

Republic of the Philippines
Autonomous Region in Muslim Mindanao
REGIONAL LEGISLATIVE ASSEMBLY
Cotabato City

THIRD LEGISLATIVE ASSEMBLY
(Sixth Regular Session)

[MUSLIM MINDANAO AUTONOMY ACT NO. 125]

Begun and held in Cotabato City, on Monday the twenty-third day of April, two thousand one.

AN ACT PROVIDING FOR THE ORGANIZATION OF PORT ADMINISTRATION AND OPERATION FUNCTIONS IN THE AUTONOMOUS REGION IN MUSLIM MINDANAO, CREATING THE REGIONAL PORTS AUTHORITY-AUTONOMOUS REGION IN MUSLIM MINDANAO (RPA-ARMM), PROVIDING APPROPRIATION THEREFOR, AND FOR OTHER PURPOSES.

SECTION 1. TITLE. – This Act shall be known as the Charter of the Regional Ports Authority – Autonomous Region in Muslim Mindanao.

SECTION 2. DECLARATION OF POLICIES AND OBJECTIVES. – It is hereby declared to be the policy of the Regional Government to implement an integrated program for the planning, financing, and operation of ports for the entire region in accordance with the following objectives:

- (i) To coordinate, improve and optimize the planning, development financing, construction, maintenance and operation of Ports, port facilities, port physical plants, and all equipment used in connection with the operation of a Port.

- (ii) To ensure the smooth flow of water borne commerce passing through the Regional Government ports whether public or private, in the conduct of international and domestic trade.
- (iii) To promote regional development through the dispersal of industries and commercial activities throughout the different provinces.
- (iv) To foster inter-island sea borne commerce and foreign trade.
- (v) To redirect and reorganize port administration beyond its specific and traditional functions of harbor development and cargo handling operations to the broader function of total port district development, including encouraging the full and efficient utilization of the Port's hinterland and tributary areas.
- (vi) To ensure that all income and revenues accruing out of dues, rates, and charges for the use of facilities and services provided by the Authority are properly collected and accounted for by the Authority and to ensure that a reasonable return on the assets employed is realized.

SECTION 3. TEN-YEAR PORT DEVELOPMENT PROGRAM. - In order to attain these objectives, the Regional Government through the Regional Ports Authority hereinafter created shall:

- a) Draw up and implement a Ten-Year Regional Port Development Program, hereinafter referred to as the "Program" which shall embody the integrated plan for the development of the ARMM ports and harbors. The Authority, in coordination with the DPWH, RPDO, and other concerned departments shall prepare and annually update the Program to be submitted for approval by the Regional Governor.

- b) Upon approval of the Program by the Regional Governor, all Regional Government Departments, Bureaus, Agencies and Instrumentalities shall implement the same within their respective jurisdictions. The Authority shall ensure that the approved Program is being effectively implemented by the participating agencies.

SECTION 4. DEFINITION OF TERMS. – For the purpose of this Act, the terms or words used herein shall, unless the context indicates otherwise, mean or be understood to mean, as follows:

- a) "Authority" means the Regional Ports Authority created by this Act.
- b) "Board" means the Board of Directors of the Authority appointed as such in accordance with Section 7 of this Act.
- c) "Function" includes powers and duties.
- d) "Port District" means the territorial jurisdiction under the control, supervision or ownership of the Authority over an area (land or sea), including but not limited to any Port within said District.
- e) "Port" means a place where ships may anchor or tie up for the purpose of shelter, repair, loading or discharge of cargo, or for other such activities connected with water-borne commerce, and including all the land and water areas and the structures, equipment and facilities related to these functions.
- f) "Navigable waters" means all navigable portions of the seas, estuaries, and inland waterways.
- g) "Anchorage" means a place with sufficient depth of water where vessels anchor or may ride at anchor within the harbor.
- h) "Terminal Facility" includes the seaport and its facilities of wharves, piers, slips, docks, dry-docks, bulkheads, basins, warehouses, cold storage, and loading or unloading equipment.
- i) "Basin" means a naturally or artificially enclosed or nearly enclosed body of water in free communication with the sea.
- j) "Dock" includes locks, cuts, entrances, graving docks, inclined plans, slipways, quays, and other works and things appertaining to any dock.
- k) "Drydock" means a dock from which the water can be temporarily excluded in order to effect repairs to hulls and keels of ships or vessels.

