



Law of the Republic of Azerbaijan on Seaports

According to the Article 94, part I, clause 23 of the Constitution of the Republic of Azerbaijan, this Law regulates the relations arising from merchant shipping in seaports, establishes rules of construction, opening, closing of seaports, conduct of activities there, as well as the bases of state regulation of activities in seaports of Republic of Azerbaijan.

Chapter 1. General provisions

Article 1. Legislation of Republic of Azerbaijan on seaports

1.1. Legislation of Republic of Azerbaijan about seaports consists of the Constitution of the Republic of Azerbaijan, international treaties supported by the Republic of Azerbaijan, the Code of Merchant Shipping of Republic of the Azerbaijan, present Law and other regulatory legal acts.

1.2. If the international treaty supported by the Republic of Azerbaijan establishes other rules, than what are envisioned by this Law, rules of the international treaty are applied.

1.3. Establishment and functioning of special economic zones in the territory of seaport is regulated by the Law of Republic of Azerbaijan about “Special economic zones”.

Article 2. Customs of seaport

2.1. Customs of seaport represent the rules of behavior which are developed and widely applied in case of rendering of services in seaport and not stipulated by the legislation of the Republic of Azerbaijan.

2.2. Customs of seaport shall not contradict the Constitution of the Republic of Azerbaijan, the conventional principles and regulations of international law, international treaties supported by the Republic of Azerbaijan, the Code of Merchant Shipping of the Republic of Azerbaijan, present Law and other laws and regulatory legal acts of the Republic of Azerbaijan. Customs of seaports shall be posted in official web page of respective executive authority or the port.

Article 3. The main definitions used in this Law

3.1. For the purposes of this Law the following main definitions are used:

3.1.1. seaport (further — port) — complex of facilities located in special area and water area, intended for rendering the services to vessels used for merchant

shipping and to passengers, for carrying out transactions with freights and rendering other services carried out in seaports;

3.1.2. port authority — legal entity established with purpose of arrangement and management of operation of the port, and the regulations of which is approved by respective executive authority;

3.1.3. assets of infrastructure of seaport - hydraulic engineering installations of port, turning water area of vessels, internal raids, anchor parking, docks, towing, guiding and supply vessels, icebreaker ships and other vessels of port, the means of navigation equipment and other assets of navigation and hydrographic provision of sea lanes, traffic control systems of ships, automated information systems, loading equipment, railway and road passage ways, communication lines, heating, gas, water and power supply facilities, other devices, equipment, engineering communications, warehouses, buildings and other structures intended for provision of safety of navigation, rendering of services in seaport, provision of state control in seaport;

3.1.4. port hydraulic engineering facilities – hydraulic engineering facilities interacting with water, intended for provision of safety of navigation and parking of vessels (coast protection facilities, breakwaters, dams, sand and stone dikes, overpasses, docks, platforms, access canals and submarine facilities);

3.1.5. overpass - the port hydraulic engineering facility intended for parking of vessels, servicing of vessels and passengers, including their boarding to and landings from vessels, implementation of transactions with freights;

3.1.6. holders of infrastructure assets of seaport – owners of these assets or legal and physical entities using the assets on other legal bases;

3.1.7. the maritime terminal - set of infrastructure assets of seaport, technologically connected among themselves and which assignment and use is intended for implementation of transactions with freights, their transfer, as well as servicing of vessels, other vehicles and (or) passengers;

3.1.8. the operator of the maritime terminal - the legal or physical entities performing operation of the maritime terminal, freights transactions, their transfer, as well as servicing of vessels, other vehicles and (or) passengers;

3.1.9. internal roadstead - the water space specially allocated within water areas of seaport and intended for servicing of vessels and implementation of freights transactions;

3.1.10. external roadstead - the water space specially allocated in territorial waters of Republic of Azerbaijan, outside the seaport water area, and intended for parking of vessels on anchors and their maintenance;

3.1.11. transfer of freights - the complex type of services and (or) works on loading of freights and (or) baggage from one mode of transport on other mode during international, local and transit handlings, including displacement of freight

within the borders of seaport and their technological accumulation, or without technological accumulation;

3.1.12. technological accumulation of freights - forming of batches of freights pending for provision of vehicles during transfer of freights;

3.1.13. users the services rendered in port (further - users), - consignors (shippers), consignees (receivers), ship owners, forwarders, passengers, as well as legal and physical entities;

3.1.14. services rendered in the port — services rendered to user inside and outside the water area of port;

3.1.15. the borders of port — borders of its territory and water area;

