

ORD. 70/1952
MERCHANT SHIPPING ORDINANCE 1952
Incorporating latest amendments - Act A1316/2007

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Long Title & Preamble

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² Extended to Sabah and Sarawak vide Act A393/1977

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[Ins. Act A1316/2007]

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⁴ Inserted and extended to Sabah and Sarawak vide Act A1316/2007

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⁵ Inserted and extended to Sabah and Sarawak vide Act A1316/2007

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⁶ Inserted and extended to Sabah and Sarawak vide Act A895/1994

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FIRST SCHEDULE

SECOND SCHEDULE

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- *[Amended vide P.U.(A) 370/2009]*

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FIFTH SCHEDULE

SIXTH SCHEDULE

SEVENTH SCHEDULE

- *[Deleted]*

EIGHTH SCHEDULE

NINTH SCHEDULE

TENTH SCHEDULE

ELEVENTH SCHEDULE

TWELFTH SCHEDULE

THIRTEENTH SCHEDULE

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Long Title & 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:

PART I - INTRODUCTORY

Section 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.

Section 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; [\[Ins. Act A433:s.5\]](#)

"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; [\[Ins. Act A433s.5\]](#)

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

"foreign going ship" includes every ship employed in trading or going between some place or places in Malaysia and some place or places situate beyond the limits prescribed for near coastal trade ships;

[\[Am. Act A792:s.2\]](#)

"foreign going passenger steamer" means every foreign going ship which is a passenger steamer;

"High Court" means the High Court in Borneo, depending on where the cause or matter arose or occurred; [\[Ins. Act A433:s.5\]](#)

"home-trade ship" - [\[Deleted by Act A792:s.2\]](#)

"home-trade passenger steamer" -

[\[Deleted by Act A792:s.2\]](#)

"home-trade voyage" -

[\[Deleted by Act A792:s.2\]](#)

"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" -

[\[Deleted by Act A792:s.2\]](#)

local trade ship" -

[\[Deleted by Act A792:s.2\]](#)

"local trade passenger steamer" -

[\[Deleted by Act A792:s.2\]](#)

"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;

[\[Ins. Act A1316/2007\]](#)

"Malaysian ship" has the meaning given to it in Part II;

[\[Am. Act A393:s.5\]](#)

"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 steamer" means every near-coastal trade ship which is a passenger steamer;
[\[Ins. Act A792:s.2\]](#)

"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 steamer" means every British, Malayan or foreign steamship carrying more than twelve passengers to or from any place, or between any places, in the Federation, and a steamer shall be deemed to be a passenger steamer notwithstanding that it carries such number of passengers on a single occasion only;

"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;

[\[Am. Act A 433:s.5\]](#)

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

"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 Malaysian ships appointed under subsection (1) of section 14 and includes the Registrar General;

[\[Ins. Act A603:s.2\]](#)

"Registrar General" means the Registrar General of Ships appointed under subsection (1) of section 14;

[\[Ins. Act A603:s.2\]](#)

"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 steamer" shall be construed accordingly;

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

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

"seaman" includes every person, except masters, pilots and apprentices duly indentured and registered, employed or engaged in any capacity on board any ship;

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

"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 [\[Am. Act A603:s.2\]](#)(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 A 433:s.5;](#)

"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;

"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; and

"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.

Section 3. Application of Ordinance to ships propelled by electricity, etc.

Any provisions of this Ordinance applying to steamers or steamships shall apply to ships propelled by electricity internal combustion engine or other mechanical power, with such modifications as the Minister prescribes for the purpose of adaptation. [\[Am. Act A895:s.3\]](#)

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 10. Appointment of Surveyor of Ships and Radio Surveyor.

- (1) The Yang di-Pertuan Agong 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. [\[Am. Act A792:s.3\].](#)
- (2) The Yang di-Pertuan Agong may also appoint a Surveyor-General of Ships for the Federation.
 - (2A) The Minister may appoint, for special purposes and on special occasions, any person, whether or not a citizen of Malaysia, 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 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). [\[Ins. Act A792:s.3\].](#)
- (3) The Yang di-Pertuan Agong 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.
- (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 such steamers and ships shall be made;
- (b) the notice to be given by the owners, masters or agents of such ships when surveys are required;and
- (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.

