

**Law No. (23) for 2013
Concerning Maritime Ports**

**Chapter One
Naming and Definitions**

Article (1): This law is called the law of sea ports

Article (2): The following phrases and expressions have the meanings set in front of it, unless the context requires another meaning:

The Republic: The Republic of Yemen

The Ministry: The Ministry of Transport

The Minister: The Minister of Transport

The Concerned Port Authority: Intended the Port Corporations entrusted with the management of the port within the scope of its specializations

The concerned Maritime Authority: The Maritime Affairs Authority

The Agreement: Any agreement or protocol or resolution or a code or any other document related to ports or maritime shipping and rules of practice and to be issued by the International Maritime Organization or the International Labor Organization or the United Nations Conference on Trade and Development (UNCTAD) or any other international or regional organization and the Republic of Yemen is part of it.

Rules and regulations of ports: Rules and regulations governing the operations taking place at seaports.

Boat/Ship: Any kind of ships, boats including floating crafts or water planes used for transport through water regardless of the propulsion method.

Port: Any commercial sea ports belonging to one of the port concerned authorities or what might be constructed in the future and this definitions does not apply to specialized sea ports.

Port limits: The widening extends beyond the level of the highest point of tide with a specific distance to be determined appropriate with the privacy of each port location and under a resolution to be issued by the Minister.

Port facilities: The wharves and sites allocated for discharging and storage yards and anywhere else used or supervised by the management of the port.

Port services and facilities: Any services or facilities provided by the port for the ship or its cargo or passengers or clients dealing with it.

Shipmaster: The person who is entrusted to command the ship or actually was commanding it in a legitimate manner, even on a temporary basis.

Pilot: The person authorized by the concerned authority to carry out works of pilotage in the limits of the port or the harbor or pilotage areas, the works of the pilot does not include direct or indirect command of the ship in any way and the pilot has the title of (advisor) for the ship's shipmaster.

The ship's agent: Every natural or legal person licensed by the concerned authority to commit works of Shipping Agencies on behalf of the owner of the ship or its operator or its shipmaster or owner of the goods so as for one trip or more or on permanent basis.

Person: Every natural or legal person as required by the context of the text.

Tariff: The fees charged on the ship or cargo, or passengers, for services and facilities of the port as declared by the Port Authority or the operator.

Accruals: Include all fees and wages, prices, rents, of any kind whatsoever and interpreted as appropriate.

Operation's contract: Every contract signed by the Concerned Port Authority with anyone under which can rent, or build, or operate, or the exploitation of port terminals and facilities for a specific period of time then returning the assets to the Port Authority.

Operator: Each person granted the right to operate or the provision of services and facilities within a port under a contract with the Concerned Port Authority.

Chapter Two

Aims and Scope of Application

Article (3): This law aims at:the following:

1- A legal framework shall be set by which the concerned port authorities can carry out their responsibilities in planning, construction, maintenance, operation and management of ports.

2- Encourage the development of ports and private sector participation in the provision of the basic infrastructure for ports and port facilities and services.

3- To ensure fair competition and create the chance for competition to improve the ports of Yemen and its service and facilities to the best level similar to what is provided by international ports.

Article (4): A) The provisions of this law is in force on all commercial sea ports of the concerned port authorities ones or that arise in the future and all ships, barges, boats, cargo carriers, vehicles, companies, corporations and persons who enter these ports or use.

B) The provisions of this law shall not apply on specialized seaports.

Chapter Three

Ports Establishment, Development and Strategies

Article (5): Under the provisions of this law, the port authorities has the right to make policies and national strategies related to ports subject to the provisions of this law and its implementation and adoption of programs and the required plans for their implementation, development, construction and management to ensure the achievement of the following:

- 1) The higher interest and the interests of the national economy and foreign trade.
- 2) The development and improvement of ports in an economical and efficient manner to ensure increased maritime traffic and keep abreast of changes in the regional and international maritime industry.
- 3) Encourage investment in port services and maritime transport.
- 4) Raise the efficiency of port services and maritime transport in a balanced manner so as to achieve the requirements of the beneficiaries, on one hand and the interests of investors in those services on the other.
- 5) Provide a competitive environment between shipping companies operating in the ports subject to the provisions of this law.