3.1.16. the territory of port - the plot (plots) of land not covered with surface waters, including artificially created plot (plots) of land within borders of port;

3.1.17. water area of port — water space within borders of plot;

3.1.18. artificially created land plot — land plot in the port created through washout, or spread of ground or through using other methods in the port;

3.1.19. entry of water area of the port — external roadstead and areas of sea lanes adjacent to water area of the port and where the vessels navigating in territorial waters of the Republic of Azerbaijan should move cautiously with purpose to ensure navigational safety;

3.1.20. illegal intervention action in the port — any action envisioned by the Convention for “Suppression of Unlawful Acts Against the Safety of Maritime Navigation” and threatening the safety of vessel and the port;

3.1.21. carrier — legal and physical entity performing passenger and cargo conveyance according to contract of conveyance or other legal grounds;

3.1.22. dangerous goods — substances or objects which may damage the environment and cause explosion, fire or damage to the means of transport, facilities, buildings and structures, as well as the death, disability, poisoning, burning, irradiation or falling ill of people and animal in the process of handling, loading, unloading and storage depending on their specific properties;

3.1.23. vessel agent — any legal or physical entity defending the interests of the owner of vessel, lessee of vessel or the person operating the vessel with other legal grounds in the port regarding arrival to port, presence in the port and departure from the port of vessel, representing them in government authorities and the port authority, carrying out other formalities, performing financial assignments and carrying out other actions on behalf of owner of vessel, lessee of vessel or the person operating the vessel with other legal grounds, meeting the minimum requirements established by UN Conference on Trade and Development regarding the vessel agent.

Article 4. Borders of the port

4.1. The borders of port are determined by respective executive authority.

4.2. Data on the borders of the port shall be specified in “Mandatory regulations on the port” and “Notices to seamen” issued by respective executive agency.

Chapter 2. Construction, expansion, opening and closing of port

Article 5. Construction and expansion of port

5.1. The decision on construction or expansion of seaport is made by respective executive authority based on the documents of territorial planning prepared according to the legislation on urban planning and construction. The Port is named in accordance to the Law of the Republic of Azerbaijan about “Names of Geographical Assets”.

5.2. By the decision on construction and (or) expansion of port, the creation of artificial plots of land can be envisioned.

Article 6. Opening and temporary closing of port for rendering of services

6.1. The level of readiness of port for operation is inspected by respective executive authority after completion of construction, arrangement and logistics of port and when there is a positive result the decision is made by respective executive authority about the opening of port with entry of data about the port in Seaports Register of Republic of Azerbaijan.

6.2. When it becomes impossible to render the services in the port or the maritime terminal in case of emergency, illegal intervention actions, crashes of vessels and other accidents, as well as threat for life or health of the people, threat of damage and (or) destructions of property and freights, the port authority applies to the respective executive authority immediately for temporary closing of seaport for rendering of services. The respective executive authority makes the decision if it considers necessary the temporary closing of port for rendering the services, defines the period of temporary closing and sends the written notification about this to port authority and organizations operating in the field of navigation on the same day.

6.3. Information on opening or temporary closing of port for rendering the services is published in "Notices to Seamen".

Article 7. Closing of port

7.1. The decision about closing of port is made by respective executive authority.

7.2. The port cannot be closed earlier than 1 (one) year from the date of decision made about closing of port.

7.3. The respective executive authority sends the written notification about closing of port to port authority and organizations operating in the field of navigation within 5 business days.

7.4. The respective executive authority shall make the respective records in Seaports Register of the Republic of Azerbaijan within 10 business day when the port is closed.

Chapter 3. State regulation of activities in port

Article 8. The bases of state regulation of activities in port

8.1. State regulation of activities in the port is performed to ensure:

- 8.1.1. safety of navigation, life and health of people;
- 8.1.2. protection and safety of the state;
- 8.1.3. protection of order in the port, revealing and prevention of the illegal intervention actions;
- 8.1.4. safe operation of infrastructure assets of port;
- 8.1.5. integrated development of port;
- 8.1.6. effective use of infrastructure assets of the port, being under state property;
- 8.1.7. establishment of equal conditions and avoidance of discrimination for implementation of activities in port;
- 8.1.8. the opportunity of using services in the port without discrimination;
- 8.1.9. prevention of pollution of environment;
- 8.1.10. observance of requirements on use and protection of water assets defined by the Water Code of the Republic of Azerbaijan;
- 8.1.11. competitiveness of seaport;
- 8.1.12. state control on import and export of marine hunting products and processed products of water biological resources.