- l) "Pier" means any structure built into the sea but not parallel to the coast line and includes any stage, stair landing place, landing stage, getty, floating barge or pontoon, and any bridge or other works connected therewith.
- m) "Warehouse" means a building or shed used for the storage of cargo.
- n) "Transit Shed" means a building or shed which is situated at or near a quay, wharf or pier, and is used for the temporary or short-term storage of goods in transit, or to be shipped or discharged from a vessel.
- o) "Wharf" means a continuous structure built parallel to along the margin of the sea or alongside riverbanks, canals, or waterways where vessels may lie alongside to receive or discharge cargo, embark or disembark passengers, or lie at rest.
- p) "Transportation Facility" includes rails and railcars, highways, wheeled vehicles, bridges, tunnels, tramways, subways, passenger or cargo vessels, ferry-boats, lighter, tugs, barges, scows, ramps, and any kind of facility in use or for use of the transportation, movement, or carriage of goods or passengers.
- q) "Lighter" means a flat-bottomed boat or barge used in loading or unloading cargo to or from vessels.
- r) "Vessel" includes any ship or boat, or any description of a vessel or boat.
- s) "Goods" include animals, carcasses, baggage, and any movable property of any kind.
- t) "Dues" includes harbor fees, tonnage and wharfage dues, berthing charges, and port dues and any other dues or fees imposed by virtue of existing law or this Act.
- u) "Rates" are any rate or charge including any toil or rent under existing law or imposed by the Authority by virtue of this Act for facilities used or services rendered.

SECTION 5. CREATION OF THE REGIONAL PORTS AUTHORITY-ARMM. -

- a) There is hereby established a body corporate to be known as the Regional Ports Authority-ARMM which shall be attached to the Department of Transportation and Communications for policy and program coordination.

- b) The principal office of the Authority shall be in a place to be determined by the Board but it may establish branches and agencies within the ARMM as may be deemed necessary by the Board.

SECTION 6. CORPORATE POWERS AND DUTIES. -

- a) The corporate duties of the Authority shall be:
 - (i) To formulate in coordination with RPDO and DPWH a comprehensive and practicable Port Development Plan for the Region and to program its implementation, renew and update the same annually in coordination with other regional agencies.
 - (ii) To supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or belonging to the Authority.
 - (iii) To prescribe rules and regulations, procedures, and guidelines governing the establishment, construction, maintenance and operation of all other ports, including private ports in ARMM.
 - (iv) To license, control, regulate, supervise any construction or structure within the Port District,
 - (v) To provide services (whether on its own, by contract, or otherwise) within the Port District and the approaches thereof, including but not limited to-Berthing, towing, mooring, moving, slipping, or docking any vessel, loading or discharging any vessel; Sorting, wiggling, measuring, warehousing, or otherwise, handling goods.
 - (vi) To exercise control of or administer any foreshore rights or leases which may be vested in the Authority from time to time.
 - (vii) To coordinate with the Regional Bureau of Lands or any other government agency or corporation, in the development of any foreshore area.
 - (viii) To control, regulate, and supervise pilotage and the conduct of pilots in any Port in the ARMM.