The port authorities have to review and develop their policy , strategy and programs in the light of global developments and the field of maritime transport and so as to ensure the continuation of that policy to adapt the requirements of the future and the minister shall be responsible for the approval of

those policies, strategies, programs and monitor the fulfillment for its implementation.

Article (6): Each port should have a master plan approved by the Council of Ministers upon the submission of the Minister which includes a clear vision for the port activity and expansions in the long term and to take into account when preparing these Master Plans the overall scope of water and land areas and the character which distinguish the port and its functions and the allocation of spaces and its capacity and types of ships that visit it.

Article (7): A) The Concerned Port Authority has the right to create any new port if the need arises after the approval of the Council of Ministers upon the submission of the Minister and a resolution shall be issued for the establishment of the port by the Prime Minister specifying the geographical location of the port and its purpose and limits.

B) The Port Authority is not permissible for building any new facilities within the limits of existing ports or make any significant changes only after the approval of the Minister.

C) It should be taken into account when creating or developing or licensing for the establishment of ports or berths, the details and requirements of the Master Plan of the port with a commitment to the conditions and criteria for the preparation of environmental impact assessment study in accordance with the laws in force.

D) The concerned Ports Authority may contract with the private sector with Build-Operate-Transfer (BOT) system or Build-Own-Operate-Transfer (BOOT) system depending on the nature of the project for the establishment of ports and run it for a specific period and transfer its ownership after that to the Concerned Port Authority after the completion of necessary economic and technical studies After the approval of the Council of Ministers upon the recommendation of the Minister.

Chapter Four

Permits and Operation Rights

Article (8): A) The Concerned Port Authority not any other one, shall provide port services or perform any activity or service related or connected with the port and the concerned Ports Authority may allow others to carry some works or services in accordance with the conditions determined by taking into account the following: -

1- Licenses shall be granted to practice this activity only to qualified and experienced persons.

2- Availability of the financial resources necessary for practicing the activity.

3- The Concerned Port Authority has the right to cancel the license in case of violation of any terms of the license.

B) Activities related to ports shall not be practiced within the port limits, except under a license from the concerned authority of the port and shall not contradict with the laws in force.

C) With the exception of regulations governing the work of ports in general which are issued by the Minister and applied by all Yemeni Port Corporations at their ports, the Concerned Port Authority has the right of issuing licenses, which are not regulated by rules and regulations issued by the Minister and shall not be contradict with the provisions of this law.

Article (9): A) Any person is allowed to do any construction or leasing or operating or exploitation related to ports or terminals or port facilities or the exploitation of public property in ports and terminals , or operate it under an operation contract signed by the concerned authority with the operator , which is shall not contradict with the provisions of the applicable laws and in accordance with the best international practices in port industry.

The operation contract shall include, in particular, the following aspects where they are applied :

1- The legal fundamentals and the reasons underlying the operation contract.

2- Description of public property, installations and facilities covered by the operation contract as well as the obligations of the operator, including adherence to the assumed standards and specifications with those alike in terms of maintenance, productivity and utilization.

3- Works taking place in the area of sea bottom dredging and the navigational aids and other aspects of navigational safety.

4- A description of the services to be provided by the port and identify the places for public use and those dedicated to the work of the port management and the customs and other authorities as appropriate.

5- Construction, expansion and modernization programs in port structures and buildings, which must adhere to the requirements of environmental protection assessments.

6- Rights and obligations of the operator.

7- Actual duration of the operation contract, not to exceed thirty years.

8- The value and duration of the commitments that must be provided by the operator.

9- Insurance policies that cover indemnity and persons injuries and damage to the property within the area covered by the right of operation.

10- The financial value that is deserved by the Concerned Port Authority against the operation contract.

11- Conditions of termination or rescission.

B) The Concerned Port Authorities is the only authorized authorities to grant operating rights in its geographical scope after the approval of the Council of Ministers upon the submission of the Minister.

C) The rights of operating define the additional services that the operator may perform at the port and the operator has to adhere to cooperation with the Concerned Port Authority in the planning and implementation of all necessary measures to promote the port or terminals and operate and develop it to achieve the maximum degree of efficiency and capability to compete according to the best standards of performance and practice at international ports.

D) The obligations of the operator in the operation contract are subject to the terms of the operation contract, conditions and the provisions of the applicable laws and implement these commitments under the full control of the Concerned Port Authority.