8.2. State regulation of activities in port is performed by means:

- 8.2.1. realization of state control;
- 8.2.2. adoption of regulatory legal acts;
- 8.2.3. technical regulation;
- 8.2.4. establishment of rates for services rendered in the port;

- 8.2.5. granting on lease the property in the port which is under state ownership;
 - 8.2.6. opening and closing of port for rendering of services;
 - 8.2.7. provision of safety of navigation and hydraulic engineering facilities in the port;
 - 8.2.8. establishment of conditions for use of infrastructure assets of the port by the operators of maritime terminals and carriers without discrimination;
 - 8.2.9. implementation of navigation and hydrographic provision;
 - 8.2.10. carrying out the state examination of design documentation for construction and renovation of infrastructure assets of ports;
 - 8.2.11. carrying out the control on compliance with international treaties supported by the Republic of Azerbaijan in the field of sea transport and legislation about merchant shipping.
- 8.3. Customs, border, phytosanitary, veterinary and radiation control in the port is carried out in accordance to respective Laws regulating these fields.
- 8.4. State control in the port is carried out by respective executive authority.

Article 9. Register of Seaports of the Republic of Azerbaijan

- 9.1. Ports are subject to the state registration in the Register of Seaports of the Republic of Azerbaijan.
- 9.2. Management of the Register of Seaports of the Republic of Azerbaijan is carried out by respective executive authority. The order of management of Register of Seaports of the Republic of Azerbaijan is established by respective executive authority.
- 9.3. The following data is entered in the Register of Seaports of the Republic of Azerbaijan:
- 9.3.1. name of the port;
 - 9.3.2. registration number of the port;
 - 9.3.3. name and address of port authority;
 - 9.3.4. date and number of decision about opening of port for rendering the services;
 - 9.3.5. the list of the operators of maritime terminals, as well as services rendered by them;
 - 9.3.6. the main technical characteristics of the port, as well as its capacities for the transfer of freight, rendering services to vessels and (or) passengers;
 - 9.3.7. period of navigation;

9.3.8. the geographical position of the port;

9.3.9. the basis and date of removal of port from the Register of Seaports of the Republic of Azerbaijan.

9.4. In case of changes of the data specified in the article 9.3 of present Law, the respective changes are made in the Register of Seaports of the Republic of Azerbaijan.

9.5. Removal of the port from the Register of Seaports of Republic of Azerbaijan is carried out on the basis of decision of respective executive authority about closure of the port for rendering the services.

Article 10. Captain of the port

Work of the captain of the port is regulated according to the regulations approved by respective executive authority.

Article 11. Vessel agent in ports

11.1. The order of work, rights and duties of vessel agent in ports is determined by “Regulations about vessel agent” approved by respective executive authority.

11.2. Certificate shall be obtained from respective executive authority for rendering the services of vessel agent in ports. Form, term of validity, the order of issuance and revocation is determined by respective executive authority. State duty envisioned by the Law of the Republic of Azerbaijan “About state duty” is paid for obtaining the certificate.

11.3. Vessel agent in ports shall meet the minimum requirements established by UN Conference on Trade and Development.

11.4. Relations between vessel agent and the owner of vessel, lessee of the vessel and the person operating the vessel on other legal grounds are regulated by the contract.

Article 12. Mandatory regulations on the port

12.1. “Mandatory regulations on the seaport” are approved by the respective executive authority, and published in Azerbaijani and English languages.

12.2. When the water area of base point of respective executive power body is adjacent to the port, the mandatory regulations in the port are agreed with the respective executive authority.

12.3. “Mandatory regulations on the seaport” cover the followings:

12.3.1. outline plan of the port;

12.3.2. rules of access and egress of vessels to/from the port;

12.3.3. speed limit and rules of navigation of vessels at the entry of water area of the port and in the water area;

12.3.4. the description of the action area of traffic control systems of vessels and the rule of navigation of vessels in these zones;

12.3.5. rules of parking of vessels in the port and specification of their parking places;

12.3.6. districts prohibited for navigation;

12.3.7. rules of provision of ecological safety, observance of quarantine in the port;

12.3.8. rules of using the special means of communication in the territory and the water area of the port;

12.3.9. data about borders of the port;

12.3.10. data about borders of entries to the port;

12.3.11. data about borders of marine districts A1 and A2 of the Global marine disaster and safety communication system in case of the disaster and for safety control as envisioned in “International Convention for the Safety of Life at Sea”;

12.3.12. data about technical capacities of port regarding acceptance of vessels;

12.3.13. data about navigation period;

12.3.14. data about areas of mandatory and optional guiding of vessels;

12.3.15. data about areas of mandatory and optional guiding of vessels with towing vessels;

12.3.16. data about depths of the water area of port and its entries;

12.3.17. data about processing of dangerous goods;

12.3.18. data about arrangement of navigation of vessels in the port and its entries;

12.3.19. data about information transfer by the captains of vessels, being in the port, in case of threat of actions of illegal intervention in the port;

12.3.20. data about transfer of of navigation and hydro-meteorological information to the captains of vessels, being in the port.

