

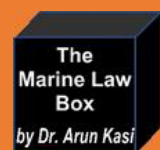
MALAYSIAN STATUTES

Compilation by **Arun Kasi & Co**
Maritime Lawyers, Malaysia
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MERCHANT SHIPPING ORDINANCE 1952

(Incorporates amendments by Act A1551 of 2017
which have not come into force as at 14 April 2023)

The Marine Law Box



MERCHANT SHIPPING ORDINANCE 1952

Incorporating all amendments up to 1 March 2017

Date of Royal Assent	23 December 1952
Date of High Commissioner Assent	30 December 1952
Date of coming into operation	1 March 1953
	1 March 1953 except Part XIII (L.N. 72/1953);
	1 August 1953 Part XIII except paragraph 473(4)(a) (L.N. 311/1953)

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Preamble

An Ordinance to consolidate and amend the law with respect to Merchant Shipping.

IT IS HEREBY ENACTED by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of the Malay States with the advice and consent of the Legislative Council as follows:

[1 March 1953]

1. Short title

(1) This Ordinance may be cited as the Merchant Shipping Ordinance, 1952, and shall come into force on such date as the Minister may by notification in the Gazette appoint and the Minister may appoint different dates for the coming into force of this Act in either State.

(2) The Minister may appoint different dates for the coming into force of different Parts and provisions of this Ordinance.

2. Interpretation

(a) In this Ordinance unless the context otherwise requires –

"British ship" has the same meaning as in the Merchant Shipping Acts;

"buoys and beacons" includes all other marks and signs of the sea;

"cargo ship construction and survey rules" means rules made under section 256B;

[Ins. Act A792:s.2]

"certificated officer" includes an officer certificated under the Merchant Shipping Acts, the holder of a local certificate as defined in each case in Part III and the holder of any certificate of competency issued by the territories of the Federation, the State of Singapore, Sarawak, North Borneo and Brunei;

"coasting trade voyage" means a voyage in the course of which a ship does not proceed more than thirty miles from the coast of the Federation;

"collision regulations" means regulations made under section 252 of this Ordinance;

"conditions of assignment" means such of the load line rules as are made to give effect to Chapter II of Annex I to the Load Line Convention;

[Am. Act A895:s.2]

"construction rules" means rules made under section 256A of this Ordinance;

"consular officer" when used in relation to a foreign country, means the officer recognized by the Yang di-Pertuan Agong as a consular officer of that foreign country;

"continental shelf" has the same meaning given to it in the Continental Shelf Act, 1966;

[Ins. Act A603:s.2]

"country to which the Load Line Convention applies" means –

(a) a country the government of which has been declared to have ratified or acceded to the Load Line Convention, and has not been so declared to have denounced that Convention;

(b) a territory to which it has been so declared that the Load Line Convention has been applied under the provisions of Article twenty-one thereof, not being a territory to which it has so declared that that Convention has ceased to apply;

"country to which the Safety Convention applies" means –

(a) a country the government of which has been declared under section 306A to have accepted the Safety Convention, and has not been so declared to have denounced that Convention;

[Am. Act A792:s.2]

(b) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend;

"Court" in relation to any proceeding includes any Court having jurisdiction in the matter to which the proceeding relates;

"deck passenger" means a passenger for whom no accommodation in any cabin, state-room or saloon is reserved;

"declaration of survey" means a declaration made under section 209;

"Director of Marine" means the Director of Marine, having authority over the port or place at which any ship is or will be registered;

"effects" includes clothes and documents;

"exclusive economic zone" means the exclusive economic zone of Malaysia, as proclaimed by the Yang di-Pertuan Agong vide P.U. (A) 115/80, being an area beyond and adjacent to the territorial sea of Malaysia and extending to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured and where the limits of

the exclusive economic zone are modified and altered in accordance with the provisions of any written law relating to the exclusive economic zone, the exclusive economic zone shall mean the exclusive economic zone as so modified and altered;

[Ins. Act A603:s.2]

"Federation" means Malaysia;

[Ins. Act A393:s.5]

"Federation waters" means the territorial waters of the Federation;

"foreign going ship" (*Deleted*);

[Am. Act A792:s.2; Del. Act A1519:s.3]

"foreign going passenger ship" (*Deleted*);

[Am. Act A393:s.5; Del. Act A1519:s.3]

"home-trade ship" (*Deleted by Act A792*);

"home-trade passenger ship" (*Deleted by Act A792*);

"home-trade voyage" (*Deleted by Act A792*);

"international voyage" means a voyage from a port in one country to a port in another country, either of those countries being a country to which the Safety Convention applies, and "short international voyage" means an international voyage –

(a) in the course of which a ship is not more than two hundred nautical miles from a port or place in which the passengers and crew could be placed in safety; and

(b) which does not exceed six hundred nautical miles in length between the last port of call in the country in which the voyage begins and the final port destination;

so however that for the purpose of the definitions contained in this paragraph –

(i) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and

(ii) every colony, overseas territory, protectorate or other territory for whose international relations a government that has accepted the Safety Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country;

"legal personal representative" means the person so constituted executor, administrator or other representative of a deceased person;

"lighthouse" shall, in addition to the ordinary meaning of the word, include any floating and other light exhibited for the guidance of ships, and also any sirens and any other description of fog signals, and also any addition to a lighthouse of any improved light, or any siren, or any description of fog signal;

"load line rules" (*Deleted by Ord. 49/55*);

"local trade voyage" (*Deleted by Act A792*);

"local trade ship" (*Deleted by Act A792*);

"local trade passenger ship" (*Deleted by Act A792*);

"Load Lines Convention" means the International Convention of Load Lines signed in London on the 5th April 1966; and if any amendment of the Load Lines Convention comes into force with respect to Malaysia, references in this Ordinance to the Load Lines Convention shall, unless the context otherwise requires, be construed as references to the Load Lines Convention as amended;

[Subs. Act A895:s.2]

"load line rules" means rules made under section 309;

"Malaysia Shipping Notice" means a notice described as such and issued by the Director of Marine in pursuance of section 519A in such manner as determined by him;

[Ins. Act A1316:s.2]

"Malaysian ship" means a ship registered or licensed under Part II;

[Am. Act A1551:s.3]

"Malaysian waters" means the territorial waters of Malaysia as determined in accordance with the Territorial Sea Act 2012 [Act 750];

["Malaysian waters". Ins. Act A1519:s.3]

"master" includes every person, except a pilot, having command or charge of any ship;

"the Merchant Shipping Acts" means the Merchant Shipping Acts from time to time in force in the United Kingdom;

"Minister" means the Minister charged with the responsibility for merchant shipping;

"name" includes a surname;

"native sailing ship" means any wooden ship of primitive build of less than two hundred tons gross tonnage and not fitted with any mechanical means of propulsion, and includes a junk, tongkang, twakow or other similar ship;

"near-coastal trade passenger ship" means every near-coastal trade ship which is a passenger ship;

[Ins. Act A792:s.2; Gen. Am. Act A1519:s.2]

"near-coastal trade ship" means a ship plying solely upon a near-coastal trade voyage;

[Ins. Act A792:s.2]

"near-coastal trade voyage" means a voyage within such limits as may be defined by the Minister by rules made under this definition;

[Ins. Act A792:s.2]

"officer" includes a master, mate, engineer, gunner, helmsman and engine driver;

"passenger" means any person carried in a ship except –

(a) a person employed or engaged in any capacity on board the ship on the business of the ship;

(b) a person on board the ship either in pursuance of the obligation laid on the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; and

(c) a child under one year of age;

"passenger ship" means any ship carrying more than twelve passengers;

[*"passenger ship"*. Subs. Act A1519:s.3]

"pilot" means any person not belonging to a ship who has the conduct thereof;

"port" means a port or place declared to be a port under any written law in force in the State of Sabah or Sarawak, as the case may be and includes all such navigable rivers and channels leading thereto as are declared to be part thereof;

"port officer" includes the Harbour Master at any port of the Federation and any person lawfully acting for him;

"port undertakings" means the operation and maintenance of port and includes port-related activities at a port which is under the authority of the Director of Marine;

[Ins. Act A1551:s.3]

"radio navigational aid", means radio apparatus on board a ship being apparatus designed for the purpose of determining the position or direction of ship or other objects;

"radio rules" means rules made under section 262;

"Registrar" means the Registrar of Ships appointed under subsection 12(1);

[Am. Act A1551:s.3]

"Registrar General" (*deleted*);

[Del. Act A1551:s.3]

"representation" means probate, administration, confirmation or other instrument constituting a person the executor, administrator or other representative of a deceased person;

"rules for direction finders" means rules made under section 263;

"rules for life-saving appliances" means rules made under section 257;

"Safety Convention" means the International Convention for the Safety of Life at Sea signed in London on the 1st November 1974; and if any amendment of the Safety Convention comes into force with respect to Malaysia, references in this Ordinance to the Safety Convention shall, unless the context otherwise requires, be construed as references to the Safety Convention as amended;

[Subs. Act A792:s.2]

"Safety Convention ship" means a ship registered in a country to which the Safety Convention applies; and the expression "Safety Convention passenger ship" shall be construed accordingly;

[Gen. Am. Act A1519:s.2]

"sailing ship" means any ship not fitted with any mechanical means of propulsion;

"sea-going ship" means any ship going beyond port limits;

"seafarer" means any person who is employed or engaged in any capacity on board a ship to which this Ordinance applies, but does not include –

(a) a person not directly employed for the normal manning of the ship within the deck, engine or catering department;

(b) pilot;

(c) superintendent, surveyor, auditor, inspector;

(d) supernumerary;

(e) scientist, researcher, diver, specialist offshore technician or any person whose work is not part of the routine business of the ship;

(f) a person who works on board the ship solely within a port or at a port facility;

(g) repair and maintaining technician;

(h) non-marine personnel, employed under outsourced service agreement;

(i) military and armed personnel; and

(j) temporary riding crew;

["seafarer" Subs. Act A1519:s.3]

"service undertakings" means any services rendered by the Director of Marine to implement Malaysia's flag state obligations or other services rendered by him to facilitate the shipping industry;

[Am. Act A1551:s.3]

"ship" includes every description of vessel used in navigation not propelled by oars;

"shore leave" means the period during which a seafarer is allowed to take leave from the ship to go ashore while the ship he is working on is in the port;

["shore leave" Ins. Act A1519:s.3]

"superintendent" means a Superintendent appointed under the Merchant Shipping Acts;

"Surveyor of Ships" means the Surveyor of Ships appointed under subsection (1) of section 10 and includes –

(a) the Surveyor-General of Ships; and

(b) in relation to the States of Sabah and Sarawak, a surveyor of ships appointed under the provisions of any written law relating to merchant shipping in force in these States;

[Ins. Act A393:s.5; Am. Act A603:s.2]

"Surveyor-General of Ships" means the Surveyor-General of Ships appointed under subsection (2) of section 10;

[Ins. Act A603:s.2]

"tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides;

"unlimited voyage" means a voyage between a place in Malaysia and a place situated beyond the limit prescribed for near-coastal trade ship;

["unlimited voyage". Ins. Act A1519:s.3]

"vessel" includes any ship or boat or any other description of vessel used in navigation;

"voyage" means the whole time and the whole distance between the ship's port or place of departure and her final port or place of arrival;

"wages" includes emoluments.

(b) Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

(c) Any reference to a ship belonging to or for the time being in the service of any foreign State shall refer to a ship wholly or partially engaged in trade.

(d) Any reference to a ship constructed before or after any date shall be construed as referring to a ship the keel of which has been laid before or after that date as the case may be.

(e) The tonnage in this Ordinance referred to shall, unless the context otherwise requires, in the case of British and Malayan registered ships be the net registered tonnage, and, in the case of foreign registered ships, shall be the tonnage of such ships denoted in their certificates of registry where an Order in Council has been made under section 84 of the Merchant Shipping Act, 1894, in respect of the country to which the ships belong, and, where no such Order in Council has been made, the tonnage of such ships as nearly as possible approximating to the net registered tonnage as measured in British or Malayan registered ships.

3. *[Deleted by Act A1551:s4]*

4. Exemption of Her Majesty's ships and ships belonging to a Ruler

(1) This Ordinance shall not, except where specially provided and subject to the other provisions of this section, apply to ships belonging to Her Majesty or to His Highness the Ruler or His Excellency the Governor of any State.

(2) This Ordinance shall, with the exception of Part IV and except where special provision is made by rule made by the Minister, apply to all ships belonging to or in the employment of the Government of the Federation and in such application any reference to the "owner" shall be construed as a reference to the Director of Marine.

5. Minister may declare ports, etc.

The Minister may declare any port or place in the Federation and any navigable river or channel leading into such port or place to be a port within the meaning of this Ordinance.

6. Particulars in declaration.

(1) Every declaration by which any port or place is made a port within the meaning of this Ordinance, shall define the limits of such port and of any navigable river or channel declared to be part thereof.

(2) Such limits shall extend always up to high-water mark, and may include any piers, jetties, landing places, wharves, quays, docks and other similar works, whether within or without the

line of high-water mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high water mark.

(3) The limits so declared may be altered by the Minister.

7. Declaration to be published

(1) Every declaration of the Minister made in pursuance of section 5 shall be published in the Gazette or in such other public manner as the Minister directs.

(2) A copy thereof shall be fixed up in some conspicuous place in the Port Office to which such declaration relates.

8. Director of Marine, Port Office and Port Officers

(1) The Yang di-Pertuan Agong shall appoint an officer to be called the Director of Marine, who shall have the general supervision of all matters relating to merchant shipping throughout the Federation.

(2) In each of the ports of the Federation a Port Office shall be maintained under the charge of a Port Officer to be appointed by the Yang di-Pertuan Agong and to be called the Harbour Master.

(3) The Harbour Masters shall perform their duties under the direction of the Director of Marine.

(4) The Director of Marine may delegate the exercise of any of the powers conferred upon him by this Ordinance to such persons as he may think fit.

(5) The Yang di-Pertuan Agong may appoint a deputy or deputies to any Port Officer, either generally for all the purposes of this Ordinance and of the rules made under it or for the purposes of particular Parts, sections or rules.

(6) Any act done by, to or before a deputy within the powers conferred upon him shall have the same effect as if done by, to or before a Port Officer.

9. Appointment of Health Officer

(1) The Yang di-Pertuan Agong may appoint at any port an officer to be called the Port Health Officer.

(2) The Port Health Officers shall perform their duties under the direction of the Director of Medical Services, who shall have the powers of a Port Health Officer at each of the ports of the Federation.

(3) The Yang di-Pertuan Agong may appoint a deputy or deputies to any Port Health Officer, either generally for the purposes of this Ordinance and of the rules made under it or for the purposes of particular Parts, sections or rules.

(4) Any act done by, to or before a deputy Port Health Officer within the powers conferred upon him shall have the same effect as if done by, to or before a Port Health Officer.

10. Appointment of Surveyor of Ships and Radio Surveyor

(1) The Director of Marine may, at such ports as he thinks fit, appoint any person he thinks fit to be a Surveyor of Ships or a Radio Surveyor for the purposes of this Ordinance.

[Am. Act A792:s.3; [Am. Act A1551:s.5]]

(2) The Director of Marine may also appoint a Surveyor-General of Ships for the Federation.

[Am. Act A1551:s.5]

(2A) The Minister may appoint any person or organization to perform any specific functions of a Surveyor of Ships or a Radio Surveyor under this Ordinance at any place, whether within or outside Malaysia; and in connection with the performance of those functions such a person or organization shall be deemed for the purposes of this Ordinance to be a Surveyor of Ships or a Radio Surveyor, as the case may be, appointed under subsection (1).

[Ins. Act A792:s.3; Am. Act A 1551:s.5]

(3) The Director of Marine may appoint Surveyors of Ships to be Senior Ship and Engineer Surveyors or Senior Ship Surveyors either generally for the purposes of this Ordinance and of the rules made thereunder or for the purposes of particular Parts, sections or rules.

[Am. Act A1551:s.5]

(4) The Surveyor-General of Ships with the approval of the Minister, may delegate the exercise of any the powers conferred upon him by this Ordinance to such public officers as he may think fit.

[Am. Act A792:s.3]

(5) The Minister may make rules, and as to the performance of the duties of Surveyors of Ships and Radio Surveyors, and in particular as to –

(a) the manner in which surveys of ships shall be made;

[Am. Act A 1551:s.5]

(b) the notice to be given by the owners, masters or agents of such ships when surveys are required;

[Am. Act A 1551:s.5]

(c) the amount and payment of any travelling or other expenses incurred by Surveyors of Ships and Radio Surveyors in the execution of their duties, and of the fees to be charged for the inspections and other services performed by them; and the persons by whom, and the conditions under which, the payment of such fees and expenses is to be made;

[Am. Act A 1551:s.5]

(d) the requirements for appointment of any person or organization under subsection (2A);

(e) the requirements that the person or organization appointed under subsection (2A) shall fulfil when performing his or its functions; and

(f) the manner in which the person or organization appointed under subsection (2A) is to be regulated.

[(d), (e) and(f). Ins. Act A 1551:s.5]

(6) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the construction rules made from time to time by the Minister of Transport under the Merchant Shipping Acts shall unless varied by or repugnant to construction rules made under this section be deemed to be construction rules made under this section.

(7) The duties of a Surveyor of Ships and of a Radio Surveyor shall be performed under the direction of the Surveyor-General of Ships and in accordance with rules to be made by the Minister.

10A. Licensing of service or port undertakings

(1) Except in relation to ports where a port authority has been established by law, the authority for ports shall be the Director of Marine.

(2) The Director of Marine may issue a licence to any person to provide service undertakings or port undertakings under this Ordinance.

(3) Before exercising his power under subsection (2), the Director of Marine shall prepare and submit to the Minister a service plan for his approval.

(4) No service plan shall be put into effect until it has been approved by the Minister.

(5) A licence issued under this section shall set out the following matters:

(a) the functions to be performed by the licensee;

(b) the particular duties of the licensee in respect of the functions to be performed by the licensee;

(c) the compliance by the licensee of the performance standards as determined by the Director of Marine;

(d) the duration of the licence; and

(e) such other matters or conditions as the Director of Marine thinks fit.

(6) The Minister may make regulations as may be necessary or expedient for giving full effect to or for carrying out the provisions of this section.

(7) Without prejudice to the generality of subsection (6), the Minister may make regulations –

(a) to prescribe the annual fee payable by the licensee;

(b) to prescribe the fees and charges which shall be charged by the licensee in respect of the functions performed by the licensee;

(c) to prescribe the qualifications of persons to be employed by the licensee;

(d) to prescribe the type of records to be kept by the licensee; and

(e) to prescribe the type of returns to be submitted by the licensee to the Director of Marine at certain intervals.

(8) If the licensee contravenes any condition of the licence or any of the provisions of this section or the regulations made under this section and fails to remedy such contravention within a stipulated time period, the Director of Marine may revoke the licence issued to the licensee under subsection (2).

PART II – REGISTRATION AND LICENSING OF SHIPS

[Part II. Subs. Act A1551:s.7]

Preliminary

11. Interpretation

(1) In this Part, unless the context otherwise requires–

“authorized officer” means any person appointed by the Director of Marine as an authorized officer under section 68G;

“bareboat charter” means the hiring of a ship to a charterer under bareboat charter terms;

“bareboat chartered-in ship” means a ship on a bareboat charter registered as a Malaysian ship under this Part;

“bareboat charter terms” means the hiring of a ship for a stipulated period on the terms which give the charterer possession and control of the ship, including the right to appoint the master and crew of the ship;

“certificate of registry” means a certificate of registry, a provisional certificate of registry or a certificate of bareboat charter registry issued under this Part;

“licensing officer” means a public officer appointed under section 56;

“Register” means the Malaysia Ship Register or Malaysia International Ship Register maintained by the Registrar under section 14;

“representative person” means a person appointed under subsection 20(3).

(2) In this Part, unless the contrary intention appears–

(a) owner is the person or persons whose name appear in the Register or record of licences;

(b) a reference to the owner of a ship shall, if there is more than one owner, be read as a reference to each of the owners; and

(c) a reference to a ship includes a reference to a share or part of a ship.

(3) Where in relation to a ship or to any matter connected with a ship, any provision of this Part that imposes a duty or liability on the owner of the ship or provides for the service of a notice on the owner of the ship–

(a) owner means the owner of a registered ship or a ship to be registered;

(b) in the case of a ship registered under the Malaysia International Ship Register, owner includes the representative person; or

(c) in the case of a bareboat chartered-in ship, owner means the bareboat charterer,

provided that nothing in this subsection shall prejudice the operation of that provision in so far as it imposes the duty or liability on any person other than the owner.

Registry

12. Registrar and Deputy Registrar

(1) The Director of Marine may appoint a public officer to be the Registrar of Ships and such number of public officers to be the Deputy Registrar of Ships.

(2) The Deputy Registrar of Ships shall, subject to the control of the Registrar of Ships, perform the functions of the Registrar of Ships and have all the powers of the Registrar of Ships under this Part.

13. Functions and powers of Registrar

(1) The functions of the Registrar are –

(a) to maintain the Register;

(b) to issue a certificate or document which is required to be issued by him under this Part, and to rectify, suspend, cancel, revoke or terminate the certificate or document;

(c) to require information or documents to be furnished under this Part and to require the surrender of certificates and other documents issued under this Part;

(d) to issue copies of or extracts from any certificates or documents, and entries in the Register; and

(e) to have overall administrative control of the ship registration office and its branch offices.

(2) Notwithstanding subsection (1), the Registrar shall have the power to do all things necessary or expedient to be done, in connection with, or incidental to the performance of his functions.

14. Register

(1) The Registrar shall maintain a Malaysia Ship Register and a Malaysia International Ship Register.

(2) The Register shall contain –

(a) particulars of ships, owners, including bareboat charterers, mortgagees and representative persons, and their respective interests in the ships;

(b) particulars of division of shares in a ship which may be divided into any number of shares and shall not be changed unless the ship is registered anew; and

(c) any other particulars as may be determined by the Director of Marine.

(3) The Registrar shall maintain the Register in both physical or electronic form as may be determined by the Director of Marine.

15. Rectification of Register

The Registrar may rectify the Register if a clerical error has occurred and sufficient evidence is produced to satisfy him that the entry is incorrect, and on making the rectification he may, if necessary, issue a new certificate of registry.

16. Instructions

The Director of Marine may issue instructions in writing which shall be consistent with this Ordinance to the Registrar if the Director of Marine thinks necessary or expedient for the better carrying out of the provisions of this Part.

17. Ship registration office

The Director of Marine may establish a ship registration office and such number of branch offices of the ship registration office as he thinks necessary.

Registration of Ships

18. Ship must be registered

(1) Subject to this Ordinance or any other written law, no ship shall be within Malaysian waters or the exclusive economic zone unless the ship is registered in Malaysia as a Malaysian ship or registered in any other country.

(2) The owner or master of a ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

19. Qualification to own Malaysian ship

A person is qualified to own a Malaysian ship –

(a) to be registered under the Malaysia Ship Register if the person is –

(i) a Malaysian citizen; or

(ii) to an extent as may be determined by the Minister, a body corporate incorporated in Malaysia;

(b) to be registered under the Malaysia International Ship Register if the person is–

(i) a Malaysian citizen or, subject to subsection 20(3), a non-Malaysian citizen;

(ii) a body corporate incorporated in Malaysia; or

(iii) subject to subsection 20(3), a body corporate incorporated outside Malaysia; or

(c) to be registered under the Malaysia Ship Register or Malaysia International Ship Register if the person is the charterer of a ship under bareboat charter terms.

20. Application and requirements for registration

(1) An application for registration as a Malaysian ship under the Malaysia Ship Register or Malaysia International Ship Register –

(a) shall be made to the Registrar in the form as may be determined by the Director of Marine;

(b) shall be accompanied by any documents that can certify compliance in relation to–

(i) the safety standard of the ship;

(ii) the risk of pollution from the ship; and

(iii) the safety and welfare of persons engaged on board the ship; and

(c) shall be accompanied by any document containing the following particulars:

(i) the name of the ship and its existing tonnages (if known);

(ii) a statement of the date when and the place where the ship was built, or if the date and place of building are not known, a statement that the owner or bareboat charterer does not know the date and place of the building of the ship;

(iii) a statement as to the owner of the ship and the citizenship of the owner, and if the ship is owned by more than one person, the number of shares each owner is entitled to;

(iv) a statement that no other person is entitled as owner to any legal or beneficial interest in the ship or any share of the ship; and

(v) such other particulars as may be determined by the Director of Marine.

(2) The applicant shall ensure that steps are taken to comply with the requirements for survey and measurement of ship, ship's name and marking of ship as stipulated in sections 21, 22 and 23.

(3) Where an application to register a ship as a Malaysian ship under the Malaysia International Ship Register is made by a non-Malaysian citizen or a body corporate incorporated outside Malaysia, the non-Malaysian citizen or body corporate must appoint a representative person who shall be –

(a) a Malaysian citizen having his permanent residence in Malaysia; or

(b) a body corporate incorporated in Malaysia and having its principal place of business in Malaysia,

and the non-Malaysian citizen or body corporate shall ensure that, so long as the ship remains registered, a representative person is so appointed.

(4) The representative person appointed under subsection (3) shall –

(a) file documents or furnish information required to be filed or furnished under the Ordinance; and

(b) accept service of any documents required to be served on the owner relating to the proceedings for any offence.

(5) Where an application to register a ship as a Malaysian ship is made in respect of a ship which has at any time been registered under the law of another country, the application shall be accompanied by evidence to establish –

(a) that the ship is no longer registered under the law of another country;

(b) that steps have been taken to terminate the registration of the ship under the law of another country; or

(c) in the case of a bareboat chartered ship, that the registration of the ship at its primary registry has been suspended or that consent of the authority of primary registry has been obtained to suspend the registration of the ship at the primary registry.

21. Survey and measurement of ship

(1) Before the registration of a ship as a Malaysian ship the owner shall cause the ship to be surveyed and measured by a Surveyor of Ships and the tonnage ascertained in accordance with any regulations made under this Part.

(2) The Surveyor of Ships shall grant a certificate specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may be required by the Registrar.

(3) The certificate of measurement shall be delivered to the Registrar before registration.

22. Ship's name

(1) The Registrar may require that the proposed name for a ship intended to be registered under this Part be submitted to him for his approval in the form as he may determine.

(2) The Registrar may refuse to approve a proposed name for a ship if the name is –

(a) undesirable, unacceptable or inappropriate;

(b) a name with intention to mislead;

(c) made up of initials only;

(d) registered in the Register to another ship; or

(e) a name that has been de-registered in the Register, unless for the purpose of re-registration of the same ship it was registered under.

(3) The owner of a Malaysian ship shall not change the name of the ship, or cause or permit any such change, without the prior written permission of the Registrar and the payment of the prescribed fee.

(4) A person may, subject to the payment of the prescribed fee, apply to reserve a prefix or suffix for a ship in accordance with the regulations made under this Ordinance.

23. Marking of ship

(1) A ship shall, before it is registered, be marked permanently and conspicuously to the satisfaction of the Registrar in accordance with any regulations made under this Part.

(2) The markings on a ship shall be permanently maintained, and no alteration shall be made to them except where any of the particulars denoted by the markings are altered in the manner as provided in the regulations made under this Part.

(3) An owner or master of a ship who fails to maintain the ship marking as required by this section or the regulations made under this Part commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) If the scale showing the ship's draught of water is in any respect inaccurate so as to be likely to mislead, the owner of the ship commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(5) A person who, otherwise than as provided under this section or the regulations made under this Part—

(a) conceals, removes, alters, defaces or obliterates; or

(b) suffers any person under his control to conceal, remove, alter, deface or obliterate,

any marking required by this section or the regulations made under this Part commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(6) The Director of Marine may, upon receipt of a certificate from the Surveyor of Ships specifying that a ship is insufficiently or inaccurately marked, detain the ship until the insufficiency or inaccuracy has been remedied.

24. Additional information and documents and inspection of ship

Upon receipt of an application for registration of a ship as a Malaysian ship, the Registrar may require the applicant to furnish additional information or documents relating to the ship and the Registrar may go on board the ship to inspect the ship and any documents relating to the ship.

25. Registration and refusal to register

(1) If the Registrar is satisfied that the requirements relating to registration of a ship as a Malaysian ship have been fulfilled, the Registrar shall register the ship and enter the particulars in the Malaysia Ship Register or Malaysia International Ship Register, as the case may be.

(2) Notwithstanding subsection (1), the Registrar shall not –

(a) in the case of a registration under the Malaysia International Ship Register, register a ship that is above the prescribed age and tonnage; or

(b) register a bareboat chartered ship as a Malaysian ship without the approval of the Minister.

(3) The Registrar may refuse to register a ship as a Malaysian ship if he is satisfied that the applicant has not complied with any of the requirements for registration.

(4) If the Registrar refuses to register a ship as a Malaysian ship, he shall serve a notice on the applicant within fourteen working days from the date of application stating the refusal and the grounds of such refusal.

26. Provisional registration

(1) Notwithstanding subsection 25(3), the Registrar may, subject to conditions and restrictions as may be determined by the Director of Marine, provisionally register a ship as a Malaysian ship and issue a provisional certificate of registry.

(2) A provisional certificate of registry issued by the Registrar shall have the same effect as a certificate of registry and the provisions of this Part relating to certificate of registry shall apply to the provisional certificate of registry.

27. Prohibition of registration

(1) Notwithstanding subsections 25(1) and 26(1), the Minister may, by a certificate issued to the Registrar, prohibit the registration of a ship as a Malaysian ship under this Part if he is satisfied that such registration will be prejudicial to the national interest.

(2) The certificate issued under subsection (1) shall be admissible in evidence and shall constitute prima facie proof of the facts set out in the certificate without proof of the signature of the Minister to such certificate.

28. Certificate of registry

- (1) Upon registration of a ship as a Malaysian ship, the Registrar shall, on payment of the prescribed registration fee, annual tonnage fee and any other fee, issue a certificate of registry or, in the case of a bareboat chartered-in ship, a certificate of bareboat charter registry.
- (2) A certificate of registry shall be valid for a period as may be determined by the Registrar and may be renewed.
- (3) The master or owner of a Malaysian ship shall not use or permit the use of, for the purpose of navigation of the ship, a certificate of registry that has not been issued under this section or has expired and is not in force in respect of the ship.
- (4) The master or owner of a Malaysian ship who contravenes subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.
- (5) A ship registered under this Part may be detained until the owner or master of the ship produces the certificate of registry for that ship.

29. Duty to inform change of particulars after registration

- (1) The master or owner of a ship which has been registered as a Malaysian ship shall inform the Registrar of any changes to the particulars relating to the ship to be updated in the Register.
- (2) The master or owner of a Malaysian ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

30. Custody of certificate of registry

- (1) A certificate of registry shall be used only for the lawful navigation of a ship, and shall not be subject to detention to secure any civil right or claim.
- (2) Where any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody of the certificate for the purposes of the lawful navigation of the ship, or to the Registrar, any authorized officer, officer of customs, or other person entitled by law to require such delivery, any Magistrate may summon the person so refusing to appear before him,

and to be summarily examined before him, unless it is proved to the satisfaction of the Magistrate that there was reasonable cause for such refusal, that person commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

31. Issuance of new certificate of registry

(1) The Registrar may, on payment of prescribed fee, issue a new certificate of registry in lieu of the original if the certificate of registry is mislaid, lost, defaced or destroyed.

(2) If a new certificate of registry is issued under subsection (1), the original certificate of registry shall be deemed to have been revoked.

32. Suspension of registration

The Registrar may suspend the registration of a Malaysian ship –

- (a) on the application of the owner; or
- (b) if the ship is taken in war or hostilities, as a result of which the owner or bareboat charterer has lost control over the operation of the ship.

33. Termination of registration

The Registrar may terminate the registration of a Malaysian ship –

- (a) on the application of the owner;
- (b) where being a ship registered in the Malaysia Ship Register, the ship ceases to be owned by one or more persons qualified to own a Malaysian ship;
- (c) where being a bareboat chartered-in ship –
 - (i) the ship ceases to be operated under a bareboat charter;
 - (ii) the rights and obligations of the bareboat charterer under the bareboat charter terms are assigned;
 - (iii) the primary registry in respect of the ship is closed or annulled; or
 - (iv) the consent referred to in paragraph 20(5)(c) is revoked or withdrawn;
- (d) where being a provisionally registered ship –
 - (i) the owner of the ship fails to obtain a deletion certificate from the previous registry;

- (ii) the ownership of the ship is in dispute; or
- (iii) the period of provisional registration has lapsed;
- (e) if the ship is broken up, or is an actual or a constructive total loss such that it is no longer capable of being used in navigation;
- (f) if the ship, other than a bareboat chartered-in ship, at the time of registration remains registered in a place outside Malaysia;
- (g) if the ship, other than a bareboat chartered-out ship, subsequently becomes registered in a place outside Malaysia; or
- (h) if a representative person ceases to be appointed in relation to the ship.

34. Deletion from Register

- (1) The Registrar may delete a Malaysian ship from the Register–
 - (a) on an application by the owner; or
 - (b) when the registration of the ship is terminated in accordance with section 33.
- (2) If an encumbrance has been registered on the ship, the Registrar shall notify the circumstances of the case to the holder of the rights, and the deletion from the Register shall not affect the encumbrance whatsoever and all its priorities shall remain.

35. Revocation of certificate of registry

- (1) The Registrar may revoke a certificate of registry of a Malaysian ship –
 - (a) when the registration of the ship is suspended; or
 - (b) when the registration of the ship is terminated.
- (2) A certificate of registry is deemed revoked when the period of validity of the certificate of registry has lapsed.
- (3) Upon the revocation of a certificate of registry, the owner or master of the ship shall surrender the certificate of registry to the Registrar for cancellation.
- (4) An owner or master who fails to surrender the certificate of registry or continues to use the certificate of registry upon its revocation, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

36. Notice of registration, suspension and revocation to primary registry

Where a bareboat chartered ship is registered or where its registration is terminated or suspended, the Director of Marine shall notify the authority in the country of primary registry, of the particulars of the registration, termination or suspension.

37. Rights of owner of Malaysian ship

(1) Subject to any rights appearing in the Register to be vested in any person, the owner of a Malaysian ship has the right to dispose of the ship and give effectual receipts for any money paid or advanced by way of consideration in respect of the disposal.

(2) Notwithstanding subsection (1), any interests arising under contract or other equitable interests may be enforced by or against the owners and mortgagees of ships in respect of their interest in the ship in the same manner as in respect of any personal property.

38. Malaysian ship on bareboat chartered-out

(1) The Registrar may, subject to such conditions as may be determined by the Director of Marine, give consent to the owner of a Malaysian ship to register the ship as a bareboat charter in another country, where such ship shall be referred to as a “bareboat chartered-out ship”.

(2) Notwithstanding subsection (1), the Minister may disallow any Malaysian ship to be bareboat chartered-out for any reason and duration as he thinks fit.

(3) The registration of a bareboat chartered-out ship shall be suspended while the ship is bareboat chartered-out and re-registered in another country.

(4) The owner of a bareboat chartered-out ship shall immediately surrender the certificate of registry of the ship once the registration of the bareboat chartered-out ship in another country is complete.

Transfers, transmission and mortgage

39. Transfer of Malaysian ship

(1) Any transfer of a registered Malaysian ship or share therein shall be effected by a bill of sale.

(2) Where any registered Malaysian ship or a share therein has been transferred in accordance with subsection (1), the transferee shall not be registered as owner of the ship unless –

(a) he has made an application to the Registrar in the form as may be determined by the Director of Marine; and

(b) the Registrar is satisfied that the ship continues to be owned to an extent as may be determined by the Minister by a person who is qualified to own a Malaysian ship and that he would not refuse to register the ship.

(3) Where an application under subsection (2) is granted by the Registrar, he shall register the bill of sale.

40. Transmission of shares in Malaysian ship

(1) Where the shares in a registered ship is transmitted to any person by any lawful means other than by a transfer under section 39, that person shall not be registered as the owner of the ship unless –

(a) he has made an application to the Registrar; and

(b) the Registrar is satisfied that the ship continues to be owned to an extent as may be determined by the Minister by a person who is qualified to own a Malaysian ship.

(2) Where an application under subsection (1) is granted by the Registrar, he shall cause the applicant's name to be registered as the owner of the ship.

41. Transmission of shares in registered ship by order of Court

(1) Where shares in a registered ship are transmitted to any person by any lawful means other than by a transfer under section 39, but as a result of which the ship is no longer owned by a person who is qualified to own a Malaysian ship, the Court may, on application by or on behalf of that person, order the sale of the shares so transmitted and direct that the proceeds of sale after deducting the expenses of the sale shall be paid to that person or otherwise as the Court may direct.

(2) The Court may require any evidence in support of the application as it thinks fit, and may make the order for sale on any terms and conditions it thinks just, or may refuse to make the order and generally may act as it thinks fit.

(3) Every such application shall be made within the period of twenty-eight days beginning with the date of the occurrence of the event on which the transmission had taken place or within such extended period as the Court may allow, but such period shall not exceed one year beginning with the date of the occurrence of that event.

(4) The shares transmitted under subsection (1) shall be liable to forfeiture if such an application is not made within the time allowed by or under subsection (3) or the Court refuses an order for sale under subsection (2).

42. Court order on the sale of registered ship

(1) Where the Court, whether in pursuance of section 41 or otherwise, orders the sale of a ship or shares in the ship, the order of the Court shall contain a declaration vesting in some named person the right to transfer the property in the ship.

(2) The person so named shall be entitled to transfer the property in the ship in the same manner and to the same extent as if he were the registered owner of the ship.

(3) The Registrar shall deal with any application relating to the transfer of the property in the ship made by the person so named as if that person were the registered owner of the ship.

43. The Court may prohibit dealing with registered ship

The Court may, if it thinks fit and without prejudice to the exercise of any other power, on the application of any interested person make an order prohibiting for a specified time any dealing with a registered ship.

44. Mortgage of registered ship

(1) A registered ship, other than a bareboat chartered-in ship, may be made a security for the repayment of a loan or the discharge of any other obligation.

(2) The instrument creating any such security referred to in this Part as a mortgage shall be in the form as may be determined by the Director of Marine.

(3) Where a mortgage executed in accordance with subsection (2) is produced to the Registrar, he shall register the mortgage in the order in which it is produced to the Registrar for the purpose of registration.

45. Priority of registered mortgages

Where two or more mortgages are registered in respect of the same ship, the priority of the mortgagees between themselves shall be determined by the order in which the mortgages were registered and not by reference to any other matter.

46. Registered mortgagee's power of sale

(1) Subject to subsection (2), every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship and to give effectual receipts for the purchase money.

(2) Where two or more mortgagees are registered in respect of the same ship, a subsequent mortgagee shall not, except under an order of the Court, sell the ship without the concurrence of every prior mortgagee.

47. Assignment of registered mortgage or share

(1) A registered mortgage of a ship or share may be assigned to any person and the deed affecting the assignment shall be in the form as may be determined by the Director of Marine.

(2) On production of the deed of assignment to the Registrar, he shall record in the Register the name of the assignee of the mortgage and certify the entry on the deed of assignment.

(3) The assignee shall have the same right of preference as the assignor.

48. Protection of registered mortgagors

Where a ship is subject to a registered mortgage –

(a) except so far as may be necessary for making the ship available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship; and

(b) the mortgagor shall be treated as not having ceased to be owner of the ship.

49. Transmission of mortgage by operation of law

Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by an assignment under section 47, the Registrar shall on

production of the evidence to the satisfaction of the Registrar, cause the name of that person to be entered in the Register as mortgagee of that ship.

50. Discharge of registered mortgage

Where a registered mortgage has been discharged, the Registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage, cause an entry to be made in the Register to the effect that the mortgage has been discharged.

51. Protection of undischarged mortgage

Where the registration of any ship has been terminated under this Ordinance, the termination of that registration shall not affect any entry made in the Register so far as relating to any undischarged mortgage of that ship or of any share in it.

52. Mortgage not affected by bankruptcy

A registered mortgage of a ship or share in a ship shall not be affected by the mortgagor having been adjudicated bankrupt after the date of registration of the mortgage, notwithstanding the ship or share is in the possession of the mortgagor at the date of adjudication and the mortgagee shall have preference over any right, claim or interest in the ship or share of any creditor, trustee or assignee.

53. Non-application

Sections 39 to 52 shall not apply to a bareboat chartered-in ship and any matters or questions corresponding to those for which the provisions apply shall be determined by reference to the law of the country of primary registry.

Licensing of ships

54. Licensing

(1) Except for a ship exempted under section 55, any ship below fifteen net tonnage in any part of Malaysian waters for any of the following purposes:

- (a) trade or business;
- (b) the transportation of any person other than for trade or business; or
- (c) sports, leisure or recreational activity,

shall obtain a licence under this Part.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) In this section, “trade or business” includes –

- (a) the conveyance of goods or passengers;
- (b) fishing;
- (c) salvage operations;
- (d) dredging;
- (e) cable-laying;
- (f) off-shore exploration;
- (g) conservation;
- (h) marine construction;
- (i) oceanography;
- (j) hydrography; and
- (k) port services.

55. Exemption from licensing

The following ships are exempted from the requirement for licence under section 54:

- (a) any ship, including a fishing vessel, registered under this Ordinance or any other written laws in Malaysia;
- (b) any ship, not being a fishing vessel, which is duly registered in accordance with the laws of any country outside Malaysia;
- (c) a ship’s life boat;
- (d) a fishing vessel licensed under the Fisheries Act 1985 [Act 317];
- (e) a foreign fishing vessel to which a permit has been issued under the Fisheries Act 1985;

(f) in relation to the State of Sabah, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sabah [Sabah Ordinance 11/1960] and in relation to the State of Sarawak, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sarawak [Sarawak Ordinance 2/1960]; and

(g) any class or description of ship specified by the Minister by order published in the Gazette.

56. Licensing officer

The Director of Marine may appoint any public officer as a licensing officer to perform the functions in connection with licensing of ships under this Part.

57. Application and requirements for a licence

(1) An application for a licence under this Part shall be made to the licensing officer –

(a) in the form and manner as may be determined by the Director of Marine; and

(b) accompanied by the information and document as may be determined by the Director of Marine.

(2) In addition to subsection (1), the applicant shall ensure that steps are taken to comply with the requirements for survey and measurement of ship, ship's name and marking of ship as stipulated in sections 21, 22 and 23 or in the regulations made under this Part.

58. Additional information and documents and inspection of ship

Upon receipt of an application for a licence under section 57, the licensing officer may require the applicant to furnish additional information or documents relating to the ship and the licensing officer may go on board the ship to inspect the ship and any documents relating to the ship.

59. Issuance of licence and refusal to issue licence

(1) If the licensing officer is satisfied that the requirements for a licence have been fulfilled, the licensing officer shall, upon payment of the prescribed fee, issue a licence to the applicant.

(2) The Director of Marine may determine the terms and conditions to be attached to a licence issued under subsection (1).

(3) A licence issued under this section shall be valid for a period as may be determined by the Director of Marine and may be renewed.

(4) The licensing officer shall refuse to issue a licence if he is satisfied that the applicant has not complied with any of the requirements for a licence.

(5) If the licensing officer refuses to issue a licence, he shall serve a notice on the applicant within fourteen working days from the date of application stating the refusal and the grounds upon which such refusal is made.

60. Record of licences

(1) Upon issuance of licence, the licensing officer shall enter the particulars of the licence into the record of licences.

(2) The licensing officer shall maintain in both physical or electronic form the record of licences as may be determined by the Director of Marine.

61. Custody of licence

The owner of a ship licensed under section 59 shall cause the licence to be kept at all times on board the ship in custody of the person in charge of the ship.

62. Ships licensed under this Part shall not proceed beyond coastal waters of State

(1) A ship licensed under this Part shall not proceed beyond the coastal waters of a State in which the licence is issued.

(2) Notwithstanding subsection (1), such ship may proceed beyond the coastal waters of a State up to the outer limits of the Malaysian waters if –

- (a) it is expressly allowed in the terms of the licence;
- (b) it is necessary due to stress of weather; or
- (c) it is due to other causes beyond the control of the master.

(3) For the purpose of this section, “coastal waters” means part of the sea adjacent to the coast of a State not exceeding three nautical miles measured from the low-water line.

63. Offences relating to unlicensed ship

Any person who uses a ship or causes or permits a ship to be used for a purpose other than the purpose for which it is licensed or contrary to the conditions of the licence commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

64. Interpretation

For the purposes of sections 65 to 68F –

“Committee” means the Malaysia Shipping Development Fund Committee established under section 66;

“Fund” means the Malaysia Shipping Development Fund established under section 65.

65. Establishment of the Fund

(1) A fund to be known as the “Malaysia Shipping Development Fund” is established and shall be controlled and administered by the Committee.

(2) The Fund shall consist of the annual tonnage fees collected under this Part.

(3) The Fund shall be expended for the following purposes:

(a) to improve the shipping industry;

(b) to provide awards, fellowships, scholarships and research grants relating to the shipping industry;

(c) to sponsor research projects undertaken by organizations, institutions of higher learning or individuals for the purpose of the shipping industry;

(d) to organize seminars, expositions and other similar activities relating to the shipping industry;

(e) to pay any other expenses properly incurred by the Committee in the execution of its functions under this Part.

(4) All costs, charges and expenses of administering the Fund shall be chargeable to the Fund and may be paid out of the Fund from time to time.

(5) The moneys of the Fund, in so far as they are not immediately required to be expended by the Committee under this Part, shall be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

66. Establishment of the Committee

(1) A Committee to be known as the “Malaysia Shipping Development Fund Committee” is established.

(2) The Committee shall consist of the following members to be appointed by the Minister by notification in the Gazette:

- (a) the Director of Marine as the Chairman;
- (b) a representative of the Ministry of Transport;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Marine Department;
- (e) a representative of the Government of the State of Sabah;
- (f) a representative of the Government of the State of Sarawak; and
- (g) not less than three but not more than five other persons who have wide experience or special knowledge in matters relating to shipping.

(3) The Minister may, in respect of each member of the Committee appointed under paragraph (2)(g), appoint an alternate member who may attend any meeting of the Committee when the member in respect of whom he is an alternate to is for any reason unable to attend the meeting; and an alternate member when attending the meeting shall be deemed to be a member of the Committee.

(4) The Minister may appoint any member temporarily to exercise the functions of the Chairman during the temporary absence of the Chairman due to incapacity, illness or any other cause and that member shall, during the period in which he is exercising the functions of the Chairman, be deemed to be the Chairman.

(5) A member of the Committee appointed under subsection (2) shall, unless he sooner resigns or his appointment is sooner revoked or he otherwise vacates his office, hold office for a period of two years from the date of his appointment and shall be eligible for reappointment.

(6) An alternate member shall, unless he sooner resigns or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate member ceases to be a member of the Committee.

67. Functions of the Committee

The functions of the Committee shall be to control and administer the moneys of the Fund for the improvement of the shipping industry and for purposes ancillary thereto.

68. Disclosure of financial interest

(1) A member of the Committee appointed under paragraph 66(2)(g) who acquires any financial interest after his appointment in any undertaking relating to the shipping industry shall within fourteen days after so doing, or if he does not know of the financial interest within fourteen days after it comes to his knowledge, give notice in writing to the Minister specifying the financial interest so acquired; and the Minister may if he thinks fit revoke the appointment of that member.

(2) Where a corporation has an interest in the shipping industry, a member of the Committee shall be deemed to have a financial interest in that corporation if –

(a) the corporation is, or its directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that member in relation to any matter;

(b) that member has a controlling interest in the corporation; or

(c) that member and his associates are entitled to exercise or control the exercise of not less than one-tenth of the votes attached to the voting shares in the corporation.

68A. Financial interest of spouse or child of member

(1) Any financial interest of a spouse or a child of a member of the Committee in the position to benefit from the Fund shall be deemed to be a financial interest of the member of the Committee.

(2) A member of the Committee shall, within fourteen days of his spouse or child acquiring any such financial interest, notify the Committee in writing of such acquisition and if he fails to do so he commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) A financial interest shall not be disregarded by reason only of –

- (a) its remoteness;
- (b) the manner in which it arose; or
- (c) the fact that the financial interest is, or is capable of being made subject to restraint and restriction.

68B. Register of members' financial interest

The Committee shall keep and maintain or cause to be kept and maintained a register of members' financial interest and within fourteen days of receiving information regarding such interest, shall cause to be entered in the register that information and the date of entry corresponding to the member's name.

68C. Report of activities to the Minister

The Committee shall, not later than 30 June of each year, cause to be made and transmitted to the Minister a report dealing with the activities of the Committee during the preceding year, and may contain such information as the Minister may from time to time require.

68D. Audit

(1) The accounts of the Fund shall be audited annually by the Auditor-General and the provisions of the Audit Act 1957 [Act 62] shall apply.

(2) The Committee shall, not later than 31 March of the following year or such later date as the Minister of Finance may determine, transmit to the Auditor-General the financial statements of the accounts referred to in subsection (1) which will consist of the balance sheet, profit and loss statement and such other supporting statements as may be required by the Minister of Finance.

(3) The audited statements shall be submitted to the Minister of Finance, who shall cause them to be laid before each House of Parliament.

68E. Regulations

The Minister may make such regulations as may be necessary or expedient and for giving full effect to the provisions relating to the Fund.

68F. Issuance of directions

The Minister may issue general directions to the Committee which shall be consistent with this Ordinance and the Committee shall comply with such directions.

Authorized officer

68G. Authorized officer

(1) The Director of Marine may appoint any public officer as authorized officer to conduct investigation or inspection to verify the compliance or non-compliance of any requirements under this Part, Part IIA or any regulations made under this Part or Part IIA.

(2) For the purpose of any such inspection or investigation, the authorized officer shall have the powers conferred to an Inspector under this Ordinance.

(3) Notwithstanding subsection (2), an authorized officer shall have the power to do all things necessary or expedient to be done, in connection with, or incidental to the performance of his functions.

Miscellaneous

68H. Electronic filing of documents

(1) The Director of Marine may provide a service for the electronic filing of any document required by this Ordinance or regulations made under it to be submitted to the Registrar or licensing officer.

(2) A person who intends to use the service provided under subsection (1) shall become a subscriber to the service by paying the prescribed fee and complying with such terms and conditions as may be determined by the Director of Marine.

(3) The Director of Marine may determine the documents that may be electronically filed.

(4) A document electronically filed under this section shall be deemed to have satisfied the requirement for the submission of such documents if the document is communicated or transmitted to the Registrar or licensing officer in such manner as may be determined by the Director of Marine.

(5) A document that is required to be stamped, signed or sealed shall, if it is to be electronically filed, be certified or authenticated in such manner as may be determined by the Director of Marine.

(6) A copy of or an extract from any document electronically filed with the Registrar or licensing officer under subsection (1) supplied or issued by the Registrar or licensing officer and certified under the hand of the Registrar or licensing officer to be a true copy of or an extract from such document shall be admissible in evidence in any proceedings as of equal validity as the original document.

(7) Where a document is electronically filed with the Registrar or licensing officer, the Registrar or licensing officer shall not be liable for any loss or damage suffered by any person by reason of any error or omission of whatever nature or however arising appearing in any document obtained by any person under the service referred to in subsection (1), if such error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Registrar or licensing officer or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the provision of the service.

68I. National colours and other colours allowed

(1) Subject to subsection (3), every registered Malaysian ship shall fly the red ensign, without any defacement or modification, which shall be the proper national colours for a registered Malaysian ship.

(2) The Director of Marine shall determine the colours for ships owned by the Government or in the service of the Government.

(3) Notwithstanding subsection (1), any colour allowed to be worn in accordance with a warrant from the Yang di-Pertuan Agong shall also be the proper national colours for a registered Malaysian ship.

68J. Penalty for carrying improper colour

(1) If –

(a) any distinctive national colours, other than the red ensign and any proper national colour allowed to be worn under subsection 68I;

(b) any colour usually worn by the ships of the Royal Malaysian Navy or resembling those of the Royal Malaysian Navy; or

(c) the pennant usually carried by the ships of the Royal Malaysian Navy or any pennant resembling that pennant,

are hoisted on board any registered Malaysian ship without warrant from the Yang di-Pertuan Agong, the master or the owner of the ship, and every other person hoisting it commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) If any colour or pennant is hoisted on board a ship in contravention of subsection (1) –

- (a) any commissioned naval or military officer;
- (b) any police officer with a rank of an Inspector and above;
- (c) any authorized officer; and
- (d) any Malaysian consular officer,

may go on board the ship and seize the colour or pennant.

(3) Any colour or pennant seized under subsection (2) shall be forfeited by the Government.

68K. Duty to show Malaysian ensign

(1) A registered Malaysian ship shall hoist the red ensign –

- (a) on a signal, instruction or order being made to the ship by any ship of the Royal Malaysian Navy, including any ship under the command of a commissioned naval officer, or any ship or aircraft owned by the Government;
- (b) on entering or leaving any Malaysian or foreign port; and
- (c) while in a Malaysian port from sunrise to sunset.

(2) Any master who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

68L. Offences relating to assuming Malaysian character of ship

(1) If the master or owner of a ship which is not a Malaysian ship does anything, or permits anything to be done, for the purpose of causing the ship to assume the character of a Malaysian ship then, except as provided under subsections (3) and (4), the ship shall be liable to forfeiture and the master and owner of the ship commit an offence.

(2) If the master or owner of a Malaysian ship does anything, or permits anything to be done, for the purpose of concealing the Malaysian nationality of the ship, the ship shall be liable to forfeiture and the master and owner of the ship commit an offence.