- (ix) To provide or assist in the provision of training programs and training facilities for its staff, or staff of port operators and users for the efficient discharge of its functions, duties, and responsibilities.
- (x) To exercise the corporate powers and the police authority now vested in the Regional Ports Authority; provided that the exercise of police authority shall not extend to areas outside the autonomous region.
- (xi) To perform such acts or provide such services as may be deemed proper or necessary to carry out and implement the provisions of this Act.

b) The corporate powers of the Authority shall be as follows:

- (i) To succeed in its corporate name.
- (ii) To sue and be sued in such corporate name.
- (iii) To adopt, alter, and use a corporate seal.
- (iv) To create or alter its own organization or any Port Management Unit, and staff such Port Management Unit with appropriate and qualified personnel in accordance with what may be deemed proper or necessary to achieve the objectives of the Authority.
- (v) To make or enter into contracts, transactions and undertakings of any kind or nature, both foreign and local, to enable it to discharge its functions under this Act.
- (vi) To levy dues and impose rates or charges for the use of the premises, works, appliances, facilities, or for services provided by or belonging to the Authority or any other organization concerned with port operations.
- (vii) To reclaim, dredge, excavate, enclose, or raise any part of the lands vested in the Authority.
- (viii) To exercise the right of eminent domain.
- (ix) To acquire, own, hire, use, operate and dispose of personal property, real property and interest thereon, and to make improvements on such real property.
- (x) To purchase, hold, alienate, mortgage, pledge, or otherwise dispose of the shares of the capital stock, bond, security or other evidences of indebtedness.
- (xi) To supply water or bunkers for ships.

- (xii) To make expenditures for promotion of the business affairs of the Authority
- (xiii) To do all such other things and to transact all such business directly or indirectly necessary, or conducive to the attainment of the purposes of the Authority.
- (xiv) Generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Act.

SECTION 7. GOVERNING BOARD OF DIRECTORS. -

- a) The corporate powers of the Authority shall be vested in a Governing Board of Directors, which shall consist of the following members:
 - (i) The Regional Secretary of DOTC-ARMM shall act as Chairman;
 - (ii) The General Manager of the Authority, who shall act as Vice-Chairman;
 - (iii) The RLA committee chairman on Transportation and Communications;
 - (iv) The Regional Secretary of Trade and Industry (DTI-ARMM);
 - (v) The Regional Treasurer (ORT-ARMM);
 - (vi) The Executive Director of the Regional Planning and Development Office (RPDO);
 - (vii) The Regional Secretary of Public Works and Highways (DPWH-ARMM);
 - (viii) The Regional Administrator of the Maritime Industry Authority (MARINA-ARMM); and
 - (ix) Three (3) other persons who shall be recommended by the General Manager of the Authority and appointed by the Regional Governor for a term of three (3) years and shall represent the ship owners/shipping operators, cargo-handling and business sectors respectively.



- b) The members of the Board shall receive a per diem as it may approve for each Board meeting actually attended by them: Provided that, such per diems shall not exceed THREE thousand pesos (P 3,000.00) during any one month for each member: Provided further, that no other allowances or any form of compensation shall be paid them except actual expenses in traveling to or from their residence to attend Board meetings.
- c) Six (6) members of the Board shall constitute a quorum for the transaction of business.

SECTION 8. MANAGEMENT HEAD. – The management of the Authority shall be vested in the General Manager who shall be directly assisted by two Assistant General Managers, one for Administrative and Finance and the other for Operations.

SECTION 9. MANAGEMENT AND STAFF. -

- a) The General Manager and the Assistant General Managers shall be appointed by the Regional Governor for a term of five years: Provided, that upon the expiration of their respective terms, they shall continue to serve until their successor shall have been appointed and qualified: Provided further, that no vacancy shall be filled except for the unexpired portion of the term: Provided finally, that the Regional Governor may remove the General Manager and Assistant General Managers from office for cause upon recommendation of the Board.
- b) All other officials and employees of the Authority shall be selected and appointed by the General Manager consistent with Civil Service rules and regulations. Provided however, that all professional and technical positions shall be considered policy determining, primarily confidential and highly technical in nature.