(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.

PART IIA - REGISTRY

Section 11. Qualification of Malaysian ship.

(1) Subject to subsection (1B), a ship shall not be deemed to be a Malaysian ship unless it is owned wholly by persons of the following descriptions, namely --

- (a) Malaysian citizens; or
- (b) corporations which satisfy the following requirements:
 - (i) the corporation is incorporated in Malaysia;
 - (ii) the principal office of the corporation is in Malaysia;
 - (iii) the management of the corporation is carried out mainly in Malaysia;
 - (iv) the majority, or if the percentage is determined by the Minister under subsection (1A) then the percentage so determined, of the shareholding, including the voting share, of the corporation is held by Malaysian citizens free from any trust or obligation in favour of non-Malaysians; and
 - (v) the majority, or if the percentage is determined by the Minister under subsection (1A) then the percentage so determined, of the directors of the corporation are Malaysian citizens. [\[Subs. Act A603:s.4\]](#)

(1A) The Minister may, by notification in the *Gazette*, determine --

- (a) the percentage of the shareholding for the purpose of subparagraph (iv) of paragraph (b) of subsection (1); and
- (b) the percentage of the directors for the purpose of subparagraph (v) of paragraph (b) of subsection (1).

(1B) The Minister may, if he thinks it fit, prescribe other requirements in addition to the requirements prescribed in subsection (1). [\[Ins. Act A603:s.4\]](#)

(2) The corporation shall produce documents relating to shareholding in the corporation as may be required by the registrar of ships. [\[Am. Act A603:s.3\]](#)

(3) For the purpose of this section -

'voting share', in relation to a corporation, means an issued share of the corporation, not being -

- (a) a share to which, under no circumstances there is attached, a right to vote;
- (b) a share to which there is attached a right to vote only in any one or more of the following circumstances -

[\[Am. Act A603:s.4\]](#)

- (i) during a period in which a dividend (or part of a dividend) in respect of the share is in arrear;
- (ii) upon a proposal to reduce the share capital of the corporation;
- (iii) upon a proposal affecting the rights attached to the share;
- (iv) upon a proposal to wind up the corporation;
- (v) upon a proposal for the disposal of the whole or part of the property, business and undertakings of the corporation;
- (vi) during the winding up of the corporation.

Section 12. Obligation to register Malaysian ships.

(1) Every Malaysian ship unless so exempted shall be registered under this Ordinance.

(2) If a ship required by this Ordinance to be registered is not so registered, she shall not be recognized as a Malaysian ship. [\[Subs. Act A603:s.5\]](#)

(3) A ship required by this Ordinance to be registered may be detained until the master of the ship, if so required, produces the certificate and of registry of the ship. [\[Ins. Act A603:s.5\]](#)

(4) The Minister may prescribe the manner in which ships or classes of ships belonging to the Government of Malaysia or any State thereof or any statutory body therein may be registered under this Ordinance. [\[Ins. Act A603:s.5\]](#)

Section 13. Exemption from registry.

The following ships are exempted from registration under this Part -

- (a) any ship not exceeding 15 tons nett used for navigation on the rivers and coastal waters of Malaysia;

- (b) any vessel licensed under section 475 of this Ordinance; and [\[Subs. Act A603:s.6\]](#)
- (c) any local fishing vessel not exceeding five hundred tons gross where such vessel is licensed under any written law relating to fisheries. [\[Ins. Act A603:s.6\]](#)

Section 14. Appointment of Registrar General and registrars.

- (1) For the purposes of this Part, the Minister may appoint a Registrar General of Ships and one or more registrar of Malaysian ships.
- (2) The registrars shall perform their duties under the direction of the Registrar General.
- (3) The Registrar General and every registrar shall be deemed to be public servants for the purpose of the Penal Code.
- (4) The Registrar General or a registrar shall not be liable to damages for any loss occurring to any person by reason of any act done or default by him in his capacity as Registrar General or registrar, as the case may be, unless the same occurred through his neglect or default. [\[Subs. Act A603:s.7\]](#)

Section 15. Register book.

