit a bank guarantee for an amount to be determined by the Authority for the provision of credit facilities.

- (3) Where a person fails to pay a fee for which he is liable, within the specified period, the Authority may –
 - (a) levy a surcharge of 10 percent of the amount which that person is liable to pay; and
 - (b) without prejudice to the right of the Authority to recover the amount due, suspend or refuse further services to that person or to a vessel belonging to that person.
- (4) Notwithstanding any other enactment, a person who is liable to pay a fee specified at items 2 and 3 of the Second Schedule shall -
 - (a) pay the fee in advance on 1 January and 1 July in every year; and
 - (b) where he fails to pay the fee within one week from the date due for payment, pay a surcharge of 50 percent of the amount which he is liable to pay.
- 14.** (1) Where there is no provision for any fee in respect of any facilities or services, a quotation may, on application, be obtained from the Authority.
- (2) Where it is not possible or practical to make a quotation in an emergency, the Authority may render the service and charge the fees subsequently.
- 15.** (1) Transshipment rates shall apply to –
 - (a) transshipment goods as defined in section 2 of the Act;
 - (b) goods other than fish landed from a vessel and re-exported within 28 days of the date of completion of discharge of the vessel, provided that these goods have not left the port area;
 - (c) fish landed from a vessel and re-exported within 90 days of the date of completion of discharge of the vessel, provided that these goods have been re-exported in their original form and have always been under certified Customs control;
 - (d) specific consignments with the approval of the Board.
- (2) Application for transshipment rates shall be submitted in writing to the Authority before or at the time the goods or containers are placed in the custody of any port operator.

- (3) Where transshipment containers or general cargo have not been re-shipped within 28 days of the date of completion of discharge of the vessel –
- (a) the Authority shall collect from the shipping agent all charges outstanding on the consignment as at the twenty-eighth day and such cargo or container shall be treated as if it were ordinary import cargo or container; and
 - (b) the charges mentioned in subparagraph (a) shall be computed at the normal rates and not at the transshipment rates specified in the First Schedule.
- 16.** The Authority may –
- (a) in special circumstances and for the purposes of improving the efficiency of its operations or removing congestion in the port and port premises, increase any fees or charges set out in the First or Second Schedule by an amount not exceeding 50 percent; and
 - (b) reduce, waive or refund any fees or charges whenever there are good reasons justifying such reduction, waiver or refund.
- 17.** The Port (Fees) Regulations 1999 are revoked.
- 18.** These regulations shall come into operation on 1 October, 2008

Made by the Authority on 18 September 2008 and approved by the Minister on 19 September 2008.