Article (10): Any construction, operation or investment shall not be permitted without a license from the Concerned Port Authority after the approval of the Council of Ministers upon the submission of the Minister and the Port Authority has the right to stop or cancel the operating licenses in case of violation of the provisions of this law and the legislation in force.

Chapter Five

Rendering Services to Ships

Article (11): A) The Concerned Port Authority shall apply obligatory systems to report on ships and their movement that use its ports according to the rules and instructions of the ports.

B) Ship are not allowed to move within the limits of the port without permission from the Concerned Port Authority, and in

accordance with the procedures specified by the rules and instructions of the ports.

Article (12): A) Pilotage services are compulsory within the limits of the port unless the ship has an exemption certificate from pilotage.
B) The Concerned Port Authority is responsible for providing pilotage services within the port limits and in accordance with the provisions of the rules and instructions of the ports.

Article (13): A) Towage services are compulsory within the port limits , unless the ship has an exemption certificate from towing.

B) The Concerned Port Authority is responsible for providing towage services within the port limits and in accordance with the provisions of the rules and instructions of the ports.

Article (14): Should a specific text has not been mentioned in this chapter, towage and pilotage rules provided in the Maritime Law are applied shall apply.

Chapter Six

Matters Relating to Shipments of Vessels

Article (15): A) Operations relating to Shipments of Vessels, which are running at the berths, wharves, terminals, quays and the areas inside the port's limits, must obligate to the Rules and Regulation in Yemeni Ports, and must be done by the concerned Ports Authority, and it has the right to grant permits to the concerned companies in this field to execute these operations under her supervision in accordance with the regulations which organises that.

B) The Owner or the Shipmaster of the vessel which enters the Port to execute operations relating to shipment should allow full utilization of all the necessary equipments for handling shipment available on the vessel without charge.

C) All the equipments related to the shipment on the vessel must be in a good condition for work and must have validity

certificate, and there is no liability on the Port management, or the Operator for any incident results in direct or indirect manner, or caused by, or contributed by any tools defects which the vessel carries, and the Owners must compensate the Port, or the Operator for any claims which may result from the incident.

D) All the containers which is being handled must be committed and matching to the terms contained in the in the International Convention for Safe Containers.

Article (16): A) Every Operator of one of the sectors or Port facilities, every operator in the Port, every responsible for stowage and arranging cargo, every marine operator, or Operator of the fuel depot, or for vessel must adhere and commit strictly to the Rules and Regulation in Yemeni Ports and the International Code of Maritime Hazardous Goods, and handling and storing it in the Ports.

B) Any Hazardous Goods is prevented to enter the Port unless it is arranged and stuffed correctly, and separated from each other, and its details is written on it and explained on the vessel's deck or the means of transport, and all necessary procedures must have been taken which ensures safe transport of these goods and storing and handling it according to the International Code of Maritime Hazardous Goods and any other conventions in this concern and also according to the Laws in force and the Rules and Regulation in Yemeni Ports.

C) The Port Authority or the Operator should supervise the safe movements of the Hazardous Goods and its storage.

Article (17): The concerned Port Authority has right to dispose the quick rot stored goods and cargo, or damage, and which may expose the human health or the security or Port's safety or the environment to risk, and in coordination with other concerned authorities.

Chapter Seven

Port's Safety

Article (18): Every Owner, or Shipmaster, or Ship Agent must submit an application to get the permission for the vessel to enter the Port and assures that the vessel is obligated to the lowest standards which is determined by this law, and the Rules and Regulation in Yemeni Ports also any additional conditions determined by the concerned Port Authority, and all Ports users must adhere to the Rules and Regulation in Yemeni Ports in regards of Port's safety and security.

Article (19): The Shipmaster of any vessel available in the Port to load or unload her shipment have to ensure safe stay of his vessel all the time, and before the sailing the Shipmaster must ensure that all the shipment is loaded, including vehicles and other cars loaded within the shipment are properly fixed according to the rules of the International Maritime Organization issued in this regard, and in accordance with the provisions contained in to the Rules and Regulation in Yemeni Ports.

Article (20): A) The Shipmaster of any vessel, berthed at a wharf, or moored, or berthed with her anchor in the Port, must ensure that his vessel is carrying enough number of crew at all times for normal running operations, and that she is at all times ready for movements.