- c) The General Manager shall, subject to the approval of the Board, determine the staffing pattern and the numbers of personnel of the Authority, define their duties and responsibilities, and fix their salaries and emoluments. For professional and technical positions, the General Manager shall recommend salaries and emoluments that are comparable to those of similar positions in other government-owned corporations, the provisions of existing rules and regulations on wage and position classification notwithstanding.

SECTION 10. GENERAL POWERS AND DUTIES OF THE GENERAL MANAGER . - The General Manager shall be responsible to the Board, and shall have the following general powers, functions, and duties;

- (i) To implement, enforce and apply the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued or adopted by the Authority.
- (ii) To manage the day-to-day affairs of the Authority, and ensure the operational efficiency of the Ports under the jurisdiction and ownership of the Authority.
- (iii) To sign contracts, to approve expenditures and payments within the budget provisions, and generally to do any all acts or things for the proper operations of the Authority or any of the Ports under the jurisdiction, control or ownership of the Authority.
- (iv) To appoint, transfer and remove personnel below the rank of Assistant General Manager.
- (v) To submit an annual budget to the Board for Recurrent Income and Expenditure and the Estimated Capital Expenditure for its adoption not later than two months before the commencement of the ensuing fiscal year.
- (vi) To undertake research, studies, investigations, and other activities and projects, and to submit comprehensive reports and appropriate recommendations to the Board for its information and approval.
- (vii) To perform such other duties as the Board may assign from time to time.

SECTION 11. GENERAL POWERS AND DUTIES OF THE ASSISTANT GENERAL MANAGERS.- The Assistant General Managers shall be responsible to the General Manager of the Authority and shall have the following general powers, functions, and duties:

- (i) To assist the General Manager in implementing, enforcing, and applying the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued, or adopted by the Authority.
- (ii) To assist the General Manager in the performance of his other functions and duties.
- (iii) To perform such other duties as the General Manager may assign from time to time.

SECTION 12. APPROPRIATION AND REMITTANCE. -

- a) To carry out the provisions of this Act, there is hereby appropriated the sum of two million pesos (P 2,000,000.00) out of the funds in the Regional Treasury not otherwise appropriated. Thereafter, the succeeding appropriations of the Authority shall be included in the General Appropriations. The Authority shall immediately propose its budgetary requirements to the Regional Legislative Assembly for inclusion in the General Appropriations Act of the Autonomous Region in Muslim Mindanao.
- b) In addition to the above provision, the Authority is hereby authorized to retain sixty percent (60%) of its collections from fees, charges and fines to defray any deficiency in annual appropriations and to finance its other projects. Provided, that the remaining forty percent (40%) shall be remitted by the Authority through its principal office to the Regional Treasury. Provided further, that the cashier assigned in the respective ports shall be tasked to deposit all cash receipts and checks paid or made in favor of the Authority to the account of its principal office not later than 0900 hours of the day following payment or the next banking day in case of Fridays and public holidays.



- c) Supplementary estimates may be adopted and/or approved at any of the meetings of the Board.

SECTION 13. DUES, RATES AND CHARGES. -

- a) The Regional Governor may, upon recommendation of the Authority increase or decrease such dues collectible by the Authority to protect the interest of the Autonomous Government and to provide a satisfactory return on the Authority's assets, and may adjust the schedule of such dues so as to reflect the costs of providing the services.
- b) The Authority may impose, fix, prescribe, increase or decrease such rates, charges or fees for the use of port premises, works, appliances or equipment belonging to the Authority and port facilities provided, and for services rendered by the Authority or by any private organization within a Port District.
- c) The Autonomous Government share from all cargo-handling contractors and port-related service operators shall be at a rate not less fifteen percent (15%) taken from their gross income earned from such services.

SECTION 14. POWER TO MAKE PORT REGULATIONS. -

- a) The Authority may, after consultation with relevant Government agencies, make rules or regulations for the planning, development, construction, maintenance, control, supervision and management of any port or port district and for the maintenance of good order therein, and generally carrying out the purposes of this Act.
- b) The Authority may provide separate regulations for each category of ports or port districts.