(3) No liability arises under subsection (1) or (2), where the assumption of the character of a Malaysian ship or the concealment of the Malaysian nationality of a ship has been made for the purpose of escaping capture by an enemy, or by a foreign ship of war in the exercise of some belligerent right.

(4) Where the registration of any ship has been terminated, any marks which are prescribed by the regulations and displayed on the ship within the period of fourteen days beginning with the date of termination of that registration shall be disregarded for the purposes of subsections (1) and (2).

(5) Any person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

68M. Duty to declare national character of ship

(1) The master shall, prior to proceeding to the sea from any port or place in Malaysia, declare to a port officer the name of the country to which he claims that the ship belongs.

(2) If a ship proceeds or attempts to proceed to the sea without the declaration as required under subsection (1), the master commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both and the ship may be detained until the declaration is made.

68N. Taking detained ship on a voyage or excursion

(1) Where a ship which is forfeited or detained under section 68L or 68M proceeds or attempts to proceed to the sea before it is released from detention by the Director of Marine, the master and the owner of the ship or bareboat charterer commits an offence and shall, on conviction, be liable to a fine not exceeding two million ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Where a ship –

(a) proceeds or attempts to proceed to the sea in contravention of subsection (1); and

(b) has on board a public officer acting in the execution of his duty or any person acting on behalf of the public officer,

the master and the owner of the ship or bareboat charterer each commit an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) The master and the owner of the ship or the bareboat charterer shall jointly and severally be liable to pay all expenses incidental to the taking of the public officer or the person acting on behalf of the public officer on the voyage and for securing his return to the port he was taken from in Malaysia, and all such expenses shall be a debt due to the government and may be recovered in the same manner as a fine.

68O. Offences relating to Malaysian ship ownership

(1) If at any time there occurs, in relation to a registered Malaysian ship, any change affecting the status of ownership and the qualification to be owner of a Malaysian ship, the owner of the ship shall, within thirty days after the change occurs, notify the Registrar of that change.

(2) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the status of ownership and the qualification to be an owner of a Malaysian ship and which he has been required to produce to the Registrar under this Ordinance, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) Any owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

68P. False declaration or information

Any person who –

(a) makes any false or misleading statements or furnishes any false or misleading information to the Registrar, licensing officer or authorized officer pursuant to a requirement to make any statement or furnish any information, whether in an application or otherwise, as specified under this Part; or

(b) makes any false declaration or produces any forged certificate,

commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

68Q. Regulations

(1) The Minister may make regulations as may be necessary or expedient for giving effect to or for carrying out the provisions of this Part.

(2) Without prejudice to the generality of subsection (1), the regulations may –

(a) prescribe the number of owners, including joint owners, of a ship permitted for the purposes of registration, and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;

(b) provide for any matters relating to registration, re-registration and licensing of ships;

(c) provide for any matters relating to ship's name;

(d) provide for any matters relating to survey and marking of ships;

(e) provide for any matters relating to suspension, termination or closure of the registration of ships, including matters such as the removal of the markings on the ships;

(f) provide for any matters relating to ascertainment of the tonnage of any ship;

(g) prescribe the trading limits or areas for ships registered under the Malaysia Ship Register or Malaysia International Ship Register;

(h) provide for any matters relating to representative person;

(i) provide for any matters relating to the safety standard of ships to be registered or licensed under this Part;

(j) prescribe the fees required to be prescribed under this Part and the manner of their collection;

(k) provide for any matters relating to ships that are bareboat chartered-out;

(l) prescribe the age and tonnage of ships to be registered under this Part; and

(m) prescribe any other matters which is required by this Part to be prescribed.

(3) Regulations made under this Part may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding two

hundred thousand ringgit or imprisonment for a term not exceeding two years or to both for such offence.

PART IIA – DOMESTIC SHIPPING

68R. Interpretation

In this Part, unless the context otherwise requires –

“authorized officer” means any person appointed by the Director of Marine as an authorized officer under section 68G;

“Board” means the Domestic Shipping Licensing Board established under section 68AD;

“domestic shipping” means the use of ship for –

(a) services in Malaysian waters or the exclusive economic zone other than fishing; or

(b) the shipment of goods or carriage of passengers from or to any port or place in Malaysia to or from another port or place in Malaysia or the exclusive economic zone;

“domestic shipping officer” means an officer appointed under section 68af;

“licence” means a domestic shipping licence.

68S. Prohibition on non-Malaysian ships engaging in domestic shipping

(1) No ship other than a registered Malaysian ship may engage in domestic shipping.

(2) The master or owner of a ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

68T. Licence for domestic shipping

(1) No ship shall engage in domestic shipping without a licence issued under this Part.

(2) The owner or master of a ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

68U. Exemption

A Malaysian ship of less than fifteen net tonnage is exempted from the provisions of this Part.

68V. Permission to engage in domestic shipping

The Minister may, subject to such conditions and restrictions as he may determine, permit any class of ships other than ships referred to under section 68U to engage in domestic shipping.

68W. Application and issuance of licence

(1) An application for a licence under this Part shall be made to the domestic shipping officer in the form and manner as may be prescribed.

(2) The domestic shipping officer may refuse to determine an application made otherwise than in accordance with this Part.

(3) A licence issued shall be for such duration and subject to such conditions as the domestic shipping officer considers necessary.

68X. Furnishing of information

The domestic shipping officer may, by notice, require the owner or master of any ship in respect of which a licence is issued or is to be issued to furnish within the period specified in the notice information on –

- (a) the classes of passengers or goods which the ship is capable of carrying or has carried during any specified period;
- (b) the type of services engaged in by the ship;
- (c) the rates of freight or charter charges applicable to the ship; and
- (d) any other relevant matter.

68Y. Revocation of licence

(1) Subject to subsection (2), a domestic shipping officer may revoke any licence if he is satisfied that the licensee, his servant or agent has –

- (a) contravened any of the provisions of this Ordinance; or
- (b) committed a breach of any of the terms or conditions of the licence.

(2) Notwithstanding subsection (1), the licensing officer shall give the licensee reasonable opportunity to make a representation against the intended revocation.

(3) If a licensing officer revokes a licence under this section, the licensee shall surrender the licence to the domestic shipping officer within fourteen days of the notice of revocation, and if the licensee without lawful excuse fails to do so, he commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

68Z. Appeal

Any person aggrieved by the decision of the domestic shipping officer to refuse to issue or revoke a licence may, within fourteen days of the decision being made known to him in writing, appeal to the Board whose decision shall be final.

68AA. Power of authorized officer to board ship

(1) For the purpose of ensuring that the provisions of this Part are complied with, the Director of Marine or any authorized officer may go on board any ship in Malaysian waters or the exclusive economic zone and –

- (a) require the master or owner of the ship to give such information relating to the ship, its cargo, stores, crew, passengers or voyage as he may consider necessary; and
- (b) demand to inspect all documents which ought to be on board the ship and require all or any of such documents to be brought to him for inspection.

(2) A master or owner of any ship –

- (a) who, without lawful excuse, refuses to allow the Director of Marine or any authorized officer to board the ship;
 - (b) when so required by the Director of Marine or authorized officer refuses or fails to submit the required documents;
 - (c) who, in submitting the required document, knowingly makes any statement that is false in a material particular; or
 - (d) who, with intent to deceive, furnishes a document that is false in a material particular,
- commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

68AB. Power to detain ships

(1) The Director of Marine or any authorized officer may detain any ship if he has reasonable cause to suspect that there has been a contravention of section 68S or 68T.

(2) Any ship that has been detained under subsection (1) may be released upon the deposit of a financial security with the Director of Marine for an amount to be determined by him.

68AC. Register of domestic shipping licences

A domestic shipping officer shall keep or cause to be kept a register of domestic shipping licences into which he shall enter particulars of licences that have been approved.

Domestic Shipping Licensing Board

68AD. Establishment and composition of the Board

(1) There is established a board to be called the “Domestic Shipping Licensing Board”.

(2) The Board shall consist of the following members to be appointed by the Minister:

(a) the Secretary-General of the Ministry of Transport who shall be the Chairman;

(b) the Director of Marine or his representative;

(c) a representative of the Ministry of Transport;

(d) a representative of the Government of the State of Sabah and a representative of the Government of the State of Sarawak; and

(e) not less than five other persons, who have wide experience or special knowledge in matters relating to shipping.

(3) The Minister may, in respect of each member of the Board appointed under paragraph (2)(e), appoint an alternate member who may attend any meeting of the Board when the member in respect of whom he is an alternate to is for any reason unable to attend the meeting; and an alternate member when attending the meeting shall be deemed to be a member of the Board.

(4) No person shall be appointed as a member or alternate member of the Board unless prior to the appointment he makes a statutory declaration as to whether he has any and if so what financial interest in any undertaking providing domestic shipping.

(5) The appointment of every member and alternate member of the Board shall be published in the Gazette.

(6) The Minister may appoint any member temporarily to exercise the functions of the Chairman during the temporary absence of the Chairman due to incapacity, illness or any other cause and that member shall, during the period in which he is exercising the functions of the Chairman, be deemed to be the Chairman.

(7) A member of the Board appointed under subsection (2) shall, unless he sooner resigns or his appointment is sooner revoked or he otherwise vacates his office, hold office for a period of two years from the date of his appointment and shall be eligible for reappointment.

(8) An alternate member, unless he sooner resigns or his appointment is sooner revoked, shall cease to be an alternate member when the member in respect of whom he is an alternate member ceases to be a member of the Board.

(9) There shall be paid to members of the Board, or to such of them as the Minister may determine, such allowances as he may determine.

(10) No member of the Board shall incur personal liability for loss or damage caused by an act or omission in administering the affairs of the Board, unless the loss or damage is occasioned by an intentionally wrongful act or omission on his part.

(11) All members of the Board shall be deemed to be public servants within the meaning of the Penal Code.

68AE. Functions of the Board

The functions of the Board shall be:

- (a) to control matters relating to domestic shipping;
- (b) to issue general directions to the Director of Marine including that in relation to conditions for the issuance of domestic shipping licence; and
- (c) to advise the Minister on matters relating to domestic shipping.

68AF. Appointment of domestic shipping officers

(1) The Board may appoint such number of domestic shipping officers for the purposes of dealing with applications for the domestic shipping licences and all matters related to the domestic shipping licencing.

(2) Every domestic shipping officer shall comply with all directions issued by the Board in pursuance of paragraph 68AE(b).

68AG. Disclosure of financial interest

(1) A member of the Board appointed under paragraph 68AD(2)(e) who acquires any financial interest after his appointment in any undertaking providing domestic shipping shall within four weeks after so doing, or if he does not know of the financial interest within four weeks after it comes to his knowledge, give notice in writing to the Minister specifying the financial interest so acquired; and the Minister may if he thinks fit revoke the appointment of that member.

68AI. Register of members' financial interest

The Board shall keep and maintain or cause to be kept and maintained a register of members' financial interest in any undertaking providing domestic shipping; and within fourteen days of receiving information regarding such interest shall cause to be entered in the register that information and the date of entry against the member's name.

68AJ. Annual report

The Board shall not later than 30 June of each year cause to be made and transmitted to the Minister a report dealing with the activities of the Board during the preceding year, and may contain such information as the Minister may from time to time require.

68AK. Regulations

The Minister may make regulations as may be necessary or expedient for giving effect to or for carrying out the provisions of this Part, and without prejudice to the generality of the foregoing provisions, the regulations may –

- (a) prescribe the procedure for the application for a licence under this Part and matters associated with such application, including the particulars to be supplied at the time of application;
- (b) provide for the issuance and renewal of licences and other associated matters, including the form of the licence, the fees payable and the manner of payment of the fees;
- (c) prescribe the fares or rates which may be charged for the provision of domestic shipping by any ship engaged on any route or sector involved in domestic shipping;

(d) prescribe that offences committed under the regulations are punishable with imprisonment for a term not exceeding six months or a fine not exceeding twenty-five thousand ringgit or to both;

(e) prescribe in respect of anything which is required to be or which may be prescribed under this Part;

(f) prescribe the manner and procedures for the Board to conduct its business; and

(g) provide for any other matter which may be expedient or necessary for the better carrying out of the provisions of this Part.

68A1. Minister may issue directions

The Minister may issue to the Board general directions which shall be consistent with this Ordinance and the Board shall comply with such directions.

PART III SHIP PERSONNEL

Preliminary

69. Application

This Part shall, unless otherwise provided, apply to all ships except –

(a) warships or naval auxiliaries;

(b) ships belonging to or in the employment of the Government of Malaysia or any State in Malaysia;

(c) fishing vessels;

(d) native sailing crafts;

(e) pleasure yachts;

(f) Malaysian ships that are trading or operating exclusively within the ports in Malaysia;

(g) offshore units whose primary service is drilling operation for the exploration, exploitation or

production of resources beneath the sea bed and are not ordinarily engaged in navigation or international voyages;

(h) Floating Storage and Offloading (FSO), or Floating, Production, Storage and Offloading (FPSO), or any other vessel of similar operations; and

(i) ships of traditional build such as dhows and junks.

70. Interpretation

In this Part, unless the context otherwise requires –

"Article of Agreement" means an agreement referred to in section 109;

"authorized officer" includes any Surveyor of Ships, Port Officer, Deputy Port Officers and any person appointed by the Director of Marine as an authorized officer, either generally or particularly, for the purposes of implementing this Part or any rules made under this Part;

"certificate" means a valid document issued or recognized under section 74;

"safe-manning document" means a document referred to in section 71;

"owner", in relation to a ship, means –

(a) any person, including any company or organization or association or body of persons, whether incorporated or not, who owns the ship or has any interest in the ownership of the ship;

(b) in the case where the ship has been chartered, the charterer; or

(c) in the case where the owner or charterer is not responsible for the navigation and the management of the ship, any person who is responsible for the navigation and management of the ship.

[70. Subs. Act A1519:s.4]

Manning and qualification

71. Safe-manning document

(1) A safe-manning document that provides for the minimum number of ship personnel required to safely and securely man a ship shall be issued –

(a) in the case of a Malaysian ship, by the Director of Marine; or

(b) in the case of a foreign ship, by or on behalf of the government of the flag State.

[71. Subs. Act A1519:s.4]

72. Manning and prohibition of going on a voyage or an excursion undermanned

(1) Every owner or master shall ensure that their ship has a sufficient number of ship personnel on board in accordance with the safe-manning document before the ship can go on a voyage or an excursion.

(2) When a ship is not on a voyage or an excursion the owner or master shall ensure that sufficient number of ship personnel are on board the ship at all times to adequately respond to any situation which may affect the safety of the ship, ship personnel or environment.

(3) If a ship goes on a voyage or an excursion or attempts to go on a voyage or an excursion in contravention of subsection (1), the owner or master of the ship commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit, and the ship, if in Malaysia, may be detained until the manning requirements are met.

[72. Subs. Act A1519:s.4]

73. Minimum age

(1) Subject to the Children and Young Persons (Employment) Act 1966 [Act 350], the minimum age for employment of seafarer on board any Malaysian ship is sixteen years.

(2) Any seafarer of the age of sixteen years and below the age of eighteen years shall not be allowed to –

(a) engage in night work between 9 o'clock in the evening and 6 o'clock in the morning;

(b) engage in any work that is likely to jeopardize their health or safety; or

(c) work as a ship's cook.

(3) Notwithstanding subsection (2), the Director of Marine may give an exemption to any person undergoing an approved training programme on board a ship subject to any condition that may be determined by the Director of Marine.

[73. Subs. Act A1519:s.4]

74. Certification of seafarer

(1) Every seafarer shall hold a certificate that verifies the competency and qualification of the seafarer to work on a ship –

- (a) issued by the Director of Marine in accordance with the rules made under this Part; or
- (b) issued by other countries or training institutions and recognized by the Director of Marine.

(2) The owner shall ensure that the seafarers have undergone training and hold appropriate certificates in the particular field to perform their duties on board a ship in accordance with the requirements of this Part or the rules made under this Part.

(3) The Port Officer may detain the ship until the owner replaces the seafarer who is not properly certified with a seafarer who is certified in that capacity before the ship is allowed to continue its voyage.

(4) Any person who fails to comply with subsection (1) or (2), respectively, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(5) This section shall not apply where a dispensation has been issued under section 77.

[74. Subs. Act A1519:s.4]

75. Suspension or cancellation of certificate

(1) The Director of Marine shall give a seafarer notice in writing that he intends to suspend or cancel the seafarer's certificate issued under this Part if it appears to the Director of Marine that the seafarer –

- (a) is unfit to be the holder of the certificate, whether by reason of incompetence or misconduct;
- (b) has been seriously negligent in the discharge of his duties; or
- (c) has failed to comply with the obligation to assist vessels in distress as required by section 280.

(2) Notwithstanding subsection (1), the Director of Marine may suspend or cancel a seafarer's certificate without giving notice in writing of his intention if, in his opinion, the suspension or cancellation is necessary for the safety of the ship, life, environment or property at sea.

(3) The notice shall state –

(a) the reasons why the Director of Marine intends to suspend or cancel the seafarer's certificate; and

(b) that the seafarer may make a written representation to the Director of Marine within a period as specified in the notice, or such longer period as the Director of Marine may allow.

(4) After considering any representation made under subsection (3), the Director of Marine shall decide whether or not to suspend or cancel the certificate and shall give the holder of the certificate a written notice of his decision within fourteen days from the date he receives the written representation.

(5) The written notice of the decision shall state the date from which the period of suspension is to take effect or the date from which the cancellation is to take effect, and shall require the holder of the certificate to deliver the certificate to the Director of Marine not later than the date specified in the notice.

(6) In a situation where the seafarer's certificate is suspended or cancelled –

(a) pursuant to subsection (2), the holder of the certificate may appeal to the Minister against the decision of the Director of Marine –

(i) within fourteen days from the date of the suspension or cancellation; or

(ii) if he is on board the ship, fourteen days from the date the seafarer arrives at the next port of call; or

(b) pursuant to subsection (5), the holder of the certificate may appeal to the Minister against the decision of the Director of Marine before the effective date of cancellation specified in the notice.

[75. Subs. Act A1519:s.4]

76. Appeal Committee

(1) The Minister may establish an appeal committee to advise him on the decision by the Director of Marine in section 75.

(2) The Minister may appoint the following persons to be the Committee members:

(a) a chairman who has wide experience or special knowledge in matters relating to shipping; and

(b) not less than two but not more than seven other persons who have wide experience or special knowledge in matters relating to shipping.

(3) In advising the Minister, the Committee shall conduct an inquiry in accordance with the rules made under this Part.

(4) After the inquiry, the Committee shall make a report of its finding to the Minister and the Minister shall decide accordingly as he considers appropriate.

[76. Subs. Act A1519:s.4]

77. Dispensation

(1) Subject to subsection (3), the Director of Marine may, in circumstances of exceptional necessity and if in his opinion it does not cause danger to person, property or the environment, issue a dispensation permitting a specified seafarer to serve in a specified ship in a capacity for which he does not hold the appropriate certificate, for a period not exceeding six months.

(2) The person to whom the dispensation is issued shall be adequately qualified to fill the vacant post.

(3) Dispensation shall not be issued for a master or chief engineer officer post, except in circumstances of force majeure and if issued, only for the shortest possible period.

(4) Any dispensation shall be issued only to a person properly certified to fill the immediate post below the vacant post.

(5) Notwithstanding subsection (4), a dispensation may be issued to a seafarer –

(a) whose qualification and experience are, in the opinion of the Director of Marine, of clear equivalence to the requirements for the vacant post; or

(b) who does not hold an appropriate certificate, provided that he pass an assessment determined by the Director of Marine.

(6) Records of all dispensations issued under this section shall be kept by the owner and readily available for inspection, and an annual report on the dispensation shall be submitted to the Director of Marine and such other parties as may be required by the Director of Marine.

[77. Subs. Act A1519:s.4]

78. Forgery of certificate, etc

(1) Any person shall not –

- (a) forge or assist in forging or procure to be forged any certificate, dispensation, or other document required under this Part;
- (b) use a certificate, dispensation or other document or a copy of such certificate, dispensation or document which has been forged, falsified, altered, cancelled, suspended, or which is invalid, or to which he is not entitled to;
- (c) make, assist in making, or procure to be made any false representation for the purpose of procuring either for himself or for any other person a certificate, dispensation, or other document; or
- (d) lend his certificate, dispensation or other document or allows it to be used by any other person.

(2) Any person who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

[78. Subs. Act A1519:s.4]

79. Training and familiarization of seafarer

(1) Every owner shall provide adequate training and familiarization to seafarers to ensure that the seafarers –

- (a) are adequately trained and familiarized with their specific duties and with all the ship arrangements, installations, equipments, procedures and ship characteristics that are relevant to their routine or emergency duties; and
- (b) may effectively coordinate their activities in an emergency situation and in performing functions vital to the safety or to the prevention or mitigation of pollution.

(2) Any owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[79. Subs. Act A1519:s.4]

80. Accessibility to seafarers' documentations

(1) The owner shall ensure that all documentations and data relevant to all seafarers employed on the owner's ship including documentation and data on their experience, training, medical fitness and competency in assigned duties are maintained and readily accessible.

(2) Any seafarer employed to serve on board any ship and hold a certificate issued or recognized under this Part shall, on demand, produce the seafarer's certificate to the Port Officer or any authorized officer.

(3) Any person who fails to comply with subsections (1) and (2) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[80. Subs. Act A1519:s.4]

81. Accessibility to legislations and publications

(1) Every owner shall ensure that the latest Malaysian legislations, notices, international rules and publications, and other documents relating to maritime transport safety, security and marine environment are readily accessible on board the owner's ship.

(2) For the purposes of subsection (1), the Director of Marine may determine the list of legislations and publications through Malaysia Shipping Notices.

(3) The owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit for each ship in respect of which an offence is committed.

[81. Subs. Act A1519:s.4]

82. Order or instruction in national language or English language

(1) Every owner shall ensure that the order or instruction given to seafarers who are on board a ship is either in the national language or English language.

(2) The owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[82. Subs. Act A1519:s.4]

Conditions of Service

83. Seafarer employment contract

(1) A contract between a seafarer employed on board a Malaysian ship and the owner shall be made in writing and shall be signed by the seafarer and the owner or any other person authorized by the owner.

(2) A seafarer shall be given the opportunity to examine the seafarer employment contract to have a clear understanding of his rights and responsibilities before signing the contract.

(3) The seafarer employment contract shall contain the minimum requirements as prescribed in the rules made under this Part.

(4) The owner or any other person who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[83. Subs. Act A1519:s.4]

84. Breach of seafarer employment contract

A seafarer employment contract shall be deemed to be breached by an owner if he fails to provide work.

Subs. Act A1519:s.4]

85. Termination of seafarer employment contract

(1) Either party to a seafarer employment contract may at any time give to the other party a written notice of his intention to terminate the contract.

(2) If the seafarer employment contract has been made for a specified period of time, the contract is terminated when the time has expired unless otherwise terminated in accordance with this Part.

(3) If the seafarer employment contract has been made for an indefinite period, the notice for early termination of a seafarer employment contract shall be given by the seafarer or the owner not less than fourteen days from the date on which such termination will take effect.

(4) Notwithstanding subsection (3), a notice of less than fourteen days may be given, without penalty, for compassionate or urgent reasons or in other circumstances as may be determined by the Director of Marine.

(5) If the seafarer employment contract has been made for a voyage, the contract shall include –

- (a) the port of destination; and
- (b) the time of expiry after arrival before the seafarer should be discharged.

[85. Subs. Act A1519:s.4]

86. Termination of contract without notice

(1) Either party to a seafarer employment contract may terminate the contract without notice or, if notice has already been given in accordance with section 85, without waiting for the expiry of that notice, by paying to the other party an indemnity of a sum equal to the amount of wages which would have been accrued to the seafarer during the term of such notice or during the unexpired term of such notice.

(2) Either party to a seafarer employment contract may terminate the contract without notice in the event of any wilful breach by the other party of a condition of the contract.

[86. Subs. Act A1519:s.4]

87. Termination of contract for special reasons

(1) An owner may, on the grounds of misconduct or breach of the express or implied conditions of the seafarer employment contract, after due inquiry –

- (a) dismiss the seafarer without notice; or
- (b) impose any other lesser punishment as he deems just and fit, and if a punishment of suspension without wages is imposed, it shall not exceed a period of two weeks.

(2) For the purposes of an inquiry under subsection (1), the owner may suspend the seafarer from work for a period not exceeding two weeks but shall pay him not less than half of his wages for such period and if the inquiry does not disclose any misconduct on the part of the seafarer, the owner shall forthwith restore to the seafarer the full amount of wages so withheld.

[87. Subs. Act A1519:s.4]

88. Discharge of seafarers

- (1) If a seafarer employed on board a Malaysian ship is to be discharged from the Article of Agreement, the master shall notify the Port Officer of the discharge.
- (2) The master shall record every discharge in the Article of Agreement, seafarer's record book and official log-book.
- (3) If a Malaysian ship ceases to be registered under this Ordinance, the seafarers employed on board the ship shall be discharged from the ship unless the seafarers consent in writing to continue with their employment on board the ship.
- (4) The signing-off of the Article of Agreement by the seafarer at the time of his discharge from employment on board the ship shall not constitute a waiver on his part of any claims he may have against the owner and the ship during his employment.
- (5) The Director of Marine may determine the manner for the seafarers to be discharged under this Part in the Malaysia Shipping Notice.
- (6) The master or owner who fails to comply with subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

[88. Subs. Act A1519:s.4]

89. Obligation of owner with respect to seaworthiness of ship

- (1) Notwithstanding any agreement to the contrary, there shall be an implied obligation on the owner in every seafarer employment contract that the owner and every agent charged with the loading, preparing or sending of the ship on a voyage or an excursion shall use all reasonable means –
 - (a) to ensure the seaworthiness of the ship for a voyage or an excursion at the time when the voyage or excursion commences; and
 - (b) to keep the ship in a seaworthy condition during the voyage or excursion.
- (2) Any seafarer who may be affected or exposed to a risk to their safety or health due to the noncompliance of subsection (1) shall have the right to refuse a voyage or an excursion until the noncompliance has been rectified.
- (3) Nothing in subsection (1) shall subject the owner to any liability by reason of the ship being sent on a voyage or an excursion in an unseaworthy state if, owing to special

circumstances, the sending of the ship on a voyage or an excursion in such a state was reasonable and justifiable.

(4) In the event of dispute on the seaworthiness of the ship, the Director of Marine shall have the right to determine the seaworthiness of the ship.

[89. Subs. Act A1519:s.4]

90. Hours of rest

(1) Every seafarer on board a Malaysian ship shall be entitled to a minimum ten hours of rest in any twenty-four hour period and seventy-seven hours in any seven-day period.

(2) The Director of Marine may, after consulting the owners' and seafarer's organizations, increase the minimum hours of rest taking into account the dangers posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship.

(3) Hours of rest may be divided into not more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed fourteen hours.

(4) Musters, fire fighting and lifeboat drills, and mandatory drills, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

(5) When a seafarer is on a call duty, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by a call out to work.

(6) The owner shall ensure that a table with the working arrangements be placed in an easily accessible area on board the ship and the table shall be in the form determined by the Director of Marine and shall contain for every position at least –

(a) the schedule of service at sea and in port; and

(b) the minimum hours of rest required under subsection (1).

(7) The master shall maintain the records of seafarer's daily hours of work and rest in the form determined by the Director of Marine and each seafarer shall receive a copy of their record which shall be signed by the seafarer and by the master or a person authorized by the master.

(8) The following conditions apply to seafarers under the age of eighteen years while at sea and in port:

(a) working hours shall not exceed eight hours per day and forty hours per week and overtime shall be allowed only when there is unavoidable situation or for safety reasons;

(b) sufficient time shall be allowed for all meals, and a break of at least one hour for the main

meal of the day shall be assured; and

(c) a fifteen minutes' rest period as soon as possible following each two hours of continuous work shall be allowed.

(9) Subsection (8) does not apply in the following situations:

(a) the conditions under subsection (8) are impracticable for seafarers under the age of eighteen years assigned to watch-keeping duties or working on a scheduled shift-work system in the deck, engine room or catering departments; or

(b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.

(10) Nothing in this section shall be deemed to impair the right of the master to require a seafarer, including a seafarer under the age of eighteen years, to perform any hours of work necessary for the immediate safety of the ship, person on board or cargo or for the purposes of giving assistance to other ship or person in distress at sea provided that the seafarer is compensated with an equivalent period of rest as soon as practicable after the normal situation has been restored.

(11) The master shall keep a duly signed record, stating the reasons for the situations where

–

(a) the seafarer under the age of eighteen years is required to work under subsection (9); or

(b) the seafarer is required to perform any hours of work under subsection (10).

(12) For the purposes of this section, the term "hours of rest" means time outside hours of work and does not include short breaks of one hour or less or a break for a meal.

(13) Any master or owner who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

[90. Subs. Act A1519:s.4]

91. Entitlement to leave

(1) The owner shall ensure that every seafarer employed on board a Malaysian ship is given paid annual leave as calculated on the basis of a minimum of 2.5 calendar days per month of employment.

(2) Seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

(3) Any agreement to forgo the minimum annual leave with pay as provided in subsection (1) is prohibited except in cases as determined by the Director of Marine.

(4) The owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

[91. Subs. Act A1519:s.4]

92. Repatriation

(1) A seafarer on board a Malaysian ship shall be entitled to repatriation at no cost.

(2) The owner of a Malaysian ship is prohibited from requiring the seafarers to make an advance payment at the beginning of their employment for the cost of repatriation, and also for recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarers has been found to be in serious default of the seafarer's employment obligations in accordance with the seafarer employment contract, national laws or regulations, or applicable collective agreements.

(3) All Malaysian ships shall have in force a contract of insurance or other financial security to ensure that seafarers are duly repatriated.

(4) If the owner of a Malaysian ship fails to make arrangements for or to meet the cost of repatriation of seafarers –

(a) the Director of Marine may make arrangements for the repatriation of the seafarers concerned and the cost incurred in repatriating those seafarers shall be recoverable from the owner concerned;

(b) the expenses of repatriation shall not be charged on the seafarers, except as provided in subsection (2); and (c) the ship or other ships of the owner concerned may be detained by the Director of Marine until the reimbursement has been made.

(5) The Director of Marine shall, upon receiving a notification of any stranded foreign seafarer in any port in Malaysia, ensure that the consular or local representative of the ship's flag State and the seafarer's State of nationality or State of residence, as appropriate, is informed immediately.

[92. Subs. Act A1519:s.4]

93. Relief and return of seafarer left behind and shipwrecked

(1) If a seafarer on board a Malaysian ship is left behind in any country outside Malaysia or is taken to any country outside Malaysia in the event of a shipwreck, the owner who last employed him as a seafarer shall make such provisions for his return and for his relief and maintenance for a period of not more than two months or until his return, whichever is earlier.

(2) For the purposes of subsection (1), the Port Officer or any authorized officer may issue a conveyance order to the master of any Malaysian ship to convey the person to a place agreed in the seafarer employment contract.

(3) This section applies to a person left behind after being discharged under section 88.

(4) If any expense is incurred by any person in respect of any matter for which the owner of a seafarer is required to provide or perform under subsection (1) or (2), such person shall be entitled to recover the expenses incurred from the owner.

[93. Subs. Act A1519:s.4]

94. Duty of owner in case of death of seafarer

(1) The owner of a Malaysian ship, at his cost, shall ensure that the body and property of a seafarer who dies on board the owner's ship are properly maintained and delivered to the next of kin named in the Article of Agreement.

(2) Any claim on board the ship against the deceased property is prohibited.

(3) If the next of kin as named in the Article of Agreement cannot be contacted, it is the duty of the owner to handle the burial or cremation of the deceased seafarer.

[94. Subs. Act A1519:s.4]

Wages

95. Wages

(1) The owner of a Malaysian ship shall pay seafarers' wages not later than the end of the month and in accordance with the seafarer employment contract or any applicable collective agreement.

(2) A seafarer's right to wages and provisions shall be taken to begin either at the time specified in the seafarer employment contract for his commencement of work or presence on board the ship, whichever occurs first.

(3) Wages for work done on a gazetted public holiday prescribed under the Holidays Act 1951 [Act 369] and overtime as stipulated in the employment contract shall be paid not later than the last day of the next wage period.

(4) Every seafarer shall be given a monthly account of payments due, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to as specified in the employment contract, and the amounts paid.

(5) The wages shall be paid until the seafarer has been effectively repatriated to a place identified in the seafarer employment contract.

(6) The wages, less lawful deductions, earned by but not yet paid to a seafarer whose contract of employment terminates in accordance with section 85 shall be paid to the seafarer not later than the day on which the contract of employment is terminated.

(7) A seafarer employment contract shall be deemed to be broken by an owner if he fails to pay wages in accordance with this section.

(8) Any owner who –

(a) fails to pay the wages or indemnity due to any seafarer within the time prescribed under this Part; or

(b) makes deduction from the wages of seafarers other than the deduction authorized under this Part,

commits an offence and shall, on conviction, be liable to a fine of not less than fifty thousand ringgit and not exceeding three hundred thousand ringgit.

[95. Subs. Act A1519:s.4]

96. Mode of payment of wages

Wages shall be paid in legal tender by way of a bank transfer, bank cheque, postal cheque or money order.

[96. Subs. Act A1519:s.4]

97. Payment on termination of contract in special circumstances

(1) If an owner terminates the seafarer employment contract without notice in accordance with subsection 86(1) or (2), or paragraph 87(1)(a), the owner shall pay the followings to the seafarer not later than the day on which the seafarer employment contract is terminated:

(a) the wages, less any deductions which the owner is entitled to make under section 98, earned by the seafarer up to and including the day immediately preceding the day on which the termination of the seafarer employment contract takes effect; and

(b) if the owner terminates the seafarer employment contract under subsection 86(1), the indemnity payable to the seafarer under that subsection.

(2) If a seafarer terminates his employment contract with an owner without notice in accordance with section 86, the wages, less any deduction which the owner is entitled to make under section 98, earned by the seafarer up to and including the day immediately preceding the day on which the termination of the seafarer employment contract takes effect shall be paid by the owner to the seafarer not later than the third day after the day on which the seafarer employment contract is terminated.

[97. Subs. Act A1519:s.4]

98. Lawful deductions

(1) The owner of a Malaysian ship shall not make any deduction from the wages of a seafarer otherwise than in accordance with this Part.

(2) It shall be lawful for an owner to make the following deductions:

(a) deduction for any over payment of wages due to the owner's mistake, provided that the deduction shall be made within three months from the month of such over payment;

(b) deduction for the indemnity due to the owner by the seafarer under subsection 86(1);
or

(c) deduction authorized by any other written law.

(3) The owner shall, upon written request by the seafarer, make deductions for payment of any sum of money due to a registered trade union, co-operative thrift or loan society on account of entrance fees, subscriptions, installment and interest on loans, or other dues.

(4) The owner shall, upon written request by the seafarer and with the prior permission in writing of the Director of Marine, make deductions for payments of any sum of money to any superannuation scheme, provident fund, owner's welfare scheme or insurance scheme established for the benefit of the seafarer.

(5) Notwithstanding subsections (2), (3) and (4), the Director of Marine may, on an application by an owner or a specified class or classes of owners, permit any deduction for a specified purpose from the wages of a seafarer or a specified class or classes of seafarers subject to such conditions as he considers fit to impose.

[98. Subs. Act A1519:s.4]

99. Allotment of wages

(1) The owner of a Malaysian ship shall provide a mechanism for every seafarer, at the time when the seafarer enter into employment or during the employment, to allot, if the seafarer so desire, a proportion of the seafarer wages for remittance at regular intervals to his families or dependents.

(2) Any allotment agreed to be made by the seafarer shall be included in the seafarer employment contract.

(3) The owner shall ensure that allotments are remitted in due time and directly to the person or persons nominated by the seafarers.

(4) Any charge for the service under this section shall be reasonable in amount, and the rate of currency exchange shall be at the prevailing market rate and not unfavourable to the seafarer.

(5) The Director of Marine may determine the requirements for allotment of wages in the Malaysia Shipping Notice.

(6) The owner who fails to comply with any of the requirements of this section, or the requirements determined by the Director of Marine as provided in subsection (5), commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

[99. Subs. Act A1519:s.4]

100. Protection of certain rights and remedies

(1) A seafarer's lien, his remedies for the recovery of his wages, his right to wages in the case of wreck or loss of the ship, and any right he may have or may obtain in the nature of salvage shall not be renounced by any agreement.

(2) Subsection (1) does not affect any terms of the seafarer employment contract entered by the seafarer employed on a ship that provides salvage services, where the terms of that contract provide for remuneration to be paid to the seafarers for salvage services rendered by that ship.

[100. Subs. Act A1519:s.4]

Health, accommodation and provisions

101. Standards of health and medicalcare, occupational safety, etc

(1) Every owner shall comply with the minimum standard for health and medical care, occupational safety, accommodation, recreational facilities and provisions to be provided on board the Malaysian ship as prescribed by the Minister.

(2) Any owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

[101. Subs. Act A1519:s.4]

102. Fitness of seafarer

(1) Every seafarer shall not be permitted to work on board a Malaysian ship unless he is medically fit.

(2) The owner shall ensure that the seafarer employed on board is medically fit in accordance with the rules made under this Part.

(3) The Port Officer may detain the ship until every seafarer employed on board the ship is medically fit.

(4) Any person who fails to comply with subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

[102. Subs. Act A1519:s.4]

103. Health protection, medical care, etc.

(1) The owner of every Malaysian ship and any foreign ship within Malaysian waters shall provide –

- (a) adequate health protection and medical care for seafarers employed on board the ship; and
- (b) the seafarer the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.

(2) The owner of a Malaysian ship engaged on international voyages and any foreign ship within Malaysian waters shall ensure that the ship has on board –

- (a) at least one seafarer who is qualified to provide medical care and administering medicine; or
- (b) a qualified medical doctor who shall be responsible for providing medical care if the ship carries one hundred or more persons and the voyage is more than three days duration.

(3) Every owner shall ensure that the medicine chest, equipment and medical guide carried on board is properly maintained and inspected by a responsible officer as determined by the Director of Marine at regular intervals of not exceeding twelve months.

(4) The responsible officer mentioned in subsection (2) shall ensure that the labelling, expiry dates and conditions of storage of all medicines and the directions for their use are inspected and all equipment functioning as required.

(5) Any owner who fails to comply with –

- (a) subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit; or
- (b) subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[103. Subs. Act A1519:s.4]

104. Inspection of health protection, medical care, etc.

(1) A Port Officer or Port Health Officer may enter on board any ship within Malaysian waters to inspect the health protection, medical care and medical supplies provided to seafarers employed on board the ship.

(2) The Port Officer or Port Health Officer may, if he is satisfied after the inspection that the ship has failed to comply with section 103, cause the ship to be detained until the deficiency has been rectified.

[104. Subs. Act A1519:s.4]

105. Occupational safety and health

The owner of a Malaysian ship and foreign ship within Malaysian waters shall ensure that seafarers are provided with occupational health protection and live, work and train on board the ship in a safe and hygienic environment as prescribed in the rules.

[105. Subs. Act A1519:s.4]

106. Accommodation and recreational facilities

The owner of a Malaysian ship shall provide and maintain accommodation and recreational facilities for every seafarer on board taking into consideration the seafarer's health and well-being.

[106. Subs. Act A1519:s.4]

107. Provisions of drinking water and food

(1) The owner of a Malaysian ship shall ensure that sufficient drinking water and food that are of reasonable nutritional value, quality and variety are provided to every seafarer during the period of the seafarer's employment on board the ship.

(2) Any owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

[107. Subs. Act A1519:s.4]

Social Security

108. Social security for seafarers

(1) Every owner shall ensure that all seafarers who are either Malaysians or permanent residents of Malaysia employed on board a Malaysian ship are covered by the scheme set out in the following Acts:

(a) the Employees' Social Security Act 1969 [Act 4]; and

(b) the Employees Provident Fund Act 1991 [Act 452].

(2) The scheme set out in the Employees Provident Fund Act 1991 shall apply to seafarers who are not Malaysians or permanent residents of Malaysia if they elect to contribute.

(3) Notwithstanding subsection (1), the owner shall provide the following benefit to all seafarers engaged on a Malaysian ship:

(a) medical care;

(b) sickness benefit; and

(c) employment injury benefit.

(4) The owner may provide the benefits under paragraphs (3)(a) and (b) to the dependents of the seafarers employed on board the Malaysian ship.

(5) Any owner who fails to comply with subsection (1) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[108. Subs. Act A1519:s.4]

Documents and Returns

109. Article of Agreement

(1) The master of every ship shall enter into an agreement called Article of Agreement on behalf of the owner with every seafarer whom the master carries to sea from any port in Malaysia.

(2) The Article of Agreement mentioned in subsection (1) shall be signed by the master and every seafarer in front of the Port Officer or any other officer authorized by the Director of Marine.

(3) The owner or master shall ensure –

(a) that the particulars of seafarers in the Article of Agreement are updated whenever changes are made relating to the engagement or discharge of seafarers; and

(b) that the Article of Agreement is available for inspection at all times and the owner or master shall submit the Article of Agreement to the Director of Marine at intervals as determined in the Malaysia Shipping Notice.

(4) Every owner shall pay the fees prescribed in the Third Schedule upon all engagements and discharges of the seafarers effected under this Part.

(5) Any owner or master who fails to comply with subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[109. Subs. Act A1519:s.4]

110. Official log-book

(1) The master of a Malaysian ship shall maintain an official log-book of the ship in which shall be recorded all the required information as determined by the Director of Marine.

(2) The master who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

(3) Any person who willfully destroys, mutilate or renders illegible any entry in an official log-book, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years.

[110. Subs. Act A1519:s.4]

111. Seafarer identity document

(1) Every Malaysian seafarer shall hold a valid seafarer identity document issued in accordance with the rules made under this Part.

(2) Every foreign seafarer employed on board a Malaysian ship shall –

(a) hold a valid seafarer identity document that is recognized in the manner determined by the Director of Marine in the Malaysia Shipping Notice; and

(b) be registered at Port Office in the manner determined by the Director of Marine in the Malaysia Shipping Notice.

(3) Any seafarer employed on board a Malaysian ship who fails to comply with subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

(4) Any person who makes a false statement for the purpose of obtaining a Malaysian seafarer identity document for himself or another person commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

112. Seafarer record book

(1) Every seafarer employed on board a Malaysian ship shall hold a seafarer record book issued or recognized by the Director of Marine.

(2) Any seafarer who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

113. Handing over of documents on change of master

(1) If a person ceases to be the master of a Malaysian ship, he shall immediately deliver or cause to be delivered to his successor all documents relating to the ship and its crew which are in his custody.

(2) The successor shall, immediately on assuming the command of the ship, enter in the official log-book a list of the documents delivered to him.

(3) The master who fails to comply with subsection (1) without reasonable excuse commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Conduct, Discipline and Inquiries

114. Conduct endangering ships, structures or individuals

(1) Any seafarer or any other person on board a Malaysian ship or on board any foreign ship in any port in Malaysia or within Malaysian waters, who by wilful breach or neglect of duty, or under the influence of alcohol, drugs or otherwise, does, omits or fails to do the following, commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both:

(a) does any act which causes or is likely to cause –

(i) the loss or destruction of or serious damage to the ship or its machinery, navigational equipment or safety equipment;

(ii) the loss or destruction of or serious damage to any other ship or any structure;

(iii) the death of or serious injury to any person; or

(iv) environmental damage; or

(b) omits or fails to do anything –

(i) to preserve the ship or its machinery, navigational equipment or safety equipment

From being lost, destroyed or seriously damaged;

(ii) to prevent the ship from causing the loss or destruction of or serious damage to any other ship or any structure;

(iii) to protect any person on board the ship from death or serious injury; or

(iv) to prevent the environment damage.

(2) In proceedings for an offence under this section, it shall be for the defence to prove –

(a) where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;

(b) that at the time of the act or omission alleged against the accused, the accused was under the influence of a drug taken by him for medical purposes and either he took it on the medical advice of a competent medical practitioner and complied with any directions given as part of that advice, or that he had no reason to believe that the drug might have the influence it had;

(c) that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence;

(d) that he could have avoided committing the offence only by disobeying a lawful command; or

(e) that in all circumstances the loss, destruction, damage, death or injury in question either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.

(3) In this section –

"breach or neglect of duty", except in relation to a master, includes any disobedience to a lawful command;

"duty" –

(a) in relation to a master or seafarer, means any duty required to be discharged by the

master or seafarer in their capacity as a master or seafarer; and

(b) in relation to a master, includes the master's duty with respect to the good management of his ship and the safety of operation of his ship, its machinery and equipment.

[114. Subs. Act A1519:s.4]

115. Concerted disobedience and neglect of duty

(1) A seafarer employed on board a Malaysian ship shall not –

- (a) disobey lawful commands which are required to be obeyed while the ship is at sea;
- (b) neglect any duty which is required to be discharged; or
- (c) impede the progress of a voyage or the navigation of a ship.

(2) The seafarer who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) In proceedings for an offence under this section, it shall be for the defence to prove that at the time of the act of the accused the provision of subsection 114(2) applies.

[115. Subs. Act A1519:s.4]

Maritime Labour Certificate or Interim Maritime Labour Certificate

116. Application

(1) This Chapter applies to –

- (a) all ships of five hundred gross tonnage or more, engaged in Malaysian waters;
- (b) all Malaysian ships of five hundred gross tonnage or more, engaged in international voyages; and
- (c) all Malaysian ships of five hundred gross tonnage or more, operating from a port or between ports, in a country other than Malaysia.

(2) At the request of the owner to the Director of Marine, this Chapter may also apply to Malaysian ships not mentioned in subsection (1).

(3) This Chapter does not apply to any ship which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.

[116. Subs. Act A1519:s.4]

117. Maritime Labour Certificate and Interim Maritime Labour Certificate

(1) The owner shall ensure that his ship holds a valid Maritime Labour Certificate or Interim Maritime Labour Certificate, as the case may be, before the ship can go on a voyage or an excursion.

(2) The owner of the ship shall make an application for the Maritime Labour Certificate to the Director of Marine.

(3) The Director of Marine may, upon payment of the prescribed fee, issue the Maritime Labour Certificate, subject to any conditions that he considers fit to impose, if –

(a) he is satisfied that the ship has complied with all the requirements of this Part and the rules made under this Part; and

(b) there is a Declaration of Maritime Labour Compliance issued in respect of the ship.

(4) The Director of Marine may, pending the issuance of the Maritime Labour Certificate, issue an Interim Maritime Labour Certificate subject to any conditions that he considers fit to impose.

(5) The validity period of –

(a) the Maritime Labour Certificate issued under subsection (3) shall not exceed five years; and

(b) the Interim Maritime Labour Certificate issued under subsection (4) shall not exceed six months and can only be issued to the ship once.

(6) The Maritime Labour Certificate or Interim Maritime Labour Certificate, and the Declaration of Maritime Labour Compliance shall –

(a) be displayed in a conspicuous place on board the ship;

(b) readily available for inspection on board the ship; and

(c) be produced, on request, to a seafarer employed on the ship, the Director of Marine, authorized officer, or the representative of the owner or the seafarer.

(7) For the purposes of this section, a Declaration of Maritime Labour Compliance shall comprise of –

(a) Part I, which shall be issued by the Director of Marine, upon payment of a prescribed fee and which shall identify, the list of matters for inspection, the relevant provisions of this Part and the rules made under this Part, any ship-type specific requirements, any substantially equivalent provisions adopted, and any exemption granted; and

(b) Part II, which shall be drawn up by the owner and shall identify measures undertaken by the owner to ensure ongoing compliance with the provisions of this Part and rules made under this Part during the period between inspections and the measures proposed to ensure continuous improvement.

[117. Subs. Act A1519:s.4]

118. Suspension or revocation of Maritime Labour Certificate and Interim Maritime Labour Certificate

(1) The Director of Marine may direct the owner to take corrective action and suspend the Maritime Labour Certificate or Interim Maritime Labour Certificate, as the case may be, if he is satisfied that –

(a) there has been a contravention of any provision of this Part or any rules made under this Part; or

(b) there has been a breach of any condition of the Maritime Labour Certificate or Interim Maritime Labour Certificate.

(2) Subject to subsection (3), the Director of Marine may revoke the Maritime Labour Certificate or Interim Maritime Labour Certificate, as the case may be, if the corrective action referred to in subsection (1) is not taken to the satisfaction of the Director of Marine or within such period of time as specified by the Director of Marine.

(3) The Maritime Labour Certificate or Interim Maritime Labour Certificate shall not be revoked unless the owner of the ship has been given a reasonable opportunity to make a representation against the intended revocation.

[118. Subs. Act A1519:s.4]

119. Surrender of Maritime Labour Certificate and Interim Maritime Labour Certificate

(1) Upon the revocation or expiry of the Maritime Labour Certificate or Interim Maritime Labour Certificate, the owner or master shall surrender the certificate to the Director of Marine within fourteen days from the date of its revocation or expiry.

(2) Any owner or master who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[119. Subs. Act A1519:s.4]

120. Replacement of Maritime Labour Certificate and Interim Maritime Labour Certificate

(1) If the Maritime Labour Certificate or Interim Maritime Labour Certificate issued under section 117 is lost, defaced or destroyed, the Director of Marine may, upon receipt of an application from the owner and upon payment of the prescribed fee, issue a replacement of the Maritime Labour Certificate or Interim Maritime Labour Certificate.

(2) If the original Maritime Labour Certificate or Interim Maritime Labour Certificate is found after the replacement of the Maritime Labour Certificate or Interim Maritime Labour Certificate has been issued under of subsection (1), the original Maritime Labour Certificate or Interim Maritime Labour Certificate shall be deemed to have been revoked and of no effect.

[120. Subs. Act A1519:s.4]

Miscellaneous

121. Licence to supply seafarers

(1) The Director of Marine may issue a licence to a person to carry on the business of a private employment agency to supply seafarers to serve on board ships.

(2) The Director of Marine may cancel the licence issued under subsection (1) if he is satisfied that the licensee –

(a) has contravened any of the provisions of this Part or any rules made under this Part, or any bond or undertaking entered into by the licensee under this Part;

(b) has been convicted of an offence under this Part;

(c) has not complied with any direction issued by the Director of Marine to the licensee under the Malaysia Shipping Notice; or

(d) has furnished in any application, or in any return, or in any written information or written explanation, sent by the licensee under this Part, any particulars which to the knowledge of the licensee are false or incorrect.

(3) The Director of Marine shall give the licensee a notice of the intended cancellation, stating the grounds for the cancellation, and the licensee may show cause as to why the licence should not be canceled within two weeks from the date of the notice.

(4) Any person who carries on the business of a private employment agency to supply seafarers without a valid licence commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

[121. Subs. Act A1519:s.4]

122. Powers to investigate

(1) In addition to and not in derogation of any powers conferred on the Director of Marine or any authorized officer by this Ordinance in relation to enforcement, inspection and investigation, the Criminal Procedure Code [Act 593] shall apply to the Director of Marine or any authorized officer appointed by him as it applies to a police officer.

(2) The Director of Marine or any authorized officer shall have the power to –

(a) go on board any ship or enter into any premises as he considers necessary;

(b) require the master of any ship or owner to facilitate the boarding of the ship or entry into the premises;

(c) require information, whether orally or in writing, from any person supposed to be acquainted with the facts and circumstances of the case under investigation; or

(d) require the production of any certificate, Declaration of Maritime Labour Compliance, Maritime Labour Certificate, Interim Maritime Labour Certificate, official log-book or other documents relating to the operation of the ship or safe management of the company from the owner or master.

(3) The Director of Marine may direct any ship to be detained for the purpose of conducting an investigation.

(4) Any person who –

(a) without reasonable excuse refuses or fails to comply with a requirement under subsection (2); or

(b) in respect of a matter that he is required to respond to under subsection (2), makes a statement that is false or misleading in a material particular, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[122. Subs. Act A1519:s.4]

123. Inspection and detention

(1) The Director of Marine or any authorized officer may enter on board and inspect any ship while in any port in Malaysia or within Malaysian waters and if he is satisfied after the inspection that there is a contravention of any provision of this Part or any rules made under this Part, the Director of Marine or the authorized officer may detain the ship.

(2) The Director of Marine or any authorized officer may allow the detained ship under subsection (1) to leave any port in Malaysia or Malaysian waters for the purpose of continuing its voyage upon rectification of the defects or assurance by the owner to rectify the defects at the nearest port, to the satisfactory of the Director of Marine or any authorized officer.

[123. Subs. Act A1519:s.4]

124. Reports of birth and death on board Malaysian ships, etc.

(1) The master of a Malaysian ship or any foreign ship in Malaysian waters shall make a report to the Director of Marine or to the nearest Port Officer of any birth, death, accident or incident of a missing person occurring on board the ship during the voyage within twenty-four hours.

(2) If death, an accident or incident of a missing person occurred on board the ship or in relation to the ship, the master shall conduct an inquiry to determine the cause and nature of the event and shall immediately make a written report to the Director of Marine or to the nearest Port Officer.

(3) The Port Officer or authorized officer shall, depending on the nature of the death, accident or incident of the missing person occurred on board the ship, conduct an investigation into the cause of the death, accident or incident of the missing person concerned.

(4) In the event of death, the owner or master of a Malaysian ship shall notify the death to the deceased next of kin named in the Article of Agreement within twenty-four hours of the death.