Every registrar shall keep a book (hereinafter called "the Register Book") and entries in that book shall be made in accordance with the following provisions -

- (a) the property in a ship shall be divided into sixty-four shares;
- (b) subject to (d) not more than sixty-four individuals shall be entitled to be registered at any one time as owners of a ship, but this rule shall not affect the beneficial interest of any number of persons of any company represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as the owner of a fractional part of a share in a ship but any number of persons not exceeding five may be registered as joint owners of a ship or any share therein;
- (d) joint owners shall be considered as constituting one person only as regards the person entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship or in any share therein;
- (e) a corporation may be registered as owner by its corporate name.

Section 16. Application for the registration of Malaysian ship.

- (1) An application for the registry of a ship shall be made -
 - (a) in the case of natural persons, by the person applying to be registered as owner, or by some one or more persons so applying if more than one, or by his or their agent; and
 - (b) in the case of corporations, by their agent, and the authority of the agent shall be testified by writing under the common seal of that corporation.
- (2) The application shall be made in the prescribed form and shall be supported by a statutory declaration containing the following particulars:
 - (a) the name of the ship and its existing tonnages (if known);
 - (b) 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 declarant does not know the date and place of the building of the ship;

- (c) a statement as to the owner of the ship and the citizenship of such owner, and if the ship is owned by more than one person, the number of shares each is entitled to;
- (d) a statement of the name of the master of the ship and his citizenship;
- (e) a statement that no other person (other than those declared) is entitled as owner to any legal or beneficial interest in the ship or any share thereof;
- (f) except where the operator and the owner of the ship are the same person, the name and citizenship of the operator of the ship;
- (g) a declaration that the particulars stated in the form are true to the best of his knowledge and belief; and
- (h) such other particulars as may be prescribed.

(3) The registrar may demand proof of ownership to his satisfaction before proceeding with the registry of a ship. [\[Subs. Act A603:s.8\]](#)

Section 17. Survey and measurement of ship.

(1) Before registration the owner of every Malaysian ship shall cause the ship to be surveyed and measured by a Surveyor of Ships and the tonnage ascertained in accordance with the provisions of any regulation 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 for the time being be required by the registrar. [\[Am. Act A603:s.3\]](#)

(3) The certificate of measurement shall be delivered to the registrar before registration. [\[Am. Act A603:s.3\]](#)

Section 18. Marking of ships.

(1) Every Malaysian ship shall before registration be marked permanently and conspicuously with -

- (a) the name of the ship on each of the bows of the ship, and the names of the ship and the port of registry on her stern, on a dark ground in white or yellow Roman capital letters, or on a light ground in black Roman capital letters, such letters shall be of a length not less than one hundred millimetres, and of a proportionate breadth:

[\[Am. Act A603:s.9; Am. Act A792:s.4\]](#)

Provided that the use of any script in addition to the Roman capital letters for the name of the ship may be approved by the Registrar General upon such terms and conditions as he may deem fit to impose;

[\[Subs. Act A792:s.4\].](#)

- (b) the official number and the number denoting the registered tonnage shall be cut on the main beam;

- (c) a scale in metric denoting the draught of water on each side of the stem and of the stern post in Roman capital letters or in figures, not less than one hundred millimetres in length, the lower line of such letters or figures shall coincide with the draught line as denoted, and the

letters or figures shall be engraved in and painted white or yellow on a dark ground or in such other form as the Registrar General may approve.

[\[Am. Act A603:s.9\]](#)

(2) The Registrar General may exempt any class of ships from all or any of the requirements of this section.

(2A) The Registrar General may require that the proposed name for a ship intended to be registered under this Part be submitted to him for his approval and he may for this purpose prescribe such form as he thinks fit.

[\[Ins. Act A792:s.4\]](#)

(3) If the scale in metric showing the ship's draught of water is inaccurate or is likely to mislead, the ship owner shall be guilty of an offence and on conviction be liable to a fine not exceeding ten thousand ringgit.

[\[Am. Act A603:s.9\]](#)

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except with the approval of the registrar.

[\[Am. Act A603:s.3\]](#)

(5) If an owner or master of a Malaysian ship neglects to cause the ship to be marked, or to keep her marked, or if any person 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 to escape, capture by an enemy, that owner, master, or person shall on conviction be liable to a fine not exceeding five thousand ringgit for each offence.

Section 19. Rules as to name of Malaysia ships.