12.4. The vessels shall follow “The Mandatory Regulations on the Seaport” and the rules of navigation in territorial waters established by respective executive authority in the water area of the port.

Article 13. Safety control in the port

13.1. The order of safety control during illegal intervention action in ports is determined by respective executive authority.

13.2. The requirements of respective executive authority in the field of navigation safety and protection from illegal intervention actions are mandatory for port authority, as well as the operators of maritime terminals, owners of infrastructure assets of the port, captains of vessels, the persons operating and (or) present in the port.

13.3. Protection of port and infrastructure assets of the port is carried out in accordance with international treaties supported by the Republic of Azerbaijan and the procedure established by respective executive authority.

13.4. The port shall possess documents envisioned in “International Ship and Port Facility Security Code”.

13.5. The operators of maritime terminals, owners of infrastructure assets of the port, captains of vessels, persons operating or being present in port shall ensure:

13.5.1. to inform timely the port authority about arising of a situation endangering the navigation safety and (or) conduct of the activities in the port, as well as about illegal intervention actions for respective measures to be taken by port authority;

13.5.2. to observe the order in the port;

13.5.3. to take measures for preventing pollution of water area of the port and port area with production and consumption wastes, muddy and (or) oily water, other substances dangerous and (or) harmful to human health and (environment);

13.5.4. to assist in unbiased, complete and detailed investigation of reasons of occurrence of incidents in the port.

13.6. The duties of port authority while ensuring safety of the port are:

13.6.1. to inform the respective executive authority immediately for taking the respective measures in cases when illegal intervention action, the situations threatening the safety of activity conducted in the ports, pollution of port area or water area of port arise, as well as when the information is received about other situations threatening the navigation safety;

13.6.2. to assist to the respective executive authority for ensuring navigation safety and protection from illegal intervention actions in the port, as well as in unbiased, complete and detailed investigation of reasons of occurrence of incidents in the port;

13.6.3. to fulfil the instructions of respective executive authority in the field of navigation safety, protection of human life and health in the sea, protection of marine environment.

Article 14. Requirements regarding the operator of maritime terminal and infrastructure assets of the port

14.1. Besides the fulfillment of requirements, established by the article 13.5 of present Law, operators of maritime terminals and other owners of infrastructure assets of the port shall observe the following rules:

14.1.1. to perform operation of infrastructure assets of the port according to the requirements in the field of safety of industry, environment, fire and labour;

14.1.2. to perform the measures connected with provision of protection of infrastructure assets of the port from acts of illegal intervention in the port;

14.1.3. to ensure equal access to services in the ports, availability of data on such services;

14.1.4. to prevent monopolistic activity or unfair competition.

14.2. The operator of maritime terminal and the owners of technologically interdependent assets of infrastructure of the port shall conclude contracts among themselves in the view to organize and ensure continuity of respective services in the port. The contract shall contain conditions regarding maintenance of infrastructure assets of the port and establishment of the order of maintenance, and the liabilities of the parties.

Chapter 4. The bases of rendering the services in the port and rates for services

Article 15. Rules of rendering the services in the port

15.1. The vessels and passengers are provided with services regarding implementation of freight transactions and transfer of freight in the port.

15.2. The rule of rendering the services in the port is defined by respective executive authority.

15.3. Rates for port services, the services regarding operation of port facilities, transfer of freight and navigation safety activity are approved by respective executive authority.

15.4. Rates for services rendered in the port but not concerning the activity of natural monopolistic subjects are determined according to the contract.

Article 16. Financing of operation of the port

Operation of the port is financed on the account of assets acquired from the services rendered by port and lease of the property and other sources not prohibited by laws of the Republic of Azerbaijan according to present Law.

Chapter 5. Features of rendering the services on transfer of freight in the port

Article 17. Contract on transfer of freight

17.1. Services on transfer of freight are provided by the operators of maritime terminals based on the contract on transfer of freight.