(5) Any owner or master who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit.

(6) For the purpose of this section, "missing person" means a person that could not be found on board the ship and no certificate of death has been issued in respect of that person but his name appears –

(a) in the passenger list; or

(b) in the Article of Agreement and he is not absent without leave.

[124. Subs. Act A1519:s.4]

125. Penalty for detaining seafarer's effects

(1) Any person who receives or takes into his possession or under his control any money or effects of a seafarer, and does not return the same or pay the value thereof, when required by the seafarer, subject to any deduction as is justly due to him from the seafarer in respect of board or lodging or otherwise, or absconds therewith commits an offence and shall, on conviction, be liable to a fine of not less than fifty thousand ringgit but not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) For the purposes of this section, "effects" includes personal belongings and documents.

[125. Subs. Act A1519:s.4]

126. Procedures for making complaint

(1) Every owner of a Malaysian ship shall maintain a complaint procedures in accordance with the guidelines issued by the Director of Marine for the fair, effective, well-documented and expeditious handling of seafarer complaints.

(2) The owner shall ensure that each seafarer employed on board the ship is provided with a copy of the complaint procedures.

(3) Any owner who fails to comply with subsections (1) and (2) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.

[126. Subs. Act A1519:s.4]

127. Stowaway

(1) If a stowaway is detected on board a ship, the master shall –

- (a) make every effort to immediately determine the port of embarkation of the stowaway;
- (b) make every effort to establish the identity including the nationality or citizenship of the stowaway;
- (c) prepare a statement containing all information relevant to the stowaway;
- (d) notify the existence of the stowaway and any relevant details to the owner of the ship and appropriate authorities at the port of embarkation, the next port of call and the flag State;
- (e) ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with the authorities' requirements; and
- (f) take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation.

(2) The owner shall comply with any removal directions made by the competent authorities at the port of disembarkation.

(3) If the master or owner fails to comply with subsection (1) or (2) respectively, the master or owner commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit.

(4) For the purposes of this section, "stowaway" means a person who is –

- (a) secreted on a ship or in the cargo which is subsequently loaded on the ship, without the consent of the owner and master, or any other person authorized to give the consent;
- (b) detected on board after the ship has departed from a port; and
- (c) reported as a stowaway by the owner and master to the appropriate authorities.

[127. Subs. Act A1519:s.4]

128. Unauthorized presence on board ship

(1) Any person other than an authorized officer shall not board a vessel without the consent of the master.

(2) Any person other than an authorized officer shall not remain on board a vessel without the consent of the master.

(3) Any person who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

[128. Subs. Act A1519:s.4]

129. Master of ship's power to restrain

(1) The master of a Malaysian ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him to be necessary or expedient in the interest of safety or security, or for the preservation of good order or discipline on board the ship.

(2) If, in exercising his powers under subsection (1), the master restrains any person on board the ship, he shall notify a Port Officer as soon as possible of such restraint.

(3) The master who fails to comply with subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

[129. Subs. Act A1519:s.4]

130. Power to exempt

(1) The Minister may, after consultation with the owners' and seafarers' organizations, exempt by notification in the Gazette –

(a) any Malaysian ship or particular categories of Malaysian ships; or

(b) any seafarer or particular categories of seafarer from any of the provisions of this Part or any rules made under this Part if the exemption is permitted in the Maritime Labour Convention.

(2) The Minister may, in granting any exemption under subsection (1), impose any terms and conditions on the Malaysian ship or particular categories of Malaysian ships, or any seafarer or particular categories of seafarer as he considers fit.

[130. Subs. Act A1519:s.4]

131. Rules

(1) The Minister may make such rules as are necessary for the carrying into effect the provisions of this Part.

- (2) Without prejudice to the generality of subsection (1), the Minister may make rules for –
- (a) matters relating to the property and body of the deceased seafarer on board a ship;
 - (b) matters relating to the relief, maintenance and repatriation of seafarers employed on board a ship;
 - (c) matters relating to the fees to be paid for anything to be done or permitted to be done under this Part;
 - (d) matters relating to the Appeal Committee;
 - (e) matters relating to the inspection of any ship;
 - (f) matters relating to the detention of any ship;
 - (g) matters relating to the seafarer's certificate;
 - (h) matters relating to the Declaration of Maritime Compliance, Maritime Labour Certificate and Interim Maritime Labour Certificate;
 - (i) matters relating to dispensation;
 - (j) matters relating to the training of seafarers;
 - (k) matters relating to the recognition of certificate issued by other countries or training institution;
 - (l) matters relating to the manning of the ships;
 - (m) matters relating to the employment of seafarer on board Malaysian ships;
 - (n) matters relating to the operational, safety and security of the ship;
 - (o) matters relating to the social, welfare and compensation scheme of seafarers including their procedures, contributions and disbursement;
 - (p) matters relating to the Malaysian seafarer identity documents and seafarer record books;
 - (q) matters relating to the Article of Agreement;
 - (r) matters relating to the birth, death, accident and incident of missing person;
 - (s) matters relating to the accommodation and recreational facilities on Malaysian ships;
 - (t) matters relating to the provision of food and water;

- (u) matters relating to the medical requirements on board a ship or of seafarers, or medical expenses while serving on board a ship;
 - (v) matters relating to the safety and welfare of the seafarer;
 - (w) matters relating to the occupational safety and health;
 - (x) matters relating to the disciplinary offences on board the ship;
 - (y) matters relating to the stowaway; or
 - (z) matters relating to person who supply seafarers to serve on board ships.
- (3) Subject to subsection (4), rules made under this section may provide for the imposition of fines not exceeding twenty thousand ringgit.
- (4) The rules made under this section relating to offences concerning the failure to dispose of the property of deceased seafarers in a prescribed manner may provide for the imposition of fines up to amounts not exceeding three times the value of such property.
- (5) The rules made under this section may make different provisions for different descriptions of ship or for ships of the same descriptions in different circumstances.
- (6) The rules made in respect of disciplinary matters relating to seafarers may include provisions for any proceedings under the rules to take place notwithstanding the absence of the seafarer to whom the proceedings relate, and nothing in the rules or done under such rules shall be construed as affecting any power to institute, prosecute, consider or determine proceedings including criminal proceedings, under any other written law.

[131. Subs. Act A1519:s.4]

PART III – SHIP PERSONNEL

132 – 207 [Deleted]

PART IV – PASSENGER SHIPS

Survey of Passenger Ships

208. Every passenger ship to have certificate of survey

- (1) Every passenger ship shall be surveyed once at least in each year in the manner provided in this Part; and no ship (other than a steam ferry boat working in chains) shall

proceed to sea or on any voyage or excursion with more than twelve passengers on board, unless there is in force in respect of the ship a certificate as to survey under this Part, applicable to the voyage or excursion on which the ship is about to proceed, or that voyage or excursion is in respect of which the Minister of Transport has exempted the ship from the requirements of this subsection.

[Gen. Am. Act A1519:s.2]

(2) A passenger ship plying or carrying passengers to or from any port or place in the Federation, or attempting to do so, may be detained until such certificate as aforesaid is produced to the Port Officer unless the voyage or excursion on which she is about to proceed is one in respect of which she has been exempted as aforesaid.

[Gen. Am. Act A1519:s.2]

(3) No ship having a certificate granted –

(a) by the Ministry of Transport;

(b) by the Government of any part of Her Majesty's dominions where such certificate has been declared under section 284 of the Merchant Shipping Act, 1894, to be of the same force as if granted under that Act; or

(c) by the Government of any other part of Her Majesty's dominions whose certificate is accepted by the Surveyor-General of Ships as being equivalent to a certificate granted under this Part; shall so long as such certificate remains in force and applicable to the voyage on which the vessel is about to proceed require a certificate of survey under this Ordinance.

(4) Where a foreign ship is a passenger ship within the meaning of this Ordinance and the Surveyor-General of Ships is satisfied by the production of a foreign certificate of survey attested by a British consular officer at a port out of Her Majesty's dominions (not being a port in respect of official surveys at which Her Majesty in Council has under the proviso to section 363 of the Merchant Shipping Act, 1894, ordered that that section of the said Act shall not apply) that the ship has been officially surveyed at that port and that such foreign certificate is to the like effect and has been granted after a like survey as, and in such manner as to be equally efficient with, the certificates granted for the same purpose under this Ordinance, if such certificate is in force and applicable to the voyage or excursion on which the ship is about to proceed, such certificate shall be of the same force as if it were a passenger ship's certificate issued under this Part.

[Gen. Am. Act A1519:s.2]

(5) The Minister may make rules to enable the number of passengers specified in a certificate of any of the kinds referred to in subsections (3) and (4) to be increased to such number as the space in the ship available for passengers under this Part will admit, and to provide that the certificate shall then have effect as if such increased number were substituted for the number specified in it, but no increase in the number of passengers shall be made unless the ship is equipped in the manner required by this Part.

(6) *(Deleted by Act A 792:s.15).*

(7) For every certificate issued under subsection (4) such fees shall be paid as are prescribed by the Minister.

209. Surveys and declarations of survey

(1) Subject to the provisions of the last preceding section, the owner, agent or master of every passenger ship shall cause the same to be surveyed by a Surveyor of Ships appointed under this Ordinance.

[Gen. Am. Act A1519:s.2]

(2) The Surveyor of Ships, if satisfied on the survey that he can with propriety do so, shall deliver to the owner, agent or master a declaration of survey in the form approved by the Surveyor-General of Ships.

210. Surveyors may direct repairs

If the Surveyor of Ships finds that any ship under survey by him is not provided in all respects as prescribed by this Ordinance, or requires repairs or additions to the vessel, or her machinery, boats, equipments, or articles on board thereof, the Surveyor shall give notice in writing to that effect to the person having the vessel surveyed, pointing out the deficiencies or defects, and requiring the same to be supplied or made good; and shall not grant a declaration of survey till the same are supplied or made good to his satisfaction.

211. Transmission of declaration

(1) The owner, agent, or master of a passenger ship surveyed shall, within fourteen days after the receipt by him of a declaration of survey, transmit it to the Surveyor-General of Ships.

[Gen. Am. Act A1519:s.2]

(2) If an owner, agent or master fails without reasonable cause so to transmit a declaration of survey, he shall forfeit a sum not exceeding fifty ringgit for every day during which the transmission is delayed, and any sum so forfeited shall be payable on the granting of a certificate in addition to the fee, and shall be applied in the same manner as the fee.

[Am. Act A792:s.54]

212. Issue of passenger ship's certificate

On the receipt of the declaration of survey, the Surveyor-General of Ships shall, if satisfied that this Part has been complied with, issue in duplicate a passenger ship's certificate, that is to say, a certificate stating such compliance and stating, according to the declaration –

[Gen. Am. Act A1519:s.2]

(a) the voyages or class of voyages upon which the ship is fit to ply, or the limits beyond which the ship is not fit to ply; and

(b) the number of passengers which the ship is fit to carry, distinguishing, if necessary, the number to be carried in each part of the ship, and any conditions and variations to which the number is subject.

213. If correctness of survey doubted Minister may order second survey

(1) If any ship is surveyed under this Ordinance, and if the Surveyor declines to grant any declaration of survey, or grants a declaration of survey with which the owner, agent or master of the ship is dissatisfied, the Minister may, on the application of such owner, agent or master and on his paying such fee as is fixed by the Minister in each case, appoint two or more other competent surveyors to survey the said ship.

Proceedings thereon

(2) The surveyors so appointed shall forthwith survey the said ship, and shall either decline to grant any declaration of survey, or shall grant such declaration of survey as under the circumstances seems to them proper.

To be final

(3) If the surveyors appointed under this section unanimously refuse to grant any declaration of survey or unanimously agree as to the terms of a declaration of survey granted by them, such refusal or such declaration of survey shall be final and conclusive; but, if they do not agree, the refusal originally made, or the declaration of survey originally granted by the Surveyor who surveyed the said ship in the first instance shall remain and be of full force and effect.

Re-survey after work completed

(4) If the surveyors decline to grant a declaration under this section unless and until certain works required by them are done to their satisfaction, as soon as the work is done the ship may be again surveyed by the same surveyors or by any surveyors authorized under this Ordinance, who may grant or refuse a declaration at their discretion.

Fees

(5) For every survey made under this section such fees shall be paid as are fixed by the Minister.

214. Transmission of certificate

(1) The Minister shall transmit the passenger ship's certificate in duplicate to the Port Officer at the port mentioned by the owner, agent or master of the ship for the purpose, or at the port where the owner, agent or master or his agent resides, or where the ship has been surveyed, or is for the time lying.

[Gen. Am. Act A1519:s.2]

(2) The Minister shall cause notice of the transmission to be given to the master or owner or his agent, and the officer to whom the certificate has been transmitted shall, on the owner, master or agent applying and paying the proper fee and other sums, if any, mentioned in this Ordinance as payable in that behalf, deliver to him both copies of the certificate.

(3) In proving the issue of a passenger ship's certificate it shall be sufficient to show that the certificate was duly received by the said officer, and that due notice of the transmission was given to the owner, master or agent.

[Gen. Am. Act A1519:s.2]

215. Fees for certificate

The grantee of a passenger ship's certificate shall pay the fees specified in the Fourth Schedule.

[Gen. Am. Act A1519:s.2]

216. Duration of certificate

(1) A passenger ship's certificate shall not be in force for more than one year from the date of its issue, or any shorter time specified in the certificate, nor after notice is given to the owner, agent or master of the ship, that the Minister has canceled it.

[Gen. Am. Act A1519:s.2]

(2) If a passenger ship is absent from the Federation at the time when her certificate expires, a fine shall not be incurred for want of a certificate until she first begins to ply with or carry passengers after her next return to the Federation.

[Gen. Am. Act A1519:s.2]

217. Cancellation of certificate

(1) The Minister may cancel a passenger ship's certificate where he has reason to believe that –

[(1) Gen. Am. Act A1519:s.2]

(a) any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or

(b) the certificate has been issued upon false or erroneous information; or

(c) since the making of the declaration the hull, equipment or machinery has sustained any injury, or is otherwise insufficient.

(2) In every such case the Minister may require the owner to have the hull, equipment or machinery of the ship again surveyed, and to transmit a further declaration of survey, before the re-issue of the certificate or the grant of a fresh one in lieu thereof.

(3) Where any Port Officer or the Surveyor-General of Ships has reason to believe that the certificate of any passenger ship is liable to cancellation under this section, he may detain the ship pending the decision of the Minister.

[Gen. Am. Act A1519:s.2]

218. Delivery of certificate

(1) The Minister may require a passenger ship's certificate, which has expired or been cancelled, to be delivered up as he directs.

[(1) Gen. Am. Act A1519:s.2]

(2) Any owner or master who fails without reasonable cause to comply with such requirement shall be liable for each offence to a fine not exceeding five hundred ringgit.

[Am. Act A792:s.54]

219. Posting of certificate

(1) The owner or master of every ship required to have a passenger ship's certificate shall forthwith on the receipt of the certificate by him or his agent cause one of the duplicates to be put up in some conspicuous place on board the ship, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force and the ship is in use.

[(1) Gen. Am. Act A1519:s.2]

(2) Any owner or master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding five hundred ringgit.

[Am. Act A792:s.54]

(3) If a passenger ship plies at or carries passengers to or from any port or place in the Federation, and this section is not complied with, the owner thereof shall be liable for each offence to a fine not exceeding five thousand ringgit, and the master shall also be liable to a further fine not exceeding one thousand ringgit.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

220. Penalty for forgery of certificate or declaration

Any person who –

(a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration of survey or passenger ship's certificate; or

[(a) Gen. Am. Act A1519:s.2]

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in altering, or procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to, any such declaration or certificate;

shall be liable for each offence to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Am. Act A792:s.54]

221. Penalty for alteration in ship after certificate obtained

Any master who, after having obtained a passenger certificate, knowingly or negligently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers, or other matters to which the certificate relates, shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Am. Act A792:s.54]

222. Special survey may be ordered on any passenger ship

[(1) Gen. Am. Act A1519:s.2]

(1) The Minister may, at any time, if he thinks it necessary for the safety of the passengers, give special directions to a Surveyor of Ships for the survey by him of any passenger ship lying at any port of the Federation and intending to proceed to sea carrying passengers from the Federation, although such vessel has a passenger certificate still in force.

[(1) Gen. Am. Act A1519:s.2]

(2) Any vessel so ordered to be surveyed may be detained until so surveyed, and until a certificate as required by section 208 has been granted, or the requirements of the Surveyor have been otherwise complied with.

223. Equipment of passenger ships with compasses, hose, deck shelters and safety appliances

[Gen. Am. Act A1519:s.2]

(1) A sea-going passenger ship shall have her compasses properly adjusted from time to time to the satisfaction of a Port Officer and according to such regulations as are issued by the Minister.

[(1) Gen. Am. Act A1519:s.2]

(2) A near-coastal trade passenger ship shall be provided with such shelter for the protection of deck passengers, if any, as the Minister, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, requires

[Am. Act A792:s.16; Gen. Am. Act A1519:s.2]

(3) A passenger ship shall be provided with a safety-valve on each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety-valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on the ordinary valve.

[(3) Gen. Am. Act A1519:s.2]

(4) If a passenger ship plies at, or carries passengers to or from any port or place in the Federation, or attempts to do so, without being equipped as required by this section, then, for each matter in which default is made, the owner, if in fault, shall be liable to a fine not exceeding five thousand ringgit, and the master, if in fault, shall be liable to a fine not exceeding three thousand ringgit.

[Am. Act A792:s.54; Gen. Am. Act Act A1519:s.2]

224. Prohibition of increasing weight on safety-valve

A person shall not increase the weight on the safety-valve of a passenger ship beyond the limits fixed by the Surveyor, and, if he does so, he shall, in addition to any other liability he may incur by so doing, be liable for each offence to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

225. Offences in connection with passenger ships

[Gen. Am. Act A1519:s.2]

(1) If any of the following offences is committed in the case of a passenger ship for which there is a passenger ship's certificate in force –

[Gen. Am. Act A1519:s.2]

(a) if any person, being reasonably supposed to be under the influence of alcohol or behaving in a disorderly manner, has been on that account refused admission thereto by

the owner or any person in his employment, and, after having the amount of his fare, if he has paid it, returned or tendered to him, nevertheless persists in attempting to enter the ship;

(b) if any person, being reasonably supposed to be under the influence of alcohol or behaving in a disorderly manner on board the ship, is requested by the owner or any person in his employ to leave the ship at any place in the Federation at which he can conveniently do so, and, after having the amount of his fare, if he has paid it, returned or tendered to him, does not comply with the request;

(c) if any person on board the ship, after warning by the master or other officer thereof, molests or continues to molest any passenger;

(d) if any person, after having been refused admission to the ship by the owner or any person in his employ on account of the ship being full, and having had the amount of his fare, if he has paid it, returned or tendered to him, nevertheless persists in attempting to enter the ship;

(e) if any person having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employ to leave the ship, before it has quitted that place, and, having had the amount of his fare, if he has paid it, returned or tendered to him, does not comply with that request;

(f) if any person travels, or attempts to travel, in the ship without first paying his fare, and with intent to avoid payment thereof;

(g) if any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in the ship beyond that distance without first paying the additional fare for the additional distance, and with intent to avoid payment thereof;

(h) if any person, on arriving in the ship at a point to which he has paid his fare, knowingly and wilfully refuses or neglects to quit the ship;

(i) if any person on board the ship fails, when requested by the master or other officer thereof, either to pay his fare or to exhibit such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship; the person so offending

shall be liable for each offence to a fine not exceeding five hundred ringgit, but that liability shall not prejudice the recovery of any fare payable by him.

[Am. Act A792:s.54]

(2) Any person who on board any such ship wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship, or to obstruct, impede or molest the crew or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship, shall be liable for each offence to a fine not exceeding two thousand ringgit.

[Am. Act A792:s.54]

(3) The master or other officer of any such ship, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence under this section, and whose name and address are unknown to the master or officer, and convey the offender with all convenient despatch before a Magistrate's Court to be dealt with according to law, and the Court shall with all convenient despatch try the case in a summary manner.

(4) Any person who commits an offence under this section and on the application of the master of the ship, or any other person in the employ of the owner thereof, refuses to give his name and address, or gives a false name or address, shall be liable to a fine not exceeding two thousand ringgit, and the fine shall be paid to the owner of the ship.

[Am. Act A792:s.54]

226. Power to exclude drunken passengers

(1) The master of any near-coastal trade passenger ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and, if any such person is on board, may put him on shore at any convenient place.

[Am. Act A895:s.9; Gen. Am. Act A1519:s.2]

(2) A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

227. Ships to sail only from ports

(1) A passenger ship shall not depart, or proceed from, or receive on board or discharge or tranship passengers at any port or place within the Federation other than a port within the meaning of this Ordinance.

[(1) Gen. Am. Act A1519:s.2]

(2) After any such ship has departed or proceeded on a voyage from any such port no person shall, except in case of distress, be received on board as a passenger except at some other port.

(3) No vessel, having taken on board any passenger from a passenger ship lying outside the limits of any port of the Federation, shall land such passenger within any port or place within the Federation, and no vessel shall convey any person from any port or place within the Federation to a passenger ship, lying outside the limits of any port of the Federation, for the purpose of such person being received on board as a passenger, unless the sanction of the Port Officer in writing has been previously obtained.

[Gen. Am. Act A1519:s.2]

Penalty for passenger ship unlawfully departing or receiving passengers on board

(4) If –

(a) a passenger ship departs, or proceeds on a voyage from, or receives on board or discharges or tranships passengers at, any port or place within the Federation in contravention of subsection (1); or

[Gen. Am. Act A1519:s.2]

(b) a person is received as a passenger on board a passenger ship in contravention of subsection (2); or

[Gen. Am. Act A1519:s.2]

(c) a passenger is landed or conveyed in contravention of subsection (3); the master or owner of the passenger ship or the person in charge of such vessel, as the case may be, shall, for every passenger carried in the ship, or for every passenger so discharged, transhipped or received on board the ship, or for every passenger so landed by or conveyed by the vessel, be liable to a fine of five thousand ringgit, or to imprisonment for a term not exceeding six months or to both.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

(5) The ship or vessel, if found within two years in any port or place within the Federation, may be seized and detained by the Port Officer until the penalties incurred under this Part by her master or owner or person in charge have been adjudicated and the payment of the fines imposed on them with all costs has been enforced under this Ordinance.

(6) The aggregate term of imprisonment awarded under this section shall not exceed one year.

228. Notice to be given of day of sailing

The master, owner or agent of any passenger ship, departing or proceeding from any port in the Federation, shall give the prescribed notice to the Port Officer that the ship is to carry passengers, and of her destination, and of the proposed time of sailing, and that a certificate under section 208 is in force and applicable.

[Gen. Am. Act A1519:s.2]

229. Power to enter on and inspect ship

After receiving the notice, the Port Officer, Port Health Officer or a Surveyor of Ships may at all times enter on the ship and inspect her and her fittings and the provisions and stores in her, and may muster and count the passengers on board.

230. Penalty for failing to supply passengers with prescribed provisions

(1) Any master who without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Part, where applicable, or otherwise prescribed by law, shall be liable to a fine not exceeding one hundred ringgit for every passenger who has sustained detriment by the omission.

[Am. Act A792:s.54]

(2) If a Port Officer is satisfied that a passenger has brought on board a passenger ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Part, the requirements of this Part respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

[Gen. Am. Act A1519:s.2]

231. Foreign-going ships to carry medical practitioners

(1) Every foreign-going ship proceeding on or engaged in a voyage to which any rule made under section 244 (1) (n) applies, and carrying one hundred persons or upwards on board, shall carry on board as part of her complement a medical practitioner duly qualified in

accordance with any rules made by the Minister prescribing the qualifications that shall be required.

(2) If she does not, the owner and master shall be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

[Am. Act A792:s.54]

(3) This section shall not apply to any ship complying with section 209 of the Merchant Shipping Act, 1894.

232. Boats in tow

(1) No open boat in tow of any ship, other than a licensed boat built or adapted for the purpose shall be allowed to carry passengers while so towed, except in case of accidents.

(2) If an open boat in tow of a ship is allowed to carry passengers contrary to this section, the master of the ship shall be liable to a fine not exceeding five thousand ringgit and one hundred ringgit for every passenger so carried.

[Am. Act A792:s.54]

233. Statement of number and nationality of passengers to be given by master to Port Officer

(1) The master of a passenger ship, on arriving at or when departing from any port in the Federation, shall forthwith deliver to the Port Officer a correct statement, in this Ordinance referred to as a passenger list, of the number and nationality of the passengers brought in his ship, signed either by himself or by some person authorized by the owner or agent to sign such document.

[Am. Act A895:s.10; Gen. Am. Act A1519:s.2]

(2) Any master who fails to comply with section, or wilfully delivers to the Port Officer an incorrect statement of the passengers carried in his ship, shall be liable to a fine not exceeding one thousand ringgit.

[Am. Act A792:s.54 ; Am. Act A895:s.10]

234. Regulations as to carrying of passengers generally

(1) A passenger ship shall not carry passengers, whether cabin or deck passengers, on more than one deck below the water line.

[(1) Gen. Am. Act A1519:s.2]

(2) If this section is not complied with in the case of any ship, the master and the owner and the chinchew or supercargo, if any, shall be liable for each offence to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

[Am. Act A792:s.54]

235. Penalty for sailing without certificate of survey or in breach of terms of certificate

The owner or master of any passenger ship plying at or carrying passengers to or from any port or place in the Federation or attempting to do so without a certificate of survey in force as required or recognised by this Ordinance, or contrary to the terms of or without compliance with the requirements of such certificate, shall be liable to a fine not exceeding five thousand ringgit.

[Gen. Am. Act A1519:s.2]

236. Penalty for having excessive number of passengers on board

(1) If a passenger ship plying at or carrying passengers to or from any port in the Federation has on board, or if there has been received on board of any passenger ship, a number of passengers which is greater than the number allowed for the ship by or under this Part, the master and owner and chin chew or supercargo shall, for every passenger over and above that number, be each liable to a fine not exceeding three hundred ringgit, and the master and the chin chew or supercargo shall further be liable to imprisonment for a term not exceeding one month in respect of each such passenger.

[Am. Act A792:s.17; Gen. Am. Act A1519:s.2]

(2) The aggregate term of imprisonment awarded under this section shall not exceed six months.

(3) The Port Officer may cause all passengers over and above the number allowed by or under this Part to disembark and forward them to any port at which they have contracted to land and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Ordinance, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

237. Penalty for bringing passengers from foreign port in excess of authorized number

(1) If a passenger ship carrying passengers from any port or place outside the Federation to any port or place in the Federation has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner and chinchew or supercargo shall each be liable to a fine not exceeding five thousand ringgit and to a further fine not exceeding three hundred ringgit for every passenger in excess of that number.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

(2) For the purposes of this section "certificate" means a certificate recognised as valid under the provisions of section 208.

238. Penalty for landing passengers at a place other than that at which he has contracted to land

Any master of a passenger ship who lands any passenger at any port or place other than the port or place at which the passenger has contracted to land, unless with his previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term which may extend to six months, or to both.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

239. Penalty for making voyage in contravention of contract with passengers

If a passenger ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to a voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months, or to both.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

240. Penalty for bringing passengers in filthy or insanitary passenger ship

[Gen. Am. Act A1519:s.2]

(1) If any passenger ship is found on its arrival in the Federation to be in a filthy or insanitary condition, the master of the ship shall be liable to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

(2) The Port Health Officer shall inspect every such ship on its arrival in order to ascertain the sanitary condition thereof.

(3) No passenger ship shall carry any cargo likely to injure the health or endanger the safety of the passengers.

[Gen. Am. Act A1519:s.2]

(4) If any passenger ship carries any cargo likely to injure the health or endanger the safety of the passengers the master of the ship shall be liable on conviction to a fine not exceeding ten thousand ringgit and the ship may be detained until such fine is paid.

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

241. Rules for numbering passengers

(1) For the purpose of any legal proceeding under this Part, the passenger list delivered under this Part shall be received in evidence.

(2) Every person, ascertained to have been on board a ship as a passenger at any time since her departure from her last port or place, shall be deemed to be still a passenger on the arrival of the ship at any port or place in the Federation, whether such passenger is on board or not when the ship is examined on such arrival.

242. Information to be sent to ports of embarkation and discharge

(1) The Port Officer at any port or place within the Federation at which a ship carrying passengers touches or arrives shall, with reference to the provisions of this Part, send any particulars which he deems important respecting the ship and the passengers carried therein to the Port Officer at the port or place from which the ship commenced her voyage and to the Port Officer at any other port or place within the Federation where the passengers or any of them embarked or are to be discharged.

(2) The Port Officer, Port Health Officer or a Surveyor of Ships at any port or place in the Federation at which a passenger ship touches or arrives may enter on the ship and inspect her in order to ascertain whether the provisions of this Part, as to the number of passengers and other matters, have been complied with.

[(2) Gen. Am. Act A1519:s.2]

243. Evidence

In any proceeding for the adjudication of any penalty incurred under this Part –

- (a) any document purporting to be a report of such particulars as are referred to in section 242 (1);
- (b) any like document purporting to be made and signed by any consular officer of any foreign country; and
- (c) any copy of the proceedings of any Court of Justice duly authenticated; shall, subject to all just exceptions, be received in evidence if it appears to have been officially transmitted to any officer at or near the place where proceedings are taken.

244. Power of Minister to make rules

(1) The Minister may make rules to carry out the purposes of this Part and may, by such rules, arrange passenger ships into classes having regard to the services in which they are employed, to the nature and duration of the voyage and to the number of passengers to be carried, and may further, by such rules, prescribe, in the case of any passenger ship or class of passenger ship –

[Gen. Am. Act A1519:s.2]

- (a) the mode in which application for survey shall be made;
- (b) the number of superficial or cubic feet to be available for passengers;
- (c) the scale on which food, fuel and water shall be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water to be carried on board for the voyage;
- (d) the nature and the extent of the hospital accommodation and the medical stores, disinfectants and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

- (e) the anchors and cables to be provided on board;
- (f) the instruments for purposes of navigation to be supplied;
- (g) the provision of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys;
- (h) the functions of the master and other officers of the ship during the voyage;
- (i) the access of between-decks passengers to the upper deck;
- (j) the nature of goods that may be carried as cargo on deck or between decks and the manner in which such goods may be stored;
- (k) the local limits within which, and the time and mode at and in which, passengers shall be embarked or discharged at any port or place in the Federation and the fees to be paid in respect of the embarkation or discharge of passengers;

[Am. Act A792:s.18]

- (l) the time within which the ship or any ship of the class shall depart or proceed on her voyage after commencing to take passengers on board, and the hours during or between which the ship or any ship of the class may put to sea;
- (m) the length of notice to be given under section 228; and
- (n) the voyages on which foreign-going passenger ships carrying one hundred persons or upwards on board shall carry a medical practitioner and the qualifications of such medical practitioner.

[(n) Gen. Am. Act A1519:s.2]

(2) The Minister, in making a rule under this section, may direct that any person who commits a breach of it shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

[Subs. Act A792:s.18]

(3) Except where the number of passengers permitted to be carried is increased in accordance with rules under section 208 (5), rules made under paragraphs (a) to (j) of subsection (1) shall not affect any passenger ship holding a certificate referred to in subsection (3) or (4) of section 208.

[(3) Gen. Am. Act A1519:s.2]

245. Port Officer may send on passenger from near-coastal trade if master of the ship fails to do so

If any passenger of a near-coastal trade ship, British, Malayan or foreign, without any neglect or default of his own, finds himself within any port or place of or in the Federation not being the port or place for which the ship was originally bound, the Port Officer may forward such passenger to his intended destination unless the master of such ship, within forty-eight hours of the arrival of such passenger, gives to the Port Officer a written undertaking to forward or carry on within two weeks thereafter such passenger to his original destination, and unless such master accordingly forwards or carries him on within that period.

[Am. Act A792:s.19]

246. Expenses incurred number section 245 to be a debt due to the Government

All expenses incurred under section 245 by or by the authority of such Port Officer, including the cost of maintaining the passenger, until forwarded to his destination and of all necessary bedding, provisions and stores, shall become a debt to the Government from the owner, charterer and master of such ship, and shall be recoverable from them or any one or more of them accordingly, as in the case of other debts due to the Government.

247. Procedure

(1) A certificate, purporting to be under the hand of any such Port Officer, stating the total amount of such expenses, shall, in any suit or other proceeding for the recovery of such debt, be received in evidence without proof of the handwriting or of the official character of such Port Officer, and shall be deemed sufficient evidence of the amount of such expenses and that the same were duly incurred.

(2) It shall not be necessary to adduce on behalf of the Government any other evidence in support of the claim, but judgment shall pass for the Government with costs of suit, unless the defendant pleads and duly proves that such certificate is false or fraudulent or specially pleads and proves any facts showing that such expenses were not duly incurred under this Part.

(3) In no case shall a larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received, or due to and recoverable by or on account of the owner, charterer and master of such ship, or any of them, for or in respect of the whole number of passengers who have embarked in such ship, which total amount of

passage money shall be proved by the defendant if he seeks to have the advantage of this limitation of the debt.

Exemptions

248. Power to exempt ship from Part IV

(1) The Minister may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any provision of this Part not being a provision applicable to such ship or class of ships under the Merchant Shipping Acts.

(2) In imposing a condition under this section the Minister may direct that a breach of it shall be punishable with a fine not exceeding one thousand ringgit and, when the breach is a continuing breach, with a further fine not exceeding one hundred ringgit for every day after the first during which the breach continues.

[Am. Act A792:s.54]

249. Application of Part IV

This Part shall not apply to any troop-ship or other ship in the service of Her Majesty or of His Highness the Ruler or His Excellency the Governor of any State, nor to any ship of war, troop-ship or other ship belonging to or for the time being in the service of any foreign State.

PART V – MARITIME TRANSPORT SAFETY AND SECURITY

Maritime Transport Security

249A. Interpretation

In this subheading, unless the context otherwise requires –

“certificate” means the International Ship Security Certificate, Statement of Compliance of a maritime transport security area or Statement of Compliance of a designated marine facility issued in accordance with section 249K;

“company” means the owner of a ship or, any other organization or person such as the ashore manager or bare boat charterer who has assumed responsibility for the operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all duties and responsibilities relating to the safe operation of the ship;

“declaration of security” means an agreement between a ship and either a marine facility or another ship with which it interfaces, that specifies the security measures each must implement;

“interim certificate” means the Interim International Ship Security Certificate issued in accordance with subsection 249K(4);

“marine facility” includes –

- (a) an area of land, water or other supporting surface used, designed, prepared, equipped or set apart for use, either in whole or in part, for the arrival, departure, movement or servicing of vessels;
- (b) a building or installation and equipment in the area associated with it or used or set apart for handling or storing goods that have been or are destined to be transported on a vessel;
- (c) equipment and facilities used to provide services relating to marine transportation;
- (d) a fixed and floating structure, including an offshore industry structure;
- (e) an off-shore industry mobile unit

“marine facility security assessment” means a process of risks identification in respect of a designated marine facility which contains the following elements:

- (a) identification and evaluation of assets and infrastructure that is important to protect;
- (b) identification of possible threats to the assets and infrastructure and the likelihood of their occurrence in order to establish and prioritize security measures;
- (c) identification, selection and prioritization of countermeasures and procedural changes and their level of effectiveness in reducing vulnerability; and
- (d) identification of weaknesses, including human factors, in the infrastructure, policies and procedures;

“marine facility security plan” means a plan developed to ensure the application of measures designed to protect a designated marine facility and ships, persons, cargo, cargo transport units and ship’s stores within the designated marine facility from the risks of a security incident;

“maritime transport security area security assessment” means a process of risks identification in respect of a maritime transport security area which contains the following elements:

- (a) identification and evaluation of assets and infrastructure that is important to protect;
- (b) identification of possible threats to the assets and infrastructure and the likelihood of their occurrence in order to establish and prioritise security measures;
- (c) identification, selection and prioritization of countermeasures and procedural changes and their level of effectiveness in reducing vulnerability; and
- (d) identification of weaknesses, including human factors, in the infrastructure, policies and procedures,

and does not include matters as contained in the ship security assessment and marine facility security assessment in respect of a ship and marine facility within that maritime transport security area;

“maritime transport security area security plan” means a plan developed to ensure the application of measures designed to protect a maritime transport security area from the risks of a security incident, and does not include matters as contained in the ship security plan and marine facility security plan in respect of a ship and marine facility within that maritime transport security area;

“security incident” means any suspicious act or circumstance threatening the security of a ship, including a high-speed craft, or a marine facility, or any ship-marine facility interface or ship-to-ship activity;

“security level” means the quantification of the degree of risk that a security incident will be attempted or will occur;

“security level 1” means the level for which minimum appropriate protective security measures shall be maintained at all times;

“security level 2” means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident;

“security level 3” means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target;

“ship security assessment” means a process of risks identification in respect of a ship which contains the following elements:

- (a) identification of existing security measures, procedures and operations;
- (b) identification and evaluation of key shipboard operations that is important to protect;
- (c) identification of possible threats to key shipboard operations and the likelihood of their occurrence in order to establish and prioritize security measures; and
- (d) identification of weaknesses, including human factors, in the infrastructure, policies and procedures;

“ship security plan” means a plan developed to ensure the application of measures on board a ship designed to protect persons on board, cargo, cargo transport units, ship’s stores or the ship from the risks of a security incident;

“ship-to-ship activity” means any activity not related to a marine facility that involves the transfer of goods or persons from one ship to another ship.

[Ins. Act A1316:s.4]

249B. Application

This subheading applies to –

- (a) maritime transport security areas and ships in Malaysia and Malaysian waters;
- (b) marine facilities in Malaysia, Malaysian waters, the exclusive economic zone and continental shelf, and ships entering such marine facilities; and
- (c) Malaysian ships and off-shore industry mobile units registered under the Ordinance, wherever they are.

[Ins. Act A1316:s.4]

249C. Exemption

The Minister may exempt any ship or class of ships or designated marine facilities from any of the provisions of this subheading or any rules made hereunder, upon such terms and conditions as he deems fit.

[Ins. Act A1316:s.4]

249D. Designated Authority

(1) The Director of Marine shall be the Designated Authority for the purposes of implementing the provisions of this subheading.

(2) The Designated Authority shall be responsible for –

(a) approving the ship security assessment and ship security plan and subsequent amendments to a previously approved assessment and plan;

(b) approving the maritime transport security area security assessment and marine facility security assessment, and the maritime transport security area security plan and marine facility security plan and any subsequent amendments to any previously approved assessments and plans;

(c) verifying the compliance of maritime transport security areas, ships and designated marine facilities with the approved security assessments and security plans;

(d) exercising control and compliance with security measures to be adopted at the different security levels declared; and

(e) testing approved security plans.

(3) The Designated Authority shall notify the company or master of the ship, or operator of a designated marine facility the security level declared for the ship or designated marine facility, respectively.

[Ins. Act A1316:s.4]

249E. Maritime transport security area

The Designated Authority may by notification published in the Gazette –

(a) declare any area or part of an area in Malaysia and Malaysian waters as a maritime transport security area; or

(b) declare that a maritime transport security area ceases to be a maritime transport security area.

[Ins. Act A1316:s.4]

249F. The Designated Authority may by notification published in the Gazette –

- (a) designate any marine facility as a designated marine facility, including the delineation of its boundary, its hours of operation and its name;
- (b) vary any particulars of a designated marine facility; or
- (c) declare that a designated marine facility ceases to be a designated marine facility.

[Ins. Act A1316:s.4]

249G. Appointment of Maritime Transport Security Officer

- (1) The Designated Authority may appoint a Maritime Transport Security Officer in respect of a maritime transport security area.
- (2) The Maritime Transport Security Officer shall be responsible for the development, implementation, revision and maintenance of the maritime transport security area security assessment and maritime transport security area security plan.
- (3) The Maritime Transport Security Officer may establish a committee to monitor and coordinate security matters within the maritime transport security area.

[Ins. Act A1316:s.4]

249H. Appointment of Marine Facility Security Officer

- (1) Every designated marine facility shall have a Marine Facility Security Officer who shall be accountable to –
 - (a) the Designated Authority in respect of a designated marine facility situated outside the maritime transport security area;
 - (b) the Maritime Transport Security Officer in respect of a designated marine facility situated within the maritime transport security area.
- (2) The operator of a designated marine facility shall appoint a Marine Facility Security Officer.
- (3) The Marine Facility Security Officer shall be responsible for the development, implementation, revision and maintenance of the marine facility security assessment and marine facility security plan, and for liaison with the Ship Security Officers and Company Security Officers.

249I. Appointment of Company Security Officer

Every company shall appoint one or more Company Security Officers to be responsible for the development and supervision of the implementation of the ship security assessment and ship security plan in respect of its ships.

[Ins. Act A1316:s.4]

249J. Appointment of Ship Security Officer

(1) Every ship shall have a Ship Security Officer who shall be responsible for the security of the ship, including the implementation and maintenance of the ship security plan, and for liaison with the Company Security Officers and Marine Facility Security Officers.

(2) Subject to subsection (3), the Ship Security Officer shall be accountable to the master of the ship.

(3) Where the Ship Security Officer is also the master of the ship, he shall be accountable to the Company Security Officer.

[Ins. Act A1316:s.4]

249K. Issuance of certificate and interim certificate

(1) The Designated Authority may, upon receipt of a written application from a company and upon being satisfied that a ship of the company has complied with all the requirements of this subheading and the rules made hereunder, issue an International Ship Security Certificate in the prescribed form in respect of such ship upon payment of the prescribed fee.

(2) The Designated Authority may, upon receipt of a written application from a Maritime Transport Security Officer or operator of a designated marine facility and upon being satisfied that the maritime transport security area or designated marine facility has complied with all the requirements of this subheading and the rules made hereunder, issue –

(a) a Statement of Compliance of a maritime transport security area; or

(b) a Statement of Compliance of a designated marine facility, in the prescribed form in respect of such maritime transport security area or designated marine facility, upon payment of the prescribed fee.

(3) The Designated Authority may issue the certificate in pursuance of subsection (1) or (2) subject to any conditions or restrictions that he may deem fit to impose.

(4) The Designated Authority may, pending the issuance of the International Ship Security Certificate, issue an Interim International Ship Security Certificate subject to such conditions or restrictions that he may deem fit to impose.

[Ins. Act A1316:s.4]

249L. Revocation of certificate or interim certificate

(1) The Designated Authority may at any time revoke the certificate or interim certificate issued under section 249K if he is satisfied that –

(a) there has been a contravention of any provision of this subheading or any rules made hereunder; or

(b) there has been a breach of any condition or restriction of the certificate or interim certificate, provided that no certificate or interim certificate shall be revoked unless the holder of the certificate or interim certificate has been given a reasonable opportunity of making a representation against the intended revocation.

(2) Notwithstanding subsection (1), the International Ship Security Certificate shall be deemed to have been revoked –

(a) when a company assumes responsibility for the operation of a ship not previously operated by that company; or

(b) upon transfer of the ship to the flag of another State.

[Ins. Act A1316:s.4]

249M. Surrender of certificate or interim certificate

(1) Upon the revocation or expiry of the International Ship Security Certificate or Interim International Ship Security Certificate, the company or master of the ship shall surrender such certificate or interim certificate –

(a) to the Designated Authority within fourteen days of the ship's arrival at a Malaysian port; or

(b) to the nearest Malaysian diplomatic or consular officer who shall immediately forward the certificate to the Designated Authority, where the ship is at a port outside Malaysia.

(2) Upon the revocation or expiry of the Statement of Compliance of a maritime transport security area or Statement of Compliance of a designated marine facility, the Maritime Transport Security Officer or operator of the designated marine facility, as the case may be, shall surrender the certificate to the Designated Authority within fourteen days from the date of its revocation or expiry.

(3) Any company, master of a ship, Maritime Transport Security Officer or operator of a designated marine facility who fails to surrender the certificate or interim certificate upon the revocation or expiry of such certificate or interim certificate in the manner as specified in subsection (1) or (2) shall be liable for each offence to a fine not exceeding twenty-five thousand ringgit.

[Ins. Act A1316:s.4]

249N. Replacement of certificate or interim certificate

(1) Where the certificate or interim certificate issued under section 249K is lost, defaced or destroyed, the Designated Authority may, upon receipt of an application from the company, Maritime Transport Security Officer or operator of the designated marine facility and upon payment of the prescribed fee, issue a certificate or interim certificate in lieu of the original certificate or interim certificate, provided that the company, Maritime Transport Security Officer or operator of the designated marine facility proves to the satisfaction of the Designated Authority that he or it has not caused or contributed to the loss, defacement or destruction of the original certificate or interim certificate.

(2) Where the original certificate or interim certificate is found after the certificate or interim certificate has been issued in pursuance of subsection (1), the original certificate or interim certificate shall be deemed to have been revoked and of no effect.

[Ins. Act A1316:s.4]

249O. Pre-arrival notification

(1) Every master of a ship shall report to the Maritime Transport Security Officer before entering any designated marine facility within a maritime transport security area in accordance with the prescribed procedures.

(2) Every master of a ship shall report to the Designated Authority before entering any designated marine facility outside a maritime transport security area in accordance with the prescribed procedures.

249P. Requirement for declaration of security

The Designated Authority may require a declaration of security to be completed if he is satisfied that a ship-marine facility interface or ship-to-ship activity poses a risk to persons, property or the environment.

[Ins. Act A1316:s.4]

249Q. Request for declaration of security

(1) The master of a ship or the Ship Security Officer may lodge a request with the Designated Authority, Marine Facility Security Officer or with the master or the Ship Security Officer of another ship for a declaration of security or modification of such declaration of security if –

- (a) the ship is operating at a higher security level than the designated marine facility or the other ship with which it is interfacing or intends to interface;
- (b) the ship is registered in a State that is a party to the Safety Convention, and there is an agreement on a declaration of security between that State and Malaysia covering certain international voyages or specific ships on those voyages;
- (c) a security incident involving the ship or the marine facility it is using or intends to use, has occurred; or
- (d) the ship is at a marine facility that is not required to have and implement an approved marine facility security plan.

(2) The master of a ship or the Ship Security Officer may lodge a request with the master of another ship for a declaration of security or modification of such declaration of security if the ship is conducting ship-to-ship activities with that other ship which is not required to have and implement an approved ship security plan.

(3) A Marine Facility Security Officer may, before or during ship-marine facility interface, lodge a request with the master of the ship or Ship Security Officer for a declaration of security or modification of such declaration of security, if –

- (a) the marine facility security plan identifies the ship-marine facility interface as being susceptible to a security incident; or

(b) the designated marine facility is operating at a higher security level than the ship with which it is interfacing or intends to interface with.

[Ins. Act A1316:s.4]

249R. Reporting of security incident

(1) The company, master of a ship, Maritime Transport Security Officer or operator of a designated marine facility shall report immediately to the Designated Authority upon the occurrence of the following security incidents:

- (a) an explosion that is not the result of an accident;
- (b) a bomb threat, armed attack, hostage taking, stowaway or hijacking; or
- (c) any breach of security.

(2) Any company, master of a ship, Maritime Transport Security Officer or operator of a designated marine facility who fails to report the security incident shall be liable for each offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

[Ins. Act A1316:s.4]

249S. Direction to ships

(1) Where the Designated Authority has reasonable grounds to suspect that a ship is a threat to the security of any person or thing, including any goods, maritime transport security area, ship or marine facility, the Designated Authority may direct the ship to –

- (a) proceed to a place specified by the Designated Authority in accordance with any instructions given by him and to remain at the place until he is satisfied that the security threat no longer exists;
- (b) proceed out of Malaysian waters in accordance with any instructions the Designated Authority may give regarding the route and manner of proceeding; or
- (c) remain outside Malaysian waters.

(2) The Designated Authority may in writing authorize any Maritime Transport Security Officer or port officer to exercise the power to issue directions to any ship in pursuance of subsection (1).

(3) The direction given to the company or master of a ship is evidence that reasonable steps were taken to notify the ship that it is a threat to the security of any person or thing, including any goods, maritime transport security area, ship or marine facility.

(4) The company or master of a ship who fails to comply with the direction shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both. Prohibition of ships entering Malaysian waters when there is a security incident.

[Ins. Act A1316:s.4]

249T. Prohibition of ships entering Malaysian waters when there is a security incident

(1) Where there is a security incident, the Designated Authority may prohibit any ship or class of ships from entering any area of Malaysian waters, or any marine facilities in the exclusive economic zone or continental shelf.

(2) Any company or master of a ship who contravenes this section shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

[Ins. Act A1316:s.4]

249U. Master's discretion for ship security

If the master during the operation of the ship, in his professional judgement takes or executes any decision which is in conflict with the safety and security requirements applicable to the ship that is necessary to maintain the safety of the ship, the taking or execution of that decision shall not by itself constitute a breach of any duty owed to any person by him under any contract, including a contract of employment.

[Ins. Act A1316:s.4]

249V. Detention of ship

Where the Designated Authority has reasonable cause to suspect that a ship fails to comply with any provision of this subheading or any rules made hereunder, the Designated Authority may direct that the ship be detained for the purposes of conducting an investigation and examination of the ship, including that in respect of all persons on board the ship.

[Ins. Act A1316:s.4]

249w. Equivalent security arrangements

The Designated Authority may allow any Malaysian ship, maritime transport security area or designated marine facility to implement other security measures that are equivalent to and at least as effective as the security measures prescribed under this subheading.

[Ins. Act A1316:s.4]

249x. Security organization

(1) The Designated Authority may in writing, subject to any conditions as he deems fit, appoint any organization which has appropriate expertise in security matters and appropriate knowledge of ships and marine facility operations as a security organization.

(2) Notwithstanding subsections 249D(2), 249K(1) and 249L(1), the Designated Authority may authorize in writing the security organization to undertake certain security-related activities in respect of a ship only, including –

(a) the approval of the ship security assessment and ship security plan and subsequent amendments to a previously approved assessment and plan;

(b) the verification of compliance of ships with the approved ship security assessments and ship security plans; and

(c) the issuance, replacement and revocation of the International Ship Security Certificate in accordance with this subheading.

(3) The Designated Authority may revoke the appointment of a security organization under subsection (1) if he is satisfied that the security organization fails to meet the conditions as imposed by him.

[Ins. Act A1316:s.4]

249Y. Alternative security arrangements

(1) This subheading shall not apply to –

(a) any ship engaged on short international voyages on fixed routes between designated marine facilities and marine facilities outside Malaysia; and

(b) the designated marine facilities as mentioned in paragraph (a),

if it is covered by an agreement between the Government of Malaysia and another government on alternative security arrangements.

No ship covered by the agreement referred to in subsection (1) shall conduct any ship-to-ship activity with any ship not covered by such agreement.

[Ins. Act A1316:s.4]

249Z. Power to inspect

The Designated Authority, port officer or any person authorized in writing by the Designated Authority, may inspect any ship, maritime transport security area and designated marine facility to which this subheading applies for the purpose of ensuring that the provisions of this subheading and the rules made hereunder have been complied with.

[Ins. Act A1316:s.4]

249AA. Power to investigate

(1) Investigations in respect of offenses under this subheading may, without prejudice to the provisions of any other written law relating to investigations, be conducted by the Designated Authority or any person authorized in writing by him.

(2) The Designated Authority or any person authorized in writing by him making investigations under this subheading shall have the power to –

(a) go on board any ship or enter into any maritime transport security area or marine facility as he considers necessary;

(b) require the company, master of any ship, Maritime Transport Security Officer or operator of a designated marine facility to facilitate the boarding of the ship or entry into the maritime transport security area or marine facility, as the case may be;

(c) require information, whether orally or in writing, from any person supposed to be acquainted with the facts and circumstances of the case under investigation; or

(d) require the production of any certificate, interim certificate, official log-book or other documents relating to the operation of the ship, maritime transport security area or designated marine facility from the company, master of the ship, Maritime Transport Security Officer or operator of the designated marine facility, as the case may be.

(3) Any person who –

(a) without reasonable excuse refuses or fails to comply with a requirement made of him by the Designated Authority or any person authorized in writing by the Designated Authority in the exercise of his powers under subsection (2); or

(b) in respect of a matter that he is required to respond to under subsection (2), makes a statement that is false or misleading in a material particular,

shall be liable for each offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

[Ins. Act A1316:s.4]

249AB. Maritime transport security rules

The Minister may make such rules as may be necessary or expedient with respect to any matters relating to maritime transport security, and such rules may –

(a) regulate the issuance and revocation of certificates and interim certificates, including procedures for the application of certificates and interim certificates, and the duration and replacement of such certificates;

(b) provide for security measures in respect of access control, security monitoring, passengers, personnel, baggage, delivery of ship's stores and cargo security, including the development, implementation and review of security assessments and security plans for maritime transport security areas, ships and designated marine facilities and the procedure to be adopted and complied with when the security level has been declared;

(c) prescribe the fees payable in connection with the provision of any service or any other matter this subheading, including the manner of collecting and disbursing such fees and for matters relating to the failure to pay such fees;

(d) prescribe the forms that are required for the purposes of this subheading;

(e) prescribe the standards of security to be maintained on board ships and in the maritime transport security areas and designated marine facilities;

(f) provide for the procedure in respect of pre-arrival notification of any ship;

(g) regulate matters concerning the declaration of security, including the form of request for a declaration of security;

(h) provide for the duties, responsibilities and training requirements of a Maritime Transport Security Officer, Marine Facility Security Officer, Company Security Officer and Ship Security Officer;

(i) provide for penalties for the contravention of the provisions of the rules made hereunder of a fine not exceeding twenty-five thousand ringgit or imprisonment for a term not exceeding two years or to both.