(1) A Malaysian ship shall not be described by any name other than that by which she is for the time being registered.

(2) A change shall not be made in the name of a Malaysian ship without the previous written permission of the Registrar General.

(3) Application for the Registrar General's permission shall be made in writing, and if the Registrar General is of the opinion that the application is reasonable, he may entertain the application and require notice of the application to be published in such form and manner as he thinks fit.

(4) Any person who wishes to lodge an objection to the proposed change of name may do so in writing addressed to the Registrar General not later than fourteen days from the date of the publication of the notice.

(5) If the Registrar General receives no objections to the proposed change of name or having received an objection does not uphold the objection, he may on payment of the prescribed fee approve the change of name.

(6) On the approval of the change of name, the ship's name shall be altered in the certificate of registry and on her bows and stern.

(7) A foreign ship which becomes a Malaysian ship, shall not be registered except by the name which the ship bore immediately before becoming a Malaysian ship, unless made with the written permission of the Registrar General.

(8) Any person who contravenes this section shall be guilty of an offence and on conviction for each offence be liable to a fine not exceeding three thousand ringgit. Any ship may be detained until it complies with this section.

Section 20. Entry of particulars in Register Book.

As soon as the requirement of this Ordinance preliminary to registry have been complied with, the registrar shall enter in the Register book the following particulars respecting the ship:

- (a) the name of the ship and the name of the port to which the ship belongs;
- (b) the details comprised in the Surveyor of Ships' certificate;
- (c) the particulars respecting the origin of the ship stated in the declaration of ownership;
- (d) the name and description of the registered owner or owners of the ship, and if there are more than one owner, the proportions in which they are interested in the ship; and
- (e) such other particulars as may be prescribed.

[\[Subs. Act A603:s.10\]](#)

Section 21. Evidence on first registry.

On being registered as a Malaysian ship, the owner of the ship shall in addition to the declaration of ownership produce the following evidence -

- (a) a builder's certificate signed by the builder of the ship, containing a true account of the proper denomination and of the tonnage of the ship, the time when and the place where she was built; and of the name of the person (if any) on whose account the ship was built, and if there has been any sale, the bill of sale under which the ship or a share therein, has become vested in the applicant, and such other particulars as may be descriptive of the identity of the ship;
- (b) the instrument of sale, under which the ship or share therein has become vested in the applicant for registry if the declarant does not have the builder's certificate.

Section 22. Certificate of registry.

- (1) The certificate of registry shall be in such form as may be prescribed by the Minister.
- (2) The certificate of registry shall state -
 - (a) the name of the owner of the ship, his occupation and address, and if there are more owners than one, the proportions in which they are interested in the ship;
 - (b) the name of the master and the particulars of his certificate of competency;

[\[Subs. Act A603:s.11\]](#)

Section 23. Documents to be retained by registrar.

The registrar shall on registering the ship retain in his possession the following -

- (a) the Surveyor's certificate;
- (b) the builder's certificate;
- (c) any bill of sale by which the ship was previously sold;
- (d) a copy of the condemnation certificate (if any); and
- (e) any declaration of ownership.

Section 24. Port of registry.

The port at which a Malaysian ship is registered for the time being shall be deemed to be the port of registry and the port to which the ship belongs.

Section 25. [\[Deleted by Act A603:s12\]](#)

Section 26. Provisional certificate of registry.

(1) A registrar or a Malaysian diplomatic or consular officer may, upon application made to him and subject to the procedure, conditions and restriction as may be prescribed, issue in respect of any ship a provisional certificate of registry.

[\[Subs. Act A603:s.13\]](#)

(2) The provisional certificate of registry of a ship shall be valid for a maximum period of one year from the date of its issue.

(3) This Ordinance and other written laws shall apply to -

- (a) a ship that is issued with a provisional certificate of registry under this section;
- (b) the owner of the ship; and
- (c) the provisional certificate of registry,

in the same manner as they apply to a Malaysian ship, its owner and its certificate of registry.

[\[Ins. Act A1014:s.2\]](#)

Section 26A. Cancellation of certificate.