17.2. One of the parties (operator of the port) on the contract on transfer of freight undertakes to carry out transfer of freights and other works and services established by

the contract on transfer of freights in consideration of the fee to paid, and other party (customer) undertakes to provide in time the freight of respective size for the transfer and (or) to accept and export the freight in time. Consignor (sender), consignee (receiver), carrier, expeditor or other physical or legal entity may act as a customer on the contract on transfer of freight.

17.3. Rights and duties of the parties, volume of the freight, transfer period and other conditions of rendering the services by the operator of maritime terminal, conditions of delivery of freight by customer for transfer, as well as other conditions considered necessary by the parties for arrangement and realization of freight transfer process are established by the contract on transfer of freight.

17.4. The registration of documents for freights to be transferred, as well as other additional services and works can be envisioned by the contract on transfer of freights.

Article 18. Features of acceptance and handover of freight

18.1. Acceptance and handover of freights by operators of maritime terminals and carriers is carried out in the places allocated in the territory of the port with purpose of loading and unloading of freights for corresponding vehicles.

18.2. Acceptance of freight from consignor and handover of the freight to consignee in the port is carried out in storage, side or deck of the vessel by the carrier.

18.3. Acceptance of freight from consignor and handover of freight to consignee in internal roadstead of the port is carried out in storage, or deck of the vessel in all cases.

18.4. When the contract on transfer of freight specifies the duty of the operator of maritime terminal for acceptance of freight and (or) handover of freight to the carrier for further transportation, the carrier makes visual examination of the freight, as well as checks the weight of freight and number of packages and handovers the freight to the operator of maritime terminal and (or) accepts from the operator of maritime terminal based on the contract for transportation of freight.

Article 19. Ensuring cargo exportation from the port

19.1. Exportation of cargo from the port in times defined in the contract is carried out by the customer or the person authorized by the customer regarding the receipt of freight from the operator of the maritime terminal.

19.2. The term of exportation of cargo from the port is determined in the contract on transfer of freights.

19.3. When the cargo is not exported from the port within the term envisioned by the contract, the actions of operator of maritime terminal are determined by this article and the rule of rendering services in the port.

19.4. The operator of the maritime terminal shall ensure safety of safety of freights, not exported of the port in due time.

19.5. The operator of maritime terminal shall notify in writing the customer on the expiration of term established by the contract on transfer of freights for cargo exportation from the port unless otherwise envisioned by such contact.

19.6. Unless otherwise envisioned by the contract on transfer of freights, the operator of maritime terminal is entitled to store the freights which have not been exported from the port in due time according to the article 20 of present Law.

19.7. Places, conditions of storage of freights in the territory of the port which passed the customs control and their disposal are defined by the customs legislation.

Article 20. Cargo lien

20.1. Unless otherwise envisioned by the contract on transfer of freights, the operator of maritime terminal has the right to hold freights (except for the freights withdrawn from turnover or with limited turnover according to the civil legislation, as well as the freights intended for needs of defense of the country, safety of state and preserving the law and order) in case of failure of realization of payment envisioned by the contract on transfer of freights. In this case, financial requirements of the operator of maritime terminal performing freights holding are satisfied on the account of value of freights realized according to the procedure established by this Article. The operator of maritime terminal has the right to hold freights before complete repayment of debt by the customer according to the contract on transfer of freights with consideration of costs regarding storage of freights.

20.2. When the freights handed to the operator of maritime terminal are not claimed and (or) exported from the port during the term envisioned by the contract on transfer of freights, or the debt against the operator of maritime terminal on the payments envisioned by the contract on transfer of freights are not paid by the customer, freights can be fully or partially realized by the operator of maritime terminal based on the judgment. The provisions of present article are not applied in cases established by the article 20.5 of present Law.

20.3. When containers, cases or similar means being under the property of customer are used for transportation or packaging of freights if such adaptations belong on the property right to the customer, it can be fully or partially realized by the operator of maritime terminal based on the judgment. The provisions of present article are not applied in cases established by the article 20.5 of present Law.

20.4. Unless other method of communication is envisioned by the contract on transfer of freights, the operator of maritime terminal shall immediately notify in writing the customer about the forthcoming independent realization of food and (or) perishable goods, as well as the means being under the property of customer used for transportation or packaging regarding to the expiry of term for exportation of freights from the port.