[Ins. Act A1316:s.4]

Safe Operation of Ships

249AC Interpretation

In this subheading, unless the context otherwise requires –

“certificate” means the Document of Compliance or the Safety Management Certificate issued in accordance with section 249AJ;

“company” has the same meaning as assigned to it in section 249A;

“interim certificate” means the Interim Document of Compliance or the Interim Safety Management Certificate issued in accordance with subsection 249AJ(4);

“Safety Management System” means a structured and documented system enabling the company to implement effectively the company’s safety and environmental protection policy within the company and on its ships.

[Ins. Act A1316:s.5]

249AD. Application

This subheading shall apply to –

(a) passenger ships;

(b) cargo ships of 500 gross tonnage and more; and

(c) off-shore industry mobile units of 500 gross tonnage and more, registered under the Ordinance.

[Ins. Act A1316:s.5]

249AE. Exemption

(1) The Minister may, by notification published in the Gazette exempt any ship or class of ships from any of the provisions of this subheading or any rules made hereunder, upon such terms and conditions as he may deem fit.

(2) Subject to subsection (1), the Surveyor-General of Ships may exempt any ship from any of the provisions of this subheading for a particular voyage, upon such terms and conditions as he may deem fit.

[Ins. Act A1316:s.5]

249AF. General supervision by the Surveyor-General of Ships on matters relating to the safe operation of ships, etc.

For the purposes of this subheading, the Surveyor-General of Ships shall exercise general direction and supervision over all matters relating to the safe operation of ships and protection of the environment, and shall ensure compliance with the provisions of this subheading and the rules made hereunder.

[Ins. Act A1316:s.5]

249AG. Appointment of designated person

(1) Every company shall appoint one or more designated persons ashore who shall provide a link between the company and those persons on board the ship, and shall have direct access to the highest level of management of the company.

(2) The designated person shall monitor the safety and pollution prevention aspects of the operation of each ship and shall ensure that adequate resources and shore based support are applied.

[Ins. Act A1316:s.5]

249AH. Safety Management System

(1) Every company shall develop, implement and maintain a Safety Management System that shall include the following functional requirements:

(a) a safety and environmental-protection policy;

(b) instructions and procedures to ensure the safe operation of ships and protection of the environment in compliance with relevant laws and international conventions;

(c) defined levels of authority and lines of communication between and among shore and shipboard personnel;

(d) procedures for reporting accidents and nonconformities with the provisions of this subheading;

(e) procedures to prepare for and respond to emergency situations; and

(f) procedures for internal audits and management reviews.

(2) The Surveyor-General of Ships shall carry out audits of the Safety Management System of every company and its ships to verify compliance with the provisions of this subheading and the rules made hereunder.

(3) The company shall notify the Surveyor-General of Ships of any amendments made to the Safety Management System within thirty days after the amendments have been made.

(4) Any company who fails to comply with subsection (1) or (3) shall be liable for each offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

[Ins. Act A1316:s.5]

249AI. Master's responsibilities

(1) The company shall ensure that the Safety Management System on board the ship contains a clear statement emphasizing the master's authority.

(2) The company shall establish in the Safety Management System that the master has the overriding authority and responsibility to make decisions with respect to safety and pollution prevention and to request the company's assistance as when necessary.

[Ins. Act A1316:s.5]

249AJ. Issuance of certificate or interim certificate

(1) The Surveyor-General of Ships may, upon receipt of an application from the company and upon verification that he is satisfied that the company has complied with all the requirements of this subheading and the rules made hereunder, issue a Document of Compliance in the prescribed form in respect of the type of ships indicated in that document upon payment of the prescribed fees.

(2) Upon obtaining the Document of Compliance, the company shall apply for a Safety Management Certificate in respect of each of its ships within the types of ships as indicated in the Document of Compliance, and the Surveyor-General of Ships may upon being satisfied that the company and its shipboard management operate in accordance with the Safety Management System, issue the Safety Management Certificate upon payment of the prescribed fees.

(3) The Surveyor-General of Ships may issue the certificate in pursuance of subsection (1) or (2) subject to any conditions that he may deem fit to impose.

(4) The Surveyor-General of Ships may, pending the issuance of the certificate, issue an interim certificate subject to such conditions as he may deem fit to impose.

(5) Where a company to whom a Document of Compliance has been issued, applies for the addition of new types of ships to the existing types of ships as indicated in the Document of Compliance, the Surveyor-General of Ships may issue to that company an Interim Document of Compliance in respect of the new types of ships.

(6) A Safety Management Certificate shall not be issued based on an Interim Document of Compliance.

[Ins. Act A1316:s.5]

249AK. Revocation of certificate or interim certificate

(1) The Surveyor-General of Ships may at any time revoke the certificate or interim certificate issued to the company under section 249AJ if he is satisfied that –

(a) there has been a contravention of any provision of this subheading or any rules made hereunder; or

(b) there has been a breach of any condition of the certificate or interim certificate, provided that no certificate or interim certificate shall be revoked unless the holder of the certificate or interim certificate has been given a reasonable opportunity of making a representation against the intended revocation.

(2) The Safety Management Certificate or Interim Safety Management Certificate, which has been issued and is associated with the Document of Compliance or Interim Document of Compliance which has been revoked in pursuance of subsection (1), shall be revoked.

[Ins. Act A1316:s.5]

249AL. Surrender of certificate or interim certificate

(1) Upon the revocation or expiry of the certificate or interim certificate, the company or master of the ship shall surrender –

(a) the Document of Compliance or Interim Document of Compliance to the Surveyor-General of Ships, within fourteen days from the date of its revocation or expiry;

(b) the Safety Management Certificate or Interim Safety Management Certificate to the Surveyor-General of Ships within fourteen days of the ship's arrival at a Malaysian port, or if the ship is at a port outside Malaysia, to the nearest Malaysian diplomatic or consular officer who shall immediately forward the certificate or interim certificate to the Surveyor-General of Ships.

(2) Any company or master of a ship who fails to surrender the certificate or interim certificate in accordance with subsection (1) shall be liable for each offence to a fine not exceeding twenty-five thousand ringgit.

[Ins. Act A1316:s.5]

249AM. Replacement of certificate or interim certificate

(1) Where any certificate or interim certificate issued under this subheading is lost, defaced or destroyed, the Surveyor-General of Ships may, upon receipt of an application from the company and upon payment of the prescribed fee, issue a certificate or interim certificate in lieu of the original certificate or interim certificate, provided that the company proves to the satisfaction of the Surveyor General of Ships that he or it has not caused or contributed to the loss, defacement or destruction of the original certificate or interim certificate.

(2) Where the original certificate or interim certificate is found after the certificate or interim certificate has been issued in pursuance of subsection (1), the original certificate or interim certificate shall be deemed to have been revoked and of no effect.

[Ins. Act A1316:s.5]

249AN. Powers to investigate

(1) Investigations in respect of offences under this subheading may, without prejudice to the provisions of any other written law relating to investigations, be conducted by the Surveyor-General of Ships.

(2) The Surveyor-General of Ships shall have the power to –

- (a) go on board any ship or enter into any premises as he considers necessary;
 - (b) require the master of any ship or company to facilitate the boarding of the ship or entry into the premises;
 - (c) require information, whether orally or in writing, from any person supposed to be acquainted with the facts and circumstances of the case under investigation; or
 - (d) require the production of any certificate, interim certificate, official log-book or other documents relating to the operation of the ship and safe management of the company from the master of the ship or company.
- (3) The Surveyor-General of Ships may direct any ship to be detained solely for the purpose of conducting an investigation.
- (4) Any person who –
- (a) without reasonable excuse refuses or fails to comply with a requirement made of him by the Surveyor-General of Ships in the exercise of his powers under subsection (2); or
 - (b) in respect of a matter that he is required to respond to under subsection (2), makes a statement that is false or misleading in a material particular,
- shall be liable for each offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

[Ins. Act A1316:s.5]

249AO. Safety rules

- (1) The Minister may make rules providing for the safe management and operation of ships including the safe practices in ship operation, safe working environment on board ships, the management of persons ashore and avoidance of damage to the environment, in particular the marine environment and to property.
- (2) Without prejudice to the generality of subsection (1), the rules may –
- (a) regulate the issuance and revocation of certificates and interim certificates, including procedures for the application of certificates and interim certificates, the duration and replacement of such certificates, and the annual verification of the Document of Compliance and intermediate verification of the Safety Management Certificate;
 - (b) provide for standards for the safe management and operation of ships including the preparation of operational plans on board ships, emergency response, manning,

documentation of the Safety Management System, master's responsibilities and any matters connected therewith;

(c) provide for the establishment and maintenance of procedures to control all documents and data relevant to the Safety Management System;

(d) provide for the verification of compliance of the Safety Management System through auditing procedures;

(e) prescribe the fees payable in connection with the provision of any service or any other matter under this subheading, including the manner of collecting and disbursing such fees and for matters relating to the failure to pay such fees;

(f) prescribe the forms that are required for the purposes of this subheading;

(g) prescribe the competency requirement of persons who are carrying out the verification procedures and practices;

(h) provide for penalties for the contravention of the provisions of the rules made hereunder of a fine not exceeding twenty-five thousand ringgit or imprisonment for a term not exceeding two years or to both.

[Ins. Act A1316:s.5]

Prevention of Collisions

250. Inspection as to lights and fog-signals

(1) A Surveyor of Ships may inspect any vessel, British, Malayan or foreign, within a port of the Federation for the purpose of seeing that the vessel is properly provided with lights and the means of making fog-signals, in conformity with the collision regulations made under section 252 of this Ordinance, or with the rules made under the next succeeding section.

(2) If the Surveyor finds that the vessel is not so provided, he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

(3) Every notice so given shall be communicated by the Surveyor to the Port Officer at any port at which the ship seeks to obtain a clearance, and the vessel shall be detained until a certificate under the hand of a Surveyor of Ships is produced to the effect that the vessel is properly provided with the means of making fog signals, in conformity with the said collision regulations or with lights and signals in conformity with the said rules.

(4) For the purposes of an inspection under this Part a Surveyor shall have all the powers of an Inspector under this Ordinance.

(5) Where the certificate as to lights and signals is refused, an owner may appeal to the Court of Survey for the port where the vessel for the time being is, in manner directed by the rules of that Court.

(6) On any such appeal the Judge of the Court of Survey shall report to the Minister on the question raised by the appeal, and the Minister, when satisfied that the requirements of the report and of the Merchant Shipping Act, 1894, or of this Ordinance as to lights and signals have been complied with, may grant, or direct a Surveyor of Ships or other person appointed by him to grant, the certificate.

(7) Subject to any order made by the Judge of a Court of Survey the costs of, and incidental to, an appeal shall follow the event.

(8) A Surveyor in making an inspection under this section shall, if the owner of the vessel so requires, be accompanied on the inspection by some person appointed by the owner, and if in that case the Surveyor and the person so appointed agree, there shall be no appeal under this section to the Court of Survey.

(9) The fees specified in the Fifth Schedule shall be paid in respect of an inspection of lights and signals under this section.

251. Local rules for navigation in ports, etc

(1) The Minister may make rules concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by vessels navigating the waters of any port, river, or other inland navigation, and those rules shall, as regards vessels navigating the said waters, be of the same force as if they were part of the collision regulations.

(2) Any master of any vessel who fails to comply with any of such rules shall for each offence be liable to a fine not exceeding one thousand ringgit.

[Am. Act A792:s.54]

252. Collision regulations

(1) The Minister may by order make regulations for the prevention of collisions at sea, and may thereby regulate the lights to be carried and exhibited, the fog-signals to be carried and used and the steering and sailing rules to be observed by ships, and those regulations (in

this Ordinance referred to as the collision regulations), shall have effect as if enacted in this Ordinance.

(2) The collision regulations, together with the provisions of this Part relating thereto, or otherwise relating to collisions, shall be observed by all vessels upon the high seas and in all connected therewith and navigable by sea-going vessels.

(3) Any master of any vessel who fails to comply with any of the said regulations shall for each offence be liable to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

253. Collisions to be entered in official log

(1) In every case of collision in which it is practicable so to do, the master of every ship shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log-book, if any, and the entry shall be signed by the master and also by the mate or one of the crew.

(2) Any master who fails to comply with this section shall be liable for each offence to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

254. Helm orders

(1) No person in any British or Malayan ship registered in the Federation shall when the ship is going ahead give a helm or steering order containing the word "starboard" or "right", or any equivalent of "starboard" or "right", unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left", or any equivalent of "port" or "left", unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of this section shall for each offence be liable to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

255. Report to Port Officer of accidents to ships

(1) When a ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of the accident or damage, or as soon thereafter as possible, transmit to the Port Officer, if she is in any port, or otherwise to the Director of Marine, by letter signed by the owner, or master, a report of the accident or damage and of the probable occasion thereof, stating the name of the ship, her official number, if any, the port to which she belongs, and the place where she is.

(2) Any owner or master of a ship who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

(3) This section shall apply to all British or Malayan ships registered in the Federation, and to all British ships within the Federation, and to all passenger ships.

[(3) Gen. Am. Act A1519:s.2]

256. Notice of loss of ship registered in Federation, or passenger ship to be given to the Director of Marine

[Gen. Am. Act A1519:s.2]

(1) If the managing owner or the agent of any ship registered in the Federation or of any passenger ship has reason, owing to the non-appearance of the ship or to any other circumstances, to apprehend that the ship has been wholly lost, he shall as soon as conveniently may be, send to the Director of Marine notice in writing of the loss and of the probable occasion thereof, stating the name of the ship, her official number, if any, and the port to which she belongs.

[(1) Gen. Am. Act A1519:s.2]

(2) Any managing owner or agent of a ship who fails without reasonable cause to comply with this section within a reasonable time shall be liable for each offence to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

256A. Construction rules for passengers ships

(1) The Minister may make rules (in this Ordinance called "construction rules") prescribing the requirements that the hull, equipment and machinery of and the fuel used in passenger ships registered in the Federation shall comply with: and the rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of and the fuel used in passenger ships shall comply with, except so far as those provisions are implemented by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations.

[Am. Act A792:s.21; Gen. Am. Act A1519:s.2]

(2) Construction rules may require the provision in such ships –

- (a) of plans exhibited as provided by or under the rules, and of other information, relating to the boundaries of watertight compartments, the opening therein, the means of closing such openings and the arrangements for correcting any list due to flooding; and
- (b) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage.

256B. Cargo ship construction and survey rules

(1) The Minister may make rules (in this Ordinance referred to as "cargo ship construction and survey rules") prescribing requirements for the hull, equipment and machinery of and the fuel used in ships to which this section applies and requiring any such ships which are registered in Malaysia to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the rules.

(2) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the hull, equipment and machinery of and the fuel used in such ships, except so far as those provisions are implemented by any other rules or regulations made under this Ordinance.

(3) The said rules –

- (a) may provide for any surveys under the rules to be undertaken by persons appointed by such organizations as may be specified in the rules;
- (b) may make modifications to section 209(2), 211 and 213 in their application by virtue of section 271(1) in relation to surveys under the rules undertaken by such persons;

(c) may prescribe the fees that shall be paid in respect of surveys carried out under the rules; and

(d) may, in the case of surveys carried out by persons appointed by organizations specified in the rules, provide for fees to be payable to those persons or organizations.

(4) This section applies to –

(a) sea-going ships of not less than five hundred tons gross tonnage; and

(b) sea-going ships of not less than such lower tonnage and of such description as the Minister may by order specify,

other than passenger ships, troopships, pleasure yachts, fishing vessels and ships not propelled by mechanical means; except that it applies to ships not registered in Malaysia only while they are within a port in Malaysia and are not exempted from the cargo ship construction and survey rules.

[Gen. Am. Act A1519:s.2]

(5) In relation to surveys required by the cargo ship construction and survey rules which are carried out otherwise than by a Surveyor of Ships, the definition of "declaration of survey" in section 2 shall not apply.

(6) If the cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner or master of the ship shall be liable on conviction to a fine not exceeding ten thousand ringgit.

(7) A Surveyor of Ships may inspect any ship for the purpose of seeing that she complies with the provisions of the cargo ship construction and survey rules (other than those relating to survey) and for that purpose shall have all the powers of the Surveyor-General of Ships under this Ordinance; and if he finds that the ship fails to comply with those provisions he shall give to the owner or master notice in writing stating in what respect she fails to comply with them and what in his opinion is requisite to remedy the failure.

(8) A port clearance shall not be granted to the ship; and the ship shall be detained until a certificate under the hand of a Surveyor of Ships is produced to the effect that the failure has been remedied.

[Ins. Act A792:s.22]

257. Rules as to life-saving appliances

(1) The Minister may make rules, in this Ordinance called "rules for life-saving appliances", with respect to all or any of the following matters, namely –

- (a) The arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;
- (b) the number, description, and mode of construction of the boats, life rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;
- (c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;
- (d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;
- (e) the quantity, quality and description of buoyant apparatus to be carried on board ships, either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys;
- (f) the position and means of securing the boats, life rafts, life-jackets, lifebuoys and buoyant apparatus;
- (g) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorized to be carried by them;
- (h) the manning of the lifeboats and the qualifications and certificates of lifeboat men;
- (j) the provision to be made for mustering the persons on board, and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);
- (k) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;
- (l) the assignment of specific duties to each member of the crew in the event of emergency;
- (m) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire; (mm) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire;

- (n) the practice in ships of boat-drills and fire-drills;
 - (o) the provision in ships of means of making effective distress-signals by day and by night;
 - (p) the provision, in ships engaged on voyages in which pilots are likely to be embarked, of suitable pilot-ladders and of ropes, lights and other appliances designed to make the use of such ladders safe, and
 - (q) the examination and maintenance at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.
- (2) The rules for life-saving appliances shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the matters mentioned in subsection (1).
- (3) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the rules for life-saving appliances made from time to time by the Minister of Transport under the Merchant Shipping Acts shall, unless varied by or repugnant to rules for life-saving appliances made under this section be deemed to be rules for life-saving appliances made under this section.
- (4) Rules made under this section shall not apply to any fishing boat exclusively employed in fishing or to native sailing ships, or to boats licensed under Part XIII.
- (5) Subject to the provisions of subsection (4) and of this subsection, rules made under this section shall apply to –
- (a) British and Malayan ships registered in the Federation; and
 - (b) other ships whilst within any port of the Federation: Provided that the Minister may direct that such rules shall not apply to any ship, not being a passenger ship, if –
 - (i) being a British ship, she is proved to be equipped in compliance with the rules for lifesaving appliances made from time to time by the Minister of Transport under the Merchant Shipping Acts; or
 - (ii) being a ship of a foreign country in which the provisions in force relating to life-saving appliances appear to him to be as effective as the rules made under this section, on proof that those provisions are complied with in the case of that ship.

258. Duties of owners and master as to carrying life-saving appliances

It shall be the duty of the owner and master of every ship to which the rules for life-saving appliances apply to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

259. Entry in log-book of boat-drill, etc.

(1) The master of every ship to which the rules for life-saving appliances apply shall cause to be entered in the official log-book a statement, or if there is no official log-book cause other record to be kept, of every occasion on which boat-drill or fire-drill is practised on board the ship or on which the appliances and equipment required by the rules for life-saving appliances to be carried are examined to see whether they are fit and ready for use and of the results of any such examination; and if –

(a) in the case of passenger ship, boat-drill or fire-drill is not practised on board the ship in any week;

[(a) Gen. Am. Act A1519:s.2]

(b) in the case of any other ship, boat-drill or fire-drill is not practised on board the ship in any month;

(c) in the case of any ship, the said appliances and equipment are not examined in any such period as is prescribed by the said rules, the master shall cause a statement to be entered or other record to be kept as aforesaid of the reasons why the drill was not practised or the appliances and equipment were not examined in the week, month or period.

(2) The master shall, if and when required by any Port Officer, produce for inspection any record kept by him for the purposes of this section.

(3) If the master of a ship fails to comply with any requirement of this section he shall be liable for each offence to a fine not exceeding one thousand ringgit.

[Am. Act A792:s.54]

260. Penalty for breach of rules

(1) In the case of any ship to which the rules for life-saving appliances apply –

- (a) if the ship is required by the said rules to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or
- (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master; or
- (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion; or
- (d) if such appliances are not kept so as to be at all times fit and ready for use; or
- (e) if any provision of the rules for life-saving appliances applicable to the ship is contravened or not complied with;

the owner of the ship, if in fault, shall be liable for each offence to a fine not exceeding ten thousand ringgit, and the master of the ship, if in fault, shall be liable for each offence to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

(2) Nothing in the foregoing provisions with respect to life-saving appliances shall prevent any person from being liable under any other section of this Ordinance, or otherwise, to any other or higher fine or punishment than is provided by those provisions, provided that a person shall not be punished twice for the same offence.

(3) If the Court before which a person is charged with an offence punishable under those provisions thinks that proceedings ought to be taken against him for the offence under any other provision of this Ordinance, or otherwise, the Court may adjourn the case to enable such proceedings to be taken.

261. Inspections with respect to life-saving appliances

(1) A Surveyor of Ships may inspect any ship to which the rules for life-saving appliances apply for the purpose of seeing that the said rules have been complied with in her case, and for the purpose of any such inspection shall have all the powers of an Inspector under this Ordinance.

(2) If the Surveyor finds that the rules for life-saving appliances have not been complied with, he shall give written notice to the owner or master stating in what respect the said rules have not been complied with, and what, in his opinion, is required to rectify the matter.

(3) Every notice so given shall be communicated by the Surveyor to the Port Officer of any port at which the ship seeks to obtain a clearance, and a clearance shall not be granted to the ship and the ship shall be detained until the Port Officer is satisfied that the matter has been rectified.

(4) The fees specified in the Sixth Schedule shall be paid in respect of inspectors of life-saving appliances.

262. Radio rules

(1) The Minister may make rules (in this Ordinance called "radio rules") requiring ships to which this section applies to be provided with a radio installation other than a radio navigational aid of such nature as may be prescribed by the rules and to maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed; and the rules may contain provision for preventing so far as practicable electrical interference with the radio installation by other apparatus on board.

(2) This section applies to –

(a) sea-going British and Malayan ships registered in the Federation;

(b) other sea-going ships while they are within any port in the Federation.

(3) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to radio-telegraphy and radio-telephony and may prescribe requirements for such portable radio apparatus as boats or life rafts may be required to carry by the rules for life-saving appliances.

(4) The radio installation required under the said rules to be provided –

(a) for a passenger ship of whatever tonnage, or for any ship of sixteen hundred tons gross tonnage or upwards which is neither a passenger ship nor a fishing vessel, shall be a radiotelegraph installation; and

[(a) Gen. Am. Act A1519:s.2]

(b) for any other ship shall be either a radiotelephone installation or a radiotelegraph installation, at the option of the owner.

(5) Without prejudice to the generality of the preceding provisions of this section, rules under this section may –

(a) prescribe the duties of radio officers and operators, including the duty of keeping a radio log-book;

(b) apply to any radio log-book required to be kept under the rules the provisions of section 201;

(c) require the master of a ship to cause to be entered in the official log-book such particulars relating to the operation of the radio installation, and the maintenance of the radio service, as may be specified in the rules.

(6) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the radio rules made from time to time by the Minister of Transport under the Merchant Shipping Acts shall, unless varied by or repugnant to radio rules made under this section, be deemed to be radio rules made under this section.

(7) If the master of a ship fails to cause an entry to be made in the log book in contravention of rules made in pursuance of paragraph (c) of subsection (5) or if any officer or operator contravenes any rules made in pursuance of paragraph (a) thereof, he shall be liable to a fine not exceeding one thousand ringgit, and if the rules made under this section are contravened in any other respect in relation to any ship, the owner or master of the ship shall be liable in respect of each offence to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

(8) A Surveyor of Ships or a Radio Surveyor may inspect any ship for the purpose of seeing that she is properly provided with a radio installation and portable radio apparatus required to be carried by the boats or life rafts on any ship and radio officers or operators in conformity with the said rules, and for that purpose shall have all the powers of an Inspector under this Ordinance; and if he finds that the ship is not provided with a radio installation or radio officers or operators in conformity with the said rules he shall give to the owner or master notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the deficiency.

(9) A port clearance shall not be granted to the ship and the ship shall be detained until the Port Officer is satisfied that the deficiency has been remedied.

263. Rules for direction-finders

(1) The Minister may make rules (in this Ordinance called "rules for direction-finders") requiring ships to which this section applies to be provided with a direction-finder of such a nature as may be prescribed by the rules.

(2) This section applies to –

- (a) British and Malayan ships registered in the Federation;
- (b) other ships while they are within any port in the Federation,

being ships of sixteen hundred tons gross tonnage or upwards.

(3) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to direction-finders.

(4) Without prejudice to the generality of the preceding provisions of this section, rules under this section may provide for the position of the direction-finder in the ship, for the communication between the directionfinder and the bridge, for testing the direction-finder at intervals and as occasion may require and for recording the results of the tests.

(5) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the rules for direction-finders made by the Minister of Transport from time to time under the Merchant Shipping Acts shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(6) If any of the said rules is not complied with in relation to any ship, the owner or master of the ship shall be liable to a fine not exceeding one thousand ringgit.

264. Further provisions as to radio navigational aids

(1) The Minister may make rules prescribing –

- (a) the requirements that radio navigational aids, other than direction-finders, shall comply with if they are carried on board British or Malayan ships registered in the Federation including requirements relating to their position and method of fitting;
- (b) the requirements that apparatus designed for the purpose of transmitting or reflecting signals to or from radio navigational aids shall comply with, being apparatus in the Federation, or off the shores of the Federation and maintained from the Federation.

(2) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the rules made by the Minister of Transport from time to time under the

Merchant Shipping Acts to prescribe the requirements for radio navigational aids shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(3) If any British or Malayan ship registered in the Federation proceeds, or attempts to proceed, to sea carrying radio navigational aids not complying with the rules made under this section the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

(4) If any person establishes or operates any such apparatus as is mentioned in paragraph (b) of subsection (1) of this section, being apparatus that does not comply with the said rules, he shall be liable to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

Certificates

265. Issue for passenger ships of safety certificates and exemption certificates

[Gen. Am. Act A1519:s.2]

(1) If the Minister, on receipt of declarations of survey in respect of a British or Malayan passenger ship registered in the Federation, is satisfied that the ship complies with the construction rules, rules for life-saving appliances, radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with the requirements of the Safety Convention applicable as aforesaid; and any certificate issued under this subsection is hereafter in this Ordinance referred to as a "general safety certificate":

[(1) Gen. Am. Act A1519:s.2]

Provided that if the voyages on which the ship is to be engaged are short international voyages and she complies only with such of those rules as are applicable to those voyages, the certificate shall show that the ship complies with requirements of the Safety Convention applicable to her as ship plying on short international voyages; and any such certificate is hereafter in this Ordinance referred to as a "short-voyage safety certificate".

(2) If the Minister, on receipt of declarations of survey in respect of any such passenger ship as aforesaid is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the rules in question, from any of the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, whether short voyages or otherwise, that she complies with the rest of those requirements and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship –

[(2) Gen. Am. Act A1519:s.2]

(a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and being engaged only in the trades and complying with the other conditions (if any) specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of those requirements; and any certificate issued under paragraph (b) of this subsection is hereafter in this Ordinance referred to as a "qualified safety certificate" or a "qualified short-voyage safety certificate" as the case may be.

266. Issue for cargo ships of safety-equipment certificates and exemption certificates

(1) If the Minister, on receipt of declarations of survey in respect of a British or Malayan ship registered in the Federation, not being a passenger ship, is satisfied that the ship complies with the rules for life-saving appliances applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid; and any certificate issued under this subsection is hereafter in this Ordinance referred to as a "safety-equipment certificate".

[(1) Gen. Am. Act A1519:s.2]

(2) If the Minister, on the receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the rules for life-

saving appliances, from any of the requirements of those rules applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements and is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship –

(a) an exemption certificate stating which of the requirements of the Safety Convention being requirements the subject of the rules for life-saving appliances and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and whether with the other conditions (if any) specified in the certificate, and

(b) a certificate showing that the ship complies with the rest of those requirements; and any certificate issued under paragraph (b) of this subsection is hereafter in this Ordinance referred to as a "qualified safety-equipment certificate".

267. Issue for cargo ships of radio certificates and exemption certificates

(1) If the Minister, on receipt of declarations of survey in respect of a British or Malayan ship registered in the Federation not being a passenger ship, is satisfied that the ship complies with the radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders as are applicable as aforesaid; and any certificate issued under this subsection is hereafter in this Ordinance referred to as a "radio certificate".

[(1) Gen. Am. Act A1519:s.2]

(2) If the Minister, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the rules in question, from any of the requirements of the radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of the requirements of the radio rules and rules for direction-finders, he shall, on the application of the owner, issue in respect of the ship –

(a) an exemption certificate stating which of the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, being requirements applicable as aforesaid, the ship is exempt from and that the exemption is conditional on

the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of those requirements; and any certificate issued under paragraph (b) of this subsection is hereafter in this Ordinance referred to as a "qualified radio certificate".

(3) Where any British or Malayan ship registered in the Federation is wholly exempt from the requirements of the radio rules and the rules for direction-finders, the Minister shall on the application of the owner issue an exemption certificate stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders and specifying the voyages on which, and conditions (if any) on which, the ship is so exempt.

(4) Where a radio certificate or qualified radio certificate is in force in respect of a ship of less than five hundred tons gross tonnage, other than a passenger ship, and the ship is surveyed by a radio surveyor at a time not earlier than two months before the end of the period for which the certificate is in force, then, if on receipt of the declaration of survey a new certificate is issued before the end of that period –

[(4) Gen. Am. Act A1519:s.2]

(a) the current certificate may be cancelled; and

(b) the new certificate may, notwithstanding anything in section 271(2) of this Ordinance be issued for a period ending not later than twelve months after the end of the first-mentioned period.

268. Issue of general certificates, etc., on partial compliance with rules

Where a ship complies with all the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the ship and to the voyages on which she is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Minister may issue in respect of the ship a general safety certificate, short-voyage safety certificate, safety equipment certificate or radio certificate, as the case may be, notwithstanding that she is exempt from, or for some other reason does not comply with, any requirements of those rules that are not applicable requirements of the Safety Convention.

268A. Cargo ship safety construction certificates and exemption certificates

(1) If the Surveyor-General of Ships or such person as he may authorize for the purpose is satisfied, on receipt of declarations of survey in respect of a ship to which section 256B applies and which is registered in Malaysia, that the ship complies with the cargo ship construction and survey rules applicable to the ship and such voyages as she is to be engaged on he shall, on the application of the owner, issue in respect of the ship –

(a) if the ship is or not less than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Safety Convention;

(b) any other case, a certificate showing that she complies with the said rules, and any such certificate is in this Ordinance referred to as a "cargo ship safety construction certificate".

(2) If the Surveyor-General of Ships, on receipt of declarations of survey in respect of such a ship, is satisfied that the ship is exempt, by virtue of any exercise by him of a power conferred on him by section 282 or the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship –

(a) if she is of not less than five hundred tons gross tonnage and is to be engaged on international voyages –

(i) an exemption certificate stating which of the requirements of the Safety Convention, being requirements implemented by the rules and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying on the voyages and complying with the other conditions (if any) specified in the certificate; and

(ii) a certificate showing that the ship complies with the rest of those requirements;

(b) in any other case, a certificate showing that the ship complies with such of the requirements of the cargo ship construction and survey rules applicable to the ship and to the voyages she is to be engaged on as she is not exempt from, and any certificate issued under paragraph (a) (ii) or paragraph (b) of this subsection is in this Ordinance referred to as a "qualified cargo ship safety construction certificate".

(3) A certificate issued under this section, other than an exemption certificate issued under subsection (2)(a)(i), shall remain in force for five years or such shorter period as may be specified therein, but without prejudice to the power of the Surveyor-General of Ships to

cancel it; and an exemption certificate issued under subsection 2(a)(i) shall remain in force for the same period as the corresponding qualified cargo ship safety construction certificate.

(4) Where a certificate under this section is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under the foregoing provisions of this section, the Surveyor-General of Ships or any person authorised by him for the purpose may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year, and not exceeding, together with the period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under this section.

(5) In relation to a certificate issued or an extension granted under this section by a person authorised by the Surveyor-General of Ships –

(a) the provisions applied by section 271(7) (which relate to the transmission, cancellation, surrender, posting-up and falsification of certificates issued by the Surveyor-General of Ships); and

(b) section 271 (10) (which relates to fees),

shall apply as they apply in relation to certificates issued by the Surveyor-General of Ships, but in making rules under section 271 (10), the Minister may provide for fees to be payable to the authorised person.

[Ins. Act A792:s.23]

269. Notice of alterations and additional surveys

(1) The owner or master of a passenger ship in respect of which any passenger ship's certificate issued under this Ordinance is in force shall, as soon as possible after any alteration is made in the ship's hull, equipment s or machinery affecting the efficiency thereof or the seaworthiness of the ship, give written notice to the Surveyor-General of Ships containing full particulars of the alteration.

[(1) Gen. Am. Act A1519:s.2]

(2) The owner or master of a ship in respect of which any certificate issued under this Ordinance is in force, other than a passenger ship, shall, as soon as possible after any alteration is made in the appliances or equipments required by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations to be

carried by the ship, being an alteration affecting the efficiency or completeness of those appliances or equipments, give written notice to the Surveyor-General of Ships containing full particulars of the alteration.

(3) If notice of any alteration is not given as required by this section, the owner or master of the ship shall be liable to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.24]

(4) If the Surveyor General of Ships has reason to believe that since the making of the last declaration of survey in respect of any such ship as aforesaid –

(a) any such alteration has been made as is mentioned in subsection (1), or, as the case may be, in subsection (2) of this section; or

(b) the hull, equipments or machinery of the ship (being a passenger ship) have sustained any injury or are otherwise insufficient; or

[(b) Gen. Am. Act A1519:s.2]

(c) the appliances or equipments of the ship (not being a passenger ship) mentioned in subsection (2) of this section have sustained any injury or are otherwise insufficient;

[(c) Gen. Am. Act A1519:s.2]

he may, without prejudice to his powers under section 217, require the ship to be again surveyed to such extent as he thinks fit, and, if such requirement is not complied with, may cancel any passenger ship's certificate issued in respect of the ship under section 212 or any certificate issued in respect of the ship under this Part.

(5) For the purpose of this section the expression "alteration" in relation to anything includes the renewal of any Part of it.

269A. Notice of alterations and additional surveys in relation to cargo ships

(1) The duty of the owner or master of a ship under subsection (2) of section 269 to notify alterations shall extend, in relation to any ship in respect of which any certificate under section 268A is in force, to the hull, machinery and any equipment other than that mentioned in that subsection, but may, if the certificate was issued by a person authorized under that section, be discharged by notifying him instead of the SurveyorGeneral of Ships.

(2) Subsection (4) of section 269 shall have effect, in relation to any such ship, as if –

(a) paragraph (a) thereof extended to any alteration or renewal which is notifiable by virtue of this section; and

(b) paragraph (b) and not paragraph (c) thereof were applicable, notwithstanding that the ship is not a passenger ship;

[(b) Gen. Am. Act A1519:s.2]

and the power of the Surveyor-General of Ships under that subsection to cancel such a certificate shall be exercisable also where the ship has not been submitted for survey as required by the cargo ship construction and survey rules.

[Am. Act A792:s.25]

270. Prohibition on proceeding to sea without appropriate certificates

(1) No British or Malayan ship registered in the Federation shall proceed to sea on an international voyage from a port in the Federation unless there is in force in respect of the ship –

(a) if she is a passenger ship, a general safety certificate, a short-voyage safety certificate, a qualified safety certificate or a qualified short-voyage safety certificate which (subject to the provisions of this section relating to short-voyage safety certificates) is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged;

[(a) Gen. Am. Act A1519:s.2]

(b) if she is not a passenger ship, both

[(b) Gen. Am. Act A1519:s.2]

(i) a safety-equipment certificate or a qualified safety-equipment certificate, and

(ii) a radio certificate or a qualified radio certificate or an exemption certificate stating that she is wholly exempt from the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders:

Provided that this subsection shall not prohibit a ship, not being a passenger ship, from proceeding to sea as aforesaid if there is in force in respect of the ship such certificate or certificates as would be required if she were a passenger ship.

[Gen. Am. Act A1519:s.2]

(2) For the purposes of this section, a qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate; and an exemption certificate shall be of no effect unless it is by its terms applicable to the voyage on which the ship is about to proceed.

(3) If any ship proceeds, or attempts to proceed, to sea in contravention of this section –

(a) in the case of a passenger ship, the owner or master of the ship shall, without prejudice to any other remedy or penalty under the Merchant Shipping Acts or under this Ordinance be liable for each offence to a fine not exceeding one thousand ringgit for every passenger carried on board the ship; and the owner or master of any tender by means of which passengers have been taken on board the ship shall be liable for each offence to a like fine for every passenger so taken on board; and

[Am. Act A792:s.54; Gen. Am. Act A1519:s.2]

(b) in the case of a ship not being a passenger ship, the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54; (b) Gen. Am. Act A1519:s.2]

(4) The master of every British or Malayan ship registered in the Federation shall produce to the Port Officer at the port from which a clearance for the ship is sought for an international voyage the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(5) Where the Minister permits any passenger ship in respect of which there is in force a short-voyage safety certificate, whether qualified or not, to proceed to sea on an international voyage from a port in the Federation not exceeding twelve hundred nautical miles in length between the last port of call in the Federation and the final port destination, the certificate shall for the purposes of this section be deemed to be applicable to the voyage on which the ship is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between the said ports.

[(5) Gen. Am. Act A1519:s.2]

(6) Where an exemption certificate issued in respect of any British or Malayan ship registered in the Federation specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

270A. Prohibition on proceeding to sea without appropriate certificates in the case of cargo ships

(1) No ship to which section 256B applies and which is registered in Malaysia shall proceed to sea unless there is in force in respect of the ship either –

- (a) a cargo ship safety construction certificate; or
- (b) a qualified cargo ship safety construction certificate and, if the ship is about to proceed on an international voyage, a corresponding exemption certificate; or
- (c) such certificate or certificates as would be required if she were a passenger ship, applicable to the ship and to the voyage on which she is about to proceed.

[(c) Gen. Am. Act A1519:s.2]

(2) If any ship proceeds, or attempts to proceed, to sea in contravention of this section the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

(3) The master of every ship to which section 256B applies and which is registered in Malaysia shall produce to the Port Officer at the time a clearance for the ship is demanded the certificate or certificates required by subsection (1); and the clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

[Ins. Act A792:s.26]

271. Miscellaneous provisions as to surveys and certificates

(1) Sections 209 (2), 211 and 213 shall apply, subject to any modification made by virtue of paragraph (b) of section 256B (3), to surveys for the purpose of the issue of any certificate in respect of a ship under this Part as they apply to surveys for the purpose of the issue of passenger ships' certificates.

[Am. Act A792:s.27; Gen. Am. Act A1519:s.2]

(2) A safety certificate or radio certificate or an exemption certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders shall be in force for one year, and a safety-equipment

certificate shall be in force for twenty-four months, from the date of its issue, or for such shorter period as may be specified in the certificate:

Provided that no such certificate shall remain in force after notice is given by the Minister to the owner or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

(3) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, shall be in force for the same period as the corresponding qualified certificate.

(4) The Minister or any person authorized by him for the purpose may grant an extension of any certificate issued under this Part in respect of a British or Malayan ship registered in the Federation, except a certificate issued under section 268A, for a period not exceeding one month from the date when the certificate would, but for the extension, have expired, or, if the ship is absent from the Federation on that date, for a period not exceeding five months from that date.

[Am. Act A792:s.27]

(5) Any general safety certificate short-voyage safety certificate, whether qualified or not, may be combined in one document with a passenger ship's certificate.

[(5) Gen. Am. Act A1519:s.2]

(6) Any certificate issued by the Minister under this Part, and any passenger ship's certificate, whether or not combined in one document with a safety certificate under the last preceding subsection, may be signed on behalf of the Minister by any public officer authorized by the Minister for the purpose, and a certificate or a certified copy thereof purporting to be so signed shall be admissible in evidence in any Court or before any person having by law or consent of parties authority to receive evidence and, subject to all just exceptions, shall be evidence of the matters stated therein.

[Am. Act A792:s.27; Gen. Am. Act A1519:s.2]

(7) The provisions of sections 214, 217, 218, 219 and 220 shall apply to and in relation to certificates issued by the Minister under this Part as they apply to and in relation to passenger ship's certificates and passenger ships.

[(7) Gen. Am. Act A1519:s.2]

(8) The Minister may request the government of a country to which the Safety Convention applies to issue in respect of a British or Malayan ship registered in the Federation any certificate the issue of which is authorized under this Part; and a certificate issued in pursuance of such a request and containing statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the Minister and not by the government of that country.

(9) Where the Surveyor-General of Ships, under section 271 (8) of this Ordinance, requests the government of a country to which the Convention applies to issue in respect of a ship such certificates as he is authorised to issue under subsection (2) of sections 265, 266 or 267, or paragraph (a) of section 268A(2), of this Ordinance, and that government is willing to issue, in pursuance of that request, a qualified certificate thereunder but is not willing to issue the corresponding exemption certificate, the Surveyor-General of Ships may issue that exemption certificate in respect of the ship.

[Am. Act A792:s.27]

(10) The Minister may make rules to prescribe the fees to be paid in respect of any certificate issued, or any extension of any certificate granted, under this Part.

[Am. Act A792:s.27]

272. Certificates of Convention ships not registered in Federation

(1) The Minister may, at the request of the government of a country to which the Safety Convention applies, issue in respect of a ship registered in that country any certificate the issue of which in respect of British or Malayan ships registered in the Federation is authorised under this Part if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the said Government and not by the Minister.

(2) For the purposes of the provisions hereafter contained in this Part relating to Safety Convention ships not registered in the Federation, the expression "an accepted Safety Convention certificate" means a certificate complying with such as are applicable of the regulations made by the Ministry of Transport under the Merchant Shipping Acts with respect to the validity of certificates issued in accordance with the Safety Convention by the Government of any country other than the United Kingdom in respect of Safety Convention ships not registered in the United Kingdom.

(3) A Surveyor of Ships, for the purpose of verifying:

(a) that there is in force in respect of a Safety Convention ship not registered in the Federation an accepted Safety Convention certificate; or

(b) that the condition of the hull, equipments and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate; or

(c) except where such a certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy and radio-telephony, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate; or

(d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with, shall have all the powers of an Inspector under this Ordinance.

(4) Where there is attached to an accepted Safety Convention certificate in respect of a Safety Convention passenger ship not registered in the Federation a memorandum which:

[(4) Gen. Am. Act A1519:s.2]

(a) has been issued by or under the authority of the government of the country in which the ship is registered; and

(b) modifies for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

273. Modified survey of passenger ships holding Convention certificates

[Gen. Am. Act A1519:s.2]

(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger ship not registered in the Federation –

[(1) Gen. Am. Act A1519:s.2]

(a) the ship shall not be required to be surveyed under this Ordinance by a Surveyor of Ships except for the purpose of determining the number of passengers that she is fit to carry;

(b) on receipt of any declaration of survey for the purpose aforesaid, the Minister shall issue a certificate under section 212 containing only a statement of the particulars set out in paragraph (b) of that section; and a certificate so issued shall have effect as a passenger ship's certificate.

[(b) Gen. Am. Act A1519:s.2]

(2) Where there is produced in respect of any such passenger ship as aforesaid an accepted Safety Convention certificate, and also a certificate issued by or under the authority of the government of the country in which the ship is registered showing the number of passengers that the ship is fit to carry, and the Minister is satisfied that that number has been determined substantially in the same manner as in the case of a in the British or Malayan passenger ship registered in the Federation, he may if he thinks fit dispense with any survey of the ship for the purpose of determining the number of passengers that she is fit to carry and direct that the last-mentioned certificate shall have effect as a passenger ship's certificate.

[(2) Gen. Am. Act A1519:s.2]

274. Miscellaneous privileges of ships holding Convention certificates

(1) Where the appropriate accepted Safety Convention certificate is produced in respect of any Safety Convention ship not registered in the Federation, the ship shall be exempt from the provisions of section 250 and from the rules for life-saving appliances.

(2) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention ship not registered in the Federation, and the certificate shows that the ship complies with the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, or that she is exempt from some of those requirements and complies with the rest, or that she is wholly exempt from those requirements, the ship shall be exempt from the provisions of the radio rules and the rules for direction-finders.

274A. Exemption of ships holding appropriate Convention certificates from cargo ship construction and survey rules

Where there is produced in respect of a ship not registered in Malaysia –

(a) an accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate; or

(b) accepted Safety Convention certificates equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate,

the ship shall be exempt from the cargo ship construction and survey rules.

[Ins. Act A792:s.28]

275. Further provisions as to the production of Convention certificates

(1) The master of every Safety Convention ship not registered in the Federation shall produce to the Port Officer at the port from which a clearance for the ship is demanded in respect of an international voyage accepted Safety Convention certificates that are the equivalent of the certificates issued by the Minister under this Part that would be required to be in force in respect of the ship if she were a British or Malayan ship so registered; and a clearance shall not be granted, and the ship may be detained, until such certificates are so produced.

(2) The production of an accepted Safety Convention certificate being the equivalent of –

(a) a qualified certificate; or

(b) an exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders

shall not avail for the purposes of either of the last two preceding sections unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

276. Information about ship's stability

(1) There shall be carried on board every British or Malayan ship registered in the Federation whose keel is laid after the commencement of this Ordinance such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2)

(a) The said information shall be in such form as may be approved by the Surveyor-General of Ships (who may approve the provisions of the information in the form of a diagram or drawing only) and except as provided by the following paragraph the information shall, when first supplied, be based on the determination of the ship's stability by means of an inclining test, and shall be replaced by fresh information whenever its accuracy is materially affected by alterations made to the ship; and in any such case the Surveyor-General of Ships may require a fresh inclining test;

(b) The Surveyor-General of Ships may –

(i) in the case of any ship, allow the information to be based on the determination, by means of an inclining test, of the stability of a sister ship;

(ii) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with an inclining test if satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Surveyor-General of Ships: Provided that the owner shall not be required to send a copy of any information to the Surveyor-General if Ships of a previous copy of the same information has been sent to him.

(4) If any such ship proceeds, or attempts to proceed, to sea without such information as aforesaid on board, the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit and if the owner of any ship contravenes the last preceding subsection, he shall be liable to a like fine.

[Am. Act A792:s.54]

(5) It is hereby declared that for the purposes of section 194 information under this section shall be deemed to be a document relating to the navigation of the ship.

277. Openings in passenger ships' hulls and watertight bulkheads

[Gen. Am. Act A1519:s.2]

(1) The Minister may in relation to British or Malayan passenger ships registered in the Federation make rules for any of the following matters –

[(1) Gen. Am. Act A1519:s.2]

- (a) for closing and keeping closed the openings in ships' hulls and in watertight bulkheads;
- (b) for securing, keeping in place and inspecting contrivances for closing any such openings as aforesaid;
- (c) for operating the mechanism of contrivances for closing any such openings as aforesaid and for drills in connection with the operation thereof;
- (d) for requiring entry to be made in the official log-book or other record to be kept of any the matters aforesaid.

(2) For the purposes of this section and without prejudice to the generality of the powers therein contained, the rules made from time to time by the Minister of Transport under the Merchant Shipping Acts with respect to watertight doors and other similar contrivances shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(3) If any of the said rules is not complied with in relation to any such ship as aforesaid, the master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

278. Report of dangers to navigation

(1) The master of any British or Malayan ship registered in the Federation, on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal and in accordance with the rules made by the Minister of Transport under the Merchant Shipping Acts with respect to navigational warnings to ships in the vicinity and to such authorities on shores as may be prescribed by those rules; and the matters of which information is to be sent by the master of a ship shall include –

- (a) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships; and
- (b) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received.

(2) If the master of a ship fails to comply with the provisions of this section, he shall for each offence be liable to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

(3) Every person in charge of a wireless telegraph station which is under the control of the Director General of Telecommunications or which is established or installed under licence of the Minister charged with responsibility for telecommunications, or of any officer to whom such Minister has delegated his power of issuing licences under the Telecommunications Ordinance, 1950, shall, on receiving the signal prescribed by the said rules for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by such Minister, shall transmit the message in such manner as may be required by such Minister, and compliance with this subsection shall be deemed to be a condition of every licence granted as aforesaid:

Provided that nothing in this subsection shall interfere with the transmission by wireless telegraphy of any signal of distress in accordance with the provisions of the next succeeding section.

(4) For the purposes of this section, the expression "tropical storm" means a hurricane, typhoon, cyclone, or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

279. Signals of distress

(1) The Minister may make rules prescribing the circumstances in which and the purposes for which any signal of distress is to be used and the circumstances in which it is to be revoked.

(2) If the master of a ship uses or causes or permits any person under his authority to use or display –

- (a) any signal of distress, except in accordance with rules made under this section; or
- (b) any private signal that is liable to be mistaken for a signal of distress,

he shall be liable to a fine not exceeding five thousand ringgit and shall further be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal's having been supposed to be a signal of distress; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

[Am. Act A792:s.54]

(3) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the rules made from time to time by the Minister of Transport with respect to signals of distress shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(4) In this section "signal of distress" means any signal from time to time prescribed by Her Majesty in Council under the Merchant Shipping Acts for use by ships as a signal of distress.

280. Obligation to assist vessels, etc., in distress

(1) The master of a British or Malayan ship registered in the Federation, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of subsection (3) or subsection (4) of this section.

(2) Where the master of any ship in distress has requisitioned any British or Malayan ship registered in the Federation that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by subsection (1) of this section as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by subsection (1) of this section, and, if his ship has been requisitioned, from the obligation imposed by subsection (2) of this section, if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If a master fails to comply with the preceding provisions of this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

(6) If the master of a British or Malayan ship registered in the Federation, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log-book, or if there is no official logbook cause other

record to be kept, of his reasons for not going to the assistance of those persons, and if he fails to do so he shall be liable to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

(7) The master of every British or Malayan ship registered in the Federation for which an official log is required shall enter or cause to be entered in the official log book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(8) Nothing in this section shall affect the provisions of section 387; and compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

281. Removing persons in case of danger

Where the Director of Marine for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives has permitted more persons to be carried on board a ship than are permitted under the Merchant Shipping Acts or under the Ordinance apart from this section, the carriage of that excess of persons shall not be an offence under those Acts, or under the Ordinance.

282. Power of Minister to exempt from safety requirements

(1) The Minister may exempt any ships or classes of ships from any requirements of the rules for lifesaving appliances or any rules or regulations made under this Ordinance, either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to the preceding provisions of this section, where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister may, if he is of opinion that the ship complies with safety requirements that are adequate for that voyage, exempt the ship from any of the safety requirements imposed by or under the Merchant Shipping Acts or by or under this Ordinance.

283. Modification of safety certificate as respects life-saving appliances

(1) Without prejudice to the provisions of the last preceding section, if on any international voyage a British or Malayan passenger ship registered in the Federation in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the life-saving appliances on the ship provide, or any person authorised by him for the purpose, may, at the request of the master

of the ship, issue a memorandum stating the total number of persons carried on the ship on that voyage, and the consequent modifications which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the certificate, and that memorandum shall be annexed to the certificate.

[(1) Gen. Am. Act A1519:s.2]

(2) Every such memorandum shall be returned to the Minister at the end of the voyage to which it relates, and, if it is not so returned, the master of the ship shall be liable to a fine not exceeding two thousand ringgit.

[Am. Act A792:s.54]

284. Exemption of certain ships from certain provisions of this Act

(1) Nothing in this Ordinance –

(a) prohibiting or preventing a ship from proceeding to sea unless there are in force in relation to the ship, or are produced, the appropriate certificates issued by the Minister under this Part or the appropriate accepted Safety Convention certificates;

(b) conferring powers on a Surveyor of Ships for the purpose of verifying the existence, validity or correctness of any Safety Convention certificate or that the conditions on which any such certificate was issued are complied with;

(c) requiring information about a ship's stability to be carried on board;

(d) imposing a penalty for the contravention of any rules relating to openings in ships' hulls and watertight bulkheads,

shall, unless in the case of information about a ship's stability the Minister otherwise orders, apply to any troopship, pleasure yacht or fishing vessel, or to any ship of less than five hundred tons gross tonnage other than a passenger ship or to any ship not propelled by mechanical means.

[(2) Gen. Am. Act A1519:s.2]

(2) Nothing in the preceding subsection shall affect the exemption conferred by section 4 on ships belonging to Her Majesty or to His Highness the Ruler or His Excellency the Governor of any State.

(3) Notwithstanding that any provision of this Ordinance is expressed to apply to ships not registered in the Federation while they are within any port in the Federation, that provision

shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

(4) Subsection (1) shall not prevent the application –

(a) to any ship of three hundred tons gross tonnage or upwards, of so much of the provisions mentioned in paragraphs (a) and (b) of that subsection as relates to certificates issued under section 267 of this Ordinance or equivalent accepted Safety Convention certificates;

(b) to any ship to which section 256B of this Ordinance applies and which is registered in Malaysia, of so much of the provisions mentioned in paragraph (a) of that subsection as relates to certificates issued under section 268A of this Ordinance;

[Am. Act A792:s.29]

by reason only that she is of less than five hundred tons gross tonnage.