SECTION 15. POWERS OF HARBOR MASTER. -The Authority through the Harbor Master of a Port or Port District may:

- a) Direct where any vessel shall be berthed, moored, or anchored, and the method of anchoring with the port and the approaches to the port;
- b) Direct the removal of any vessel from any berth or anchorage to another berth or anchorage and the time within which such removal is to be effected; and
- c) Regulate the mooring of vessels and determine the site of loading and unloading of cargoes within the port.

SECTION 16. POWER TO ISSUE BONDS AND INCUR INDEBTEDNESS. -

- a. The Authority may contract loans, credits and other indebtedness or issue bonds, notes, debentures, securities and other borrowing instruments, if necessary to carry out its programs. A Board meeting shall be called specifically for this purpose and a Board Resolution shall be issued by affirmative vote of at least Six (6) members of the Board to be approved by the Regional Governor.
- b. Bonds issued and indebtedness incurred shall in no case exceed the total amount of the value of fixed assets of the Authority.

SECTION 17. CAPITALIZATION. - The Authority shall have capital stock equal to and consisting of:

- a) The value of fixed assets, including port facilities and equipment administered by or belonging to the Authority and such other properties, movable and immovable, within the territorial jurisdiction of the Authority.

- b) Two Million (P 2,000,000.00) Pesos and government contribution in such amount as may be deemed an appropriate initial balance.

SECTION 18. REGIONAL PORT ADVISORY COUNCIL. – There is hereby created a Regional Port Advisory Council (RPAC) to be composed of the General Manager as chairman and representative each from the Department of Labor, Bureau of Customs, Chamber of Commerce and Industry, Import and Export Associations, The Arrastre and Stevedoring Companies, Consumers Group, Shippers Council, and such other Aggrupations as the Authority may deem expedient as members, which shall act as advisory council to assist the Authority in the formulation of its policies.

SECTION 19. ANNUAL REPORT. -An annual report of the Authority shall be submitted to the Regional Governor and the Regional Legislative Assembly within sixty (60) days after the close of each fiscal year.

SECTION 20. AUDITOR. – The Commission on Audit shall appoint a representative who shall be the Auditor of the Authority and the necessary personnel to assist said representative in the performance of his duties. The operational expenses of the auditor and his assistant shall be paid by the Authority.

SECTION 21. PENALTIES .-

- a. Any persons who violates any of the provisions of this Act or any of the rules and regulations promulgated by the Authority, shall be punishable by imprisonment for not less than a day but not more than six (6) years, and pay a fine of not less than two hundred (P200.00) pesos but not more than one hundred thousand (P100,000.00) pesos. If the offender is a government official or employee he shall in addition to the imprisonment and fine be perpetually disqualified to hold any public office.
- b. The Authority shall have the power to exact reasonable administrative fines in such specific amounts and for such specific violations arising out of the use of the port, as shall be prescribed in rules and regulations which the Authority is hereby authorized to issue for the purpose.

SECTION 22. SEPARABILITY CLAUSE. -If, for any reason, any part or provision of this Act shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected shall continue to be in full force and effect.

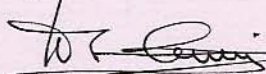
SECTION 23. REPEALING CLAUSE. - All acts, charters, executive orders, administrative orders, rules and regulations, or parts thereof, in conflict with this Act are hereby repealed or modified accordingly.

SECTION 24. EFFECTIVITY. - This Act shall take effect fifteen (15) days after its publication in the local newspaper of general circulation.

APPROVED:


ALVAREZ S. SNAJI
Speaker

This Act was passed by the Regional Legislative Assembly on August 7, 2001.


WILSON S. ANNI
Secretary General

APPROVED:

PROF. NUR MISUARI
Regional Governor
Date: _____