B) The Shipmaster is responsible during the stay of the vessel at the Port for the behaviour of the crew members, who must take into consideration the general good behaviour conduct as they also must compliance with the provision this Law and other Laws in force, and the Rules and Regulation in Yemeni Ports, and the Shipmaster of the vessel, or her Agent, must notify the Port Authority for any irregularities to take the necessary procedures towards that.

Article (21): Every person responsible for any operation or service from the Port services must maintain enough insurance coverage for any results which may arise from any incident caused by his work inside the Port.

Article (22): The concerned marine authority in co-ordination with the Ports Authority must request from any scrap owners or any abandoned vessel in the territory of the Port, to lift the scrap or vessel, and the concerned marine authority has the right to distrain the scrap or the abandoned vessel, for insurance purpose of the removal or lifting expenses of this scrap or vessel and sell it in an auction and collect their dues from selling returns, with retention of the consequent debits of the removal or lifting charges of the scrap as priority on any other debits.

Article (23): With exception of the marine scrap everyone drops or puts any things or materials that could impede the marine safety inside the Port's territory must notify the concerned Ports Authority immediately of the incident and take all necessary arrangements of removal and lifting the thing put and rectify any damages resulting by falling or putting that things or materials, in accordance with the Rules and Regulation in Yemeni Ports, otherwise the concerned Ports Authority have the right to remove it and person is responsible for its consequences and costs.

Chapter Eight

Marine Environment Protection in the Ports

Article (24): The Shipmaster of the vessel has to be careful not to harm the marine environment or pollute it either by the vessel while she is being in the Port or her crew.

All activities or services done in the Port must be done without harming the marine environment in accordance with the Laws in force and the Rules and Regulation in Yemeni Ports.

Article (25): The concerned Port Authority has to furnish suitable reception facilities in the Port to receive the outputs garbage from the vessels, including the associated garbage for handling shipment, and they have to prepare and implement a plan to receive the garbage and handle it and dispose it in accordance

with the international conventions and the Laws in force and the Rules and Regulation in Yemeni Ports.

Article (26): The Shipmaster is responsible for the results of any procedure leads to a spill or discharge of petrol or oil or other pollutants inside Port's territory in accordance with the provisions of Marine Environment Protection from Pollution Law, and the vessel must have enough insurance coverage to face the disposal expenses of the pollution and its effects to ensure restore the marine environment to its natural condition, and pay the fines and compensations determined by the concerned marine authority in accordance with the Laws in force.

The Operator must have enough insurance coverage to face any procedures taken to resolve the effects of any accidents results of their work, and pay the fines and compensations determined by the concerned marine authority in accordance with the Laws in force.

At all instances the concerned Ports authority or the Operator or the Shipmaster must inform the concerned marine authority immediately after any pollution incident, and take what is required to contain pollution and reduce its effect on the marine environment.

Article (27): A) The concerned marine authority, and the Operator must prepare plans for emergency sanctioned by the concerned marine authority to face any incident which may cause marine pollution in accordance with the Laws in force and the Rules and Regulation in Yemeni Ports.

B) In all, unless a special provision not mentioned in this section should refer to the Marine Environment Protection from Pollution Law.

Chapter Nine Services & Facilities Tariff & Charges

Article (28): The concerned Ports authority must prepare, and revise from time to time, Services & Facilities Tariff & Charges regulation, and the tariff, dues and charges must be fair, and transparent and not discriminatory, and must reflect actual charges of the services rendered, and that must be sanctioned by the Minister.

Article (29): Other tariffs which determine amounts due to pay as dues on vessels, or shipments, or passengers in the Ports and which is paid to the Operators of the Ports facilities, in accordance with the operating conditions, and must be published, and the tariffs must be fair, and transparent and not discriminatory, and must reflect actual charges of the services rendered.

Chapter Ten Prohibitions & Penalties

Article (30): Any person is prohibited to practice any clearly prohibited activities under this law or practice an activity results to, or may result in any of the following effects:

- 1) Breach of security and safety of any person, or Port, or vessel, or general or private properties.
- 2) Obstructing the movement of vessels, or its navigation, or its towage, or its manoeuvring, or its berthing, or its mooring.
- 3) Forming obstruction in front of any space on the ground or water.
- 4) Prevent or obstruct any permitted activity.
- 5) Decreasing the depth of Ports waters or the roads and the waterways leading to it.