285. [Deleted by Act A792:s.30]

286. Adjustment of compasses and provision of hose

(1) Every British or Malayan sea-going ship, if employed to carry passengers, and every British or Malayan near-coastal trade ship shall have her compasses properly adjusted from time to time, and every ship as aforesaid not used wholly as a tug shall be provided with a hose capable of being connected with the engines of the ship, and adapted for extinguishing fire in any part of the ship.

[Am Act A792:s.31]

(2) If any such ship as aforesaid plies or goes to sea from any port in the Federation and any requirement of this section is not complied with, then for each matter in which default is made, the owner, if in fault, shall be liable to a fine not exceeding five thousand ringgit, and the master, if in fault, shall be liable to a fine not exceeding five thousand ringgit.

[Am. Act A792:s.54]

287. Placing undue weight on safety-valve

A person shall not place an undue weight on the safety-valve of any ship, and, if he does so, he shall in addition to any other liability which he incurs by so doing, be liable for each offence to a fine not exceeding ten thousand ringgit.

[Am. Act A792:s.54]

288. Signalling lamps

No British or Malayan ship registered in the Federation, being a ship of over one hundred and fifty tons gross tonnage, shall proceed to sea on an international voyage, unless the ship is provided with an efficient signalling lamp and if any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master thereof shall for each offence be liable to a fine not exceeding one thousand ringgit.

[Am. Act A792:s.54]

289. Restrictions on carriage of dangerous goods

(1) A person shall not send or attempt to send by any vessel, and a person not being the master or owner of the vessel shall not carry or attempt to carry in any such vessel any dangerous goods, without distinctly marking their nature on the outside of the package containing the same and giving written notice of the nature of those goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.

[Am. Act A792:s.32]

(2) Any person who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding ten thousand ringgit, but if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, then not exceeding one thousand ringgit.

[Am. Act A792:s.32]

(3) For the purpose of this Part "dangerous goods" means –

- (a) aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitroglycerine and petroleum;

(b) any explosives within the meaning of any written law in force in the Federation relating to explosives;

(c) any goods which by reason of their nature, quantity or mode of stowage are liable, either singly or collectively, to endanger the lives of persons on or near any ship, or to imperil any ship; and

(d) any other goods which may be declared to be dangerous goods by rules made or, as the case may be, having application under section 293.

[Subs. Act A792:s.32]

290. Penalty for mis-description of dangerous goods

Any person who knowingly sends or attempts to send by or carries or attempts to carry in any vessel, any dangerous goods under a false description, or falsely describes the sender or carrier thereof, shall be liable for each offence to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Am. Act A792:s.33]

291. Power to deal with goods suspected of being dangerous

(1) The master or owner of any vessel, may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

[Am. Act A792:s.34]

(2) Where any dangerous goods, or any goods which in the judgment of the master or owner of the vessel are dangerous goods, have been sent or brought aboard any vessel, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained.

[Am. Act A792:s.34]

(3) Neither the master nor the owner of the vessel shall be subject to any liability, civil or criminal, in any Court for so throwing the goods overboard.

292. Forfeiture of dangerous goods improperly sent or carried

(1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, without being marked as aforesaid or without such notice having been given as aforesaid, or under a false description or with a false description of the sender or carrier thereof, the High Court may declare those goods and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the Court directs.

[Am. Act A792:s.35]

(2) The Court shall have and may exercise the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Ordinance relating to dangerous goods, and is not before the Court and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the Court may, in its discretion, require such notice as it directs to be given to the owner or shipper of the goods before they are forfeited.

293. Carriage of dangerous goods

(1) The Minister may make rules for regulating in the interests of safety the carriage of dangerous goods in ships to which this section applies.

(2) This section applies to –

(a) all Malaysian ships whether such ships ply on an international voyage or not;

(b) all other ships while they are within any port in Malaysia, or are embarking or disembarking passengers within the territorial waters of Malaysia, or are loading or discharging cargo or fuel within those waters.

(3) Rules made under subsection (1) may prescribe such certificates as may be necessary for the purposes of the rules and may prescribe the fees payable in respect of such certificates.

(4) Until rules are made under subsection (1), the rules made from time to time under the Merchant Shipping Acts with respect to the carriage of dangerous goods shall apply to ships to which this section applies.

(5) If any of the rules made under subsection (1) or, as the case may be, having application under subsection (4), is not complied with in relation to any ship to which the rule applies, the person specified in the rules as being guilty of an offence for the non-compliance or, if no

person is so specified, the owner or master of the ship shall be liable in respect of each offence to a fine not exceeding fifteen thousand ringgit or such lesser amount as may be prescribed in the rules for the offence, and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

[Subs. Act A792:s.36]

294. Saving for other enactments relating to dangerous goods

(1) The provisions of this Part relating to the carriage of dangerous goods shall be in addition to and not in substitution for or in restraint of any other enactment for the like object.

(2) Nothing in the said provisions shall be deemed to authorize any person to be sued or prosecuted twice in the same matter.

295. Rules as to carriage of cattle, etc., by sea

(1) The Minister may make rules for all or any of the following purposes:

(a) securing for cattle and other livestock carried by sea a proper supply of food and water;

(b) protecting them from unnecessary suffering when being shipped, during the passage, and on landing;

(c) their destruction when injured at sea;

(d) the provision of a sufficient number of attendants on cattle and other livestock at sea, and for the control of such attendants;

(e) any other matters relating to cattle or other livestock as to which it is expedient to make rules for carrying into effect the objects of this Part.

(2) Rules under this section shall be applicable to all vessels, British, Malayan or foreign.

(3) Any person who without lawful authority or excuse, proof whereof shall lie on him, does or omits to do anything in contravention of any rule in force under this section shall be liable to a fine not exceeding three thousand ringgit.

[Am. Act A792:s.54]

(4) A Port Officer, a Port Health Officer or a Surveyor of Ships may at any time board any vessel or enter any pen or board such vessel for the purposes of inspection.

296. Power to exempt certain ships

The Minister may, by order to be published in the Gazette, exempt any particular ship or class of ships when trading under the conditions specified in the exemption from the operation of any portion of the rules in force under the last preceding section which may relate to the fittings and arrangements for the accommodation, safety and comfort of cattle and other livestock.

297. Obligations to take precautions to prevent grain cargo from shifting

(1) No ship laden with a grain cargo shall from or arrive at any port or place in the Federation, and no Malaysian ship so laden shall proceed from or arrive at any port or place in any country, unless all necessary and reasonable precautions, whether mentioned in any regulations made under this section or not, have been taken in order to prevent the grain cargo from shifting.

[Am. Act A792:s.37]

(2) If those precautions have not been taken, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea shall each be liable to a fine not exceeding fifteen thousand ringgit, and the owner of the ship shall also be liable to the same fine unless he shows that he took all reasonable means to enforce the observance of this section and was not privy to the breach thereof.

[Am. Act A792:s.37]

(3) The Minister may make regulations prescribing the precautions to be taken to prevent a grain cargo from shifting, and such precautions shall be adopted unless the ship is loaded in accordance in all respects with any provisions approved by the Minister as respects the loading in question other than regulations made under this subsection for the time being approved by the Minister of Transport, or is constructed and loaded in accordance with any plan approved by the Minister of Transport.

[Am. Act A792:s.37]

(4) If any of the said regulations is not complied with in the case of any ship, reasonable precautions to prevent the grain cargo of that ship from shifting shall be deemed not to have been taken, and the owner and master of the ship and any agent charged with loading her or sending her to sea shall be liable accordingly to a fine under this section.

(5) Nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions which, although not mentioned in the said regulations, are reasonably required to prevent grain cargo from shifting.

(6) In this section the expression "grain" includes wheat, maize or corn, oats, rye, barley, rice, pulses and seeds, and processed forms thereof whose behaviour is similar to that of grain in its natural state.

[Subs. Act A792:s.37]

298. Obligation to take precautions in loading deck cargo

(1) The Minister may make regulations prescribing the precautions to be taken in the loading of goods as deck cargo in any uncovered space upon deck or in any covered space not included in the cubical contents forming the ship's tonnage, and no ship, British, Malayan or foreign, shall proceed from or arrive at any port or place in the Federation unless those precautions have been taken.

(2) If those precautions have not been taken, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea shall each be liable to a fine not exceeding fifteen thousand ringgit, and the owner of the ship shall also be liable to the same fine unless he shows that he took all reasonable means to enforce the observance of this section and was not privy to the breach thereof.

[Am. Act A792:s.54]

(3) Nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt reasonable precautions which, although not mentioned in the said regulations, are reasonably required in the loading of goods as deck cargo.

299. Saving for ship coming in under stress of weather, etc.

Nothing in the last two preceding sections shall affect any ship not bound to a port or place in the Federation which comes into any port or place in the Federation for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunkers.

299A. Nuclear ship regulations

The Minister may make regulations with respect to ships provided with nuclear power plants for the purpose of enabling effect to be given to the provisions of Chapter VIII of the Annex to the Safety Convention.

299B. Power to make transitional regulations

The Minister may make regulations to provide that for such purposes, for such a period and subject to such conditions as may be specified by or under the regulations –

(a) any country which, immediately before the commencement of this section, was a country to which the International Convention for the Safety of Life at Sea 1960 applied shall be treated for the purposes of this Ordinance as if it were a country to which the Safety Convention applies; and

(b) any certificate which, immediately before the commencement of this section, was an accepted Safety Convention certificate within the meaning then of this Ordinance may be treated as if it were an accepted Safety Convention certificate within the meaning presently of this Ordinance.

[Ins. Act A792:s.39]

300. Sending unseaworthy ship to sea an offence

(1) Any person who sends or attempts to send, or is party to sending or attempting to send, a British, Malayan or foreign ship to sea from any port in the Federation in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves either that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was under the circumstances reasonable and justifiable.

(2) Any master of a British, Malayan or foreign ship who knowingly takes the same to sea from any port in the Federation in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves that her going to sea in such an unseaworthy state was under the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted otherwise than with the consent of the Minister.

(4) An offence under this section shall be punishable with a fine not exceeding twenty thousand ringgit or with imprisonment for a term not exceeding two years or to both.

[Am. Act A792:s.54]

(5) This section shall not apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in the Federation.

301. Obligation of ship-owner to crew with respect to use of reasonable efforts to secure seaworthiness

(1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship and the master and every agent charged with the loading of the ship or the preparing of the ship for sea or the sending of the ship to sea shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep her in such seaworthy condition during the voyage.

(2) Nothing in this section –

(a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable; or

(b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in the Federation.

302. Power to detain unsafe ships and procedure for detention

(1) Where a British or Malayan ship, being in any port in the Federation, is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of under-manning, or by reason of over-loading or improper loading, unfit to proceed to sea or to proceed within the limits of any port without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released as follows:

(a) the Minister, if he has reason to believe, on complaint or otherwise, that a British or Malayan ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed or for ascertaining the sufficiency of the crew;

(b) when a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Minister may, if he thinks fit, appoint some competent person or persons to survey the ship and report thereon to him;

(c) the Minister on receiving the report may either order the ship to be released or, if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship as he thinks necessary for the protection of human life, and the Minister may vary or add to any such order;

(d) before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after that service the owner or master of the ship may appeal to the Court of Survey for the port where the ship is detained, in manner directed by the rules of that Court;

(e) where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the Court of Survey, and in that case, if the surveyor and assessor agree, the Minister shall cause the ship to be detained or released accordingly, but if they differ the Minister may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section;

(f) where a ship has been provisionally detained, the Minister may at any time, if he thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained;

(g) the Minister may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Each Port Officer and the Surveyor-General of Ships, in this Ordinance, referred to as "a detaining officer", shall have the same power as the Minister has under this section of ordering the provisional detention of a ship for the purpose of being surveyed or for ascertaining the sufficiency of her crew and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(3) A detaining officer shall forthwith report to the Minister any order made by him for the detention or release of a ship.

(4) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

(5) A ship detained under this section shall not be released by reason of her British or Malayan register being subsequently closed.

(6) A detaining officer and a person authorized to survey a ship under this section shall for that purpose have the same power as a person appointed by a Court of Survey to survey a ship, and the provisions of this Ordinance with respect to the person so appointed shall apply accordingly, and the powers exercisable by him under this section shall include power to muster the crew.

303. Liability for costs and damages

(1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship under this Part as an unsafe ship, the Government shall be liable to pay to the owner of the ship out of the public revenue his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Ordinance, or if it appears that a ship provisionally detained was, at the time of that detention, an unsafe ship within the meaning of this Part, the owner of the ship shall be liable to pay to the Government its costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(3) For the purpose of this section the costs of and incidental to any proceeding before a Court of Survey and a reasonable amount in respect of the remuneration of the surveyor, or officer of the Government, shall be part of the costs of the detention and survey of the ship; and any dispute as to the amount of those costs may be referred to a Registrar of the Supreme Court, the amount of those costs may be referred to a Registrar of the Supreme Court, who shall, on request by the Chief Secretary, ascertain and certify the proper amount of those costs.

(4) An action for any costs or compensation payable by the Government under this section may be brought against the Port Officer of the port where the ship was detained by his

official title as if he were a corporation sole, and the Public Authorities Protection Ordinance shall not apply to such action.

304. Power to require complainant to give security for costs

(1) Where a complaint is made to the Minister or a detaining officer that a British or Malayan ship is unsafe, the Minister or officer may require the complainant to give security to the satisfaction of the Minister for the costs and compensation which he may become liable to pay as hereinafter mentioned.

(2) Such security shall not be required where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Minister or officer frivolous or vexatious, and the Minister or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Ordinance to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

305. Application to foreign ships of provisions as to detention

(1) Where a foreign ship is, whilst within any port in the Federation, whether she has taken any cargo on board at that port or not, unsafe by reason of over-loading or improper loading, or by reason of the defective condition of her hull, equipments or machinery, or undermanning, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British or Malayan ship, with the following modifications:

(a) a copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the said port;

(b) where a ship has been provisionally detained, the consular officer on the request of the owner or master of the ship may require that the person appointed by the Minister to survey the ship shall be accompanied by such person as the consular officer selects, and in that case, if the surveyor and that person agree, the Minister shall cause the ship to be detained or released accordingly, but if they differ, the Minister may act as if the requisition had not been made, and the owner and master shall have the like appeal to a

Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British or Malayan ship; and

(c) where the owner or master of the ship appeals to the Court of Survey, the consular officer, on his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British or Malayan ship, would be appointed otherwise than by the Minister.

(2) *(Deleted by Act A792:s.40).*

306. Survey of ship alleged by seamen to be unseaworthy

(1) Whenever in any proceeding against any seaman or apprentice belonging to any ship for the offence of desertion, or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship, that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the Court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence it thinks it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.

[(1) Gen. Am. Act A1519:s.2]

(2) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.

[(2) Gen. Am. Act A1519:s.2]

(3) For the purposes of this section the Court shall require any Surveyor of Ships, or, if such a Surveyor cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the Court and having no interest in the ship, her freight or cargo, to survey the ship, and to answer any question concerning her which the Court thinks fit to put.

(4) Such Surveyor or other person shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court, and the Court shall cause the report to be communicated to the parties, and unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, shall determine the question before it in accordance with those opinions.

(5) Any person making a survey under this section shall for the purposes thereof have all the powers of an Inspector under this Ordinance.

(6) The costs, if any, of the survey shall be determined by the Minister according to the prescribed scale of fees.

(7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid into the Treasury.

(8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Accountant-General and shall be liable to pay the seaman or apprentice, who has been detained in consequence of the said proceeding before the Court under this section, such compensation for his detention as the Court awards.

[(8) Gen. Am. Act A1519:s.2]

Supplemental

Section 306A. Countries to which safety convention applies

The Minister, if satisfied –

(a) that the government of a country has accepted, or denounced, the Safety Convention;
or

(b) that the Safety Convention extends, or has ceased to extend, to any territory,

may by order make a declaration to that effect.

[Ins. Act A792:s.41]

PART VA – POLLUTION FROM SHIPS

306B. Application

(1) This Part shall, unless the context otherwise requires, apply to –

- (a) registered Malaysian ships;
- (b) vessels licensed under this Ordinance or under the Merchant Shipping Ordinance 1960 of Sabah or Sarawak;
- (c) foreign ships while in Malaysian waters; [Am. Act A1393:s.4]
- (d) pleasure crafts in Malaysian waters; [Am. Act A1393:s.4]
- (e) fishing vessels; and
- (f) such vessels or class of vessels as the Minister may prescribe.

(2) This Part shall not, unless the context otherwise requires, apply to –

- (a) ships of war and troopships; or
- (b) Government vessels.

[Ins. Act A792:s.42]

306C. Definition

(1) For the purposes of this Part and the rules made thereunder, unless it is expressly provided otherwise –

"authorised officer" includes any Surveyor of Ships, port officer and any person authorised by the Director of Marine;

"certificate" means a valid document, by whatever name it may be known, issued under this Part or recognized by the Director of Marine;

["certificate". Ins. Act A1316:s.6]

"discharge" means any release of oil or harmful substances from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying, but does not include –

(a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters, done at London on 13 November 1972, or dumping with the consent of the Government; or

(b) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources;

(c) release of harmful substances or chemicals for purposes of legitimate scientific research into pollution abatement or control;

["discharge". Subs. Act A1393:s.3]

"emission" means any release of harmful substances from ships into the atmosphere or sea;

["emission". Ins. Act A1393:s.3]

"harmful substance" means any substance which,

if introduced into the sea, is liable to create hazard to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea; or

If introduced into the atmosphere, will adversely affect human health or the environment, or significantly deplete and otherwise modify the ozone layer.

["harmful substance". Subs. Act A1393:s.3]

"Malaysian coast" includes the coast of any island forming part of Malaysia and the shores of any internal waters, being tidal waters of Malaysia or of such an island;

"Malaysian waters" means the territorial waters of Malaysia as determined in accordance with the Emergency (Essential Powers) Ordinance No. 7 1969 [P.U. (A) 307A/1969];

[Subs. Act A1316:s.6]

"Malaysian reef" means a reef in Malaysian waters;

"oil" means any persistent or non-persistent hydrocarbon mineral oil in any form, including any mixture with any oil content, whether carried on board a ship as cargo in bulk or in the bunkers of the ship;

"oily mixture" means a mixture with any oil content;

"owner" includes a charterer or operator of a ship;

"ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushioned vehicles, submersibles, floating crafts and fixed or floating platforms.

(2) Where oil or harmful substance has been, is being or is likely to be discharged, intentionally or otherwise, from a ship, the discharge or likely discharge of the oil or harmful substance from the ship shall, for the purposes of this Part, be deemed to be an escape or likely escape of oil or harmful substance from the ship.

[Ins. Act A792:s.42]

306CA. Prohibition of discharge of oil or harmful substance

(1) Subject to subsection (2) and any circumstances as may be specified in the rules or Malaysia Shipping Notice , the discharge of oil or harmful substances into any part of Malaysian waters, any Malaysian coast or Malaysian reef is prohibited.

[(1) Am. Act A1393:s.4]

(2) Subsection (1) shall not apply to any discharge of oil harmful substances –

(a) which is necessary for the purpose of securing the safety of the ship or saving life at sea;

(b) resulting from damage , other than intentional damage, to a ship or its equipment and, all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or, if it could not be prevented, stopping or minimizing the discharge; or

(c) which is for the purpose of combating specific pollution incidents in order to minimise damage from pollution and is approved by the Director of Marine and, where the discharge occurred within the jurisdiction of the government of the country other than Malaysia, by that government.

(3) For the purpose of subsection (2), damage to a ship or its equipment shall be deemed to be intentional damage if the damage arose in circumstances in which the owner or master of the ship –

(a) acted with intent to cause the damage; or

(b) acted in a reckless manner and with knowledge that the damage would probably result.

(4) Any person who contravenes subsection (1) shall liable for each offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Ins. Act A1316:s.6]

306D. Powers of Director of Marine

(1) Where oil or harmful substance is escaping from, or where the Director of Marine is satisfied that oil or harmful substance is likely to escape from, a ship, then, for the purpose of preventing or reducing the extent of the pollution or likely pollution by the oil or harmful substance of any Malaysian waters, any part of the Malaysian coast or any Malaysian reef, the Director of Marine, in consultation with the Director-General of Environmental Quality, may, by notice in writing addressed to the owner of the ship and served in accordance with section 306E, do all or any of the following:

[(1) Am. Act A1393:s.4]

(a) require such action to be taken in relation to the ship or its cargo as is specified in the notice;

(b) prohibit the removal of the ship from a place specified in the notice except with his approval;

(c) prohibit the removal from the ship of any cargo, or any cargo specified in the notice, except with his approval.

(2) The Director of Marine shall specify in the notice under subsection (1) the time by which the action required to be taken is to be accomplished.

(3) Without prejudice to the generality of paragraph (a) of subsection (1), the action that the Director of Marine may require to be taken includes –

(a) action to prevent the escape of oil or harmful substance from the ship;

(b) the removal of oil or harmful substance from the ship, or a specified part of the ship, in such manner, if any, as is specified by the Director of Marine to such place, if any, as is so specified; and

(c) the removal of the ship to a place specified by the Director of Marine.

(4) Nothing in this section shall be construed as preventing the service under subsection (1) of more than one notice in respect of a ship.

(5) Where a notice has been served under subsection (1), including a notice that has been varied under this subsection, the Director of Marine may, by further notice in writing addressed to the owner of the ship and served in accordance with section 306E, revoke or vary the earlier notice, and where such notice has been varied, it shall have effect from the date of service of the variation.

(6) This section applies to a ship registered in Malaysia and to a foreign ship which is in Malaysian waters or the exclusive economic zone.

[Ins. Act A792:s.42; (6) Am. Act A1393:s.4]

306E. Service of notice

Service of a notice under section 306D in respect of a ship shall be effected by –

- (a) serving it personally on the owner of the ship or, if the owner is a body corporate, on a director, secretary or other officer of the body corporate; or
- (b) serving it personally on the agent of the ship or, if the agent is a company, on a director, secretary or other officer of the company; or
- (c) serving it personally on the master of the ship or, if for any reason, including the absence of the master from the ship, it is not practicable to do so, by handing it to any person on board the ship who appears to be in charge of the ship; or
- (d) serving it on the person who appears to be in charge of the salvage operations in the case of a ship in the possession of a salvor.

306F. Offence

(1) Where –

- (a) a notice under subsection (1) of section 306D is served; and
- (b) a requirement specified in the notice under paragraph (a) of that subsection is not complied with before the time specified in the notice,

the owner and master shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand ringgit in respect of each period of twenty-four hours within the default period as defined in subsection (3):

Provided that the Minister may prescribe a lower fine in accordance with the amount of oil harmful substance carried by the ship.

(2) Where –

(a) a notice under subsection (1) of section 306D is served; and

(b) a prohibition specified in the notice under paragraph (b) or (c) of that subsection is contravened, the owner and master of the ship shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand ringgit.

(3) In subsection (1), "default period" means the period commencing from the time when the requirement was to have been complied with as specified in the notice and ending at the time when the requirement was complied with or, if the owner of the ship proves that, after a particular time, compliance with the requirement was not possible or compliance with the requirement would not have prevented oil or harmful substance escaping from the ship, that last-mentioned time.

(4) Where any person is charged for any offence against this Part it shall be a defence to prove that the discharge or failure to comply with a notice was caused for the purpose of securing the safety of the ship or for the purpose of saving life but the defence shall not operate if the court is satisfied that the discharge or noncompliance was not necessary for the alleged purpose or was not a reasonable step to take in the circumstances.

[Ins. Act A792:s.42]

306G. Powers of Director of Marine in cases of non-compliance with notice

(1) Where a requirement specified in a notice served under section 306D is not complied with, the Director of Marine may, whether or not the owner or master of the ship has been convicted of an offence against this Part by reason of the requirement not having been complied with, cause such things to be done as he thinks proper for the carrying out of the action required by the notice.

(2) Where a notice under subsection (1) of section 306D is served and –

(a) a requirement specified in the notice is not complied with or a prohibition specified in the notice is contravened; and

(b) oil or harmful substance escapes from the ship by reason of the requirement not having been complied with or by reason of the prohibition having been contravened,

the Director of Marine may, whether or not the owner or master of the ship has been convicted of an offence against this Part by reason of the requirement not having been complied with or the prohibition having been contravened, cause such things to be done as he thinks proper to prevent or reduce the extent of the pollution by the oil or harmful substance of any Malaysian waters, any part of the Malaysian coast or any Malaysian reef, or to remove or reduce the effects of the pollution by the oil or harmful substance of any such waters, coast or reef.

[Am. Act A1393:s.4]

(3) Any expense or other liability incurred by the Director of Marine in, or by reason of, the exercise of his powers under subsection (1) or (2) –

(a) shall be a debt due to the Government by, and may be recovered by the Government from, the owner of the ship; and

(b) shall be a charge upon the ship which, except as provided otherwise in international law or in any international agreement to which Malaysia is a party, may be detained by a person authorised by the Director of Marine and may be so detained until the amount is paid or security for the payment of the amount is provided to the satisfaction of the Director of Marine.

(4) For the purposes of paragraph (b) of subsection (3) the word "ship" includes every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of the ship.

[Ins. Act A792:s.42]

306H. Escape of oil or harmful substance from two or more ships

Where oil or harmful substance has escaped or is likely to escape from two or more ships and it is not reasonably practicable to identify the oil or harmful substance that has escaped from a particular ship, then all the oil or harmful substance that has escaped from those ships shall, for the purposes of this Part, be deemed to have escaped from each of those ships;

Provided that the Government shall not, by virtue of this section, be entitled to recover from the owners of those ships amounts that, in the aggregate, exceed the total amount of the expenses and liabilities incurred by the Director of Marine in the exercise of his powers under this Part.

306I. Action to be taken in cases of maritime casualty

(1) Where as a result of a maritime casualty or in consequence of any act resulting therefrom, there is or is likely to be, in the opinion of the Director of Marine, an escape of oil or harmful substance or any other threat of pollution to Malaysian waters, any Malaysian coast or Malaysian reef, the Director of Marine, in consultation with the Director-General of Environmental Quality, may take such actions as he deems necessary and issue the notice under the provisions of section 306D.

[(1) Am. Act A1393:s.4]

(2) If in the opinion of the Director of Marine the actions taken and the notice issued under subsection (1) are ineffective to prevent, reduce or eliminate the pollution or threat of pollution, the Director of Marine may, after giving due consideration to the rights of the flag state, any third state or any other person having an interest in the ship –

(a) direct that measures be taken to sink or destroy the ship or cargo or any part thereof;
or

(b) direct the taking over of control of the ship.

(3) For the purposes of this Part, the term "maritime casualty" means any event where a ship –

(a) has been abandoned or is not in command; or

(b) has received any material damage causing or likely to cause a discharge; or

(c) has been stranded; or

(d) has experienced any occurrence on board which results in the escape of oil or harmful substance or which, in the opinion of the Director of Marine, may result in the escape of oil or harmful substance or which causes pollution to Malaysian waters, any Malaysian coast or Malaysian reef.

306J. Report of maritime casualty

(1) The master of a ship in Malaysian waters which experiences a maritime casualty as defined in section 306I or which has discharged any oil or harmful substance shall report such incident to –

[(1) Am. Act A1393:s.4]

(a) the port officer, within twenty-four hours or as soon as possible, where the ship is in a port;

(b) the Director of Marine, as soon as possible, where the ship is outside a port.

(2) The report required by subsection (1) shall be made in writing or by telex or other means of radio communication:

Provided that where a report is made by verbal radio communication, it shall be followed up in writing or by telex as soon as possible.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand ringgit.

[Ins. Act A792:s.42]

306JA. Investigation of a maritime casualty

(1) Where a maritime casualty has occurred, the Director of Marine may cause an investigation to be conducted by a port officer or an authorised officer to determine the nature and causes of the maritime casualty or damage which the ship has sustained or the extent of damage caused to Malaysian waters, any Malaysian coast or Malaysian reef.

[(1) Am. Act A1393:s.4]

(2) The person conducting the investigation under subsection (1) shall have the powers of an Inspector under the Ordinance and shall submit the findings of such investigation to the Director of Marine.

306JB. Protection of acts done in exercise of certain powers of the Government

The Government shall not be held liable in any circumstances where any discharge of oil or harmful substances is in consequence of the exercise of any of its powers in relation to the removal of wrecks, preventing an obstruction or danger to navigation, or the disposal of sunk, stranded or abandoned vessels.

306K. Powers of Minister

(1) The Minister may make such rules as he considers necessary or expedient to provide for the carriage or storage of oil or harmful substance at sea, the control of pollution from ships

and for matters connected therewith, and without prejudice to the generality of such powers may make rules for –

- (a) the design, construction, subdivision and alteration of ships, their equipment, machinery and electrical installations;
 - (b) the inspection and survey of ships, their hull, machinery, equipment and installations;
 - (c) the form, issue, validity, duration and extension of certificates or exemption certificates;
 - (d) the storage, carriage, loading and discharging of oil or harmful substance as cargo, fuel or store;
 - (e) prescribing a list of harmful substances;
 - (f) the method and level of discharge of oil or harmful substance by ships into the sea, where permitted;
 - (g) the cleaning or washing of tanks or other compartments or parts of a ship;
 - (h) the form and maintenance of an oil or harmful substance record book and its production for inspection as and when required;
 - (i) prescribing fees for anything to be done or permitted to be done under the rules;
 - (j) the implementation in whole or in part of any international convention, code or resolution relating to marine pollution or any matter incidental thereto or connected therewith;
 - (k) the exemption of a ship or a class of ships from any requirement under this Part;
 - (l) prescribing the authority for the issue of certificates prescribed under this Part;
 - (m) prescribing the form and manner in which a ship which has suffered a maritime casualty is required to report;
 - (n) such other matters as are necessary or expedient for carrying out the purposes of this Part.
- (2) Any person who contravenes any such rule shall, where no other penalty is provided, be liable on conviction to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

[Ins. Act A792:s.42]

306L. Issuance of certificate or interim certificate

(1) The Director of Marine may, upon receipt of a written application from an owner of a ship and upon being satisfied that the ship has complied with all the requirements of this Part, the rules made hereunder or the technical requirements relating to marine pollution as issued by the Director of Marine in Malaysia Shipping Notices, issue a certificate in the prescribed form in respect of such ship upon payment of the prescribed fee.

(2) The Director of Marine may issue the certificate in pursuance of subsection (1) subject to any conditions or restrictions that he may deem fit to impose.

(3) The Director of Marine may, pending the issuance of the certificate, issue an interim certificate subject to such conditions or restrictions as he may deem fit to impose.

[Ins. Act A1316]

306M. Revocation of certificate or interim certificate

(1) The Director of Marine may at any time revoke the certificate or interim certificate issued under section 306L to the ship if he is satisfied that –

(a) there has been a contravention of any provision of this Part, any rules made hereunder or any technical requirements relating to marine pollution as issued by the Director of Marine in Malaysia Shipping Notices; or

(b) there has been a breach of any condition or restriction of the certificate or interim certificate,

provided that no certificate or interim certificate shall be revoked unless the holder of the certificate or interim certificate has been given a reasonable opportunity of making a representation against the intended revocation.

[Ins. Act A1316]

306N. Replacement of certificate or interim certificate

(1) Where the certificate or interim certificate issued under section 306L is lost, defaced or destroyed, the Director of Marine may, upon receipt of an application from the owner of the ship and upon payment of the prescribed fee, issue a certificate or interim certificate in lieu of the original certificate or interim certificate, provided that the owner of the ship proves to the satisfaction of the Director of Marine that he has not caused or contributed to the loss, defacement or destruction of the original certificate or interim certificate.

(2) Where the original certificate or interim certificate is found after the certificate or interim certificate has been issued in pursuance of subsection (1), the original certificate or interim certificate shall be deemed to have been revoked and of no effect.

[Ins. Act A1316]

306O. Authorisation to issue, replace or revoke certificates, etc.

(1) Notwithstanding section 306L, the Director of Marine may authorise in writing any person or organisation to issue, replace or revoke certificates or interim certificates in accordance with the provisions of this Part.

(2) Every certificate or interim certificate issued by any person or organisation authorised under subsection (1) shall have effect for the purposes of this Part as if it had been issued by the Director of Marine.

306P. Recognition of certificate

The Director of Marine may recognise a certificate issued to a ship by or under the authority of another party to an international convention relating to marine pollution, if he is satisfied that the requirements of the convention are fully complied with.

306Q. Inspection and detention of ship

(1) The Director of Marine or any authorised officer may go on board and inspect any ship and if satisfied after the inspection that there is a contravention of any provision of this Part or any rules made hereunder, or that the ship has failed to comply with any condition or restriction of the certificate, the Director of Marine may detain the ship.

(2) The Director of Marine may allow the ship detained under subsection (1) to leave any port or place in Malaysia or Malaysian waters for the purpose of continuing its voyage directly to the nearest and appropriate ship repair facility.

[(2) Am. Act A1393:s.4]

(3) The Director of Marine or any authorised officer shall not, in exercising his powers under this section, unreasonably detain any ship.

306R. Prohibition of foreign ships entering Malaysian waters for reason of non-compliance

Where the Director of Marine has reasonable grounds to believe that a foreign ship does not comply with any provision of this Part or the rules made hereunder that is applicable to such ship, he may prohibit the ship from entering any area of Malaysian waters.”

PART VI – LOAD LINE AND LOADING

Preliminary

307. Ships exempt from this Part

(1) The following ships are exempt from this Part, namely –

- (a) native sailing ships;
- (b) sailing ships under eighty tons register plying solely on coasting trade voyages;
- (c) ships exempted from this Part under subsection (2);
- (d) ships solely engaged in fishing;
- (e) pleasure yachts.

(2) The Minister may, on such conditions as he thinks fit, exempt from this Part –

- (a) any ship plying on international voyages between the near neighbouring ports of two or more countries, if the Minister and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply the provisions of this Part to ships so plying;
- (b) any ship plying on any other voyage between near neighbouring ports if the Minister is satisfied as aforesaid; and
- (c) any class of ships under eighty tons register plying solely on coasting trade voyages, so long as they do not carry cargo.

(3) Any ship exempt from this Part under subsection (2) shall unless otherwise provided be subject to the provisions set out in the Eighth Schedule.

307. Classification of ships for purpose of Part VI

(1) Ships which are not exempt from this Part by virtue of the last foregoing section are hereafter in this Part referred to as "load line ships", and for the purposes of this Part are divided into the following classes, namely –

(a) international load line ships, that is to say, ships of one hundred and fifty tons gross tonnage or upwards which carry cargo or passengers; and

(b) local load line ships, that is to say, ships of one hundred and fifty tons gross tonnage or upwards which do not carry cargo or passengers, and ships of less than that tonnage.

(2) International load line ships belonging to countries to which the Load Line Convention applies, are hereafter in this Part referred to as "Load Line Convention ships".

309. Load Line rules

(1) The Minister shall make such rules (hereafter in this Part referred to as "the load line rules") as appear to him to be necessary for the purpose of giving effect to the provisions of the Load Line Convention.

[Am. Act A895:s.11]

(2) For the purposes of this section and without prejudice to the generality of the powers therein contained, the load line rules made from time to time by the Minister of Transport under the Merchant Shipping Acts shall, unless varied by or repugnant to load line rules made under this section, be deemed to be load line rules made under this section.

(3) Such of the load line rules as are made to give effect to the said Convention are hereafter in this Part referred to as "the conditions of assignment".

[Am. Act A895:s.11]

(4) Rules made under subsection (1) –

(a) may provide for any surveys or inspections under the rules to be undertaken by persons appointed by such organisations as may be specified in the rules;

(b) may prescribe the fees that shall be paid in respect of surveys and inspections carried out under the rules; and

(c) may, in the case of surveys and inspections carried out by persons appointed by organisations specified in the rules, provide for fees to be payable to those persons or organisations.

310. Marking of deck-line and load lines

(1) No British or Malayan load line ship registered in the Federation being a ship constructed after the 30th day of June, 1932, shall proceed to sea unless –

- (a) the ship has been surveyed in accordance with the load line rules; and
- (b) the ship complies with the conditions of assignment; and
- (c) the ship is marked on each side with a mark (hereafter in this Part referred to as a "deckline") indicating the position of the uppermost complete deck as defined by the load line rules, and with marks (hereafter in this Part referred to as "load lines") indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the load line rules; and
- (d) the deck-line and load lines are of the description required by the load line rules, the deck-line is in the position required by those rules, and the load lines are of the number required by such of those rules as are applicable to the ship; and
- (e) the load lines are in the position required by such of the load line rules as are applicable to the ship.

(2) No British or Malayan load line ship registered in the Federation, being a ship constructed before the 1st day of July, 1932, shall proceed to sea unless –

- (a) the ship has been surveyed and marked in accordance with paragraphs (a), (c) and (d) of the last foregoing subsection; and
- (b) the ship complies with the conditions of assignment in principle and also in detail, so far as, in the opinion of the Surveyor-General of Ships, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing in the ship at the time when she is first surveyed under this section; and
- (c) the load lines are either in the position required by paragraph (e) of the last foregoing subsection or in the position required by the tables used by the Board of Trade on the 31st day of December, 1906, for fixing the position of load lines, subject to such modifications of those tables and of the application thereof, approved by the Board of Trade under section 438 of the Merchant Shipping Act, 1894, as were in force immediately before the 5th day of July, 1930.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master or owner thereof shall for each offence be liable to a fine not exceeding one thousand ringgit.

(4) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been so surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 302.

311. Submersion of load line

(1) A British or Malayan load line ship registered in the Federation shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded.

(2) If any such ship is loaded in contravention of this section, the owner or master of the ship shall for each offence be liable to a fine not exceeding one thousand ringgit and to such additional fine, not exceeding the amount hereinafter specified, as the court thinks fit to impose having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(3) The said additional fine shall not exceed one thousand ringgit for every inch or fraction of an inch by which the appropriate load line on each side of the ship was submerged, or would have been submerged if the ship had been in salt water and had no list.

(4) In any proceedings against an owner or master in respect of a contravention of this section, it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(5) Without prejudice to any proceedings under the foregoing provisions of this section, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

312. Submersion of subdivision load lines

(1) If –

(a) a British or Malayan passenger ship registered in the Federation has been marked with subdivision load lines, that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which she is subdivided and to the space for the time being allotted to passengers; and

(b) the appropriate subdivision load-line, that is to say, the subdivision load line appropriate to the space for the time being allotted to passengers on the ship, is lower than the load line indicating the maximum depth to which the ship is for the time being entitled under the provisions of this Part to be loaded;

the ship shall not be so loaded as to submerge in salt water the appropriate subdivision load line on each side of the ship when the ship has no list.

(2) If any such ship is loaded in contravention of this section, the owner or master of the ship shall for each offence be liable to a fine not exceeding one thousand ringgit and to such additional fine, not exceeding the amount hereinafter specified, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been increased by reason of the submersion.

(3) The said additional fine shall not exceed one thousand ringgit for every inch or fraction of an inch by which the appropriate subdivision load line on each side of the ship was submerged, or would have been submerged if the ship had had no list.

(4) Without prejudice to any proceedings under the foregoing provisions of this section, any such ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

(5) The foregoing provisions of this section shall apply to passenger ships not registered in the Federation, while they are within any port in the Federation, as they apply to British or Malayan passenger ships registered in the Federation.

[(5) Gen. Am. Act A1519:s.2]

313. Miscellaneous offences in relation to marks

If –

(a) the owner or master of a British or Malayan load line ship registered in the Federation, which has been marked in accordance with the foregoing provisions of this Part, fails without reasonable cause to keep the ship so marked; or

(b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any mark placed on any such ship in accordance with the foregoing provisions of this Part, except with the authority of a person entitled under the load line rules to authorise the alteration of the mark or except for the purposes of escaping capture by an enemy;

he shall for each offence be liable to a fine not exceeding one thousand ringgit.

314. Inspection of ships with respect to load line

A Surveyor of Ships may inspect any British or Malayan load line ship registered in the Federation for the purpose of seeing that the provisions of this Part have been complied with in the case of the ship, and for the purpose of any such inspection any such Surveyor of Ships shall have all the powers of an Inspector under this Ordinance.

315. Issue of load line certificates and effect thereof

(1) Where a British or Malayan load line ship registered in the Federation has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the fee prescribed therefor by the Minister –

(a) in the case of an international load line ship, a load line certificate hereafter in this Part referred to as "a Load Line Convention certificate"; and

(b) in the case of a load line ship, a load line certificate hereafter in this Ordinance referred to as "a Federation of Malaya load line certificate".

(2) Every such certificate shall be issued either by the Minister or by such other person as may be authorised by him in that behalf, and shall be issued in such form and manner as may be prescribed by the load line rules.

(2A) In prescribing the fees under subsection (1) the Minister may provide for the fees to be payable to a person authorised under subsection (2) in relation to a certificate issued by such person.

[Ins. Act A792:s.44]

(3) Any such certificate issued by the Minister may be signed on behalf of the Minister by any public officer authorised by him for the purpose, and a certificate or a certified copy

thereof purporting to be so signed shall be admissible in evidence in any Court or before any person having by law or consent of parties authority to receive evidence and, subject to all just exceptions, shall be evidence of the matter stated thereon.

[Am. Act A792:s.44]

(4) The Minister may request the Government of a country to which the Load Line Convention applies to issue a Load Line Convention certificate in respect of a Load Line Convention ship registered in the Federation, and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Part as if it had been issued by the Minister.

(5) Where a load line certificate, issued in pursuance of this section and for the time being in force, is produced in respect of a ship, the ship shall, for the purpose of the foregoing provisions of this Part, be deemed to have been surveyed as required by those provisions, and, if the deck-line and load lines on the ship are of the number and description required by the load line rules and the position of the deck-line and load lines corresponds with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

316. Duration, renewal and cancellation of certificates

(1) Every load line certificate issued by or under the authority of the Minister shall, unless it is renewed in accordance with the provisions of subsection (2) of this section, expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein.

(2) Any such load line certificate may, after a survey not less effective than the survey required by the load line rules before the issue of the certificate, be renewed from time to time by the Minister, or by any person authorised by him to issue a load line certificate, for such period (not exceeding five years on any occasion) as the Minister or other person renewing the certificate thinks fit.

(3) The Minister shall cancel any such load line certificate in force in respect of a ship, if he has reason to believe that –

- (a) material alterations have taken place in the hull or superstructures of the ship which affect position of the load lines; or

(b) the fittings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be surveyed in the manner prescribed by the load line rules once at least in each year after the issue of the certificate for the purpose of seeing whether the certificate should remain in force, having regard to the last foregoing subsection, and if the ship is not so surveyed, the Minister shall cancel the certificate: Provided that the Minister, if he thinks fit in any particular case, may extend the said period of one year.

(5) Where any such load line certificate has expired or been cancelled, the Minister may require the owner or master of the ship to which the certificate relates to deliver up the certificate as he directs, and the ship may be detained until such requirement has been complied with, and if the owner or master fails without reasonable cause to comply with such requirement, he shall for each offence be liable to a fine not exceeding one hundred ringgit.

(6) On the survey of any ship in pursuance of this section there shall be paid by the owner of the ship such fee as may be prescribed by the Minister.

317. Ships not to proceed to sea without certificate

(1) No British or Malayan ship registered in the Federation, being an international load line ship, shall proceed to sea unless there is in force in respect of the ship a Load Line Convention certificate.

(2) No British or Malayan ship registered in the Federation, being a local load line ship, shall proceed to sea unless there is in force in respect of the ship a Federation of Malaya load line certificate.

(3) The master of every British or Malayan load line ship registered in the Federation shall produce to the Port Officer at the time a clearance for the ship is demanded, the certificate which is required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and a clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

(4) The master of every ship which proceeds or attempts to proceed to sea in contravention of this section shall for each offence be liable to a fine not exceeding one thousand ringgit.

318. Publication of load line certificate and particulars relating to depth of loading

(1) When a load line certificate has been issued in pursuance of the foregoing provisions of this Part in respect of a British or Malayan load line ship registered in the Federation –

(a) the owner of the ship shall forthwith on the receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in the official log-book, where such a log-book is required to be kept, shall enter therein the particulars as to the position of the deck-line and load lines specified in the certificate.

(2) Before any British or Malayan load line ship registered in the Federation leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall –

(a) enter in the official log-book, where such a log-book is required to be kept, such particulars relating to the depth to which the ship is for the time being loaded as the Minister may by regulations prescribe; and

(b) cause a notice, in such form and containing such of the said particulars as may be required by the said regulations, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the Minister may by the said regulations exempt ships or any class of ships employed plying solely within the near-coastal trade voyage from the requirements of paragraph (b) of this subsection.

[Am. Act A895:s.12]

(3) If the master or owner of any British or Malayan load line ship registered in the Federation fails to comply with the provisions of this section, he shall for each offence be liable to a fine not exceeding two hundred ringgit.

319. Insertion of particulars as to load line in agreements with crew.

(1) Before an agreement with the crew of any British or Malayan load line ship registered in the Federation in respect of which a load line certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the

position of the deck-line and load lines specified in the certificate, and if he fails to do so, he shall for each offence be liable to a fine not exceeding two hundred ringgit.

(2) In the case of a British or Malayan load line ship registered in the Federation, being a foreign-going ship, a Port Officer shall not proceed with the engagement of the crew until –

(a) there is produced to him a load line certificate for the time being in force in respect of the ship; and

(b) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

320. Load line certificates of Convention ships not registered in the Federation

The Minister may, at the request of the government of a country to which the Load Line Convention applies, issue a Load Line Convention certificate in respect of an international load line ship of that country if he is satisfied in like manner as in the case of a British or Malayan ship registered in the Federation that he can properly issue the certificate, and where a certificate is issued at such a request, it shall contain a statement that it has been so issued.

321. Inspection and control of Convention ships not registered in the Federation

(1) A Surveyor of Ships may go on board any Load Line Convention ship not registered in the Federation, when within any port in the Federation, for the purpose of demanding the production of any load line certificate for the time being in force in respect of the ship.

(2) If a valid Load Line Convention certificate is produced to the Surveyor on any such demand, the Surveyor's powers of inspecting the ship with respect to load line shall be limited to seeing –

(a) that the ship is not loaded beyond the limits allowed by the certificate;

(b) that the position of the load lines on the ship corresponds with the position specified in the certificate;

(c) that no material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines;

(d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued; and for

the purpose of any such inspection the Surveyor of Ships shall have all the powers of an Inspector under this Ordinance.

(3) If it is found on any such inspection that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and proceedings may be taken against the master or owner thereof under the provisions hereafter contained in this Part relating to the submersion of load lines on ships not registered in the Federation.

(4) If it is found on any such inspection that the load lines on the ship are not in position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the Surveyor.

(5) If it is found on any such inspection that the ship has been so materially altered in respect of the matters referred to in paragraphs (c) and (d) of subsection (2) of this section that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 302 (in the case of a British ship) or for the purpose of section 305 (in the case of foreign ship):

Provided that where the ship has been detained under either of the last-mentioned sections, the Minister shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

(6) If a valid Load Line Convention certificate is not produced to the Surveyor on such demand as aforesaid, the Surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part have been complied with, as if the ship were a British or Malayan ship registered in the Federation.

(7) For the purposes of this section a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention to be loaded.

322. Certificates of Convention ships to be produced to Port Officer

The master of every Load Line Convention ship not registered in the Federation shall produce to the Port Officer at the time a clearance for the ship from any port in the Federation is demanded –

(a) in a case where clearance is demanded in respect of an international voyage, a valid Load Line Convention certificate;

(b) in a case where clearance is demanded in respect of any other voyage, either a valid Load Line Convention certificate or a Federation of Malaya load line certificate for the time being in force in respect of the ship;

and a clearance shall not be granted, and the ship may be detained, until the certificate required by this section is so produced.

323. Survey, marking and conditions of assignment in case of ships not registered in the Federation

The provisions of section 310 shall apply to load line ships not registered in the Federation, proceeding or attempting to proceed to sea from ports in the Federation, as they apply to British or Malayan load line ships registered in the Federation, subject to the following modifications, namely –

(a) the said section shall not apply to a Load Line Convention ship not registered in the Federation, if a valid Load Line Convention certificate is produced in respect of the ship; and

(b) subject to the provisions of paragraph (a) of this section, a foreign ship which does not comply with the conditions of assignment to the extent required in her case by the said section 310 shall be deemed to be unsafe for the purpose of section 305.

324. Submersion of load line on ships not registered in the Federation

The provisions of section 311 shall apply to load line ships not registered in the Federation, while they are within any port in the Federation, as they apply to British or Malayan load line ships registered in the Federation, subject to the following modifications, namely –

(a) no Load Line Convention ship shall be detained, and no proceedings shall be taken against the owner or master thereof, by virtue of the said section, except after an inspection by a Surveyor of Ships as hereinbefore provided; and

(b) the expression "the appropriate load line", in relation to any ship not registered in the Federation shall mean –

(i) in the case of a Load Line Convention ship in respect of which there is produced on such an inspection as aforesaid a valid Load Line Convention certificate, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention to be loaded;

(ii) in any other case, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded or, if no load line on the ship corresponds as aforesaid, the lowest load line thereon.

325. Inspection of ships not registered in the Federation

The provisions of section 314 shall apply to load line ships, other than British or Malayan ships registered in the Federation or Load Line Convention ships not registered in the Federation, while they are within any port in the Federation, as they apply to British or Malayan load line ships registered in the Federation.

326, Load line certificates of ships not registered in the Federation

(1) United Kingdom load line certificates shall have the same effect for this Part as Federation of Malaya load line certificates.

(2) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of Federation of Malaya load line certificates, shall apply to load line ships not registered in the Federation as they apply to British or Malayan load line ships registered in the Federation, subject to the following modifications, namely –

(a) any such certificate may be issued in respect of an international load line ship as in respect of a local load line ship, so however that any such certificate issued in respect of a Load Line Convention ship shall only be valid so long as the ship is not plying on international voyages, and shall be endorsed with a statement to that effect, and shall be cancelled by the Minister if he has reason to believe that the ship is so plying; and

(b) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the Minister.

(3) Where the Minister certifies –

(a) either –

(i) that by the law in force in any part of Her Majesty's dominions outside the United Kingdom provision has been made for the fixing, marking and certifying of load lines on British ships (or any class or description of British ships) registered in that part of Her Majesty's dominions; or

(ii) that provision has been made as aforesaid by the law in force in any foreign country with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognising Federation of Malaya load line certificates as having the same effect in ports of that country as certificates issued under the said provision; and

(b) that the said provision for the fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Part and is equally effective;

the Minister may direct that load line certificates issued in pursuance of the said provision in respect of British ships (or that class or description of British ships) registered in that part of Her Majesty's dominions, or in respect of ships (or that class or description of ships) of that foreign country, as the case may be, shall have the same effect for the purpose of this Part as Federation of Malaya load line certificates:

Provided that no direction given under this subsection shall apply to Load Line Convention ships plying on international voyages.

(4) Subparagraph (i) of paragraph (a) of the last foregoing subsection shall apply with respect to any foreign country in which for the time being Her Majesty has jurisdiction, as if that country was a part of Her Majesty's dominions.

327. Certificates to be produced to Port Officer by ships not registered in the Federation

The master of every load line ship, other than a British or Malayan ship registered in the Federation or a Load Line Convention ship not registered in the Federation, shall produce to the Port Officer at the time a clearance for the ship from any port in the Federation is demanded, either a Federation of Malaya load line certificate or a United Kingdom load line certificate, or a certificate having effect under this Part as a Federation of Malaya load line certificate, being a certificate for the time being in force in respect of the ship, and a clearance shall not be granted, and the ship may be detained, until the certificate required by this section is so produced.

328. Carriage of timber deck cargo

(1) The Minister may make regulations (hereinafter referred to as the "timber cargo regulations") as to the conditions on which timber may be carried as cargo in any uncovered space on the deck of any load line ship.

(2) The timber cargo regulations shall contain such regulations as appear to the Minister to be necessary for the purpose of giving effect to the Load Line Convention.

(3) Subject to the provisions of the last foregoing subsection, the timber cargo regulations may prescribe generally the conditions on which timber may be carried as aforesaid in any load line ship either on all voyages or on any particular class of voyages and either at all seasons or at any particular season, and in particular may prescribe the manner and position in which the timber is to be stowed and the provision which is to be made on the ship for the safety of the crew.

(4) For the purposes of this section, and without prejudice to the generality of the powers therein contained, the timber cargo regulations made from time to time by the Minister of Transport under the Merchant Shipping Acts shall, unless varied by or repugnant to rules made under this section, be deemed to be timber cargo regulations made under this section.

(5) If any provision of the timber cargo regulations is contravened in the case of any British or Malayan load line ship registered in the Federation, the master of the ship shall be liable to a fine not exceeding five thousand ringgit:

Provided that in any proceedings against a master in respect of a contravention of the timber cargo regulations, it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) For securing the observance of the timber cargo regulations, any officer having authority in that behalf from the Minister, either general or special, shall have power to inspect any load line ship carrying timber cargo in any uncovered space on her deck, and for that purpose shall have all the powers of an Inspector under this Ordinance.

(7) The foregoing provisions of this section and the timber cargo regulations shall apply to load line ships not registered in the Federation, while they are within any port in the Federation, as they apply to British or Malayan load line ships registered in the Federation.