(1) The Registrar General may cancel a Malaysian ship's certificate of registry or any provisional certificate of registry held by the ship, or impose such conditions as he may consider appropriate on the grounds of failure to comply with any requirements contained in or made under this Ordinance or any rules or regulations made thereunder, or on the grounds of failure to comply with the requirements of any international convention applicable to Malaysia.

(2) Any person aggrieved by any action of the Registrar General under subsection (1) may appeal to the Minister whose decision shall be final.

Section 27. Custody of certificate.

(1) The certificate of registry shall be used only for the lawful navigation of the ship and shall not be subject to detention by reason of any title, lien, charge, or any interest whatsoever in the ship claimed by any owner, mortgagee or other person.

(2) If 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 thereof for the purposes of the lawful navigation of the ship, or to any registrar, port officer, 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 court that there was reasonable ground for such refusal, he shall be guilty of an offence and on conviction be liable to a fine not exceeding five thousand ringgit.

[\[Am. Act A603:s.15\]](#)

Section 28. Penalty for use of forged certificate.

If the master or owner of a Malaysian ship uses or attempts to use a forged certificate of registry he shall be guilty of an offence and on conviction be liable to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand ringgit or both, and the ship shall be subject to forfeiture.

Section 29. Power to grant new certificate.

The registrar of the port of registry may, with the approval of the Registrar General and upon the delivery to him of the certificate of registry grant a new certificate in lieu thereof.

Section 30. Provision for loss of certificate.

(1) Where the certificate of registry of a Malaysian ship is mislaid, lost or destroyed, the registrar of the port of registry shall grant a new certificate of registry in lieu of the original certificate.

(2) If the certificate of registry of a Malaysian ship is mislaid, lost or destroyed at any foreign port, the master of the ship or any other person with knowledge of the contents of the certificate of registry, shall make a declaration stating the names and description of the registered shipowner of the ship to the best of his knowledge and belief to the nearest Malaysian diplomatic and consular officer as the case may be who shall thereupon grant a provisional certificate.

(3) The provisional certificate shall within ten days after the arrival of the ship at a Malaysian port be delivered up to the registrar of the port of registry, and the registrar shall grant a new certificate of registry; if the master without reasonable cause fails to deliver up the provisional certificate within the 14 days, he shall be guilty of an offence and on conviction be liable to a fine not exceeding five thousand ringgit.

Section 31. Endorsement of change of master on certificate.

[\[Subs. Act A603:s.16\]](#)

- (1) Where the master of a registered Malaysian ship is changed, the following person, that is to say -
- (a) if the change is made at a Malaysian port, the registrar or, if none, the Port Officer; or
 - (b) if the change is made at a port outside Malaysia, a Malaysian diplomatic or consular officer, shall endorse and sign on the certificate of registry a memorandum of the change, and shall (except in the case where the endorsement is done by the registrar of the ship's port of registry himself) notify the registrar of the ship's port of registry of the change.

[\[Subs. Act A603:s.16\]](#)

(2) [\[Deleted by Act A603:s.16\]](#)

(3) Any port officer at any Malaysian port may refuse any person to act as a master of a Malaysian ship unless his name is endorsed on the certificate of registry of the ship as the last appointed master of the ship.

Section 32. Endorsement of change of ownership on certificate.

(1) Whenever a change occurs in the registered ownership of a ship, such change shall be endorsed on the certificate of registry by the registrar of the ship's port of registry.

(2) The master shall, for the purpose of such endorsement, deliver the certificate of registry to the registrar of the port of registry within 30 days.

(3) If the master fails to deliver to the registrar of the port of registry the certificate of registry as required, he shall be guilty of an offence, and on conviction be liable to a fine not exceeding two thousand ringgit, and the ship may be detained by the port officer.

Section 33. Delivery up of certificate of ship lost or ceasing to be Malaysian owned.

(1) If a registered ship is either actually or constructively lost, taken by the enemy, burnt, broken up, or ceases to be a registered Malaysian ship by reason of a transfer to persons not qualified to be owners of Malaysian ships, every owner of the ship or any shareholder in the ship shall, within fourteen days on learning of the fact give notice to the registrar of the port of registry. The registrar shall make an entry in the register book, and such entry shall be considered as closed except in relation to any unsatisfied [mortgages](#) or existing certificate or mortgage entered therein.