20.5. In case the decision is not made about the food and (or) perishable goods within 4 (four) days after the notification of customer, the operator of maritime terminal has the right to realize such freights, as well the means being under the property of customer used for transportation or packaging adaptations for their transportation (except for the freights withdrawn from turnover or with limited turnover according to the civil legislation, as well as the freights intended for needs of defense of the country, safety of state and preserving the law and order) independently, according to the price approved by

the documents about repayment of freights and usually withhold for similar goods, or based on the expert evaluation, or according to the price approved by the contract in the absence of such documents. The expert evaluation of value of freights is carried out by entities of evaluation activities in accordance with the Law of Republic of Azerbaijan "About Evaluation Activity", or by means examination in accordance with civil legislation of the Republic of Azerbaijan.

20.6. The accounting of freights realized by the operator of maritime terminal and calculations for them is carried out as determined by respective executive authority.

20.7. The means received from realization of freights, less the payments due to the operator of maritime terminal and the costs for storage and realization of freights are subject to be transferred to the customer's account. If the means received from realization of freights are not enough to cover the financial claims of the operator of maritime terminal and costs regarding storage and realization of freights, the operator of maritime terminal has the right to claim the full recovery of damage caused to it judicially.

20.8. In case of realization of freights confiscated through the valid decision of the court, as well as the freights refused for benefit of state by the person entitled to dispose on the freights, the payments envisioned by the contract on transfer of freights is paid on the account of means obtained from realization of freights, if the customer did not pay the costs of rendered services and executed activities to the operator of maritime terminal.

Article 21. Basis of responsibility of the operator of maritime terminal

21.1. The operator of maritime terminal is responsible for loss, insufficiency and (or) damage of freights from the date of their acceptance in storage until their handover and (or) their provision at the disposal of the customer or the person authorized by him.

21.2. When the freights are not handed over to the customer, or the person authorized by him by the operator of maritime terminal within 30 (thirty) days from the date specified in the contract on transfer of freights, the freights are deemed lost.

21.3. The operator of maritime terminal bears responsibility for loss, insufficiency and (or) damage of freights, occurred through his fault at the following amounts:

21.3.1. in the amount of cost of the lost or missing freights - for loss or insufficiency of freights;

21.3.2. in the amount on which cost of freights decreased, and in the amount of cost of damaged freights in case of impossibility of their recovery - for damage of freights;

21.3.3. in the amount of declared value of freights - for loss, insufficiency or damage of the freights handed over to the operator of maritime terminal with declaration of their cost.

21.4. When the payment for technological accumulation of freights is not included in total price of the contract as envisioned by the contract, along with payment of costs for lost, missing or damaged freights, the operator of maritime also returns to the customer the fees received earlier for technological accumulation of such freights.

21.5. The cost of lost, missing or damaged freights is determined on the basis of price of freights substantiated with payment documents or the price specified in documents, accompanying freight. When the price is not specified in documents accompanying the freight, cost of freights is determined based on the price of similar goods, or based on the expert evaluation.

21.6. The statement for loss, insufficiency or damage of freights is presented to the operator of maritime terminal on the day of issue or refusal from the issue of freights to the customer or the person authorized by it. If written statement about loss, insufficiency, or damage of freights is not presented to the operator of maritime terminal by the customer or the person authorized by him during the handover of freights, and loss, insufficiency or damage of freights is not specified, the freights is considered to be in conformity with the documents accompanying the freight unless otherwise is proved.

21.7. The operator of maritime terminal shall establish the necessary conditions for realization of duties which execution were entrusted to customs bodies of Republic of Azerbaijan, supply the transport, communication and other means of technical control for realization of customs control and coordinate its activities with customs bodies.

Article 22. Requirements, claims and claim period

22.1. A claim shall be issued against the operator of maritime terminal until the claim is lodged in the court on the requirements arising from the contract on transfer of freight against the operator of maritime terminal, except the requirements on services and (or) works for personal, family, house and other needs of customer not connected with realization of entrepreneurship activity.

22.2. The claims following from the contract on transfer of freight, can be lodged against the operator of maritime terminal within 6 (six) months from the date of occurrence of events which have served as the basis for presentation of claims. The operator of maritime terminal can accept these claims for consideration after the expiry of term established by this Article if he recognizes valid the reasons of the omission of term of presentation of such claims.

22.3. The claims following from the contract on transfer of freight are presented in written and documents, confirming the requirements for the claim, including the documents proving the weight of freight, number of packages and the value of freight shall be attached.

22.4. The operator of maritime terminal shall consider the claim following from the contract on transfer of freight, within 30 (thirty) days from the date of receiving them and notify in written the applicant on satisfaction (including about partial satisfaction) or the waiver of this claim. In case of partial satisfaction or waiver of this claim, the operator of maritime terminal shall justify the decision made in accordance with laws and other regulatory legal acts of the Republic of Azerbaijan. Documents provided with presentation of claim are returned to the applicant together with written notification about partial satisfaction or waiver of the claim.