329. Provisions as to rules and regulations

Notwithstanding any provision of the load line rules or timber cargo regulations which requires a particular fitting, appliance or apparatus, or type thereof, to be fitted or carried in a ship, or any particular provision to be made in a ship, the Minister may allow any other fitting,

appliance or apparatus, or type thereof, to be fitted or carried, or any other provision to be made if he is satisfied that that other fitting, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by the said rules or regulations.

330. Inspection of ships in relation to load line

(1) A Surveyor of Ships may inspect any British or Malayan ship registered in the Federation for the purpose of seeing that the provisions of this Part relating to load lines have been complied with in the case of the ship, and for the purpose of any such inspection any such Port Officer or Surveyor of Ships shall have all the powers of an Inspector.

(2) The provisions of this section shall apply to load line ships not registered in the Federation, while they are within any port in the Federation, as they apply to British or Malayan load line ships registered in the Federation.

331. Saving for foreign ship coming in under stress of weather

Nothing in the preceding provisions of this Part shall affect any foreign ship not bound to a port or place in the Federation which comes into any port or place in the Federation for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunkers.

331A. Countries to which Load Line Convention applies

The Minister, if satisfied –

- (a) that the government of a country has ratified or acceded to, or denounced, the Load Line Convention; or
- (b) that the Load Line Convention has been applied, or has ceased to apply, to any territory,

may by order make a declaration to that effect.

PART VII – SPECIAL SHIPPING INQUIRIES AND COURTS

Inquiries and Investigations as to Shipping Casualties

332. Shipping casualties

For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur –

- (a) when on or near the coasts of the Federation any ship is lost, abandoned or materially damaged;
- (b) when on or near the coasts of the Federation any ship has been stranded or damaged;
- (c) when on or near the coasts of the Federation any ship causes loss or material damage to any other ship or to any property;
- (d) when any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of the Federation;
- (e) when in any place any such loss, abandonment, material damage or casualty as above mentioned occurs, and any witness is found in the Federation;
- (f) when in any place any loss, abandonment, material damage or casualty occurs to any Malaysian ship or any Malaysian ship is stranded or damaged;
- (g) when any Malaysian ship is lost or is supposed to have been lost.

[Subs. Act A792:s.46]

333. Definitions

In this Part and in any rules made under it –

"an officer certificated under the Merchant Shipping Acts" means the holder of any certificate as master, mate or engineer, granted under those Acts or of any certificate declared under section 102 of the Merchant Shipping Act, 1894, to be of the same force as if granted under that Act;

"Malayan ship" shall be deemed to include any native sailing ship and any vessel of such class or classes as the Minister may by notification in the Gazette prescribe;

"the holder of a local certificate" means the holder of any certificate granted under this Ordinance.

334. Preliminary inquiry

(1) Where a shipping casualty has occurred, a preliminary inquiry may be held respecting the casualty by the Port Officer residing at or near any place at which the witnesses with respect to the casualty arrive, or are found, or can conveniently be examined.

(2) For the purpose of any such inquiry the person holding the same shall have the powers of an Inspector under this Ordinance.

(3) After hearing such inquiry, the person holding the same shall forward a report thereof to the Minister without delay.

335. Minister may appoint Court of Investigation into shipping casualties and conduct of certificated officers

(1) The Minister may appoint a Court of Investigation for the purpose of holding a formal investigation in any case –

(a) where a shipping casualty has occurred, whether there has been a preliminary inquiry or not; or

(b) whenever the Minister has reason to believe that any officer certificated under the Merchant Shipping Acts is from incompetency or misconduct unfit to discharge his duty in the following cases –

(i) where the incompetency or misconduct has occurred on board a British ship on or near the coasts of the Federation, or on board a British ship in the course of a voyage to a port within the Federation;

(ii) where the incompetency or misconduct has occurred on board a British or Malayan ship registered in the Federation;

(iii) where the officer of a British ship who is charged with incompetency or misconduct on board that British ship is found in the Federation; or

(c) whenever the Minister has reason to believe that the holder of a local certificate is from incompetency or misconduct unfit to discharge his duties:

Provided that a Court of Investigation shall not be appointed for the purpose of holding a formal investigation into any shipping casualty occurring to a ship not registered in the Federation unless either the casualty occurs on or near the coast of the Federation or whilst the ship is wholly engaged in the coasting trade of the Federation or the appointment of the

Court is requested or consented to by the Government of the country in which the ship is registered.

[Am. Act A792:s.48]

(2) A Court of Investigation shall consist of a Judge or a Sessions Court Judge, with the assistance of not less than two nor more than four assessors of whom one shall, if possible, be the Port Officer.

(3) The Port Officer shall not be a member of a Court when he has held a preliminary inquiry with regard to the casualty which is the subject of investigation.

(4) Where an investigation involves or appears likely to involve any question as to the cancelling or suspension of any certificate, the Court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service.

(5) The Court after hearing the case shall make a report to the Minister or other authority by which the same was granted containing a full statement of the case and of the opinion of the Court thereon, accompanied by such report of or extracts from the evidence and such observations as the Court thinks fit.

(6) Each assessor shall either sign the report or state in writing on the report his dissent therefrom and the reasons for that dissent.

(7) The Court may make such order as the Court thinks fit respecting the costs of the investigation or any part thereof, and such order shall be enforced by the Court in the manner provided for levying a fine by a Magistrate's Court.

(8) The Minister may, if in any case he thinks fit so to do, order the costs of any such investigation to be paid out of the general revenue of the Federation.

(9) For the purposes of this section the Court holding a formal investigation shall have all the powers of a Magistrate's Court and shall also have all the powers of an Inspector under this Ordinance.

(10) Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person that person shall have an opportunity of making a defence.

(11) Formal investigations into shipping casualties under this section shall be held in the Court room attached to the Port Office, or in some other suitable place to be fixed by the

Minister, and, unless no other suitable place is in the opinion of the Minister available, shall not be held in a Court ordinarily used as a Magistrate's Court.

336. Power of Court of Investigation as to certificates

(1) The certificate of a certificated officer may be cancelled or suspended by a Court holding an investigation into a shipping casualty, or into the conduct of a certificated officer, if the Court finds that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is required under section 422 of the Merchant Shipping Act, 1894.

(2) If the Court holding an investigation is presided over by a Magistrate, that Court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the Court.

(3) Where any case before any such Court as aforesaid involves a question as to the cancelling or suspending of a certificate, that Court shall, at the conclusion of the case or as soon afterwards as possible, state in open Court the decision to which it has come with respect to the cancelling or suspending thereof.

(4) The Court shall, in the case of an investigation into a shipping casualty or into the conduct of an officer certificated under the Merchant Shipping Acts, send a full report on the case with the evidence to the Minister of Transport, and shall also, if it determines to cancel or suspend any certificate held by any such officer, send the certificate cancelled or suspended to the Minister of Transport or other authority by which the same was granted with its report.

(5) The Court shall, if it determines to cancel or suspend any certificate belonging to the holder of a local certificate, send the certificate cancelled or suspended to the Minister or other authority by which the same was granted with its report.

(6) A certificate shall not be cancelled or suspended by a Court under this section, unless a copy of the report, or a statement of the case on which the investigation has been ordered, has been furnished before the commencement of the investigation to the holder of the certificate.

337. Power of High Court to remove master

- (1) The High Court may remove the master of any ship within the jurisdiction of that Court, if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.
- (2) The removal shall be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.
- (3) The Court may appoint a new master instead of the one removed.
- (4) Where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.
- (5) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

338. Delivery of certificate cancelled or suspended

- (1) A certificated officer whose certificate is cancelled or suspended by any Court holding an investigation under this Part shall deliver his certificate to that Court on demand.
- (2) Any certificated officer who fails to comply with this section shall be liable for each offence to a fine not exceeding five hundred ringgit.

339. Rehearing of investigations

- (1) This Minister may, in any case where an investigation into the conduct of the holder of a local certificate has been held under this Part, order the case to be reheard either generally or as to any part thereof, and shall do so –
 - (a) if new and important evidence which could not be produced at the investigation has been discovered; or
 - (b) if for any other reason there has in his opinion been ground for suspecting that a miscarriage of justice has occurred.
- (2) The Minister may order the case to be reheard either by the Court by which the case was heard in the first instance, or by another Court of Investigation under this Ordinance, or by a Judge of the High Court, and the case shall be so reheard accordingly.
- (3) In every case –

(a) where the investigation is into a casualty affecting a ship registered in the Federation;
or

(b) where the decision affects a local certificate; and an application for a rehearing under this section has not been made, or has been refused, an appeal shall lie from the decision to the High Court.

(4) The appellate jurisdiction of the High Court under this section shall be exercised by any one or three Judges.

(5) If the Court consists of three Judges, the decision shall be that of the majority.

(6) Any rehearing or appeal under this section shall be subject to and conducted in accordance with such conditions and regulations as are prescribed by rules made in relation thereto under the powers contained in this Ordinance.

340. Limitation of jurisdiction

(1) An investigation or inquiry shall not be held under this Part into any matter which has once been the subject of an investigation or inquiry and has been reported on by a competent Court or Tribunal in any part of Her Majesty's dominions, or in respect of which the certificate of a master, mate or engineer, has been cancelled or suspended by a naval court.

(2) Where an investigation or inquiry has been commenced in the United Kingdom with reference to any matter, an investigation or inquiry with reference to the same matter shall not be held under this Part in the Federation.

341. On report, Minister may deal with certificate

The Minister may, if he thinks the justice of the case requires it, re-issue and return any cancelled or suspended certificate held by the holder of a local certificate, or shorten the time of its suspension, or grant a new certificate of the same or any lower grade in place of it.

342. Rules as to inquiries and investigations, etc.

The Minister may make general rules for carrying into effect the provisions relating to inquiries and investigations, and to the rehearing of or an appeal from any inquiry or investigation held under this Part, and in particular with respect to the procedure, the appointment and summoning of assessors, the parties, the persons allowed to appear, the

notice to those parties or persons or to persons affected, the amount and application of fees, and the place in which formal investigations shall be held.

343. Constitution of Court of Survey

- (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.
- (2) The Judge shall be such person as is summoned for the case, in accordance with the rules made under this Ordinance with respect to that Court, out of a list approved for the port by the Minister of Judges of Sessions Court and other fit persons; but in any special case in which the Minister thinks it expedient to appoint a Judge of the Supreme Court, such Judge shall be the Judge of the Court of Survey.
- (3) The assessors shall be persons of nautical, engineering or other special skill and experience.
- (4) Subject to the provisions of section 305 as regards foreign ships, one of the assessors shall be appointed by the Minister, either generally or in each case, and the other shall be summoned, in accordance with the rules made as aforesaid, by the Registrar of the Court out of a list of persons periodically nominated for the purpose by the Chamber of Commerce of the port, or, if there is no such list, shall be appointed by the Judge.
- (5) If the Minister thinks fit at any time to appoint any persons to any such list, those persons shall be added to the list, or, if there is no such list, shall form the list.
- (6) The Registrar of the Court of Survey shall be appointed by the Minister, and shall, on receiving notice of an appeal, immediately summon the Court to meet forthwith in manner directed by the rules.
- (7) The name of the Registrar and his office, together with the rules made as aforesaid relating to Courts of Survey, shall be published in the manner directed by the rules.

344. Power and procedure of Court of Survey

- (1) The Court of Survey shall hear every case in open Court.
- (2) The Judge and each assessor of the Court may survey the ship, and shall have for the purposes of this Ordinance all the powers of an Inspector under this Ordinance.
- (3) The Judge of the Court may appoint any competent person or persons to survey the ship and to report thereon to the Court.

(4) The Judge of the Court, any assessor of the Court, and any person appointed by the Judge of the Court to survey the ship, may go on board the ship and inspect the same and every part thereof, and the machinery, equipment and cargo, and may require the unloading and removal of any cargo, ballast or tackle.

(5) Any person who wilfully impedes such Judge, assessor or person, in the execution of the survey, or fails to comply with any requisition made by him, shall for each offence be liable to a fine not exceeding one hundred ringgit.

(6) The Judge of the Court shall have the same power as the Minister has to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(7) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Minister, may attend at any inspection or survey made in pursuance of this section.

(8) The Judge of the Court shall send to the Minister such report as is directed by the rules, and each assessor shall either sign the report or report to the Minister the reasons for his dissent.

345. Rules of procedure of Court of Survey

The Minister may make general rules to carry into effect the provisions of this Ordinance with respect to a Court of Survey, and in particular with respect to the summoning of, and procedure before, the Court, the requiring on an appeal security for costs and damages, and the amount of fees.

346. Reference in difficult cases to scientific persons

(1) If the Minister is of opinion that an appeal to a Court of Survey involves a question of construction or design, or of scientific difficulty, or important principle, he may refer the matter to such one or more out of a list of scientific referees from time to time approved by the Minister as appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Minister and the appellant, or in default of any such agreement by the Yang di-Pertuan Agong, and thereupon the appeal shall be determined by the referee or referees, instead of by the Court of Survey.

(2) The Minister, if the appellant in any appeal so requires and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

347. Payment to officers of Courts

Such remuneration, if any, as the Minister directs, may be paid out of the public revenue of the Federation to any Judge or assessor of or in any Court of Investigation or Court of Survey, or to any Registrar of a Court of Survey.

348. Indemnity

No action, suit or other proceeding shall be brought against any person for anything done or omitted to be done by him as a member of a Court of Investigation or a Court of Survey under this Part.

PART VIII – DELIVERY OF GOODS

Delivery of Goods and Lien for Freight

349. Interpretation

In this Part, unless the context otherwise requires –

"goods" include every description of wares and merchandise;

"owner" used in relation to goods means every person who is for the time entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien, if any, to that lien;

"shipowner" includes the master of the ship and every other person authorized to act as agent for the owner or entitled to receive the freight, demurrage, or other charges payable in respect of the ship;

"warehouse" includes all warehouses, buildings and premises in which goods, when landed from ships, may be lawfully placed;

"warehouseman" means the occupier of a warehouse as hereinbefore defined;

"wharf" includes all wharves, quays, docks and premises in or upon which any goods, when landed from ships, may be lawfully placed;

"wharfinger" means the occupier of a wharf as hereinbefore defined.

350. Powers of ship owner to land goods

(1) In the absence of any arrangement whereby the owner of any goods imported in any ship, British, Malayan or foreign, into any port or place in the Federation is entitled to land or take delivery of such goods, or in case the owner of such goods is not ready or does not offer to land or take delivery under such arrangement as soon as the ship is ready to unload, a shipowner may land or unship the goods imported in any ship into the Federation at any time after the arrival of the ship.

(2) Where a shipowner lands goods in pursuance of this section, he shall place them, or cause them to be placed –

(a) if any wharf or warehouse is named in the charter party, bill of lading, or agreement, as the wharf or warehouse where the goods are to be placed and if they can be conveniently there received, on that wharf or in that warehouse; and

(b) in any other case, on some wharf or in some warehouse on or in which goods of a like nature are usually placed.

351. Lien for freight on landing goods

(1) If at the time when any goods are landed from any ship and placed in the custody of any person as a wharfinger or warehouseman the ship owner gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the ship owner to an amount mentioned in the notice, the goods so landed shall, in the hands of the wharfinger or warehouseman, continue subject to the same lien, if any, for such charges as they were subject to before the landing thereof.

(2) The wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as hereinafter mentioned, and shall, if he fails so to do, make good to the ship owner any loss thereby occasioned to him.

352. Discharge of lien

The said lien for freight and other charges shall be discharged –

(a) upon the production to the wharfinger or warehouseman of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a release of freight from the shipowner; and

(b) upon the deposit by the owner of the goods with the wharfinger or warehouseman of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner;

but in the latter case the lien shall be discharged without prejudice to any other remedy which the ship owner may have for the recovery of the freight.

353. Provisions as to deposits by owners of goods

(1) When a deposit as aforesaid is made with the wharfinger or warehouseman, the person making the same may, within fifteen days after making it, give to the wharfinger or warehouseman notice in writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given the wharfinger or warehouseman may, at the expiration of the fifteen days, pay the sum deposited over to the ship owner.

(2) If a notice is given as aforesaid, the wharfinger or warehouseman shall immediately apprise the shipowner of it, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by the notice to be payable, and shall retain the balance, or if no sum is admitted to be payable the whole of the sum deposited, for thirty days from the date of the notice.

(3) At the expiration of those thirty days, unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any disputes which have arisen between them concerning the freight or other charges as aforesaid, and notice in writing of those proceedings has been served on the wharfinger or warehouseman, the wharfinger or warehouseman shall pay the balance or sum to the owner of the goods.

(4) A wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof.

354. Sale of goods

(1) If the lien is not discharged and no deposit is made as aforesaid, the wharfinger or warehouseman may, and, if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in his custody, or, if the goods are of a perishable

nature, at such earlier period as in his discretion he thinks fit, sell by public auction the goods or so much thereof as is necessary to satisfy the charges hereinafter mentioned.

(2) Before making the sale the wharfinger or warehouseman shall give notice thereof by advertisement in two local newspapers circulating in the Federation, and shall also, if the address of the owner of the goods has been stated on the manifest of the cargo or on any of the documents which have come into the possession of the wharfinger or warehouseman or is otherwise known to him, send notice of the sale to the owner of the goods by post.

(3) The title of a bona fide purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section, nor shall any such purchaser be bound to inquire whether the notice has been sent.

355. Application of proceeds of sale

The proceeds of sale shall be applied by the wharfinger or warehouseman as follows, and in the following order:

- (a) first, in payment of any duties payable to the Government in respect thereof; then
- (b) in payment of the expenses of the sale; then
- (c) in payment of the charges of the wharfinger or warehouseman and the ship owner according to such priority as is determined by the terms of the agreement, if any, in that behalf between them; or, if there is no such agreement –
 - (i) in payment of the rent, rates and other charges due to the wharfinger or warehouseman in respect of the said goods; and then
 - (ii) in payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods; and the surplus, if any, shall be paid to the owner of the goods.

356. Warehouseman's rent and expenses

Whenever any goods are placed in the custody of a wharfinger or warehouseman under the authority of this Part, the wharfinger or warehouseman shall be entitled to rent in respect of the same, and may also, at the expense of the owner of the goods, do all such reasonable acts as in the judgment of the wharfinger or warehouseman are necessary for the proper custody and preservation of the goods, and shall have a lien on the goods for the rent and expenses.

357. Warehouseman's protection

Nothing in this Part shall compel any wharfinger or warehouseman to take charge of any goods of which he would not have been liable to take charge if this Ordinance had not been passed, nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Part.

PART IX – LIABILITY OF OWNERS AND OTHERS AND COMPULSORY INSURANCE

[Part IX. Subs. A1393:s.5]

Liability of owners and others in respect of maritime claims

358. Application

This Part shall apply to every Malaysian ship, and to every ship when in Malaysian waters and the exclusive economic zone.

359. Interpretation

In this Part, unless the context otherwise requires –

"limitation of liability" means limitation of the aggregate amount of liability of any one or more persons in accordance with this Part;

"Malaysian waters" means the territorial waters of Malaysia as determined in accordance with the Emergency (Essential Powers) Ordinance No. 7 1969 [P.U. (A) 307A/1969];

"owner", in relation to a ship, means –

- (a) every person who owns the ship or has any interest in the ownership of the ship;
- (b) in any case where the ship has been chartered, the charterer;
- (c) in any case where the owner or charterer is not responsible for the navigation and management of the ship, every person who is responsible for the navigation and management of the ship;

"salvage" includes all expenses properly incurred by the salvor in the performance of the salvage services;

"salvor", in relation to a ship, means every person rendering services directly connected with salvage operations carried out in relation to that ship.

[359. Ins. Act A1393:s.5]

360. Limitation of liability of owners, salvors, etc., for maritime claims

(1) The Convention on Limitation of Liability for Maritime Claims 1976 as amended by the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims 1976 (referred to as the "Protocol of 1996"), and as set out in Part I of the Sixteenth Schedule (referred to in this Part and Part II of that Schedule as "the Convention"), shall have the force of law in Malaysia.

(2) Part II of the Sixteenth Schedule shall have effect in connection with the Convention and subsection (1) shall have effect subject to the provisions of that Part.

(3) If it appears to the Minister that the Government has agreed to any revision or amendment of the Convention, the Minister may by order published in the Gazette make such modifications to Parts I and II of the Sixteenth Schedule.

(4) Without prejudice to subsection (3), the Minister may by order published in the Gazette make such amendments to Parts I and II of the Sixteenth Schedule as appear to him to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with Article 8 of the Protocol of 1996.

(5) For the purposes of subsection (4), a "relevant limit" means any of the limits for the time being specified in –

(a) Article 6, paragraph 1 of Part I of the Sixteenth Schedule; and

(b) Article 7, paragraph 1 of Part I of the Sixteenth Schedule.

(6) No revision or amendment made by virtue of subsection (3) or (4) shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the revision or amendment comes into operation.

(7) Notwithstanding the provisions of Articles 6 and 7 of Part I of the Sixteenth Schedule, the Minister may by order published in the Gazette provide specific provisions on the limitation of liability to ships which are intended for navigation on inland waterways and ships of less than 300 tons.

[360. Ins. Act A1393:s.5]

361. Compulsory insurance or other financial security

(1) Any ship shall not enter or leave a port in Malaysia, or any part of Malaysian waters or the exclusive economic zone, unless there is in force in respect of the ship a contract of insurance or other financial security satisfying the requirements of the Convention in respect of the limits of liability.

(2) This section shall not apply to –

(a) a foreign ship while it is exercising –

(i) the right of innocent passage; or

(ii) the right of transit passage through straits used for international navigation;

(b) ships of war and troopships; and

(c) any ship for the time being used by the government of any State for purposes other than commercial purposes.

(3) If a ship enters or leaves, or attempts to enter or leave, a port in Malaysia or any part of Malaysian waters or the exclusive economic zone in contravention of subsection (1), the master or the owner of the ship shall be guilty of an offence and shall be liable on conviction to a fine of not less than two hundred thousand ringgit and not more than five hundred thousand ringgit.

(4) If a ship attempts to leave a port in Malaysia or any part of Malaysian waters or the exclusive economic zone in contravention of this section, the ship may be detained.

(5) Any contract of insurance or other financial security required by this section to be in force in respect of a ship shall be carried in the ship, and shall on demand be produced by the master to the Director of Marine or any person authorized in writing by the Director of Marine.

(6) If a ship fails to carry, or the master of the ship fails to produce, a contract of insurance or other financial security as required by subsection (5), the master of the ship shall be guilty of an offence and shall be liable on conviction to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit.

[361. Ins. Act A1393:s.5]

362. Release of ships, etc.

Where the Court has found that a person who has incurred a liability under this Part is entitled to limit that liability under this Part and he has paid a sum or deposited a bank guarantee or security into the Court for a sum of not less than that amount –

(a) the Court shall order the release of any ship or other property arrested in connection with the claim in respect of that liability or any bail or other security given to avoid such arrest; and

(b) no judgement or order in respect of any such claim shall be enforced, except so far as it is for costs, if the claimant has access to the Court and if the payment or the bank guarantee or security or such part thereof as corresponds to the claim will be actually available to the claimant.

[362. Ins. Act A1393:s.5]

363. Proof of passengers on board ship

In any proceedings under this Part against the owner of a ship with respect to loss of life, the passengers lists under Part IV of this Ordinance shall be received as evidence that the person upon whose death proceedings are taken under this Part was a passenger on board the ship at the time of death.

[363. Ins. Act A1393:s.5]

364. Exclusion of application

The Minister may, by order published in the Gazette, pursuant to Article 18 of the Convention exclude –

(a) the application of Article 2, paragraphs 1(d) and (e) of Part I of the Sixteenth Schedule; and

(b) claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto.

[364. Ins. Act A1393:s.5]

365. Priority of claims

Without prejudice to the right of claims for loss of life or personal injury in accordance with Article 6, paragraph 2 of Part I of the Sixteenth Schedule, the Minister may, by order published in the Gazette, provide for claims in respect of damage to harbour works, basins, waterways and aids to navigation to have priority over other claims under Article 6, paragraph 1(b) of Part I of that Schedule.

[365. Ins. Act A1393:s.5]

Compulsory insurance or financial security for master and seamen

365A. Compulsory insurance or financial security for master and seamen

(1) The owner of every Malaysian ship shall maintain a contract of insurance or other financial security in respect of the master and every seafarer carried on board the ship, to cover all claims arising out of a contract or otherwise in respect of the death, personal injury or abandonment of the master or seafarer.

[(1) Gen. Am. Act A1519:s.2]

(2) If the owner of a Malaysian ship fails to comply with subsection (1), he shall be guilty of an offence and shall be liable on conviction to a fine of not less than fifty thousand ringgit and not more than one hundred thousand ringgit.

[365A. Ins. Act A1393:s.5]

PART X – WRECK AND SALVAGE

Vessels in Distress

366. Interpretation

In this Part, unless the context otherwise requires –

"receiver" means receiver of wreck;

"owner" means the person registered as the owner of the ship or, in the absence of registration, the person owning the ship at the time of casualty, except that in relation to a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, "owner" shall mean such company.

"salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

"vehicle" includes any vehicle of any description, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise;

"wreck" includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

367. Appointment of a Principal Receiver of Wreck and receivers of wreck

(1) The Director of Marine shall be the Principal Receiver of Wreck and shall have all the powers of a receiver throughout the Federation.

(2) The Principal Receiver of Wreck shall exercise general direction and supervision over all matters relating to wreck and salvage.

(3) The Minister may appoint any person to be a receiver of wreck in any district and to perform the duties of receiver under this Part and shall give notice of the appointment in the Gazette.

368. Duty of receiver where vessel in distress

(1) Where a British, Malayan or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of the Federation or any tidal water within the limits of the Federation, the receiver of wreck for the district in which that place is situated shall, upon being made acquainted with the circumstances, forthwith proceed there, and upon his arrival shall take the command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel, in this Part referred to as shipwrecked persons, and of the cargo and apparel of the vessel.

(2) Any person, who wilfully disobeys the direction of the receiver, shall be liable for each offence to a fine not exceeding five hundred ringgit, but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof unless he is requested to do so by the master.

369. Powers of receiver in case of vessels in distress

(1) The receiver may, with a view to such preservation as aforesaid of shipwrecked persons or of the vessel, cargo or apparel –

- (a) require such persons as he thinks necessary to assist him;
- (b) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel as is in his power;
- (c) demand the use of any vehicle or any draught animal that may be near at hand.

(2) Any person who refuses without reasonable cause to comply with any such requisition or demand shall be liable for each refusal to a fine not exceeding one thousand ringgit.

370. Power to pass over adjoining lands

(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the vessel unless there is some public road equally convenient, pass and repass, either with or without vehicles or draught animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo or articles, in respect of or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) Any owner or occupier of any land who –

- (a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing upon request to open the same, or otherwise; or
- (b) impedes or hinders the deposit of any cargo or other articles recovered from the vessel as aforesaid on the land; or
- (c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of

public deposit; shall be liable for each offence to a fine not exceeding one thousand ringgit.

371. Power of receiver to suppress plunder and disorder by force

(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, the receiver may cause that person to be apprehended.

(2) The receiver may use force for the suppression of any such plundering, disorder or obstruction, and may command any person to assist him in so using force.

(3) If any person is killed, maimed or hurt, by reason of his resisting the receiver or any person acting under the orders of the receiver in the execution of the duties by this Part committed to the receiver, neither the receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person being so killed, maimed or hurt.

372. Exercise of powers of receiver in his absence

(1) Where a receiver is not present, the following officers or persons in succession, each in the absence of the other, in the order in which they are named, namely, Superintendent or Assistant Superintendent of Police, Magistrate or Justice of the Peace, may do anything by this Part authorised to be done by the receiver.

(2) An officer acting under this section for a receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by this Ordinance, be considered as the agent of the receiver, and shall place the same in the custody of the receiver, but he shall not be entitled to any fees payable to receivers or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

373. Examination in respect of ships in distress

(1) Where any ship, British, Malayan or foreign, is or has been in distress on the coasts of the Federation, a receiver of wreck, or in his absence a Magistrate or a Justice of the Peace, shall as soon as conveniently may be examine on oath any person belonging to the ship, or any other person who is able to give any account thereof or of the cargo or stores thereof, as to the following matters: –

- (a) the name and description of the ship;
- (b) the name of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports from and to which the ship was bound;
- (e) the occasion of the distress of the ship;
- (f) the services rendered;
- (g) such other matters or circumstances relating to the ship or to the cargo on board the same as the person holding the examination thinks necessary.

(2) The person holding the examination shall take the same down in writing and shall send one copy thereof to the Minister, and another to any Port Officer within the district, where it shall be placed in some conspicuous situation for the inspection of persons desirous of examining the same.

(3) The person holding the examination shall for the purposes thereof have all the powers of an Inspector under this Ordinance.

374. Rules to be observed by persons finding wreck

(1) Where any person finds or takes possession of any wreck within the limits of the Federation or of any wreck found or taken possession of outside the limits of the Federation and brought within the limits of the Federation, he shall –

- (a) if he is the owner thereof, give notice to the receiver of the district stating that he has found or taken possession of the same, and describing the marks by which the same may be recognised;
- (b) if he is not the owner thereof, as soon as possible deliver the same to the receiver of the district.

(2) Any person who fails, without reasonable cause, to comply with this section, shall be liable for each offence to a fine not exceeding one thousand ringgit, and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed, or if it is unclaimed to the person entitled to the same, double the value thereof, to be recovered in the same way as a fine of a like amount under this Ordinance.

375. Penalty for taking wreck at the time of casualty

(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of the Federation, or any tidal water within the limits of the Federation, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

(2) Any person, whether the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or any person authorized by him to demand the same, shall be liable for each offence to a fine not exceeding one thousand ringgit.

(3) The receiver or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

376, Notice of wreck to be given by receiver

Where a receiver takes possession of any wreck, he shall within forty-eight hours cause to be posted in any Port Office within the district where the wreck was found or was seized by him, and, if he thinks it desirable he shall send to the Secretary of Lloyd's in London, a description thereof and of any marks by which it is distinguished.

377. Claims of owners to wreck

(1) The owner of any wreck in the possession of the receiver, upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into possession of the receiver, shall, upon paying the salvage fees and expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any wreck or any articles belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of the Federation, or belonging to and forming part of the cargo, are found on or near those coasts or are brought into any port in the Federation, the consular officer of the country to which the ship or, in the case of cargo, to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the wreck or such articles.

378. Immediate sale of wreck by receiver in certain cases

(1) A receiver may at any time sell any wreck in his custody, if in his opinion –

(a) it is under the value of one hundred ringgit;

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not of sufficient value to pay for warehousing.

(2) The proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

379. Unclaimed wreck

(1) Where no owner establishes a claim to any wreck found in the Federation, or to any wreck found or taken possession of outside the Federation and brought within the Federation and in the possession of a receiver, within one year after it came into his possession, the receiver shall sell the same, and shall pay the proceeds of the sale into the Treasury, after deducting therefrom the expenses of the sale and any other expenses incurred by him and his fees and paying thereout to the salvors such amount of salvage as the Minister in each case or by any general rule determines.

(2) *(Deleted)*.

380. Delivery of unclaimed wreck by receiver not to prejudice title

Upon delivery of wreck or payment of the proceeds of sale of wreck by a receiver, in pursuance of this Part, the receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which is raised by third parties concerning the right or title to the wreck.

381. Removal of wreck by receiver

(1) Where any ship is sunk, stranded or abandoned in any port, navigable river, tidal waters or in any place within Malaysian waters in such manner as, in the opinion of the receiver, is a wreck that is or is likely to become a hazard to navigation or a public nuisance, or causes or is likely to cause inconvenience, or causes or is likely to cause harmful consequences to the marine environment, the owner shall, upon the direction of the receiver, locate, mark and remove the wreck and take measures to prevent pollution from the wreck.

(2) Notwithstanding subsection (1), the owner shall furnish financial security in such amount as determined by the receiver for the purpose of ensuring the performance of all actions which the owner undertakes in pursuance of subsection (1).

(3) If the owner fails to comply with subsection (1), the receiver may –

(a) locate and mark the wreck;

(b) take possession of, and raise, remove or destroy, the whole or any part of the wreck;

(c) sell, in such manner as he thinks fit, the whole or any part of the wreck so raised or removed and also any other property recovered in the exercise of his powers under this section, and out of the proceeds of the sale –

(i) reimburse himself for the expenses incurred by him in relation thereto under this section; and

(ii) shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto; or

(d) take reasonable measures to prevent pollution from the wreck.

(4) Apart from the proceeds of any sale carried out by the receiver pursuant to subsection (3), the receiver may also resort to the financial security furnished under subsection (2) to reimburse himself, and if the proceeds of the sale together with any security are insufficient to cover the costs incurred by the receiver when acting under subsection (3), he may recover the difference from the owner of the ship concerned.

(5) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of not less than five hundred thousand ringgit and not more than one million ringgit.

[Subs. Act A792:s.50; Subs. Act A1393:s.7]

381A. Compulsory insurance for removal of wreck

The owner of any ship of 300 tons and above that enters or leaves a port in Malaysia or any part of Malaysian waters shall maintain in respect of that ship a contract of insurance or other financial security in an amount equal to the amount calculated in accordance with Article 6, paragraph (1)(b) of Part I of the Sixteenth Schedule to cover the liability that may be incurred under section 381.

(2) This section shall not apply to –

(a) ships of war and troopships; and

(b) any ship for the time being used by the government of any State for purposes other than commercial purposes.

(3) If a ship enters or leaves, or attempts to enter or leave, a port in Malaysia or any part of Malaysian waters in contravention of subsection (1), the owner of the ship shall be guilty of an offence and shall be liable on conviction to a fine of not less than two hundred thousand ringgit and not more than five hundred thousand ringgit.

(4) If a ship attempts to leave a port in Malaysia or any part of Malaysian waters in contravention of this section, the ship may be detained.

(5) Any contract of insurance or other financial security required by this section to be in force in respect of a ship shall, be carried in the ship, and shall on demand be produced by the master to the Director of Marine or any person authorized in writing by the Director of Marine.

(6) If a ship fails to carry, or the master of the ship fails to produce, a contract of insurance or other financial security as required by subsection (5), the master of the ship shall be guilty of an offence and shall be liable on conviction to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit.

[Subs. Act A1393:s.8]

382. Powers of removal extend to tackle, cargo, etc

The provisions of this Part relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipments, cargo, stores or ballast of a vessel in the same manner as if it were included in the term "vessel" and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

383. Powers to be cumulative

The powers conferred by this Part on a receiver for the removal of wrecks shall be in addition to and not in derogation of any other powers conferred upon a Port Officer under Part XIII.

384. Taking wreck to foreign port

Any person who takes into any foreign port any vessel, stranded, derelict or otherwise in distress found on or near the coasts of the Federation, or any tidal water within the limits of the Federation, or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found within those limits, and there sells the same, shall be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding five years.

385. Interfering with wrecked vessel or wreck

(1) No person shall, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress, unless that person is, or acts by command of, the receiver or a person lawfully acting as such.

(2) Any person who acts in contravention of subsection (1) shall be liable for each offence to a fine not exceeding five hundred ringgit and the master of the vessel may repel him by force.

(3) No person shall –

(a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water, or of any part of the cargo or apparel thereof or of any wreck;

(b) secrete any wreck, or deface or obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or any part of the cargo or apparel thereof or any wreck.

(4) Any person who acts in contravention of subsection (3) shall be liable for each offence to a fine not exceeding five hundred ringgit, and such fine may be inflicted in addition to any punishment to which he may be liable by law under this Ordinance or otherwise.

386. Summary procedure for concealment of wreck

(1) Where a receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any Magistrate's Court for a search warrant.

(2) Such Court may grant such a warrant, and the receiver, by virtue thereof, may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck there found.

(3) If any such seizure of wreck is made in consequence of information given by any person to the receiver, the informer shall be entitled, by way of salvage, to such sum not exceeding in any case fifty ringgit as the receiver allows.

387. General duty to render assistance to persons in danger at sea

(1) The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with the Yang di-Pertuan Agong, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding two thousand ringgit or to both.

(2) Compliance by the master or person in charge of a vessel with the provisions of this section shall not affect his right or the right of any other person to salvage.

388. Duty of vessel to assist the other in case of collision

(1) In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any) –

(a) to render to the other vessel, her master, crew, and passengers (if any) such assistance as may be practicable and may be necessary to save them from any danger caused by the collision and to stay by the other vessel until he has ascertained that she has no need of further assistance; and also

(b) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs and also the names of the ports from which she comes and to which she is bound.

(2) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding two thousand ringgit or to both.

389. Salvage payable for saving life

(1) Where services are rendered wholly or in part within British waters or within the territorial waters of the Federation in saving life from any British, Malayan or foreign vessel, or elsewhere in saving life from any British or Malayan vessel, or from any foreign vessel

belonging to a country as to which an Order in Council has been made under section 545 of the Merchant Shipping Act, 1894, there shall, subject in the case of a foreign ship to any conditions or qualifications contained in the Order, be payable to the salvor by the owner of the vessel, cargo or apparel saved, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

(3) Where the vessel, cargo and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister may, in his discretion, award to the salvor out of the general revenue of the Federation such sum as he thinks fit in whole or part satisfaction of any amount of salvage so left unpaid.

390. Salvage of cargo or wreck

Where any vessel is wrecked, stranded, or in distress at any place on or near the coasts of the Federation, or in any tidal water within the limits of the Federation, and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck, a reasonable amount of salvage to be determined in case of dispute in manner hereinafter mentioned.

391. Services to which sections 354 and 355 do not apply

Nothing in section 389 or section 390 shall entitle any person to remuneration –

(a) in respect of services rendered contrary to an express and reasonable prohibition of such services on the part of the vessel to which the same were rendered;

(b) in respect of services rendered by a tug to or in respect of the vessel which she is towing or the cargo thereof, except where such services are of an exceptional character such as are outside the scope of the contract of tow age.

392. Where both vessels belong to the same owner

Sections 389 and 390 shall have effect notwithstanding that the vessel rendering the services and the vessel to which the services are rendered may be owned by the same person.

393. Determination of salvage disputes

(1) Disputes as to the amounts of salvage, whether of life or property and whether rendered within or without the Federation, arising between the salvor and the owners of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined summarily by a Sessions Court in any case where –

- (a) the parties to the dispute consent; or
- (b) the value of the property saved does not exceed five thousand ringgit; or
- (c) the amount claimed does not exceed one thousand ringgit.

(2) Subject as aforesaid, disputes as to salvage shall be determined by the High Court, but if the claimant does not recover in the High Court more than one thousand ringgit, he shall not be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim unless such Court certifies that the case is a fit one to be tried by the High Court.

(3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved or of their respective agents.

394. Determination of disputes as to salvage summarily

(1) Disputes as to salvage which are to be determined summarily in manner provided by this Ordinance shall –

- (a) where the dispute relates to the salvage of wreck, be referred to a Sessions Court having jurisdiction at or near the place where the wreck is found; or
- (b) where the dispute relates to salvage in the case of services rendered to any vessel or to the cargo or apparel thereof or in saving life therefrom, be referred to a Sessions Court having jurisdiction at or near the port in the Federation into which the vessel is first brought after the occurrence by reason whereof the claim of salvage arises.

(2) A Sessions Court may, for the purpose of determining any such dispute, call in to its assistance any person conversant with maritime affairs as assessor, and there shall be paid

as part of the costs of the proceedings to every such assessor in respect of his services such sum not exceeding fifty ringgit as the Minister directs.

395. Apportionment of salvage amongst owners, etc. of foreign ship

Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the Court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

396. Matters to be considered in determining amount or distribution of salvage

(1) In determining the amount payable under section 389 or section 390 or the proportion in which the remuneration is to be distributed among the salvors, the Court shall take into consideration –

- (a) the measure of success obtained;
- (b) the efforts and deserts of the salvors;
- (c) the danger run by the salvaged vessel, by her passengers, crew, and cargo;
- (d) the danger run by the salvaging vessel and the salvors;
- (e) the time expended, the expenses incurred, the losses suffered, and the risks of liability and other risks run by the salvors and the value of the property exposed to such risks, due regard being had to the special appropriation (if any) of the salvors' vessel for salvage purposes;
- (f) the value of the property salvaged.

(2) If it appears to the Court that the salvors have by their fault rendered the salvage or assistance necessary or have been guilty of theft or of any fraud, the Court may disallow or otherwise deal with any claim to remuneration as it may deem fit.

397. Appeal in case of salvage disputes

Where a dispute relating to salvage has been determined by a Sessions Court, any party aggrieved by the decision may appeal therefrom in accordance with the Rules of the Supreme Court to the Court of Appeal, but no such appeal shall be allowed unless the sum in dispute exceeds five hundred ringgit.

398. Valuation of property by receiver

(1) Where any dispute as to salvage arises, the receiver of the district where the property is in respect of which the salvage claim is made may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

(2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceeding.

(3) Such fee as the Minister directs shall be paid in respect of the valuation by the person applying for the same.

399. Detention of property liable to salvage by a receiver

(1) Where salvage is due to any person under this Ordinance, the receiver shall –

(a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under the Ordinance, detain the wreck.

(2) Subject as hereinafter mentioned, the receiver shall detain the vessel and the cargo and apparel, or the wreck (hereinafter referred to as "detained property"), until payment is made for salvage or process is issued for the arrest or detention thereof by the High Court.

(3) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds one thousand ringgit and any question is raised as to the sufficiency of the security, to the satisfaction of a Judge of the High Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding one thousand ringgit may be enforced by the High Court in the same manner as if bail had been given in that Court.

400. Sale of detained property

(1) The receiver may sell any detained property, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases –

(a) where the amount is not disputed and payment of the amount due is not made within twenty days after the amount is due;

(b) where the amount is disputed but no appeal lies, and payment is not made within twenty days after the decision of such Court; or

(c) where the amount is disputed and an appeal lies from the decision of the Court to the Court of Appeal, and within twenty days of the decision neither payment of the sum due is made nor have any proceedings been taken for the purpose of appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive the same.

401. Apportionment of salvage by receiver

(1) Where the aggregate amount of salvage payable in respect of salvage services rendered in the Federation has been finally determined, either summarily in manner provided by this Ordinance or by agreement, and does not exceed one thousand ringgit, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver for liberty to pay the same to him.

(2) The receiver shall, if he thinks fit, receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid and to his vessel, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(3) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same on such evidence and in such shares and proportions as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(4) A distribution made by the receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

402. Apportionment of salvage by High Court

Whenever the aggregate amount of salvage payable in respect of salvage service rendered in the Federation has been finally ascertained and exceeds one thousand ringgit, and whenever the aggregate amount of salvage payable in respect of salvage services rendered

elsewhere has been finally ascertained, whatever that amount may be, then, if any delay or dispute arises as to the apportionment thereof, the High Court –

(a) may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect;

(b) may compel any person in whose hands or under whose control the amount may be to distribute the same or to bring the same into Court to be there dealt with as the Court directs; and

(c) may for the purposes aforesaid issue such processes as it thinks fit.

403. Jurisdiction of High Court in salvage

Subject to this Ordinance and any Imperial Act in force in the Federation or any part thereof, the High Court shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed on the high seas or within the Federation, or partly on the high seas and partly within the Federation, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land or partly on the sea and partly on the land.

404. Receiver's fees

(1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in the Ninth Schedule, such fees as are therein mentioned, but a receiver shall not be entitled to any remuneration other than those payments.

(2) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Minister, whose decision shall be final.

(4) All fees received by a receiver in respect of any services performed by him as receiver shall be accounted for to Government, and shall be applied in defraying any expenses duly incurred in carrying this Ordinance into effect, and, subject to such application, shall form part of the public revenue of the Federation.

404A. Minister may make rules

(1) Without prejudice to any provision under this Part or any other power to make rules or regulations conferred upon the Minister by this Part, the Minister may make rules for the carrying into effect the provisions of this Part and such rules may provide for –

- (a) the manner for the dealing of wrecks;
- (b) the procedure to make a claim, sell, locate and for the disposal of unclaimed wreck;
- (c) the settlement and determination of dispute with regard to salvage of life, ship, cargo and other property;
- (d) the matters relating to the payment, remuneration or reward with regard to salvage;
- (e) the detention, valuation and sale of property in salvage;
- (f) the determination of financial security and the requirements for ships to maintain insurance or
other financial security for covering the costs of locating, marking and removing of wrecks;
- (g) the fees for anything to be done or permitted to be done under this Part;
- (h) the implementation in whole or in part of any international convention, code or resolution relating to wreck and salvage, or any matter incidental to it or connected to it;
- (i) the matters relating to the power of the Receiver under section 381;
- (j) the duties and obligations of owner, master and salvor in relation to salvage operation;
or
- (k) such other matters as are necessary or expedient for the carrying out of the purposes of this Part.

(2) Any person who contravenes any rules made under this Part commits an offence and shall, where no other penalty is provided, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

[404A. Ins. Act A1519:s.5]

PART XI – LIGHTHOUSES

405. Injury to lighthouses, etc.

Any person who wilfully or negligently –

- (a) damages any lighthouse or the lights exhibited therein, or any buoy or beacon; or
- (b) removes, alters, or destroys any lightship, buoy, or beacon; or
- (c) rides by, makes fast to, or runs foul of any lightship, buoy, or beacon;

shall, in addition to the expenses of making good any damage so occasioned, be liable for each offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Am. Act A1393:s.9]

406. Misconduct by person employed in lighthouse

Any person employed in a lighthouse, who wilfully or negligently omits to do any act proper and requisite to be done by him with respect to the lights or signals exhibited in a lighthouse, shall, if such omission is of a nature likely to cause danger to navigation, be liable upon conviction before a Sessions Court to a fine not exceeding five hundred ringgit or to imprisonment of either description for a term not exceeding two years.

407. Prevention of false lights

(1) Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, the nearest Port Officer may serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of the fire or light, directing that owner or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing for the future any similar fire or light.

(2) The notice may be served either personally or by delivery of the same at the place of abode of the person to be served, or by affixing the same in some conspicuous spot near to the fire or light to which the notice relates.

(3) Any owner or person, on whom a notice is served under this section, who fails, without reasonable cause, to comply with the directions contained in the notice, shall be liable for each offence to a fine not exceeding one thousand ringgit.

(4) If the owner or person on whom a notice under this section is served neglects for a period of two days to extinguish or effectually screen the fire or light mentioned in the notice, the nearest Port Officer may, by his servants or workmen, enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage, and may recover the expenses incurred by him in so doing from the owner or person on whom the notice has been served in the same manner as fines may be recovered under this Ordinance.

PART XII – PILOTAGE

Pilotage Boards and Licensing of Pilots

408. Pilot Board

- (1) A Pilot Board shall be appointed by the Minister for any area which the Minister, by notification in the Gazette, constitutes a pilotage district.
- (2) The limits of any pilotage district which is constituted by the Minister shall be prescribed by him in the notification constituting the pilotage district.
- (3) The limits of any pilotage district constituted under this section may be varied from time to time by the Minister by notification in the Gazette.

409. Constitution of Pilot Board.

- (1) A Pilot Board shall consist of the Port Officer of the port and of not less than two nor more than four other persons appointed by the Minister.
- (2) The Port Officer shall be President of the Board, and in his absence from any meeting a chairman shall be chosen by the majority of the members present.
- (3) Two members of the Board shall form a quorum.

410. Powers of Pilot Boards

The Pilot Board shall have the control and supervision of all pilots on the register of the Pilot Board and, subject to this Ordinance, the power of granting, cancelling, withdrawing and endorsing pilotage licenses and of suspending, dismissing and reprimanding pilots licensed by it, or of taking such less severe disciplinary action as it deems expedient.

411. Number of pilots to be limited

(1) The Pilot Board at each pilotage district shall, with the sanction of the Minister, fix the number of pilots to whom licences may be granted by the Board.

(2) No new licence shall be granted so long as the number of pilots so fixed are present at or near the pilotage district in the execution of their duties as pilot.

412. Register to be kept

Each Pilot Board shall keep a register of all pilots to whom licences have been issued to act as pilots in the pilotage district, and the particulars and the dates of passing examinations and vision tests and such other particulars as the Board deems advisable or necessary to record shall be entered in such register.

413. Candidates to be entered in register

Each Pilot Board shall also cause to be entered in the register in the order of application the name of each candidate, being a British subject or a citizen, for the office of pilot, who is approved by them, having regard to the candidate's age, sobriety and good character and his certificates of competency as master and any testimonials held by him.

414. Filling vacancies

Whenever the number of pilots holding licences at or near any pilotage district in the execution of their duties is less than the number sanctioned by the Minister, and it is in the opinion of the Pilot Board desirable to fill the vacancies or any of them, whether any such vacancy is permanent or temporary, the Pilot Board shall select persons, being British subjects or citizens, from among the registered candidates to fill the vacancies permanently or temporarily, as the case may be.

415. Nomination for examination

(1) The Pilot Board on selecting a candidate, shall nominate him in writing as a person entitled to be examined for a licence as pilot in the pilotage district where the vacancy has occurred, and shall in the document of nomination appoint a date for his examination, not less than one month nor more than three months from the date of the nomination.

(2) A duplicate of the document of nomination shall be delivered to the candidate.

(3) Such nomination shall be notified in the Gazette.

416. Candidates may accompany licensed pilots

(1) A candidate holding a document of nomination may accompany any licensed pilot on all occasions when such pilot is engaged in or seeking pilotage or berthing work, and such pilot shall answer to the best of his knowledge and experience any question upon matters concerning pilotage or berthing work as to which the candidate requires information.

(2) If any licensed pilot is guilty of any breach or neglect of the duties cast upon him by this section, the Pilot Board may suspend his licence for a period not exceeding three months.

417. Examination for pilot and grant of licence

(1) The Pilot Board shall examine the candidate nominated as aforesaid, and on being satisfied as to his fitness and competency may grant to him a licence to act as a pilot in the pilotage district.

(2) If such licence is granted in order to fill a temporary vacancy only, the term for which it is granted or the contingency upon the happening of which it is to cease to have effect shall be noted upon it.

(3) Such licence shall immediately after expiration be given up to be cancelled, but the person who has acted under it, if subsequently selected as a permanent pilot, shall not be required to pass any fresh examination unless the Pilot Board otherwise directs.

418. Vision tests

No licence under section 417 shall be granted by the Pilot Board unless the applicant satisfies the Board that he has, within the twelve months preceding the date of his examination, passed the sight tests from time to time approved in the United Kingdom by the Minister of Transport for the examination of masters and mates in the mercantile marine.

419. Periodical sight tests

Every pilot holding a licence shall, once in every year if required to do so by the Pilot Board, but not less than once in every five years, submit to the sight tests mentioned in section 418, and shall whenever the Pilot Board considers that, owing to changed conditions or for any other sufficient reason, the further testing of the knowledge or efficiency of any such pilot or person is necessary, present himself for further examination, and shall in every such case first deposit with the Board his licence, to be dealt with by them as the result of such test or examination determines.

420. Fees for licences

The Minister may by notification in the Gazette fix the fees to be paid by pilots for licences, not exceeding for a permanent licence one hundred ringgit and for a temporary licence twenty-five ringgit.

421. Fees for examinations

Every member of the Pilot Board, not being a salaried officer of the Government, shall be paid a fee of five ringgit for every examination assisted at by him.

422. Pilot Board may make rules, etc.

(1) The Pilot Board for any pilotage district may, subject to the sanction of the Minister, make rules for the proper and regular conduct and attendance of the pilots and for all matters relating to their duties and their equipment, including among other things the furnishing of returns to the Pilot Board, the distinguishing lights, marks and flags of pilot boats, and the means of making themselves known as licensed pilots to persons in charge of ships or vessels.

(2) Any pilot who infringes any such rule shall be liable to a fine not exceeding one hundred ringgit, and shall, in addition to his liability to a fine, be liable to suspension or dismissal by the Pilot Board of the district for which he holds his licence.

423. Copies of pilotage provisions to be furnished to pilot

(1) Every licensed pilot shall, on receiving his licence, be furnished with a copy of the pilotage dues and rules in force within the district for which he is licensed, and of a list of the pilots licensed within the district.

(2) He shall produce such copies to the master of any ship or other person employing him when required to do so, and, if he fails without reasonable cause to do so, shall be liable to a fine not exceeding fifty ringgit.

424. Licensed pilot to produce licence to employer

(1) Every licensed pilot when acting in that capacity shall be provided with his licence, and shall produce the same to every person by whom he is employed or to whom he offers his services as pilot.

(2) Any licensed pilot who refuses, on the request of any such person, to produce his licence shall be liable for each offence to a fine not exceeding one hundred ringgit and shall be subject to suspension or dismissal by the Pilot Board by which he is licensed.

425. Production and return of licence to Pilot Board

(1) Every licensed pilot, when required to do so by the Pilot Board by which he is licensed, shall produce or deliver up his licence to that Board.

(2) On the death of any licensed pilot, the person into whose hands his licence comes shall without delay transmit it to the Pilot Board which licensed the deceased pilot.

(3) Any pilot or other person who fails to comply with this section shall be liable for each offence to a fine not exceeding one hundred ringgit.

426. Fraudulent use of pilotage licence, etc.

Any person other than the pilot to whom any licence has been granted under this Ordinance who uses or exhibits such licence, or attempts to use or exhibit such licence, to obtain employment for himself or for any other person as a pilot, or who wilfully uses any distinctive light, mark or flag prescribed by any rule made under section 422 for pilot boats, shall be liable to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding six months, or to both.