6) Causing harms to persons, or vessels, or shipments, or vehicles, or baggage, or any other properties.

7) Throwing materials that may pollute, or that limit the quality of Port's soil, or its waters, or its air.

8) Obstruct Port's works, or properties which are managed by the concerned Ports authority or owners of operating rights and licenses of the Port Operators or negatively affect them.

Further if any person commits an activity which may lead to any of the results which this law prohibits, then the concerned Ports authority must warn to stop this activity immediately, and this person must comply immediately to this instructions, with taking all precautions to prevent any negative consequences.

Article (31): A) Without prejudice to any severer penalty mentioned in the Laws in force, shall be punished by the fine determined in the Rules and Regulation in Yemeni Ports everyone who infringes any provision of this Law's provisions or regulations or its executive resolutions and also in the following circumstances:

1) If submitted intentionally incorrect or misleading information or details whether verbal or written to one of the concerned Ports authorities on condition approved by the Port authority and resulted practicing any activity on its basis.

2) If violates with knowingly or negligently any provision of this Law's provisions, or under which what comes out from regulations or Port's Rules and Regulation , or Obstructs, or disrupts, any authority of the concerned Ports authorities to perform its duties and functions as approved by this Law.

3) If does not comply with any term of the concerned Ports authorities terms to prevent or reduce activities prohibited by this Law.

B) The concerned Ports authorities must apply the fines on the irregularities of this Law Prescribed in the Rules and Regulation in Yemeni Ports.

In assessing the fine of any irregularity under this Law the concerned Ports authority must make sure of the following:

1) Considering if the person, in his irregularity of any provision of this Law, has been necessarily serious to prevent the occurrence of the incident.

2) Informing the violator the intention to take action against him, and giving him grace period of (15) working days to provide defensive evidence for himself against the irregularities attributed to him and all other things that are in his favour.

3) After expiration of the (15) days working days period, the concerned Ports authority must take suitable actions within the next (30) working days.

B) Applying the penalties referred to in this article does not preclude without incurring the offender the criminal responsibility which may occur from the irregularities attributed to him.

Wherever it was believed that criminal intention is available, the concerned authority must be reported.

Chapter Eleven Final Provisions

Article (32): The Ports Authority, Operator, and vessels must ensure that Port's and vessels' level of security, safety, and environment protection are compatible with the levels contained in the agreements in which the Republic of Yemen is part of it and also the rules and regulations and resolutions issued by the Ministry and the concerned marine authority and Ports Authority.

Article (33): The concerned Ports authority is not responsible for any damages, or spoilage, or lost resulting from Operator's actions.

Any person practices any prohibited activity in any Port of the Ports subject to the provisions of this Law is punished with penalties determined in the Rules and Regulation in Yemeni Ports and is being demanded to provide compensation for damages, or spoilage and to cover any remedial measures required without prejudice to any other obligations or responsibilities resolved by the Laws in force.

Article (34): Every person renders a service from the services, or it is his duty to perform it, or a work he is doing it in any of the Ports or on board any vessel in any Port, must apply measures of safety and health protection applicable on vessels and Ports which are contained in the agreements and codes of the International Labour Organization in force in this regard, and compliance with the related Laws in force and the Rules and Regulation in Yemeni Ports.

Article (35): Rules and instructions of ports shall be issued by a resolution from the Minister and these rules and instructions should include all matters relating to port services and business rules therein and the rules relating to ships in ports and the terms and conditions of safety and security at ports in accordance with the laws and international conventions and best international practices in this area.

Article (36): A) The Concerned Port Authority has the right to own or rent land , real estate, facilities and equipment necessary for the management and operation of ports and facilitate their activities and act in accordance with the provisions of the law.

B) The yards and lands surrounding the port and its limits are considered within the property of the port , including the islands within the port limits , if any , and their disposition priority is for the activities of the port and the various expansions to achieve the purposes for which the port was established.

Article (37): The executive regulations of this law shall be issued by a resolution from the Prime Minister upon the submission of the Minister.

Article (38): The Minister shall issue the decisions and instructions necessary to implement the provisions of this law.

Article (39): This law is in force from the date of issuance and shall be published in the Official Gazette.

10 November 2013
Abdu Rabbo Mansoor Hadi
President of the Republic