22.5. Flow of claim period is suspended from the date of presentation of claim following from the contract on transfer of freights to the operator of maritime terminal until the receipt of answer regarding the claim, or the expiry of period established for the answer.

22.6. The claims following from the contract on transfer of freights, can be lodged within 1 (one) year from the date of occurrence of the events which have served as the basis for presentation of such claims.

Article 23. Requirements for transfer of dangerous goods

23.1. The requirements established by the respective executive authority on safety of freights handling, loading and unloading and storage of dangerous goods shall be observed with consideration of their physical and chemical properties during the transfer of freights arrived in the warehouses of the operator of maritime terminal.

23.2. If the dangerous goods are handed over to the operator of maritime terminal with violation of statutory rules (with wrong description and marking, improper packaging or the absence of required documents) and the operator of maritime terminal could not ascertain the dangerous nature of goods by means of visual inspection during acceptance of dangerous goods or otherwise was not informed on dangerous goods or necessary precautionary measures, the operator of maritime terminal carries out destruction and (or) neutralization of such freight in case of the situation, endangering the other freights present in the port, safety of activities performed in port, safety of infrastructure assets of the port, life or health of the people, without indemnification of damage to the consignor or the consignee or another person acting on legal basis concerning this freight. Destruction or neutralization of dangerous goods is carried out as determined by the respective executive authority.

23.3. Costs suffered by the operator of maritime terminal regarding the conduct of measures on destruction or neutralization of dangerous goods as specified in the article 3.1.22 of present Law are reimbursed by the person responsible to inform on such dangerous goods.

Article 24. Regulation of relations between the operator of maritime terminal and carriers

24.1. Transfer of the freights in ports during international, local and transit shipping is carried out by means of interaction of operators of maritime terminals and carriers of marine, railway, road and other modes of transport.

24.2. Relations between the operator of maritime terminal and the carrier in the port, as well as their interaction, rights and duties are determined by the contract.

24.3. The contract specified in the article 24.2 of present Law is concluded for the period of 5 (five) years and can be amended by mutual consent of parties in case of changes in their technical support, technology of conduct of works.

24.4. The following terms are established by the contract concluded between the operator of maritime terminal and carrier of railway transport:

24.4.1. places and regulations of simultaneous loading and unloading of cargo to/from coaches with consideration of working conditions and amount of transportations on the basis of single engineering operating procedure of the railway station and the operator of maritime terminal;

24.4.2. standard time for:

24.4.2.1. disconnection of cluster of coaches, supply and withdrawal of coaches;

24.4.2.2. classification of coaches and other vehicles according to the consignors and consignees;

24.4.2.3. conduct of operations on acceptance and handover of cargo;

24.4.2.4. registration and issue of documents;

24.4.2.5. supply of coaches to scale and their cleaning from scale;

24.4.2.6. preparing the coaches for loading the freights;

24.4.2.7. loading/unloading of freight to /from coaches;

24.4.2.8. cleaning the coaches from the means used for loading, placement, securing and carriage of freight, the remainders of earlier carried freights;

24.4.2.9. visual inspection of coaches and other vehicles for loading of freight in the view of checking their technical fitness;

24.4.3. the procedure of payment between parties;

24.4.4. special conditions influencing implementation of freight loading/unloading to/from the coaches, and conduct of other activities and transactions (weather conditions, shifting of activity, etc.)

24.4.5. other conditions determined by the parties.

24.5. In case of absence of the locomotive at the operator of maritime terminal, supply and gathering of coaches at loading and unloading places, maneuvering on the rail tracks of uncommon use located within borders of the port is carried out by the locomotive of carrier of rail transport in accordance with the terms of the contract.

24.6. Carriers of marine, railway and other modes of transport can conclude contract with owners of infrastructure assets of the port, not being operators of maritime terminals.

Chapter 6. Land and property relations in the port

Article 25. Plots of land for ensuring activity in the port

25.1. Allocation of land plots with purpose of construction of port is carried out in accordance with land legislation of the Republic of Azerbaijan. Protection zones of special legal order are established around the infrastructure assets of the port according to land legislation of the Republic of Azerbaijan.

25.2. Lands under 20-50 meter coastal strip of section of Caspian Sea (lake) belonging to the Republic of Azerbaijan are given to ports based on the rights on use and lease.