427. Absence without leave

(1) Every licensed pilot who –

(a) without the permission in writing of the Pilot Board –

(i) ceases to follow the ordinary occupation of a pilot within the pilotage district in respect of which he is licensed; or

(ii) neglects to provide himself with the proper equipment for a pilot;

(b) by any means evades or avoids employment as a pilot;

(c) engages in any other occupation or business which prevents him from being readily available at all reasonable times to undertake the duties of a pilot; or

(d) refuses or neglects to attend for the colour and form vision tests when required to do so by the Pilot Board; shall when required by the Pilot Board, deliver up his licence to the Pilot Board to be cancelled.

(2) Upon failure so to deliver up his licence the same shall be deemed to be cancelled and he shall be deemed not to be a licensed pilot within the meaning of section 434.

(3) The Pilot Board may at their discretion grant to a pilot whose licence has been cancelled under this section, upon his complying with the requirements of the Board, a licence in the place of the licence so cancelled when a vacancy occurs without requiring him to present himself again for examination.

428. Pilotage Dues

The Minister may by notification in the Gazette prescribe the dues to be charged by pilots for their services.

429. Recovery of Pilotage Dues

(1) The following persons shall be liable to pay pilotage dues for any ship for which the services of a licensed pilot are obtained –

(a) the owner or master;

(b) as to pilotage inwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port of her arrival or discharge;

(c) as to pilotage outwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port from which she clears out.

(2) Such dues may be recovered in the same manner as fines of like amount under this Ordinance, but such recovery shall not take place until a previous demand has been made in writing.

(3) Any consignee or agent, not being the owner or master of the ship, who is hereby made liable for the payment of pilotage dues in respect of any ship may, out of any moneys received by him on account of that ship or belonging to the owner thereof, retain the amount of all dues paid by him, together with any reasonable expenses which he has incurred by reason of the payment of the dues or his liability to pay the dues.

(4) A ship may be detained until the receipt for pilotage dues is produced to the Port Officer.

430. Receiving or offering improper rates of pilotage

(1) A licensed pilot shall not demand or receive, and a master, owner or agent shall not offer or pay to any pilot, any other rate in respect of pilotage services, whether greater or less, than the rate which may be demanded by law.

(2) Any pilot, master, owner or agent who acts in contravention of this section shall be liable for each offence to a fine not exceeding one hundred ringgit, and the licence of the pilot may be suspended or cancelled by the Pilot Board.

(3) This section shall not apply in the case of any pilot exempted from its operation by the Minister.

431. Pilotage rate for leading ships

If any boat or ship having on board a licensed pilot leads any ship which has not a licensed pilot on board when the last mentioned ship cannot from particular circumstances be boarded, the pilot so leading the last mentioned ship shall be entitled to the full pilotage rate for the distance run as if he had actually been on board and had charge of that ship.

432. Allowance to licensed pilot taken out of his district

(1) A pilot, except under circumstances of unavoidable necessity, shall not, without his consent, be taken to sea or beyond the limits for which he is licensed in any ship whatever.

(2) If he is so taken under circumstances of unavoidable necessity, or without his consent, he shall be entitled, over and above his pilotage dues, to the sum of twenty ringgit a day.

(3) The sum so to be paid shall be computed from and inclusive of the day on which the ship passes the limit up to which the pilot was engaged to pilot her, and up to and inclusive of either the day of his being returned in the said ship to the place where he was taken on board, or, if he is discharged from the ship at a distance from that place, such day as will allow him sufficient time to return thereto; and in the last mentioned case he shall be entitled to his reasonable travelling expenses.

433. Penalty on making a false declaration to pilot as to draught of ship

(1) The master of a ship, on being requested by any licensed pilot having the charge of his ship, shall declare her draught of water.

(2) Any master who refuses so to declare the draught of water, or himself makes or is privy to any other person making a false declaration to the pilot in relation thereto, shall be liable for each offence to a fine not exceeding double the amount of pilotage dues which would have been payable to that pilot.

(3) Any master of a ship, or any other person interested in the ship, who makes, or is privy to the making of, any fraudulent alteration in the marks on the stem or stern post of the ship denoting the draught of water, shall be liable for each offence to a fine not exceeding five thousand ringgit.

434. Penalties as to employment of unlicensed pilot

(1) Any person who, not being a licensed pilot, assumes or offers to assume charge of a ship entering or being within any pilotage district shall be liable for each offence to a fine not exceeding five hundred ringgit.

(2) Any master of a ship entering or being within any pilotage district who knowingly employs any person not being a licensed pilot as pilot, shall be liable for each offence to a fine of double the amount of pilotage which could be demanded for the conduct of the ship.

(3) For the purposes of this section a licensed pilot, acting beyond the limits for which he is qualified by his licence, shall be deemed not to be a licensed pilot.

(4) Any person may, without subjecting himself or his employer to any penalty, take charge of a ship entering or leaving any pilotage district, when such ship is in distress or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time.

435. Withdrawal of licence

Any Pilot Board may withdraw any pilotage licence granted by it, if it appears to it that the holder thereof has ceased to be a British subject or a citizen or has been guilty of misconduct or has shown himself incompetent to act as pilot, and a certificate so withdrawn shall cease to be of effect.

436. Offences of pilots

(1) Any licensed pilot, either within or without the districts for which he is licensed, who –

(a) is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, furniture, cargoes, crews or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels; or

(b) lends his licence; or

(c) acts as pilot whilst suspended; or

(d) acts as pilot when in a state of intoxication; or

(e) employs or causes to be employed on board any ship of which he has charge any boat, anchor, cable, or other store, matter or thing, beyond what is necessary for the service of that ship, with intent to enhance the expenses of pilotage for his own gain or for the gain of any other person; or

(f) refuses or wilfully delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of his licence, upon the signal for a pilot being made by that ship, or upon being required to do so by the master, owner, agent or consignee thereof, or by any officer of the Pilot Board by which the pilot is licensed; or

(g) unnecessarily cuts or slips or causes to be cut or slipped any cable belonging to any ship; or

(h) refuses, when requested by the master, to conduct the ship of which he has charge to any port or place into which he is qualified to conduct the same, except on reasonable ground of danger to the ship; or

(i) quits the ship of which he has charge without the consent of the master, before the service for which he was hired has been performed;

shall, in addition to any liability for damages, be liable for each offence to a fine not exceeding one thousand ringgit.

(2) Any person who procures, aids, abets or connives at the commission of any offence under this section, shall, in addition to any liability for damages, be liable to a fine not exceeding one thousand ringgit.

(3) Any licensed pilot who commits an offence under this section, or procures, aids, abets or connives at the commission of any such offence, shall, in addition to his liability to a fine, be liable to suspension or dismissal by the Pilot Board of the district for which he holds his licence.

437. Penalty on pilot endangering ship, life or limb

Any pilot who, when in charge of a ship, by wilful breach of duty or by neglect of duty, or by reason of drunkenness, either –

- (a) does any act tending to the immediate loss, destruction or serious damage of the ship, or tending immediately to endanger the life or limb of any person on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from danger to life or limb;

shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term which may extend to two years, and shall also be liable to suspension or dismissal by the Pilot Board of the district for which he holds his licence.

438. Penalty on pilot obtaining charge of a ship by misrepresentation

Any person who by wilful misrepresentation of circumstances upon which the safety of a ship may depend obtains or endeavours to obtain the charge of that ship, and any person who abets the commission of the offence shall, in addition to any liability for damages, be liable for each offence to a fine not exceeding one thousand ringgit, and if a licensed pilot also to suspension or dismissal by the Pilot Board of the district for which he holds his licence.

439. Negligence or incapacity of pilots

Nothing in this Part shall be held to excuse or indemnify any licensed pilot for any damage arising from his neglect or incapacity in office.

440. Summary proceedings

In all proceedings before a Magistrate's Court or Sessions Court under this Part, such Court may, if it thinks fit, call upon two members of the Pilot Board to sit with it as assessors.

441. Appeal to Minister

Any person, who is dissatisfied with any decision, order or regulation of a Pilot Board, may appeal to the Minister, who may review, revise and alter such proceedings as he thinks fit.

442. Grant, cancellation or suspension of licences to be gazetted

Every grant and every cancellation or withdrawal of a pilotage licence and every suspension or dismissal of a pilot shall be published in the Gazette.

443. Services of pilots may be requisitioned by Minister if public interests so require

(1) If at any time the Minister is satisfied that any public emergency or the interests of the public safety render it necessary, he may by notice addressed to any licensed pilot, require him to enter the service of the Government for such period as the Minister by the same notice or by any subsequent notice or notices requires.

(2) Such licensed pilot shall enter the service of the Government in accordance with the notice, at such remuneration as is fixed by the Minister, and shall be deemed to be a public servant within the meaning of the Penal Code and shall perform such duties as are allotted to him by any Port Officer.

444. Liability of owner or master in the case of a vessel under pilotage

The owner or master of a vessel navigating under circumstances in which pilotage is compulsory, shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would if pilotage were not compulsory.

PART XIII – PORTS AND PORT OFFICERS

Port Rules

445. Minister may make port rules

(1) The Minister may make port rules for all or any of the following purposes in any port in the Federation –

- (a) regulating traffic within the limits of the port;
- (b) regulating the berths and stations to be occupied by vessels and the removal of vessels from one berth, station or anchorage to another berth, station or anchorage, and the time within which such removal shall be effected;
- (c) regulating vessels whilst taking in or discharging ballast or cargo;

- (d) keeping free passages of such width as is deemed necessary, within any such port and along or near to the piers, jetties, landing places, wharves, quays, docks, moorings and other similar works in or adjoining the same; and for marking out the spaces so to be kept free;
- (e) regulating the anchoring, fastening, mooring and unmooring and warping of all vessels, and the use of warps, mooring buoys, chain and other moorings;
- (f) regulating traffic, preventing obstruction and keeping order on piers, jetties and wharves, and for ensuring the safety of piers, jetties and wharves and any cargo thereon;
- (g) regulating the use of fires and lights, and the signals to be used and measures to be taken in case of fires in the port by day and by night;
- (h) enforcing and regulating the use of navigating lights, of signals and of signal lights by vessels;
- (i) regulating the flags and signals to be used by vessels arriving at, lying in and departing from the port;
- (j) regulating the manner in which vessels arriving shall be boarded by the Port Officer and the Port Health Officer, the information to be supplied to them by the master of the vessel, and the entries to be made in the Port Officer's book of arrivals;
- (k) regulating the use by vessels of steam whistles, steam sirens and other like instruments;
- (l) permitting, regulating and controlling the landing and movements on shore of soldiers and sailors in the service of foreign powers;
- (m) classifying goods as dangerous goods;
- (n) regulating and controlling the lighterage, landing, loading and unloading of dangerous goods;
- (o) ensuring the safety of workers employed in ports and on ships using ports;
- (p) prescribing the conditions subject to which and the times at which dangerous goods of any particular class or description may be lightered, landed, loaded or unloaded;
- (q) prescribing places where dangerous goods of any particular class or description may be loaded or unloaded;
- (r) prescribing fees for anything to be done or permitted to be done under these Rules;

(s) ensuring the provision in the port of facilities for the reception of –

- (i) oily residues and oily mixtures;
- (ii) residues and mixtures containing harmful substances;
- (iii) residues and mixtures containing noxious liquid substances;
- (iv) sewage; and
- (v) garbage;

[(s) Ins. Act A792:s.51]

(t) requiring vessels to discharge all residues and mixtures containing oil, or containing harmful substances, or sewage, garbage, which remains on board, for disposal to the reception facilities before entering or leaving the port;

[(t) Ins. Act A792:s.51]

(u) generally carrying out the purposes of this part.

[Am. Act A792:s.51]

(2) Any person who commits a breach of any such rule shall where no other penalty is provided be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

[Am. Act A792:s.51]

446. Power of Port Officer to give directions as to anchorage or berthage

Subject to any rules made under the last preceding section, the Port Officer may direct where any vessel shall be berthed, moored or anchored, and may direct the removal of any vessel from one berth, station or anchorage to another berth, station or anchorage, and the time within which such removal is to be effected.

447. Penalty for disobedience of directions of Port Officer

(1) *(Deleted by Am. Act A792).*

(2) In case of such refusal or neglect or of any failure to comply with any rule made under section 445, the Port Officer may do or cause to be done all such acts as are reasonable or necessary for the purpose of carrying such direction or rule into execution, and may hire and employ proper persons for that purpose.

(3) All reasonable expenses which are incurred in doing such acts shall be paid and borne by the person or persons so offending.

448. Vessels arriving to fly signals

Every vessel of seventy-five tons gross tonnage and upwards, arriving within signalling distance of any of the flag staffs at any port and intending to enter such port, shall fly the ensign or flag of the country to which the vessel belongs, and the house flag, if any, and the Commercial Code signal letters of the vessel, and shall keep them flying till repeated at the Signal Station of such port.

449. Master to report arrival

The master of every vessel anchoring in any of the ports of the Federation, or going alongside any wharf in any port, shall –

- (a) forthwith give or cause to be given at the Port Office a written report of the arrival of his vessel, which report shall be in such form as shall from time to time be prescribed by the Director of Marine and shall contain such particulars as the Director of Marine may require;
- (b) deposit or cause to be deposited there a list of passengers on board; and
- (c) in the case of British or Malayan vessels and vessels belonging to a nation not having a consular officer at the port, produce to the Port Officer the certificate of registry and shall deposit with him the ship's articles.

450. Boats not to go alongside

(1) No boat shall go alongside any vessel arriving at any port, unless and until permitted by the master.

(2) No boat shall be made fast astern of any vessel in any port at a greater distance from the stern of such vessel than three fathoms.

(3) The boats of the Port Officer and of the Port Health Officer and of the police are exempted from the operation of this section.

451. Vessels in port to have crew on board

(1) Every vessel within the limits of any port shall have at all times on board a sufficient number of men to veer cable, let go anchors, brace the yards up, or lower a boat in case of accident.

(2) In the event of any vessels being laid up and not intended for navigation, the Port Officer may assign a place within the limits of the port where such vessels may be anchored and be exempted from the operation of this section.

452. Penalty

Any owner or master of any vessel or any other person who offends against any of the provisions of sections 448 to 451 shall be liable to a fine not exceeding fifty ringgit.

453. No ship to leave without port clearance

(1) Subject to all lawful exemptions no ship shall leave any port without a port clearance to be issued by an officer of customs in accordance with the provisions of Part V of the Customs Ordinance, 1952.

(2) Where under this or any other Ordinance or under any Imperial Act in force in the Federation or any part thereof, a ship is to be detained, a Port Officer shall, and where under this or any other Ordinance or any such act as aforesaid a ship may be detained, a Port Officer may notify the proper officer of customs that such ship is liable to be detained and thereupon the provisions of subsection (2) of section 39 of the Customs Ordinance, 1952, (which provides that in such case the proper officer of customs shall not issue a port clearance without the written concurrence of the Port Officer) shall apply in the case of such ships.

454. Marking of ship

(1) Every British ship, unless exempted from the operation of section 7 of the Merchant Shipping Act, 1894, and every Malayan ship unless exempted from the operation of section 17 of this Ordinance shall, whilst within any port in the Federation, unless otherwise marked under this Part be marked permanently and conspicuously to the satisfaction of the Port Officer as follows:

(a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark ground in white or yellow letters or

on a light ground in black letters, such letters to be of a length not less than four inches and of proportionate breadth;

(b) her official number and the number denoting her registered tonnage shall be cut in on her main beam; and

(c) a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Port Officer approves.

(2) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be liable to a fine not exceeding one thousand ringgit.

(3) The marks required by this section shall be permanently continued, and no alteration shall be made therein except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Act, 1894, or by this Ordinance.

(4) Any owner or master of a British or Malayan ship who neglects to cause his ship to be marked as required by this section or to keep her so marked, and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid or except for the purpose of escaping capture by an enemy, shall be liable for each offence to a fine not exceeding one thousand ringgit, and on a certificate from a Surveyor of Ships that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

455. Director of Marine may place buoys, etc.

(1) The Director of Marine may cause or permit to be fixed and laid down such moorings, buoys, beacons and sea or land marks as seem to him to be necessary to assist in the navigation of any port in the Federation.

(2) Any person who wilfully and without lawful excuse lifts, injures, loosens or sets adrift any such moorings, buoys, beacons or sea or land marks shall be liable for each offence to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding three months.

[(3) Am. Act A1393:s.14]

(3) Any moorings, buoys, beacons or land or sea marks affected shall be forthwith replaced or repaired by the Port Officer; and all expenses incurred thereby shall be chargeable to the person convicted.

456. Penalty for loosening vessels

Any person who wilfully and without lawful excuse loosens or removes from its moorings or from its fastenings alongside any wharf or landing-place any vessel within any port without leave or authority from the owner or master of such vessel; or of the manager or person in charge of such wharf or landing-place, shall be liable for each offence to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding three months.

457. Civil rights reserved

Nothing in the last two preceding sections shall exempt a person from any civil liability to which he would otherwise be subject.

458. Private moorings

(1) No person shall keep or place any moorings or buoys in the waters of any port of the Federation, except with the permission in writing of the Port Officer, and except upon such conditions and subject to the payment of such fees as the Minister directs.

(2) If any person keeps or places any moorings or buoys in contravention of this section, the Port Officer may cause such moorings or buoys to be removed.

(3) Such person shall be liable to a fine not exceeding two hundred and fifty ringgit, and also to pay all reasonable expenses which are incurred in such removal.

[Am. Act A1393:s.15]

459. Hulks, etc.

(1) No person shall moor or anchor any hulk or vessel of like description within the waters of any port of the Federation without the permission in writing of the Port Officer, and except upon such conditions and subject to the payment of such fees as the Minister generally or in particular cases directs.

(2) If any person moors or anchors any hulk or vessel in contravention of this section, the Port Officer may cause such hulk or vessel to be removed.

(3) Such person shall be liable to a fine not exceeding two hundred and fifty ringgit, and also to pay all reasonable expenses which are incurred in such removal.

460. Removal of obstructions

(1) If any person without lawful excuse causes any obstruction or impediment to the navigation of any port in the Federation or of the approaches thereto or does or omits to do any act which act or omission is likely to cause any obstruction or impediment to such navigation, the Port Officer may cause such obstruction or impediment to be removed.

(2) Any person who causes any such obstruction or impediment, shall be liable to a fine not exceeding one hundred ringgit, and also to pay all reasonable expenses which are incurred in abating or removing such obstruction or impediment.

[(2) Am. Act A1393:s.16]

461. Port Officer may remove floating timber, raft, etc.

(1) The Port Officer may remove or cause to be removed any timber or raft floating or being in any part of any port in the Federation which impedes the free navigation of such port, or anything which obstructs or impedes the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of such port and is not private property.

(2) The owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

462. Leaving warp out after sunset

(1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port in the Federation after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) Any master of any vessel who contravenes this section shall be liable to a fine not exceeding one hundred ringgit.

463. Removal of certain obstructions on compensation

(1) If any obstruction or impediment to the navigation of any port has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Port Officer shall report the same for the information of the Director of Marine,

who may cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same.

(2) If any dispute arises concerning such compensation, the matter in dispute shall be determined according to the provisions of any written law relating to the acquisition of land.

464. Throwing ballast into ports

If any ballast or rubbish or if any other thing likely to form a bank or shoal or to be detrimental to navigation is, without permission of the Port Officer or other lawful excuse, cast or thrown into any port or into or upon any place or shore from which the same is liable to be washed into any port, either by ordinary or high tides or by storms or land-floods, the person who so casts or throws the same or causes the same to be so cast or thrown as aforesaid, and the master of any vessel, from which the same is cast or thrown, shall be liable to a fine not exceeding two hundred and fifty ringgit, in addition to any expenses which are incurred in removing the same.

465. Throwing dead bodies, etc., into port

(1) If any dead body or the carcass of any animal is thrown overboard or into the seas, rivers or channels within the limits of any port, the person throwing or causing the same to be thrown, and the master of the vessel from which the same is thrown, shall be liable for each offence to a fine not exceeding two hundred and fifty ringgit.

(2) Any expense incurred in burying or otherwise disposing of any dead body or carcass so thrown shall be chargeable on the owner or master of the vessel from which the same has been thrown.

466. Removal of vessels, etc

(1) The Port Officer may, by notice in writing addressed to the owner or person in charge of any vessel, mooring post, anchor or thing placed or kept or sunk or buried in the foreshore, shore or bank of any port, the property of His Highness the Ruler or His Excellency the Governor of any State, without a licence from the officer authorised by law to grant such licence, direct him to remove the vessel, mooring post, anchor or thing within the time limited by the notice.

(2) Any notice given under this section shall be deemed to be properly addressed if addressed by the description of "the owner" or "the person in charge of" the vessel, mooring

post, anchor or thing, without further name or description, and to have been duly given if posted up at or near the place where the vessel, mooring post, anchor or thing is.

Sunday Labour

467. Interpretation

(1) In this section –

"cargo" shall not include ship's stores, bunker fuel, mails, personal luggage, livestock, ice or articles of food of a perishable nature;

"weekly holiday" shall be deemed to commence at 6.00 a.m. and to end at 9.00 p.m.;

"ship subject to this section" includes all ships and also all sailing ships (other than native sailing ships), except –

(a) ships of war, troop ships or other ships belonging to or for the time being in the service of Her Majesty, or of the Government of the Federation or of any State or any foreign State;

(b) ships belonging to any Telegraph Company such ships as are from time to time exempted from the operation of this section by the Minister.

Working of cargo on Sundays

(2) No cargo shall be received on board, loaded worked or discharged from any ship, subject to this section within the waters of the States of Malaya on any weekly holiday except on payment by the master or agent of the ship of the fee prescribed in the Tenth Schedule.

(3) Where any cargo is received on board any ship subject to this section or loaded, worked or discharged contrary to this section, every master and owner or part owner of such ship respectively shall be liable to a fine not exceeding one thousand ringgit.

(4) Any master of any ship on board which cargo is received, loaded, worked or discharged contrary to this section may be arrested by a police officer not below the rank of Inspector without warrant.

(5) The person in charge of every vessel assisting by the carriage of cargo or otherwise, in any contravention of this section shall be liable to a fine not exceeding fifty ringgit.

(6) Any offence under this section may be tried either by a Magistrate's Court or a Sessions Court.

(7) There shall be maintained in respect of all ports to which this section applies a fund to be known as the Central Mercantile Marine Fund and there shall be placed to the credit of that fund all fees received under subsection (2).

(8) The Central Mercantile Marine Fund shall be administered by a Committee to be appointed by the Minister and shall be employed in accordance with rules to be made by the Minister.

(9) The Minister may by notification in the Gazette declare any port to be a port to which this section applies.

468. Lights and signals at anchor

(1) The provisions contained in this section concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

(2) A vessel under one hundred and fifty feet in length, when at anchor or at moorings within any port, shall carry forward, where it can best be seen but at a height not exceeding twenty feet above the hull, a white light in a lantern so constructed as to show a clear, uniform and unbroken light visible all round the horizon at a distance of at least one mile.

(3) A vessel of one hundred and fifty feet or upwards in length, when at anchor or at moorings within any port, shall carry in the forward part of the vessel, at a height of not less than twenty and not exceeding forty feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

(4) The length of a vessel appearing in her certificate of registry shall be deemed to be the length of such vessel.

(5) The Minister may exempt from subsections (1) to (4) any particular description of vessels within any particular limits, and may specify the description and position of lights to be carried by such vessels.

(6) The master of every vessel, not exempted under subsection (5), not carrying lights as prescribed shall be liable to a fine not exceeding two hundred and fifty ringgit.

(7) The master of every vessel, not exempted under subsection (5) not carrying the lights prescribed by the Minister shall be liable to a fine not exceeding two hundred and fifty dollars.

(8) The word "visible" in this section means visible on a dark night with a clear atmosphere.

469. Discharge of guns except as signals prohibited

Any person who without lawful excuse discharges any gun in any port, except a gun loaded only with gunpowder for the purpose of making a signal of distress or for such other purpose as is allowed by any rule made by the Minister under this Ordinance, shall be liable for each offence to a fine not exceeding fifty ringgit.

[Am. Act A1393:s.19]

470. Graving, smoking, etc., vessels

Any person who graves, breams or smokes any vessel in any port, or boils or heats any pitch, tar, resin, dammar, turpentine oil or other such combustible matter on board any vessel within any port, at any time or within any limits at or within which such act is prohibited by any order of the Minister, or contrary to the orders or directions of the Port Officer, and also the master of such vessel, shall be liable to a fine not exceeding one hundred ringgit.

[Am. Act A1393:s.20]

471. Use of naked lights in drawing off spirits, etc.

Any person who uses a naked light when drawing off spirits, turpentine or inflammable oils, or inflammable liquids of any kind on board any vessel in any port, and also the master of such vessel, shall be liable to a fine not exceeding one hundred ringgit.

[Am. Act A1393:s.21]

472. In case of fire on board ship Port Officer may give directions

(1) In the event of fire breaking out on board any vessel in any port, the Port Officer may proceed on board such vessel with such assistants and persons as to him seem fit, and may give such orders as seem to him necessary for scuttling such vessel or for removing such vessel, or any other vessel, to such place as to him seems proper to prevent in either case danger to other vessels.

(2) If such orders are not forthwith carried out by the master of such vessel, the Port Officer may himself proceed to carry them into effect.

(3) Any expenses properly incurred by the Port Officer in exercise of the powers conferred upon him by subsection (1) hereof shall be recoverable from the owner, agent or master of

the vessel concerned as a civil debt or in the manner provided by section 490 of this Ordinance.

473. [Deleted by Act A1551:s.8]

473A. Interpretation

(1) For the purposes of sections 474 to 485 –

"boat" means any vessel below 500 gross tonnage plying –

- (a) within the rivers of a State navigable by sea-going vessels; or
- (b) within the coastal waters of such State extending up to the outer limits of the Federation waters;

"trade or business" includes –

- (a) the conveyance of goods or passengers;
- (b) fishing;
- (c) salvage operations;
- (d) dredging;
- (e) cable-laying;
- (f) off-shore exploration;
- (g) conservation;
- (h) marine construction;
- (i) oceanography;
- (j) hydrography; and
- (k) port services.

473B. [Deleted by Act A1551:s.8]

Licensing of Boats

474. [Deleted by Act A1551:s.8]

475. [Deleted by Act A1551:s.8]

476. [Deleted by Act A1551:s.8]

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480. [Deleted by Act A1551:s.8]

481. [Deleted by Act A1551:s.8]

482. [Deleted by Act A1551:s.8]

483. [Deleted by Act A1551:s.8]

483A. [Deleted by Act A1551:s.8]

483B. [Deleted by Act A1551:s.8]

483C. [Deleted by Act A1551:s.8]

484. [Deleted by Act A1551:s.8]

485. [Deleted by Act A1551:s.8]

485A. Power to make regulations relating to off-shore industry structures, etc.

(1) Notwithstanding anything contained in this Act, the Minister may make regulations for the purposes of ensuring the safety of and control over off-shore industry structures, off-shore industry mobile units and offshore industry vessels.

(2) Without prejudice to the generality of the powers under subsection (1), such regulations may make provisions for or in relation to any of the following matters, namely –

(a) the registration of off-shore industry structures, off-shore industry mobile units and offshore industry vessels;

(b) the giving of effect to any recommendation of any international governmental organization with respect to off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(c) the inspection and survey of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels and the issue of certificates in respect of such structures, units and vessels;

(d) the construction, hull, equipment and machinery of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(e) the stability of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(f) the prevention of collisions involving off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(g) the navigation (including towing) of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(h) the equipping of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels with radio installations and the operation, maintenance and use on off-shore industry mobile units of radio installations;

(i) the manning of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(j) the securing to the seabed of off-shore industry structures, off-shore industry mobile units and off-shore industry vessels engaged in drilling, laying pipelines or other operations;

(k) the prevention of pollution or other damage to the environment by off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(l) the carriage of dangerous goods on off-shore industry structures, off-shore industry mobile units and off-shore industry vessels;

(m) the granting of exemptions, either conditionally or unconditionally, to off-shore industry structures, off-shore industry mobile units and off-shore industry vessels from any requirements contained in or prescribed under this Ordinance;

(n) the prescribing of fees for anything to be done or permitted to be done under these regulations; and

(o) the prescribing of penalties for the contravention of the provisions thereof of a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding three years or of both such fine and imprisonment: Provided that no regulations shall be made in respect of the matters specified in paragraph (k) without prior consultation with the Minister charged for the time being with the responsibility for the protection of the environment.

(3) Such regulations may provide that a specified requirement contained in or prescribed under this Ordinance does not apply or applies with or without modifications as prescribed in relation to any off-shore industry vessel or any class of such vessels or any off-shore industry mobile unit or any class of such units.

(4) Such regulations may provide for the detention of any off-shore industry structure, off-shore industry mobile unit and off-shore industry vessel operating in contravention of any provision of this Ordinance or any rules or regulations made thereunder and the provisions of sections 504, 505, 506 and 507 shall apply in respect of any such off-shore industry structure, off-shore industry mobile unit and off-shore industry vessel detained thereunder whether or not such structure, unit or vessel is a ship.

(5) For the purposes of this section, the Minister may, subject to such conditions and limitations as he may impose in the instrument of appointment, appoint any person to exercise or perform any or all of the powers or duties of a Port Officer, Surveyor of Ships or Radio Surveyor under this Ordinance or any rules or regulations made thereunder; and any person so appointed shall exercise or perform his powers or duties under the direction of the Director of Marine.

(6) In this section, "off-shore industry structure" means a structure that –

(a) is fixed to the seabed and is not able to move or be moved as an entity from one place to another; and

(b) is used or intended for use in any operation or activity associated with or incidental to exploring or exploiting the natural resources in –

(i) the seabed of the Federation waters or the subsoil thereof;

(ii) the continental shelf; or

(iii) the exclusive economic zone.

(7) In this section, "off-shore industry mobile unit" means –

(a) a vessel that is used or intended for use wholly or primarily in, or in any operations or activities associated with or incidental to, exploring or exploiting the natural resources in –

(i) the seabed of the Federation waters or the subsoil thereof;

(ii) the continental shelf; or

(iii) the exclusive economic zone, by drilling the seabed or its subsoil with equipment on or forming part of the vessel or by obtaining substantial quantities of material from the seabed or its subsoil with such equipment;

(b) a structure (other than a vessel) that –

(i) is able to float or be floated;

(ii) is able to move or be moved as an entity from one place to another; and

(iii) is used or intended for use wholly or primarily in, or in any operations or activities associated with or incidental to, exploring or exploiting the natural resources in –

(aa) the seabed of the Federation waters or the subsoil thereof;

(bb) the continental shelf; or

(cc) the exclusive economic zone,

by drilling the seabed or its subsoil with equipment on or forming part of the structure or by obtaining substantial quantities of material from the seabed or its subsoil with such equipment; or

(c) a barge or like vessel fitted with living quarters for more than twelve persons and used or intended for use wholly or primarily in connection with the construction, maintenance or repair of off-shore industry structures.

(8) In this section, "off-shore industry vessel" means –

(a) a ship (not being an off-shore industry mobile unit) that is used or intended for use wholly or primarily in, or in any operations or activities associated with or incidental to, exploring or exploiting the natural resources of any or all of the following, namely –

(i) the seabed of the Federation waters or the subsoil thereof;

(ii) the continental shelf; or

(iii) the exclusive economic zone; or

(b) any other ship (not being an off-shore industry mobile unit, or a ship included in a class of ships declared by the Minister, by notification in the Gazette, as not being an off-shore industry vessel).

486. Power of Port Officer and Police Officer to board vessel

(1) Any Port Officer or Police Officer may go either alone or with any other person on board any vessel within the waters of the Federation whenever he suspects that any offence against this Part has been or is about to be committed in any vessel, or whenever he considers it is necessary for him so to do in the discharge of any duty impose upon him by this Part, or otherwise by law.

(2) Any master of such vessel who without lawful excuse refuses to allow any Port Officer or other officer so to enter such vessel shall be liable for each offence to a fine not exceeding one hundred dollars.

[(2) Am. Act A1393:s.25]

487. Penalty for obstructing persons in execution of duty

Any person who wilfully obstructs or hinders any person in the execution of any duty imposed or power conferred by this Part, or assaults or ill-treats him in the discharge of such duty, or in the exercise of such power, shall be liable for each offence to a fine not exceeding one hundred ringgit.

[Am. Act A1393:s.26]

488. Execution of orders of Port Officer

(1) All acts, orders, or directions by this Part authorized to be done or given by any Port Officer may be done or given by any person in the service of Government subject to his control and duly authorized by him.

(2) Any person authorized to do any such act may call to his aid such assistance as is necessary.

489. Damages and expenses to be recovered as fines

In every case in which any person is liable under this Part to pay any sum of money, damages, or expenses, the same may be recovered and levied in the same manner as a fine under this Ordinance, and, if necessary the amount thereof may be fixed and assessed by the Court before which the case is tried.

490. Expenses for work done by Port Officer how recoverable

(1) All expenses incurred for works or acts authorized or required to be done by a Port Officer under this Part shall, if any dispute arises as to the amount, be ascertained before a Magistrate's Court, and when so ascertained shall be recoverable in the same manner as a fine under this Ordinance.

Sale of property

(2) The Port Officer may cause any timber, raft or other thing, or the materials of any vessel, boat or wreck, or of any nuisance, or obstruction whatsoever removed, or so much thereof as is necessary, to be sold by public auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale.

(3) He shall pay the surplus of such proceeds, or deliver so much of the said timber or other materials as remains unsold, to the owner or other person entitled to receive the same.

(4) If no such person appears, he shall cause to be kept and deposited in such manner as the Minister directs, and may, if necessary, from time to time realize the expenses of keeping the same together with the expenses of such sale by a further sale of so much of the said timber or other materials as remains unsold, and the balance shall be paid to the person entitled to the property.

Deposit in Treasury

(5) If no person appears and claims the same, it shall be paid into the Treasury.

(6) The amount so paid into the Treasury shall be refunded without interest to any person who thereafter establishes his right to the same.

491. Power to exempt from provisions of Part XIII

(1) The Minister may declare that any of the provisions of this Part shall not be in force in any port or in any part of the Federation specified in the declaration.

(2) The Minister may exempt any vessel or any class or description of vessel from any of the provisions of this Part.

PART XIII – CONTROL OF SHIPPING

491A. Interpretation and application

(1) For the purposes of this Part and the rules made thereunder, unless the context otherwise requires –

"dumping" means any disposal at sea of any material from a ship but does not include the disposal of any material incidental to, or derived from, the normal operation of ships;

"Malaysian waters" means the territorial waters of Malaysia determined in accordance with the Emergency (Essential Powers) Ordinance, No. 7 1969;

"owner" includes a charterer or operator of a ship;

"ship" means a vessel of any type whatsoever operating in the maritime environment and includes any hydrofoil boat, air-cushioned vehicle, submersible or floating craft and any fixed or floating platform.

(2) This Part shall apply throughout Malaysia.

491B. Notification to the Director of Marine of activity engaged by a ship

(1) Any ship which is engaged or intends to engage in any of the following activities:

(a) dredging;

(b) mining, including exploration and exploitation;

(c) cable and pipe laying;

(d) marine construction, including the construction of jetties and wharves;

(e) dumping of any material;

(f) sports, leisure or recreational activity;

(g) survey;

(h) cleaning, including cleaning of cargo tanks;

(i) transportation, discharging or loading of wastes;

[(i) Am. Act A1316]

(j) pilotage;

[(j) Am. Act A1316]

(k) ship-to-ship activity; or

(l) any other activity as determined by the Director of Marine,

[(k), (l) Ins.Act A1316]

in Malaysian waters shall be required to notify the Director of Marine, in such form as may be prescribed by him, of such activity.

(2) Subsection (1) shall not apply to –

(a) any boat that is licensed under section 475; or

(b) any ship that is registered under this Ordinance and is solely engaged or intended to be engaged in sports, leisure or recreational activity.

(3) The Director of Marine, upon receiving the notification, may impose such terms and conditions as he thinks fit, including prescribing the fees for anything to be done or permitted to be done under this Ordinance, on the activity.

(4) The owner, master or agent of the ship or any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Ins. Act A895:s.16]

491C. Powers of the Director of Marine

The Director of Marine may, where he has reason to believe that an offence has been committed under this Part,

[(1) Am. Act A1393:s.27]

(a) stop and board any ship in Malaysian waters and make any enquiry, examination and physical inspection of such ship, its crew, equipment, gear, appurtenance, store and cargo;

(b) inspect any permit, licence, record, certificate or any other document required under this Ordinance or under any generally accepted international rules and standards, and make copies of the same;

(c) detain such ship including any equipment, gear, appurtenance, cargo or thing belonging or on board that ship; and

(d) arrest any person whom he has reason to believe has committed an offence under this Part.

(2) Any person who resists or obstructs the Director of Marine or fails to comply with any requirement of the Director of Marine in the exercise of his powers and duties under this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(3) The ship or any equipment, gear, appurtenance, cargo or thing detained under subsection (1) may be released to the owner, master or agent of the ship subject to such terms and conditions as the Director of Marine may impose and subject, in any case, to sufficient security being furnished to the satisfaction of the Director of Marine.

(4) The Director of Marine may, at his discretion, by order in writing, direct the owner, master or agent of the ship to take appropriate measures to ensure the safety of any life or property, or for the security of the ship, including the removal of the ship to any place or port.

(5) Where any order given by the Director of Marine under subsection (4) is not forthwith complied with, the Director of Marine may himself proceed to carry it into effect.

(6) Any expenses reasonably incurred by the Director of Marine in the exercise of his powers under subsection (5) shall be fully recoverable from the owner, master or agent of the ship.

[Ins. Act A895:s.16]

491D. Cost of holding ship, etc. in custody

Where any ship or thing is held in the custody of the Government of Malaysia pending completion of any proceedings in respect of any offence under this Part, the cost of holding the ship or thing in custody shall, in the event of any person being found guilty of the offence, be a debt due to the Government and shall be recoverable accordingly as a civil debt.

491E. Power to make rules

The Minister may make such rules as may be expedient or necessary for the better carrying out of the provisions of this Part.

PART XIV – LEGAL PROCEEDINGS

General Provisions

492. Court for trial of offences under Ordinance

Unless the context otherwise requires, any offence under this Ordinance or under any provisions of the Merchant Shipping Acts in force in the Federation or any part thereof may be tried by a Sessions Court or by a Magistrate's Court.

[Am. Act A792:s.53]

493. Charge with offence under Ordinance

No prosecution for an offence under this Ordinance or any subsidiary legislation made thereunder shall be instituted except with the consent in writing of the Public Prosecutor.

[493. Subs. Act A1393:s.28]

494. Liability of shipowners

Where any person is beneficially interested, otherwise than by way of mortgage, in any ship or share in a ship registered in the name of some other person as owner, the person so interested as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other Ordinance or by the Merchant Shipping Acts on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

495. Liabilities of ships not recognized as British

Where it is declared by the Merchant Shipping Acts that a British ship shall not be recognized as a British ship, that ship shall not be entitled to any benefits, privileges,

advantages or protection usually enjoyed by British ships, nor to use the British flag or assume the British national character:

Provided that so far as regards the payment of dues, the liability to fines and forfeiture, and the punishment of offences committed on board such ship or by any person belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized British ship.

496. Officers to be deemed public servants

The Director of Marine, Port Officers, Port Health Officers and their respective deputies, the Surveyor General of Ships, Surveyors of Ships, Judges and Assessors of and in any Court of Investigation or Court of Survey, and Registrars of Courts of Survey shall be deemed to be public servants within the meaning of the Penal Code.

(Subheading deleted by Act A1393:s29)

497. *[Deleted by Act A1393:s.30]*

498. Provision as to jurisdiction in case of offences

For the purpose of giving jurisdiction under this Ordinance, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose or in any place in which the offender or person complained against may be.

499. Jurisdiction over ships lying off the coast

Where any district within which any Court has jurisdiction either under this or any other Ordinance or under any Imperial Act in force in the Federation or in any part thereof or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such Court shall have jurisdiction over any vessel, British, Malayan or foreign, being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the Court.

500. Jurisdiction in case of offences on board ship

(1) Where any person, being a British subject or a citizen, is charged with having committed any offence on board any British or Malayan ship on the high seas or in any foreign port or harbour or on board any foreign ship to which he does not belong, or, not being a British subject or a citizen, is charged with having committed any offence on board any British or Malayan ship on the high seas, and that person is found within the jurisdiction of any Court in the Federation which would have had cognizance of the offence if it had been committed on board a British or Malayan ship within the limits of its ordinary jurisdiction, that Court shall have jurisdiction to try the offence as if it had been so committed.

(2) Nothing in this section shall affect the Admiralty Offences (Colonial) Act, 1849, in so far as it extends to the Federation or any part thereof.

Damage occasioned by Foreign Ship

501. Power to arrest foreign ship that has occasioned damage

(1) Whenever any injury has in any part of the world been caused to any property belonging to Her Majesty or the Government or to any British subject or citizen by any foreign ship, and at any time thereafter that ship is found in any port or river of the Federation or within three miles of the coast thereof, a Judge of the High Court may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master, pilot or mariners of the ship, issue an order directed to any Port Officer or other officer named by the Judge, requiring him to detain the ship until such time as the owner, master or consignee thereof has made satisfaction in respect of the injury, or has given security to be approved by the Judge to abide the event of any action, suit or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages that may be awarded thereon; and any Port Officer or other officer to whom the order is directed shall detain the ship accordingly.

(2) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of the Federation or three miles from the coast thereof, the ship may be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant, and shall be stated to be the owner of the ship that has occasioned the damage.

(4) The production of the order of the Judge, made in relation to the security, shall be conclusive evidence of the liability of the defendant to the proceeding.

Inquiries into Deaths

502. Inquiry into cause of death on board ship

(1) Where a case of death happens on board any foreign-going British or Malayan ship, the crew of which is discharged at any port within the Federation, the Port Officer at such port shall, on the arrival of the ship at that port, inquire into the cause of the death, and shall make in the official log an endorsement to the effect either that the statement of the cause of death in the log is in his opinion true, or the contrary, according to the result of the inquiry.

(2) If in the course of any such inquiry it appears to a Port Officer that any such death has been caused on board the ship by violence or other improper means, he shall either report the matter to the Minister or if the emergency of the case so requires shall take immediate steps for bringing the offender or offenders to justice.

(3) A Port Officer shall for the purpose of an inquiry under this section have the power of an Inspector under this Ordinance.

Depositions

503. Depositions to be received in evidence when witness cannot be produced

(1) Whenever in the course of any legal proceeding instituted before any Court, or before any persons authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of that proceeding, then, upon due proof that the witness cannot be found in the Federation, any deposition that the witness has previously made on oath in relation to the same subject matter before any Judge or Magistrate in Her Majesty's dominions, or any British consular officer elsewhere shall be admissible in evidence, provided that –

(a) if the deposition was made in the Federation, it shall not be admissible in any proceeding instituted in the Federation; and

(b) if the proceeding is criminal, it shall not be admissible unless it was made in the presence of the person accused.

(2) A deposition so made shall be authenticated by the signature of the Judge, Magistrate or consular officer before whom it is made; and the Judge, Magistrate or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.

(3) A deposition so made shall be deemed to be duly authenticated if it purports to be signed by the Judge, Magistrate or consular officer before whom it is made.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceeding a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

(5) Nothing herein shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Imperial Act or any Ordinance in force in the Federation or in any part thereof, or interfere with the power of the Federal legislature to make those depositions admissible in evidence or interfere with the practice of any Court in which depositions not authenticated as hereinbefore mentioned are admissible.

Detention of Ship and Distress on Ship

504. Enforcing detention of ship

(1) Where under this Ordinance or any written law or under any provision of the Merchant Shipping Acts in force in the Federation on any part thereof a ship is to be or may be detained, the Director of Marine or any Port Officer or officer of customs or the Surveyor-General of Ships may detain the ship.

(2) If the ship after detention, or after service on the master of any notice of or order for detention, proceeds to sea before it is released by competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable to a fine not exceeding fifty thousand ringgit.

[Am.Act A895:s.17]

(3) Any person hereby authorized to detain a ship may, if he thinks it necessary so to do, place a police guard on board.

(4) Where a ship proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, or any police guard or any Surveyor of Ships, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer, police guard or Surveyor being so taken to sea, and also to a fine not exceeding five thousand ringgit for every day until the officer, police guard or Surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and the expenses ordered to be paid may be recovered in like manner as the fine.

[Am.Act A895:s.17]

(5) Any police guard so placed on board a ship is hereby authorised to take such steps as are necessary to prevent the ship from leaving the port.

(6) Any person who opposes or in any way obstructs any officer authorised to detain the ship, police guard or Surveyor shall be liable to a fine not exceeding twenty-five thousand ringgit.

[Am.Act A895:s.17]

505. Sums ordered to be paid leviable by distress on ship

Where any Court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in the manner prescribed in the order, the Court which made the order may, in addition to any other powers which it has for the purposes of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

[Gen. Am. Act A1519:s.2]

506. Notice to be given to consular officer where proceedings taken in respect of foreign ships

Where any foreign ship is detained under this Ordinance, and where any proceedings are taken under this Ordinance against the master or owner of any such ship, notice shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

507. Cost of detaining ships

Where a ship is detained in pursuance of any provision of this Ordinance which provides for the detention of a ship until a certain event occurs subsection (2) of section 303 shall apply as if the ship had been finally detained within the meaning of that section.

Evidence, Service of Documents, and Declarations

508. Proof of attestation not required

Where any document is required by this Ordinance or by any provision of the Merchant Shipping Acts in force in the Federation or any part thereof to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling the attesting witness or the attesting witnesses or any of them.

509. Admissibility of documents in evidence

(1) Where a document is by this Ordinance or by any provision of the Merchant Shipping Acts in force in the Federation or any part thereof declared to be admissible in evidence, such document shall on its production from the proper custody be admissible in evidence in any Court or before any person having by law or consent of parties authority to receive evidence, and, subject to all just exceptions, shall be evidence of the matters stated therein in pursuance of this Ordinance or of those Acts or by any officer in pursuance of his duties as such officer.

(2) A copy of any such document or extract therefrom shall also be so admissible in evidence, if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted, and that officer shall furnish such certified copy or extract to any person applying at a reasonable time for the same upon payment of the fee prescribed by the Eleventh, Twelfth and Thirteenth Schedules.

510. Service of documents

(1) Where for the purposes of this Ordinance or of any provision of the Merchant Shipping Acts in force in the Federation or any part thereof any document is to be served on any person, that document may be served –

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship, where there is no master, and the ship is in the Federation, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in the Federation, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

(2) Any person who obstructs the service on the master of a ship of any document under this Ordinance relating to the detention of ships as unseaworthy shall be liable for each offence to a fine not exceeding one hundred ringgit.

(3) Any owner or master of the ship who is party or privy to such obstruction shall be liable for each offence to imprisonment for a term which may extend to two years.

511. Declarations

Any declaration required by this Ordinance or by any provision of the Merchant Shipping Acts in force in the Federation or any part thereof to be taken before a Justice of the Peace or any particular officer may be taken before a person appointed under section 2 of the Commissioners for Oaths Ordinance, 1947.

Application of Penalties and Costs of Prosecutions

512. Application of penalties

(1) Where any Court imposes a fine under this Ordinance or under any provision of the Merchant Shipping Acts in force in the Federation or any part thereof for which no specific application is provided, that Court may, if it thinks fit, direct the whole or any part of the fine to be applied in compensating any person for any wrong or damage which he has sustained by the act or default in respect of which the fine is imposed, or to be applied in or towards payment of the expenses of the proceedings.

(2) Subject to any directions under this section or to any specific application provided under this Ordinance or under any provision of the Merchant Shipping Acts in force in the Federation or any part thereof, all such fines shall, notwithstanding anything in any other

Ordinance, be paid over in the Treasury and form part of the public revenue of the Federation.

512A. Compounding of offences

(1) The Director of Marine may, in a case where he deems it fit and proper to do so, compound any offence committed by any person which is punishable under any provision of this Ordinance, by making a written offer to such person to compound the offence by paying to the Director of Marine within such time as may be specified in the offer such sum of money as may be determined in the offer which shall not exceed fifty per centum of the amount of the maximum fine (including the daily fine, if any, in the case of a continuing offence) to which that person would have been liable if he had been convicted.

[(1) Am. Act A1393:s.31]

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Director of Marine may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made.

(4) The power to compound any offence under this Ordinance shall be exercised by the Director of Marine personally.

[Ins. Act A895:s.18]

Civil Proceedings

513. Rule as to division of loss

(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault: Provided that –

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and

(b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and

(c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Ordinance, the expression "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

514. Damages for personal injuries

Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several:

Provided that nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

515. Right of contribution

(1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault: Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the

provisions of this Ordinance, the same rights and powers as the persons entitled to sue for damages in the first instance.

516. Interpretation of owners

For the purposes of sections 513 to 515, unless the context otherwise requires, "owner" means –

- (a) every person who owns the ship or has any interest in the ownership of the ship;
- (b) in any case where the ship has been chartered, the charterer; or
- (c) in any case where the owner or charterer is not responsible for navigation and management of the ship, every person who is responsible for the navigation and management of the ship.

[516. Subs. Act A1393:s.32]

517. Limitation of actions

No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Ordinance to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment:

Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

PART XV – SUPPLEMENTAL

Rules of Minister

518. How rules to be made by Minister

(1) Any rules or regulations made by the Minister under this Ordinance shall be published in the Gazette.

(2) Every such rule or regulation shall, as soon as possible after the making thereof, be laid before the House of Representatives and if at the next meeting of the House of Representatives after any rule or regulation is laid before it a resolution is passed annulling such rule or regulation or any part thereof, the whole rule or regulation or such part thereof, as the case may be, shall thenceforth be void but without prejudice to the validity of anything previously done thereunder.

(3) Any such rule or regulation, unless so annulled, shall have the same force and effect as if it were enacted in this Ordinance.

519. Power to vary fees

The fees prescribed in any of the Schedules may be altered from time to time by the Minister, and the fees as altered shall come into force upon publication in the Gazette.

Malaysia Shipping Notice

519A. Power of Director of Marine to issue Malaysia Shipping Notices

(1) Subject to the provisions of the Ordinance, the Director of Marine may issue Malaysia Shipping Notices in respect of administrative matters or technical matters relating to shipping, navigation, maritime transport safety and security and marine pollution, as may be necessary for the purposes of the Ordinance.

(2) The Director of Marine may, in the Malaysia Shipping Notice, prescribe that any provision of that notice shall be applicable to any specified person or ship, or classes of ships.

(3) The rules relating to shipping, navigation, maritime transport safety and security and marine pollution made in pursuance of this Ordinance may provide that noncompliance with Malaysia Shipping Notices shall be an offence.

[Ins. Act A1316]

Inspection

520. Facilities for inspection and examination

The master of any ship, and any other person having charge of any person or thing liable to inspection or examination under this Ordinance, shall give to the officer entitled to inspect or examine every reasonable facility for the purpose of inspection or examination, and if he refuses or fails to do so, or if any person impedes or obstructs any inspection or examination under this Ordinance, he shall be liable for each offence to a fine not exceeding two hundred ringgit.

Documents and Forms

521. Power of the Director of Marine to prescribe forms

(1) Subject to any special provisions of this Ordinance, the Director of Marine may prescribe forms for any book, instrument or paper required under this Ordinance.

(2) Every such book, instrument or paper required under this Ordinance shall be made in the form, if any, approved by the Director of Marine or as near thereto as circumstances permit.

Powers for enforcing Compliance with Ordinance

522. Power of seeing that this Ordinance is complied with

(1) Where any Inspector under this Ordinance or a Port Officer has reason to suspect that the provisions of this Ordinance or of any law for the time being in force relating to merchant seamen or navigation are not complied with, that officer may –

- (a) require the owner, master or any of the crew of any British or Malayan ship to produce any official log-books or other documents relating to the crew or any member thereof in their respective possession or control;
- (b) require any such master to produce a list of all persons on board his ship, and take copies of the official log-books or documents or of any part thereof;
- (c) muster the crew of any such ship; and
- (d) summon the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.

(2) Any person who, on being duly required by an officer authorised under this section, fails without reasonable cause to produce to that officer any such official log-book or document as he is required to produce under this section, or who refuses to allow the same to be inspected or copied, or impedes any muster of the crew required under this section, or refuses or neglects to give any explanation which he is required under this section to give, or knowingly misleads or deceives any officer authorised under this section to demand any such explanation, shall be liable for each offence to a fine not exceeding two hundred ringgit.

Surveyors of Ships

523. Power of Surveyor for purpose of survey of ships

(1) A Surveyor of Ships in the execution of his duties may go on board any ship, British, Malayan or foreign, at all reasonable times, and inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, or any certificate of any officer to which the provisions of this Ordinance or any of the rules or regulations made under this Ordinance apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage.

(2) If in consequence of any accident to the ship or for any other reason he considers it necessary so to do, he may require the ship to be taken into dock for the purpose of surveying the hull thereof.

524. Returns by Surveyors

(1) Surveyors of Ships shall make such returns to the Minister as he requires with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel and the nature and particulars of machinery and equipments of ships surveyed by them.

(2) Every owner, master and engineer of any ship so surveyed shall, on demand, give to the Surveyors all such information and assistance within his power as they require for the purpose of those returns.

(3) Any owner, master or engineer who, on being applied to for that purpose, fails without reasonable cause to give any such information or assistance shall be liable for each offence to a fine not exceeding fifty ringgit.

Inspectors

525. Appointment of Inspector to report on accidents

(1) The Yang di-Pertuan Agong may, as and when he thinks fit, appoint any person as an Inspector to report to him –

(a) upon the nature and causes of any accident or damage which any ship has sustained or caused or is alleged to have sustained or caused;

(b) whether the provisions of this or any other Ordinance, or of any Imperial Act in force in the Federation or any part thereof, any regulations made under or by virtue of this or any other Ordinance, or under or by virtue of any such Act as aforesaid, have been complied with; or

(c) whether the hull and machinery of any ship are sufficient and in good condition.

Powers of Inspectors

(2) An inspector so appointed and any person having the powers of such an Inspector –

(a) may go on board any ship, British, Malayan or foreign, and inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof to which any of the provisions referred in paragraph (b) of subsection (1) apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any inquiries which he thinks fit to make;

(d) may require and enforce the production of all books, papers or documents which he considers important for the purpose of his report;

(e) may administer oaths or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(3) Every witness summoned under this section shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the High Court.

(4) In case of any dispute as to the amount of those expenses, the same shall be referred to a Registrar of the Supreme Court, who shall, on request made to him for that purpose under the hand of the Inspector or person having the powers of an Inspector, ascertain and certify the proper amount of those expenses.

(5) Any person who refuses to attend as a witness before an Inspector or before any person having the powers of an Inspector, after having been required to do so in manner provided by this section, and after having had a tender made to him of the expenses, if any, to which he is entitled under this section, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declaration which an Inspector or person having the powers of an Inspector is hereby empowered to require, shall be liable for each offence to a fine not exceeding one hundred ringgit.

General

526. Power of arrest

(1) Any Port Officer, Port Health Officer, Surveyor of Ships or police officer may arrest without warrant any person offending in his view against any of the provisions of this Ordinance and take him before a Magistrate's Court or Sessions Court, as the case may be, to be dealt with according to law.

(2) Any article concerning, by or for which an offence has been committed may be seized and taken to a police station, unless given up sooner by order of a Magistrate's Court or Sessions Court, until the charge is decided in due course of law.

527. Indemnity to Government

The Government shall not be responsible for any act or default of any person acting as Port Officer, Port Health Officer or Surveyor of Ships or the deputy of any of them.

528. Fees payable to Registrars of Shipping

(1) The fees specified in Part I of the Thirteenth Schedule shall be payable to the Registrars of Shipping under the Merchant Shipping Acts in respect of the services therein set forth.

Fees payable to Surveyors of Ships

(2) The fees specified in Parts II and III of the said Schedule shall be payable to Surveyors of Ships in respect of the services therein set forth.

(3) The fees payable under this section shall be paid into the Treasury.

529. Fee for certified copies of certificates

Wherever under this Ordinance or any rules made thereunder a fee shall be prescribed for the issue of any certificate, a certified office copy of such certificate may be issued on payment of a fee, except where otherwise specifically provided, of five ringgit, or, where the fee payable for the original certificate is less than five ringgit, a fee equivalent in amount to the fee payable in respect of the original certificate.

530. Power of exemption

Without prejudice to any other powers conferred by this Ordinance the Minister may, if he thinks fit, and upon such conditions (if any) as he thinks fit to impose, exempt any ship from any specified requirement contained in or prescribed under this Ordinance if he is satisfied that the requirement has been substantially complied with in the case of that ship, or that compliance with the requirement is unnecessary in the circumstances of the case, and that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.

531. Repeal and transitional provisions

(1) The Ordinance and the Enactments specified in the Fourteenth Schedule are hereby repealed to the extent specified in the third column thereof.

(2) Notwithstanding the repeal of the said Ordinance and Enactments (together in this section referred to as "the repealed enactments") the following provisions shall have effect—

(a) any officer appointed, anybody elected or constituted, and any office or fund established under the repealed enactments shall, so far as provision is made therefor in this Ordinance, continue and be deemed to have been appointed, elected, constituted or established, as the case may be, under this Ordinance;

(b) any subsidiary legislation made under the repealed enactments and in force immediately before the commencement of this Ordinance shall, so far as it is not

inconsistent with this Ordinance, be deemed to have been made under the corresponding provisions of this Ordinance, and shall continue in force until it has been revoked or replaced by subsidiary legislation made under the provisions of this Ordinance, and, unless the context or subjectmatter otherwise requires, shall apply and have effect throughout the Federation, with such formal alterations as to names, localities, officers and otherwise as may be necessary to make the same applicable and effective as aforesaid:

Provided that where there is any conflict between the provisions of any subsidiary legislation made under the repealed Ordinance and any subsidiary legislation made under any of the repealed enactments, the former shall prevail;

(c) any certificate, licence, notice, instruction, requirement, authority or other instrument issued, served or granted under the repealed enactments shall, without prejudice to any power to amend such instrument, continue in force until superseded, revoked or otherwise terminated, and so far as it could have been issued, served or granted under this Ordinance, shall have effect as if issued, served or granted under this Ordinance:

Provided that any such instrument which is expressed to remain in force for a definite period shall not remain in force after the expiration of that period unless it shall be renewed in accordance with the provisions of this Ordinance;

(d) any form prescribed or approved under and for the purposes of any provision of the repealed enactments shall, so far as may be appropriate, be deemed to have been prescribed or approved under and for the purposes of the corresponding provisions of this Ordinance, and shall continue in use with such formal alterations as may be required to make the same applicable for such purposes as aforesaid.

(3) Any provisions of the Merchant Shipping Acts which immediately before the coming into force of this Ordinance applied to British ships registered in the Settlements are, in so far as they may be inconsistent with the provisions of this Ordinance, by virtue of section 735 of the Merchant Shipping Act, 1894, hereby repealed.

SECOND SCHEDULE

(SECTION 199 (2))

Particulars to be registered by Master of a Ship concerning a Birth at Sea

Date of Birth.

Name (if any) and sex of the child.

Name and surname, rank, profession or occupation of the father.

Name and surname, and maiden surname of the mother.

Nationality, and last place of abode of the father and mother.

Particulars to be registered by Master of a Ship concerning a Death at Sea

Date of Death.

Name and surname.

Sex.

Age.

Rank, profession or occupation.

Nationality, and last place of abode.

Cause of death.

THIRD SCHEDULE
(SECTIONS 109)

[Subs. Act A1519:s.6]

TABLE 1

Fees to be charged for Matters transacted at Port Offices

[Am. PU(A) 370/2009]

- | | |
|--|---------|
| 1. Every engagement or discharge of crew | RM50.00 |
|--|---------|

TABLE 2

*Sums to be deducted from Wages by way
of Partial Repayment of Fees in Table*

1. In respect of engagement and discharge of every crew upon each engagement and each discharge:

From wages of an officer	-	RM5
From wages of any other crew	-	RM2

NOTE – On an officer being discharged and paid off, RM10.00 are allowed to be deducted in the account of wages, being RM5.00 for the engagement and RM5.00 for the discharge.

In the case of seamen the deduction is RM4.00, being RM2.00 for the engagement and RM2.00 for the discharge.

If the sum which the owner or master is entitled to deduct from the seamen's wages (by Table 2) exceeds the fees in Table 1, the excess is to be paid to Government in addition to the fees in Table 1.

[Subs. P.U.(A) 370/2009]

FOURTH SCHEDULE

(SECTION 215)

Fees to be paid for Passenger Ship's Certificate

[Gen. Am. Act A1519:s.2]

Tons (gross)	RM
For steamers not exceeding 50 tons	80
Exceeding 50 tons and not exceeding 100 tons	120
Exceeding 100 tons and not exceeding 300 tons	150
Exceeding 300 tons and not exceeding 600 tons	250
And for every additional 300 tons or part thereof above 600 tons an additional	30

NOTE - When a certificate is issued for less than twelve months, at the request of the owner, agent or master, the fee should be in proportion to the period of the certificate, at the rate of one-twelfth of the full fee each month or part of a month, but in no case is less than three-twelfths of a twelve months' fee to be paid.

FIFTH SCHEDULE

(SECTION 250(9))

Fees for Inspection of Lights and Signals

	RM
For every visit to the ship at the request of the owner, agent or master, and for each visit where the lights or fog signals are found defective	10

Provided that the aggregate amount of fees for any such inspection shall not exceed twenty ringgit whatever may be the number of separate visits.

SIXTH SCHEDULE

(SECTION 261)

Fees for Inspection of Life-saving Appliances

	RM
For inspection of the whole of the life-saving appliances on a ship on or before registry or re-registry	50
For each periodical inspection of the whole of the life-saving appliances of a ship	20
For inspection, during their construction, of boats, buoyant apparatus and other life-saving appliances:	
Lifeboats, length 20 feet and under	10
Lifeboats over 20 feet long	20
Motor Lifeboats of any length	50
Each buoyant apparatus or raft	5
Life jackets, for each hundred or fraction of a hundred	5

SEVENTH SCHEDULE - [Deleted]

[Deleted by Act A792:s.30]

EIGHTH SCHEDULE

(SECTION 307 (3))

Federation of Malaya Local Freeboard Rules

1. Application.

(1) Subject to the provisions of this paragraph this Schedule shall apply to all ships exempted from the provisions of Part VI by virtue of section 307 (2) and to no other ships.

(2) The Minister may by notification in the Gazette and upon such conditions as he thinks fit exempt any ships from the provisions of this Schedule on being satisfied that the sheltered nature and conditions of the voyages undertaken by such ships make it unreasonable or impracticable to apply the provisions of the said sections to such ships.

2. Rules.

(1) The Minister shall have power to make and shall make rules (hereinafter referred to as "the Federation of Malaya Local Freeboard Rules") with regard to the assignment, marking and survey of load lines.

(2) The Minister may by notification in the Gazette direct that any person may be a competent Assigning Authority and any certificate purporting to be granted by such Assigning Authority shall be deemed to be the equivalent of a similar certificate granted under this Ordinance.

3. Ship's draught of water to be recorded.

(1) The master of every British or Malayan sea-going ship registered at or trading with any port in the Federation, shall upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water, and the extent of her freeboard in the official log-book, if any, and shall produce the record to a Port Officer whenever required by him, and, if he fails without reasonable cause to produce the record, shall be liable for each offence to a fine not exceeding two hundred ringgit.

(2) The master of a sea-going ship shall, upon the request of a Port Officer, or a Surveyor of Ships, permit him to enter the ship, and to make such inspections and to take such measurements as are requisite for the purpose of the record.

(3) In this paragraph the expression "freeboard" means, in the case of any ship which is marked with a deck-line, the height from the water to the upper-edge of the deck-line and, in the case of any other ship, the height amidships from the water to the upper-edge of the deck from which the depth of hold as stated in the register is measured.

4. Marking of deck-line and load lines.

(1) No British or Malayan ship registered in the Federation, being a ship constructed after the 30th day of June, 1932, shall proceed to sea unless—

(a) the ship has been surveyed in accordance with the Federation of Malaya Local Freeboard Rules; and

(b) the ship complies with the conditions of assignment; and

(c) the ship is marked on each side with a mark (hereinafter in this Ordinance referred to as a "deckline") indicating the position of the uppermost complete deck as defined by the Federation of Malaya Local Freeboard Rules, and with marks (hereinafter in this Schedule referred to as "load lines") indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the Federation of Malaya Local Freeboard Rules; and

(d) the deck-line and load lines are of the description required by the Federation of Malaya Local Freeboard Rules, the deck-line is in the position required by those rules, and the load lines are of the number required by such of those rules as are applicable to the ship; and

(e) the load lines are in the position required by such of the Federation of Malaya Local Freeboard Rules as are applicable to the ship.

(2) No British or Malayan ship registered in the Federation, being a ship constructed before the 1st day of July, 1932, shall proceed to sea unless –

(a) the ship has been surveyed and marked in accordance with provisions (a), (c) and (d) of the last foregoing subparagraph; and

(b) the ship complies with the conditions of assignment in principle and also in detail, so far as, in the opinion of the Surveyor-General of Ships, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by

the arrangements, fittings and appliances existing on the ship at the time when she is first surveyed under this section; and

(c) the load lines are either in the position required by provision (e) of the last foregoing subparagraph or in the position required by the tables used by the Board of Trade on the 31st day of December, 1906, for fixing the positions of load lines, subject to such modification of those tables and of the application thereof, approved by the Board of Trade under section four hundred and thirty-eight of the Merchant Shipping Act, 1894, as were in force immediately before the 5th day of July, 1930.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this paragraph, the master or owner thereof shall for each offence be liable to a fine not exceeding one thousand ringgit.

(4) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been so surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 302.

(5) The provisions of this paragraph shall apply to ships not registered in the Federation, proceeding or attempting to proceed to sea from ports in the Federation, as they apply to British or Malayan ships registered in the Federation subject to the following modification, namely, that a foreign ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purposes of section 305.

5. Submersion of load line.

(1) A British or Malayan ship registered in the Federation shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the Federation of Malaya Local Freeboard Rules to be loaded.

(2) If any such ship is loaded in contravention of this paragraph, the owner or master of the ship shall for each offence be liable to a fine not exceeding one thousand ringgit and to such additional fine, not exceeding the amount hereinafter specified, as the Court

thinks fit to impose having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(3) The said additional fine shall not exceed one thousand ringgit for every inch or fraction of an inch by which the appropriate load line on each side of the ship was submerged, or would have been submerged if the ship had been in salt water and had no list.

(4) In any proceedings against an owner or master in respect of a contravention of this paragraph, it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(5) Without prejudice to any proceedings under the foregoing provisions of this paragraph, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

(6) The provisions of this paragraph shall apply to ships not registered in the Federation, while they are within any port in the Federation of Malaya, as they apply to British or Malayan ships registered in the Federation, subject to following modifications, namely –

(a) no such ship shall be detained, and no proceedings shall be taken against the owner or master thereof, by virtue of the said paragraph except after an inspection by a Surveyor of Ships as hereinafter provided; and

(b) the expression "the appropriate load line", in relation to any ship not registered in the Federation, shall mean the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled under the Federation of Malaya Local Freeboard Rules to be loaded or, if no load line on the ship corresponds as aforesaid, the lowest load line thereon.

6. Miscellaneous offences in relation to marks.

If –

(a) the owner or master of a British or Malayan ship registered in the Federation which has been marked in accordance with the provisions of paragraph 4 of this Schedule, fails without reasonable cause to keep the ship so marked; or

(b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the provisions of paragraph 4 of this Schedule, except with the authority of a person entitled under this Schedule or the rules thereunder to authorize the alteration of the mark or except for the purpose of escaping capture by an enemy; he shall for each offence be liable to a fine not exceeding one thousand ringgit.

7. Inspection of ships with respect to load line.

(1) A Surveyor of Ships may inspect any British or Malayan ship registered in the Federation for the purpose of seeing that the provisions of this Schedule relating to load lines have been complied with in the case of the ship, and for the purpose of any such inspection any such Port Officer or Surveyor of Ships shall have all the powers of an Inspector.

(2) The provisions of this paragraph shall apply to ships, other than British or Malayan ships registered in the Federation while they are within any port in the Federation, as they apply to British or Malayan ships registered in the Federation.

8. Issue of local freeboard certificates and effect thereof.

(1) Where a British or Malayan ship registered in the Federation has been surveyed and marked in accordance with the foregoing provisions of this Schedule relating to load lines and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the fee prescribed therefor by the Minister a certificate hereafter in this Ordinance referred to as "Federation of Malaya Local Freeboard Certificate".

(2) Every such certificate shall be issued either by the Minister or by such other person as may be authorised in that behalf by him, and shall be issued in such form and manner as may be prescribed by the Federation of Malaya Local Freeboard Rules.

(3) Any such certificate issued by the Minister may be signed on behalf of the Minister by any person authorized by him for the purpose, and a certificate or a certified copy thereof purporting to be so signed shall be admissible in evidence in any Court or before any person having by law or consent of parties authority to receive evidence and, subject to all just exceptions, shall be evidence of the matters stated therein.

(4) Where a Federation of Malaya Local Freeboard Certificate, issued in pursuance of this paragraph and for the time being in force, is produced in respect of a ship, the ship shall, for the purpose of the foregoing provisions of this Schedule be deemed to have been surveyed as required by those provisions, and, if the deck-line and load lines on the ship are of the number and description required by the Federation of Malaya Local Freeboard Rules and the position of the deck-line and load line corresponds with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

9. Duration, renewal, and cancellation of certificates.

(1) Every Federation of Malaya Local Freeboard Certificate issued by or under the authority of the Minister shall, unless it is renewed in accordance with the provisions of subparagraph (2) of this paragraph, expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein.

(2) Any such certificate may, after a survey not less effective than the survey required by the Federation of Malaya Local Freeboard Rules before the issue of the certificate, be renewed from time to time by the Minister, or by any person authorized by him to issue a Federation of Malaya Local Freeboard Certificate, for such period (not exceeding five years on any occasion) as the Minister or other person renewing the certificate thinks fit.

(3) The Minister shall cancel any such certificate in force in respect of a ship, if he has reason to believe that –

(a) material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines; or

(b) the fittings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be surveyed in the manner prescribed by the Federation of Malaya Local Freeboard Rules once at least in each year after the issue of the certificate for the purpose of seeing whether the certificate should remain in force, having regard to the last foregoing subsection, and if the ship is not so surveyed, the Minister shall cancel the certificate:

Provided that the Minister if he thinks fit in any particular case, may extend the said period of one year.

(5) Where any such certificate has expired or been cancelled, the Minister may require the owner or master of the ship to which the certificate relates to deliver up the certificate as he directs, and the ship may be detained until such requirement has been complied with, and if the owner or master fails without reasonable cause to comply with such requirement, he shall for each offence be liable to a fine not exceeding one hundred ringgit.

(6) On the survey of any ship in pursuance of this paragraph there shall be paid by the owner of the ship such fee as may be prescribed by the Minister.

10. Power to issue, etc., local freeboard certificates to ships not registered in the Federation.

The provisions of this Schedule relating to the issue, effect, duration, renewal and cancellation of Federation of Malaya Local Freeboard Certificates shall apply to ships not registered in the Federation as they apply to British or Malayan ships registered in the Federation.

11. Ships not to proceed to sea without certificate.

(1) No British or Malayan ship registered in the Federation, shall proceed to sea unless there is in force in respect of the ship a Federation of Malaya Local Freeboard Certificate.

(2) The master of every British or Malayan ship registered in the Federation shall produce to the Port Officer at the time a clearance of the ship is demanded, the certificate which is required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and a clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

(3) The master of every ship which proceeds or attempts to proceed to sea in contravention of this section shall for each offence be liable to a fine not exceeding one thousand ringgit.

12. Publication of local freeboard certificate and particulars relating to depth of loading.

(1) When a Federation of Malaya Local Freeboard Certificate has been issued in pursuance of the foregoing provisions of this Schedule in respect of a British or Malayan ship registered in the Federation –

(a) the owner of the ship shall forthwith on the receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in any official log-book, shall enter therein the particulars as to the position of the deck-line and load lines specified in the certificate.

(2) Before any British or Malayan ship registered in the Federation leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall –

(a) enter in the official log-book, if any, such particulars relating to the depth to which the ship is for the time being loaded as the Minister may by regulations prescribe; and

(b) cause a notice, in such form and containing such of the said particulars as may be required by the said regulations, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the Minister may by the said regulations exempt ships or any class of ships from the requirements of provision (b) of this subparagraph.

(3) If the master or owner of any British or Malayan ship registered in the Federation fails to comply with the provisions of this paragraph, he shall for each offence be liable to a fine not exceeding two hundred ringgit.

13. Insertion of particulars as to load line in agreements with crew.

(1) Before an agreement with the crew of any British or Malayan ship registered in the Federation in respect of which a Federation of Malaya Local Freeboard Certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck-line and load lines specified in

the certificate, and if he fails to do so, he shall for each offence be liable to a fine not exceeding two hundred ringgit.

(2) In the case of a British or Malayan ship registered in the Federation in respect of which a Federation of Malaya Local Freeboard Certificate is in force, a Port Officer shall not proceed with the engagement of the crew until –

(a) there is produced to him the Federation of Malaya Local Freeboard Certificate for the time being in force in respect of the ship; and

(b) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

14. Effect of load line certificates.

(1) International Load Line Certificates issued in accordance with the terms of the International Convention concerning Load Lines, 1930, shall have the same effect for the purposes of this Schedule as Federation of Malaya Local Freeboard Certificates.

(2) United Kingdom Load Line Certificates issued under section 47 of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, shall have the same effect for the purposes of this Schedule as Federation of Malaya Local Freeboard Certificates.

(3) Where the Minister certifies –

(a) either

(i) that by the law in force in any part of Her Majesty's dominions outside the United Kingdom and the Federation provision has been made for the fixing, marking and certifying of load lines on British ships (or any class or description of British ships) registered in that part of Her Majesty's dominions; or

(ii) that provision has been made as aforesaid by the law in force in any foreign country with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognizing Federation of Malaya Local Freeboard Certificates as having the same effect in ports of that country as certificates issued under the said provision; and

(b) that the said provision for the fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Schedule and is equally effective; the Minister may direct that Load Line Certificates issued in

pursuance of the said provision in respect of British ships (or that class or description of British ships) registered in that part of Her Majesty's dominions, or in respect of ships (or that class or description of ships) of that foreign country, as the case may be, shall have the same effect for the purpose of this Schedule as Federation of Malaya Local Freeboard Certificates.

15. Certificates to be produced to Port Officer by ships not registered in the Federation of Malaya.

The master of every ship, other than a British or Malayan ship registered in the Federation, shall produce to the Port Officer at the time a clearance for the ship from any port in the Federation is demanded, either a Federation of Malaya Local Freeboard Certificate or a certificate having effect under this Schedule as a Federation of Malaya Local Freeboard Certificate, being a certificate for the time being in force in respect of the ship, and a clearance shall not be granted, and the ship may be detained, until the certificate required by this section is so produced.

NINTH SCHEDULE

(SECTION 404)

Fees payable to receivers of Wreck

	RM
For every examination on oath instituted by a receiver with respect to any vessel which may be or may have been in distress, a fee not exceeding	10
But so that in no case shall a larger fee than twenty ringgit be charged for examinations taken in respect of the same vessel and the same occurrence, whatever may be the number of the deponents.	
For every report required to be sent by the receiver to the Secretary of Lloyd's in London, the sum of	5
For wreck taken by the receiver into his custody, a percentage of five per cent upon the value thereof.	
But so that in no case shall the whole amount of percentage so payable exceed two hundred ringgit.	
In cases where any services are rendered by a receiver, in respect of any vessel in distress, not being wrecked, or in respect of the cargo or other articles belonging thereto, the following fees instead of a percentage; that is to say:	
If that vessel with a cargo equals or exceeds in value six thousand ringgit, the sum of twenty ringgit for the first, and the sum of ten ringgit for every subsequent day during which the receiver is employed on that service, but if that vessel with her cargo is less in value than six thousand ringgit, one moiety of the above mentioned sum.	

TENTH SCHEDULE
(SECTION 467 (2))
Scale of fees for Sunday Labour

Registered tonnage	RM
200 tons or under	60
Over 200 but not exceeding 400 tons	75
Over 400 but not exceeding 700 tons	100
Over 700 but not exceeding 1,000 tons	125
Over 1000 but not exceeding 2,000 tons	175
Over 2000	200

Provided that no charge shall be made if not more than 20 tons weight of cargo is worked.

ELEVENTH SCHEDULE – [Deleted]

[Deleted by Act A1551:s.9]

TWELFTH SCHEDULE – [Deleted]

[Deleted by Act A1551:s.9]

THIRTEENTH SCHEDULE – [Deleted]

[Deleted by Act A1551:s.9]

FOURTEENTH SCHEDULE
(SECTION 531)

No.	Short Title	Extent of repeal
S.S. Cap. 150	Merchant Shipping Ordinance	The whole
F.M.S. Cap. 64	Liability of Shipowners Enactment	The whole
F.M.S. Cap. 171	Ports Enactment	The whole
F.M.S. Cap. 172	Pilots Enactment	The whole
F.M.S. Cap. 174	Collisions at Sea Prevention Enactment	The whole
F.M.S. Cap 175	Collision and Salvage Enactment	The whole
Johore Enactment No.35	Ports and Shipping Enactment	The whole except in so far as it relates to fishing
Kedah Enactment No. 79	Ports Enactment	The whole
Kelantan Enactment No. 17 of 1938	Ports Enactment	The whole
Perlis Enactment No. 14 of 1335	Registration of Vessels Enactment, 1335	The whole
Terengganu Enactment No. 58 of 1356	Marine Enactment	The whole
Kedah Enactment No. 47	Government Wharves Enactment	The whole

Perlis Enactment Harbours Enactment, 1337 The whole
No. 8 of 1337

Federation of Malaya Pilots Enactment Ordinance
Ordinance Application to Terengganu)
No. 23 of 1950 Ordinance, 1950 The whole

FIFTEENTH SCHEDULE – [Deleted]

[Deleted by Act A1551:s.9]

SIXTEENTH SCHEDULE

(SECTION 360)

Convention on Limitation of Liability for Maritime Claims 1976

PART I

TEXT OF CONVENTION

Chapter I — The Right of Limitation

Article I

Persons entitled to limit liability

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term "shipowner" shall mean the owner, charterer, manager and operator of a seagoing ship.
3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraphs 1(d), (e) and (f).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel itself.
6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

Article 2

Claims subject to limitation

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:

(a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraphs 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

Article 3

Claims excepted from limitation

The rules of this Convention shall not apply to –

(a) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, dated 29th November 1969 or of any amendment or Protocol thereto which is in force;

- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

Article 4

Contract barring limitation

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

Article 5

Counterclaims

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

Chapter II — Limits of Liability

Article 6

The general limits

The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

- (a) in respect of claims for loss of life or personal injury,

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 800 Units of Account;

for each ton from 30,001 to 70,000 tons, 600 Units of Account; and

for each ton in excess of 70,000 tons, 400 Units of Account,
in respect of any other claims,

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 400 Units of Account;

for each ton from 30,001 to 70,000 tons, 300 Units of Account; and

for each ton in excess of 70,000 tons, 200 Units of Account.

- (2) Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).
- (3) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.
- (4) For the purpose of this Convention the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969.

Article 7

The limit for passenger claims

- (1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount

of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

- (2) For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:
- (a) under a contract of passenger carriage, or
 - (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

Article 8

Unit of Account

The Unit of Account referred to in Articles 6 and 7 is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

Article 9

Aggregation of claims

- (1) The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:
- (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
 - (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
 - (c) against the salvor or salvors who are operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

- (2) The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

Article 10

Limitation of liability without constitution of a limitation fund

- (1) Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
- (2) If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
- (3) Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

Chapter III — The Limitation Fund

Article 11

Constitution of the fund

- (1) Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
- (2) A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.
- (3) A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

Article 12

Distribution of the fund

- (1) Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
- (2) If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.
- (3) The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.
- (4) Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

Article 13

Bar to other actions

- (1) Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.
- (2) After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order

of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
 - (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
 - (c) at the port of discharge in respect of damage to cargo; or
 - (d) in the State where the arrest is made.
- (3) The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

Article 14

Governing law

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

Chapter IV — Scope of Application

Article 15

- (1) This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.
- (2) This Convention shall not apply to:
 - (a) air-cushion vehicles;
 - (b) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part any reference to a numbered article is a reference to the article of the Convention which is so numbered.

Right to limit liability

2. The right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of "shipowner" in paragraph 2 of Article 1 shall be construed accordingly.

Limit for passenger claims

3. (1) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognized by safety regulations, the ship's certificate mentioned in Article 7, paragraph 1 shall be that certificate.

(2) In Article 7, paragraph 2 of the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under any written law in Malaysia.

Units of Account

4. (1) For the purposes of converting the amounts mentioned in Articles 6 and 7 from special drawing rights into Ringgit Malaysia, one special drawing right shall be treated as equal to such a sum in Ringgit Malaysia as the International Monetary Fund has fixed as being the equivalent of one special drawing right for—

- (a) the relevant date under Article 8, paragraph 1; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Minister of Finance stating—

- (a) that a particular sum in Ringgit Malaysia has been fixed as mentioned in subparagraph (1) for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in Ringgit Malaysia has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those Articles; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Constitution of fund

5.(1) The Minister may, with the concurrence of the Minister of Finance, by order prescribe the rate of interest to be applied for the purposes of Article 11, paragraph 1.

(2) Any order made under subparagraph (1) shall be laid before Dewan Rakyat.

(3) Where a fund is constituted with the court in accordance with Article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

6 No lien or other right in respect of any ship or property shall affect the proportions in which under Article 12 the fund is distributed among several claimants.

Bar to other actions

7 Where the release of a ship or other property is ordered under Article 13, paragraph 2 the person on whose application it is ordered to be released shall be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of "court"

8 References in the Convention and the preceding provisions of this Part to the court are references to the High Court.

Meaning of "ship"

9 References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

Meaning of "State Party"

10 An order made by the Minister for the purposes of this paragraph and declaring that any

State specified in the order is a party to the Convention shall, subject to the provisions of any subsequent order made for those purposes, be conclusive evidence that the State is a party to the Convention.

[Sixteenth Schedule. Ins. Act A1393:s.33]

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 19/1953	Merchant Shipping (Amendment) Ordinance 1953	1 March 1953
LN 858/1953	Merchant Shipping - Amendment to Twelfth Schedule	1 January 1954
LN 355/1954	Merchant Shipping - Amendment of fees	24 June 1954
Ord. 49/1955	The Merchant Shipping (Amendment) Ordinance 1955	8 December 1955
LN 126/1956	Merchant Shipping - Amendment to Twelfth Schedule	19 April 1956
LN 218/1958	Merchant Shipping (fees) Rules 1958	1 August 1958
LN 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13 November 1958
LN 301/1959	Corrigenda to LN 332/58	
LN 173/1960	Merchant Shipping Ordinance 1952	1 August 1960
Act 34/1963	Merchant Shipping (Amendment) Act 1963	12 September 1963
Act 34/1963	Merchant Shipping (Amendment) Act 1963	12 November 1964
LN 191/1964	Modification of Laws (Merchant Shipping) (Malaysia Registry) Order 1964	[Repealed by Act A393]
Act 15/1966	Merchant Shipping (Amendment) Act 1966	[Repealed by Act A792]
Act 62/1966	Merchant Shipping (Amendment) Act 1966	
Act A212	Merchant Shipping (Amendment) Act 1973	[Repealed by Act A792]
Act A393	Merchant Shipping (Amendment and Extension) Act 1977	1 June 1991 - Peninsular Malaysia; 1 June 1991 - Sabah & Sarawak [PU(B) 280/1991]
Act A433	Merchant Shipping (Amendment and Extension) (Amendment) Act 1978	18 March 1977 - Peninsular Malaysia; 1 June 1991 - Sabah &

		Sarawak
Act A561	Merchant Shipping (Amendment) Act 1983	1 July 1983 - ss. 3, 4, 5, 6, 7, 8; 1 June 1985 - s. 2 in so far as it relates to s. 71; 1 June 1985 - in so far as relates to s. 71A & 72
PU(A) 502/1983	Merchant Shipping (Alteration of fees in Tenth Schedule)	9 December 1983
PU(B) 368/1984	Merchant Shipping (Alteration of fees in Schedule)	31 August 1984
PU(B) 559/1984	Merchant Shipping (Alteration of fees in Schedule)	23 November 1984
Act A603	Merchant Shipping (Amendment and Extension) Act 1984	2 June 1991
Act A792	Merchant Shipping (Amendment) Act 1991	1 August 1991 [PU(B) 353/1991]
Act A895	Merchant Shipping (Amendment) Act 1994	1 January 1994 - s. 5, 6, 7 & 8; 1 April 1999 - s. 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17 & 18 [PU(B) 118/1999]
Act A1014	Merchant Shipping (Amendment) Act 1998	1 January 2001 - s. 3 [PU(B) 463/2000]; 19 April 2001 - ss. 2 & 5 [PU(B) 109/2001]; 17 August 2006 - s. 4 [PU(B) 222/2006]
Act A1316	Merchant Shipping (Amendment and Extension) Act 2007	24 December 2008 - Peninsular Malaysia, Federal Territory of Putrajaya and Labuan [PU(B) 481/2008]; 24 December 2008 - Sabah and Sarawak [PU(B) 482/2008]
PU(A) 370/2009	Merchant Shipping (Amendment of Schedule) Order 2009	19 October 2009
Act A1393	Merchant Shipping (Amendment and Extension) Act 2011	1 March 2014 [PU(B) 65/2014] - Peninsular Malaysia and Federal

		Territory of Labuan only
Act A1519	Merchant Shipping Ordinance (Amendment) Act 2016	1 March 2017 [PU(B) 111/2017]
Act A1551	Merchant Shipping Ordinance (Amendment) Act 2017	<i>(Not yet in force, as at 14 April 2023)</i>

SUBSIDIARY LEGISLATION

LN 170/1960	MERCHANT SHIPPING (SURVEYORS OF SHIPS AND RADIO SURVEYORS) (FEES) RULES 1960
PU(A) 438/1984	MERCHANT SHIPPING (COLLISION REGULATIONS) ORDER 1984
PU(B) 370/1988	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(A) 117/1989	PORT (NEGERI SEMBILAN) RULES 1989
PU(A) 117/1989	KAEDAH-KAEDAH PELABUHAN NEGERI SEMBILAN 1989
PU(B) 505/1989	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 688/1989	APPOINTMENT UNDER SECTION 467(8)
PU(B) 689/1989	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 111/1990	NOTIFICATION UNDER SECTION 206
PU(B) 224/1990	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 3/1991	APPOINTMENT OF BOARD OF EXAMINERS UNDER SECTION 80(2)
PU(B) 20/1991	APPOINTMENT UNDER SECTION 467
PU(B) 124/1991	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 125/1991	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 126/1991	REVOCATION OF APPOINTMENT OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 196/1991	ALTERATION TO FEES IN SCHEDULE
PU(B) 58/1992	APPOINTMENT OF CHAIRMAN OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 59/1992	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 84/1992	APPOINTMENT UNDER SECTION 467 (8)
PU(B) 214/1992	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 215/1992	APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING

	LICENSING BOARD
PU(B) 240/1992	APPOINTMENT UNDER SECTION 8(2)
PU(B) 241/1992	REVOCAION OF APPOINTMENT UNDER SECTION 8(2)
PU(B) 92/1993	APPOINTMENT AND REVOCAION OF APPOINTMENT OF MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 223/1993	DELEGATION OF POWER UNDER SUBSECTION 65(T) (1)
PU(B) 224/1993	APPOINTMENT OF DIRECTOR OF MARINE OF PENINSULAR MALAYSIA AS THE REGISTRAR GENERAL OF SHIPS
PU(B) 225/1993	APPOINTMENT OF HARBOUR MASTER OF PENANG AS REGISTRAR OF MALAYSIAN SHIPS
PU(B) 226/1993	APPOINTMENT OF HARBOUR MASTER OF SELANGOR AS REGISTRAR OF MALAYSIAN SHIPS
PU(B) 227/1993	APPOINTMENT OF THE DIRECTOR OF MARINE OF SABAH AS REGISTRAR OF MALAYSIAN SHIPS
PU(B) 228/1993	APPOINTMENT OF THE DIRECTOR OF MARINE OF SARAWAK AS REGISTRAR OF MALAYSIAN SHIPS
PU(B) 225/1994	APPOINTMENT OF CHAIRMAN AND MEMBER OF CENTRAL MERCANTILE FUND COMMITTEE
PU(B) 262/1994	APPOINTMENT OF ALTERNATE MEMBERS OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 274/1994	APPOINTMENT OF MEMBERS OF DOMESTIC SHIPPING LICENSING BOARD
PU(A) 332/1994	MERCHANT SHIPPING FEES RULES 1994 [REVOKED BY PU(A) 438/2010]
PU(A) 333/1994	MERCHANT SHIPPING MANNING RULES 1994 [SUPERSEDED BY PU(A) 150/1999]
PU(B) 24/1998	DELEGATION OF POWER UNDER SECTION 65T
PU(A) 116/1998	MERCHANT SHIPPING EXAMINATION FOR CERTIFICATE OF COMPETENCY (DECK) RULES 1998
PU(A) 117/1998	MERCHANT SHIPPING EXAMINATION FOR CERTIFICATE OF COMPETENCY MARINE ENGINEER OFFICERS RULES 1998
PU(B) 119/1998	ALTERATION OF PORT LIMITS OF JOHOR BAHRU
PU(B) 120/1998	DECLARATION OF PORTS AND PORT LIMITS OF KUKUP AND TANJUNG PELEPAS
PU(B) 121/1998	APPOINTMENT OF CHAIRMAN OF THE DOMESTIC SHIPPING

	LICENSING BOARD
PU(B) 122/1998	APPOINTMENT OF MEMBERS OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(B) 174/1998	APPOINTMENT AND REVOCATION OF APPOINTMENT UNDER SUBSECTION 8(2)
PU(B) 224/1998	APPOINTMENT OF ALTERNATE MEMBER OF THE DOMESTIC SHIPPING LICENSING BOARD
PU(A) 151/1999	MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES 1999
PU(A) 105/2000	MERCHANT SHIPPING (COLLISION REGULATIONS) (RULES FOR VESSELS NAVIGATING THROUGH THE STRAITS OF MALACCA AND SINGAPORE) ORDER 2000
PU(B) 198/2003	DECLARATION UNDER SUBSECTION 491(1)
PU(B) 541/2010	DECLARATION OF ALTERATION OF PORT LIMITS OF JOHOR BAHRU
PU(B) 542/2010	DECLARATION OF ALTERATION OF PORT LIMITS OF TANJUNG PELEPAS
PU(B) 529/2011	DECLARATION UNDER SECTIONS 5 AND 6 OF THE MERCHANT SHIPPING ORDINANCE 1952
PU(B) 66/2012	EXEMPTION FROM SUBSECTION 65KA(1) OF THE MERCHANT SHIPPING ORDINANCE 1952
PU(B) 431/2016	EXEMPTION UNDER SECTION 65U
PU(B) 22/2017	DECLARATION OF ALTERATION OF PORT LIMITS FOR FEDERAL TERRITORY OF LABUAN PORT
PU(B) 23/2017	DECLARATION UNDER SECTIONS 5 AND 6 OF THE MERCHANT SHIPPING ORDINANCE 1952
PU(B) 274/2017	EXEMPTION UNDER SECTION 65U
PU(B) 275/2017	EXEMPTION UNDER SECTION 65U
PU(B) 416/2017	DECLARATION OF ALTERATION OF PORT LIMITS FOR KUALA SUNGAI LINGGI PORT
PU(B) 215/2018	DECLARATION OF MARITIME TRANSPORT SECURITY AREA
PU(B) 166/2019	EXEMPTION UNDER SECTION 65U [REVOKED BY PU(B) 592/2020]
PU(B) 166/2019	PENGECEUALIAN DI BAWAH SEKSYEN 65U
PU(B) 177/2019	SUSPENSION OF IMPLEMENTATION OF DECLARATION OF ALTERATION OF PORT LIMITS FOR JOHORE BAHRU PORT
PU(B) 177/2019	PENGGANTUNGAN PELAKSANAAN PERISYTIHARAN

PENGUBAHAN HAD PELABUHAN BAGI PELABUHAN JOHOR
BAHRU

PU(B) 592/2020	REVOCATION OF EXEMPTION UNDER SECTION 65U
PU(B) 259/2021	DECLARATION UNDER SECTIONS 5 AND 6 OF THE MERCHANT SHIPPING ORDINANCE 1952
PU(B) 378/2022	APPOINTMENT OF MEMBERS AND ALTERNATE MEMBERS OF THE BOARD
PU(B) 378/2022	PELANTIKAN ANGGOTA DAN ANGGOTA SILIH GANTI LEMBAGA

EXTENSIONS TO MERCHANT SHIPPING ORDINANCE 1952

(These Extensions are not part of the Merchant Shipping Ordinance 1952, but are extensions to it, and compiled by Dr. Arun Kasi for easy purposes of easy reference, which are not intended to be exhaustive).

Extension 1

Merchant Shipping (Amendment and Extension) Act 1977 (Act A393)

4. Transitional Provisions

(1) Notwithstanding the repeal under section 3 [Amendment of Part II] –

(a) Any ship registered at any port in Malaysia on or before the appointed date under Part II of the Ordinance shall subject to subsection (2) be deemed to have been registered under this Act for a period of five years with effect from that date.

(b) The repeal shall not affect anything done or any act committed under the Ordinance before the appointed date.

(2) The holder of a certificate of registry under Part II shall apply to the registrar for the registration of his ship under the new Part IIA within five years of the appointed date.

[Am. A433:s.2(c)]

5. Extension of Part IIA and IIB of the Ordinance to Sabah and Sarawak

(1) The provisions of Part IIA and Part IIB of the Ordinance are extended to the States of Sabah and Sarawak.

(2) Such of the definitions in section 2 of the Ordinance as are necessary to give effect to the extended provisions of the Ordinance shall, subject to the following modifications, apply to those provisions:

(a) insert after the definition of "declaration of survey" the following definition-

“ 'Director of Marine' means the Director of Marine, having authority over the port or place at which any ship is or will be registered;”;

(b) insert after the definition of "effects" the following definition-

“ 'Federation' means Malaysia;”;

(c) insert after the definition of "foreign going passenger steamer" the following definition –

" 'High Court' means the High Court in Borneo, depending on where the cause or matter arose or occurred;"

(d) in the definition of "port", substitute for the words "under section 5" the words "under any written law in force in the State of Sabah or Sarawak, as the case may be.";

[Am. A603:s.41(a)]

(e) *(Deleted by Act A603:s.41(c)).*

[Am. A433:s.2(c)]

Extension 2

Merchant Shipping (Amendment and Extension) Act 1978 (Act A433)

6. Repeal of L.N. 191/64 and provisions in written laws of Sabah and Sarawak corresponding to provisions of Part IIA and IIB of Ordinance

(1) The Modification of Laws (Merchant Shipping) (Malaysia Registry) Order 1964 is repealed.

(2) *(Deleted by Act A603:s.41(c)).*

7. Provisions of Part IIA and IIB of Ordinance to prevail over inconsistent or contrary written law

The provisions of Part IIA and Part IIB of the Ordinance shall prevail notwithstanding anything inconsistent with or contrary to those provisions in any other written law.

Extension 3

Merchant Shipping (Amendment and Extension) Act 1984 (Act A603)

40. Extension of sections 437A to 485A of Ordinance to Sabah and Sarawak

(1) Sections 473A to 485A of the Ordinance are extended to the States of Sabah and Sarawak.

(2) Such of the definitions in section 2 of the Ordinance as are necessary to give effect to the extended provisions of the Ordinance shall, subject to the modifications prescribed by subsection (2) of section 5 of the Merchant Shipping (Amendment and Extension) Act 1977, apply to those provisions.

42. Amendments to Sabah Merchant Shipping Ordinance 1960

The Merchant Shipping Ordinance 1960 [Sabah Ord. 11/60] of Sabah is amended in the manner specified in the First Schedule.

44. Repeal

The Merchant Shipping (Licensed Ships) Regulations 1961 of Sabah [Sabah S 17/1961] and the Merchant Shipping (Sarawak Licensed Ships) Regulations 1961 Sarawak [Sarawak S 17/1961], are repealed.

45. Provisions of sections 473A to 485A of Ordinance to prevail over inconsistent or contrary written law

The provisions of sections 473A to 485A of the Ordinance shall prevail notwithstanding anything inconsistent with or contrary to those provisions in any other written law.

45. Provisions of sections 473A to 485A of Ordinance to prevail over inconsistent or contrary written law

The provisions of sections 473A to 485A of the Ordinance shall prevail notwithstanding anything inconsistent with or contrary to those provisions in any other written law.

First Schedule

(Section 42)

Amendments to the Merchant Shipping Ordinance 1960 of Sabah

<i>(1)</i> <i>Provisions</i>	<i>(2)</i> <i>Amendments</i>
The whole (except where it is expressly otherwise provided hereinafter)	(1) All references to British ship are deleted. (2) All reference to North Borneo ship shall be construed as references to Malaysian ship.

Section 2	<p>(1) The definitions of "British ship" and "North Borneo ship" are deleted.</p> <p>(2) The following new definition is inserted immediately after the definition of "local trade ship":</p> <p style="padding-left: 40px;">' "Malaysian ship" has the same meaning as in the Merchant Shipping Ordinance 1952 of the Federation of Malaya [Ord. 70/52];'.</p> <p>(3) The following is substituted for the definition of "North Borneo licensed ship":</p> <p style="padding-left: 40px;">' "North Borneo licensed ship" means any vessel licensed under the regulations made under section 277 of the Ordinance;'</p>
Section 3	This section is deleted.
Section 281	The words "and to a vessel licensed in Sabah under section 475 of the Merchant Shipping Ordinance 1952 of the Federation of Malaya [Ord. 70/52]" is inserted immediately after the words "licensed ship".
Second Schedule	<p>The following reference to the provisions of the Merchant Shipping Act of the United Kingdom is deleted:</p> <p style="padding-left: 40px;">"Merchant Shipping Act 1894 (57 and 58 Vict. C. 60)</p> <p style="text-align: right; padding-right: 20px;">Part I (except section 85)".</p>

Extension 4

Merchant Shipping (Amendment and Extension) Act 2007 (Act A1316)

12. Extension of the Ordinance to the Federal Territory of Labuan

Subject to the Constitution (Amendment) (No. 2) Act 1984 [Act A585], the Ordinance is extended to the Federal Territory of Labuan.

13. The Merchant Shipping Ordinance 1960 of Sabah ceases to have effect in the Federal Territory of Labuan

(1) The Merchant Shipping Ordinance 1960 of Sabah [Sabah Ord. 11/1960] shall, on the date of coming into operation of this Act, cease to have effect in the Federal Territory of Labuan.

(2) Any port or place in the Federal Territory of Labuan declared to be a port under the Merchant Shipping Ordinance 1960 of Sabah shall be deemed to be a port as declared under the Ordinance.

(3) Any exemption, permit or licence issued or granted under the Merchant Shipping Ordinance 1960 of Sabah in the Federal Territory of Labuan before the date of coming into operation of this Act, shall on the date of coming into operation of this Act continue to be in force and have effect until it expires, or for a period of one year after the date of coming into operation of this Act, whichever is the earlier.

(4) Upon the expiry of the exemption, permit or licence or after the period of one year after the date of coming into operation of this Act, whichever is the earlier, the applicant may apply for an exemption, permit or licence in accordance with the provisions of the Ordinance.

(5) All applications, approvals or, decisions on appeal or otherwise, pending under the Merchant Shipping Ordinance 1960 of Sabah in the Federal Territory of Labuan before the date of coming into operation of this Act, shall on the date of coming into operation of this Act continue to be dealt with as if this Act had not been enacted.

(6) All registers, log books and other documents kept and maintained under the Merchant Shipping Ordinance 1960 of Sabah in the Federal Territory of Labuan before the date of coming into operation of this Act, shall on the date of coming into operation of this Act be deemed to be registers, log books and documents kept and maintained under the Ordinance.

(7) Any proceedings, whether civil or criminal, or cause of action pending or existing before the date of coming into operation of this Act, shall on the date of coming into operation of this Act continue to be dealt with as if this Act had not been enacted.

14. Extension of Parts V and VA of the Ordinance to Sabah and Sarawak

(1) The provisions of Parts V and VA of the Ordinance are extended to the States of Sabah and Sarawak.

(2) Such of the definitions in section 2 of the Ordinance as are necessary to give effect to the extended provisions of the Ordinance shall apply to those extended provisions.

(3) Where references are made in the extended provisions of the Ordinance to other provisions in the Ordinance, such provisions of the Ordinance shall apply to those extended provisions to such extent as may be necessary to give effect to the extended provisions of the Ordinance.

15. Repeal of provisions in written laws of Sabah and Sarawak corresponding to the provisions of Part V of the Ordinance

The provisions of any written law corresponding to the provisions of Part V of the Ordinance and in force in the State of Sabah or Sarawak immediately before the date or dates appointed in subsection 1(3) shall, upon the date or dates so appointed, be deemed to be repealed.

16. Provisions of Part V of the Ordinance to prevail over inconsistent or contrary written law

The provisions of Part V of the Ordinance shall prevail notwithstanding anything inconsistent with or contrary to those provisions in any other written law.

17. References to "Ordinance" in the Merchant Shipping Ordinance 1960 of Sabah and the Merchant Shipping Ordinance 1960 of Sarawak include references to extended provisions

In the Merchant Shipping Ordinance 1960 of Sabah and the Merchant Shipping Ordinance 1960 of Sarawak [Sarawak Ord. 2/1960], any reference to such Ordinances shall be construed as including a reference to the provisions of the Merchant Shipping Ordinance 1952 as extended by this Act.

18. Amendment of the Merchant Shipping Ordinance 1960 of Sabah

The Merchant Shipping Ordinance 1960 of Sabah is amended in the manner as specified in the First Schedule.

19. Amendment of the Merchant Shipping Ordinance 1960 of Sarawak

The Merchant Shipping Ordinance 1960 of Sarawak is amended in the manner as specified in the Second Schedule.

20. Validation

(1) All Malaysia Shipping Notices issued by the Director of Marine before the coming into operation of this Act shall be valid and have effect as if the said Malaysia Shipping Notices have been made under the appropriate provisions of the Ordinance and shall be deemed to have come into operation from the date on which it came into operation or was purported to have come into operation.

(2) Any decision or order given in respect of any person or any other act or thing whatsoever done or omitted to be done under or by virtue of any Malaysia Shipping Notice whensoever made or purported to have been made is declared lawful and hereby validated.

Extension 5

Merchant Shipping (Amendment and Extension) Act 2011 (Act 1393)

34. Extension of Parts III, IV, VI, VIII, IX and X of the Ordinance to Sabah and Sarawak

(1) The provisions of Parts III, IV, VI, VIII, IX and X of the Ordinance are extended to the States of Sabah and Sarawak.

(2) Such of the definitions in section 2 of the Ordinance as are necessary to give effect to the extended provisions of the Ordinance shall apply to those extended provisions.

(3) Where references are made in the extended provisions of the Ordinance to other provisions in the Ordinance, such provisions of the Ordinance shall apply to those extended provisions to such extent as may be necessary to give effect to the extended provisions of the Ordinance.

35. Repeal of provisions in written laws of Sabah and Sarawak corresponding to the provisions of Parts III, IV, VI, VIII, IX and X of the Ordinance

(1) Part III of the Merchant Shipping (Implementation of Conventions Relating to Carriage of Goods by Sea and to Liability of Shipowners and Others) Regulations 1960 of Sarawak [G.N. S 240/1960] is repealed.

(2) Any reference to Part III of the said Regulations shall be construed as a reference to Part IX of the Ordinance.

(3) The provisions of any written law corresponding to the provisions of Parts III, IV, VI, VIII, IX and X of the Ordinance and in force in the State of Sabah or Sarawak immediately before the date or dates appointed in subsection 1(3) shall, upon the dates or dates so appointed, be repealed.

36. Provisions of Parts III, IV, VI, VIII, IX and X of the Ordinance to prevail over inconsistent or contrary written law

The provisions of Parts III, IV, VI, VIII, IX and X of the Ordinance shall prevail notwithstanding anything inconsistent with or contrary to those provisions in any other written law.

EDITORIAL NOTES

*(These Editorial Notes are not part of the Merchant Shipping Ordinance 1952, but are notes to the compilation of the Merchant Shipping Ordinance 1952 by **Dr. Arun Kasi**, which are not intended to be exhaustive).*

Editorial Note 1

Merchant Shipping (Amendment) Act 2017:s.2 has generally amended the Merchant Shipping Ordinance 1952 by:

- (a) by substituting for the words “steamer” and “steamship” wherever appearing the word “ship”; and
- (b) by substituting for the words “steamers” and “steamships” wherever appearing the word “ships”.

The above said amendment has duly been incorporated into the text of the Merchant Shipping Ordinance 1952 compiled by Arun Kasi & Co, but not referenced with the amending Act.

Editorial Note 2

By the powers conferred on the Minister by s. 5 of the Merchant Shipping Ordinance 1952, the following declarations have been made:

PU(B) 235/2008 declares Jimah in the State of Negeri Sembilan as a port within the meaning of the Ordinance.

PU(B) 206/2006 declares Kuala Sungai Langat in the State of Selangor as a port within the meaning of the Ordinance.

PU(B) 207/2006 declares Tok Bali in the State of Kelantan as a port within the meaning of the Ordinance.

PU(B) 208/2006 declares Rambai and Kuala Sungai Linggi in the State of Malacca as ports within the meaning of the Ordinance.

PU(B) 209/2006 declares Kuala Besut in the State of Terengganu as a port within the meaning of the Ordinance.

Editorial Note 3

By the powers conferred on the Minister by s. 6(3) of the Merchant Shipping Ordinance 1952, the following declarations have been made:

PU(B) 235/2008 declares Jimah in the State of Negeri Sembilan as a port within the meaning of the Ordinance.

PU(B) 325/2007 alters the port limits of Batu Pahat. (Section 6(3)).

PU(B) 206/2006 declares Kuala Sungai Langat in the State of Selangor as a port within the meaning of the Ordinance.

PU(B) 207/2006 declares Tok Bali in the State of Kelantan as a port within the meaning of the Ordinance.

PU(B) 208/2006 declares Rambai and Kuala Sungai Linggi in the State of Malacca as ports within the meaning of the Ordinance.

PU(B) 209/2006 declares Kuala Besut in the State of Terengganu as a port within the meaning of the Ordinance.