25.3. The plots of land within the borders of the port are not given to the ownership of physical and legal entities in the property, except the cases established by the article 25.4 of present Law.

25.4. The plots of land within the borders of the port, occupied by the hydraulic engineering facilities of the port established or acquired at the expense of funds of physical or legal entities, and also the plots of land occupied by buildings, structures, the facilities used for realization of activities in the port and being under the ownership of physical or legal entities can be given to their property. The provisions of present article are not applied to foreigners, stateless persons and foreign legal entities.

25.5. With consideration of provisions of article 25.4 of present Law, the neighborhood land plots being under the ownership of physical or legal entities can be included to the territory of the port with purpose of increasing the territory of the port. In this case, the neighborhood land plots being under the ownership of physical or legal entities can be withdrawn from the owner for state needs as envisioned by the law of the Republic of Azerbaijan “About withdrawal of lands for the state needs”.

Article 26. Limitation of turnover of infrastructure assets of the port

26.1. The following assets of port infrastructure are exclusively the property of state:

26.1.1. subsurface facilities intended for entry channels;

26.1.2. vessels' movement control systems;

26.1.3. assets of infrastructure of the port, necessary for functioning of the global marine communication system in case of the disaster and for safety control;

26.1.4. means of navigation equipment and other assets of navigation and hydrographic provision of marine lanes;

26.1.5. assets and means of information system, common supervision system on navigation and navigation control;

26.1.6. coast protection facilities, breakwaters, dams, sand and stone dikes, docks, overpasses;

26.1.7. infrastructure assets of the port used for ensuring activities of state bodies in the port;

26.1.8. railway and road crossings, communication lines, heating, gas, water and electricity supply facilities, other facilities used for operation of two or more maritime terminals, engineering communications;

26.1.9. icebreakers and other vessels of the port (special rescue vessels).

26.2. Infrastructure assets of the port established or acquired on the account of funds of legal or physical entities before the effective date of present law, specified in articles 26.1.1-26.1.9 of present Law are in the property of these persons.

26.3. Unless otherwise is envisioned by water, land, civil and merchant shipping legislation of Republic of Azerbaijan, the infrastructure assets of the port specified in the articles 26.1.1-26.1.9 of present Law can be provided for use and lease of legal and physical entities.

Article 27. Management of state owned infrastructure asset of the port

Management of infrastructure assets of the port and making arrangements on them is carried out as specified by the law.

Article 28. Conditions of provision of state-owned infrastructure asset of the port for lease and use

28.1. State owned infrastructure asset of the port may be provided for lease only on the basis of tender procedure. The order of tendering is determined by the respective executive authority.

28.2. The size of rent for use of state-owned infrastructure assets of the port is determined based on the report of independent appraiser on the assessment of market value of using the state-owned real estate located within the borders of port on the lease contract in accordance with the Law of the Republic of Azerbaijan “About Evaluation Activity” and evaluation standards.

28.3. Lease term of state-owned property of the port constitutes 49 (forty nine) years if shorter term is not declared by the lessee of such property. In case of assignment on the lessee of state-owned and real estate asset of infrastructure of the port the duty of carrying out the major repair of such leased asset at own expense, the minimum term of its lease cannot be less than 15 (fifteen) years.

28.4. Main provisions of lease or concession agreement of state-owned assets of infrastructure of the port are:

28.4.1. use of the asset of lease, asset of concession agreement according to its assignment;

28.4.2. equal access to services rendered with use of asset of lease, asset of concession agreement;

28.4.3. smooth performance of powers by government authorities.

28.5. Lease agreement is terminated according to the procedure established by Civil Code of the Republic of Azerbaijan in case of failure to use the subject of lease according to its assignment, or failure to comply with main provisions of lease agreement or non-use of such asset of lease on the fault of lessee.

28.6. The lessee has the right to deliver the state owned infrastructure asset of the port for sublease with the consent of the lessor.

Chapter 7. Final provisions

Article 29. Transitional provisions

29.1. Ports with port status in the Republic of Azerbaijan before the effective day of present Law are considered open for rendering the services irrespective of the date of assignment of registration number to them in the Register of Seaports of the Republic of Azerbaijan. Data on specified ports are entered to the Register of Seaports of Azerbaijan Republic according to the procedure established by present Law.

29.2. “The borders of the port” mean developed borders of the port as specified in “Mandatory regulations on the port” and “Notices to seamen” till the definition of borders of the port by respective executive authority.

The President of the Republic of Azerbaijan

Ilham ALIYEV

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