[\[Am. Act A603:s.17\]](#)

(2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, if the event occurs in port immediately, but if it occurs elsewhere then within fourteen days after his arrival in port, deliver the certificate to the registrar, or, if there is none, to the Port Officer or to the Malaysian diplomatic or consular officer there, and the registrar, if he is not himself the registrar of her port of registry, or the Port Officer, or the Malaysian diplomatic or consular officer, shall forthwith forward the certificate delivered to him to the registrar of her port of registry.

[\[Subs. Act A603:s.17\]](#)

(3) The shipowner or master who fails, without reasonable cause, to comply with this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding five thousand ringgit.

[\[Am. Act A603:s.17\]](#)

Section 34. Transfer of ship or share.

(1) A registered Malaysian ship or a share therein when disposed of to a person or corporation qualified to own a Malaysian ship shall be transferred by a bill of sale.

(2) The bill of sale shall be in the prescribed form and shall contain such description of the ship as in the certificate of registry or some other description sufficient to identify the ship to the satisfaction of the registrar and shall be executed by the transferor or his agent and the transferee or his agent and attested by two witnesses.

[\[Am. Act A603:s.3\]](#)

Section 35. Declaration of transfer.

Where a registered ship or a share therein is transferred, the transferee shall not be entitled to be registered as the owner thereof until he, or in the case of a corporation, the person authorized to make declarations on behalf of the corporation, has made and signed the declaration (hereinafter called a "declaration of transfer") referring to the ship, and containing -

- (a) a statement of the qualification of the transferee to own a Malaysian ship, or, if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Malaysian ship; and
- (b) a declaration to the best of his knowledge and belief that no unqualified person or corporation is entitled as owner to any legal, beneficial or equitable interest in the ship or any share therein.

Section 36. Registry of transfer.

Every bill of sale for the transfer of a registered ship or of a share therein when duly executed shall be produced to the registrar of the port of registry with the declaration of transfer; the registrar shall thereupon enter in the register book in the order of the production the name of the transferee as the owner of the ship or share and shall endorse on the bill of sale the fact that entry has been made.

Section 37. Transmission of property in ship on death, bankruptcy, marriage, etc.

(1) Where the property in a registered ship or share therein is transmitted to a person qualified to own a Malaysian ship on the marriage, death, bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Ordinance -

- (a) that person shall authenticate the transmission by making and signing a declaration (hereinafter called a "declaration of transmission") identifying the ship, containing the statements required in a declaration of transfer, and a statement of the manner in which and the person to whom the property has been transmitted.
- (b) if the transmission is by virtue of marriage, the declaration shall be accompanied by a copy of the entry of the register of marriage and state the identity of the owner.
- (c) if the transmission is due to bankruptcy, the declaration of transmission shall be accompanied by such admissible and relevant evidence of the title of persons claiming under a bankruptcy.
- (d) if the transmission is due to death, the declaration of transmission shall be accompanied by the letter of probate or administration or authentic copy thereof.

(2) The registrar, on receipt of the declaration of transmission shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share, and, where there are more than one person all those persons shall for the purpose of this Ordinance be registered as owners and considered as one person.

Section 38. Order for sale on transmission to unqualified person.

(1) Where the property in a registered ship or share therein is transmitted on marriage, death, bankruptcy, or otherwise to a person not qualified to own a Malaysian ship the High Court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled or otherwise as the Court may direct or make an order on any terms and conditions it thinks just, or may refuse to make any order, and generally may act as the justice of the case requires.

(2) Every application for sale shall be made within four weeks after the transmission has taken place and if such application is not made within the prescribed time, the property in the registered ship or share shall be subject to a forfeiture.

(3) Where any ship or any share therein, becomes subject of a forfeiture, any port officer or any person specially or generally authorized by the Minister may detain the ship and bring the ship for adjudication before the High Court. The Court may make any order as seems just.

Section 39. Transfer of ship or sale by order of Court.

Where the Court, whether under the preceding section of this Ordinance or otherwise, orders the sale of the property in the ship or any share therein, the order shall contain a declaration vesting in the person named by the Court the right to transfer the property in the ship or share; and that person shall thereupon be entitled to transfer the property in the ship or share in the manner and to the extent as if he were the registered owner; and the registrar of the ship's port of registry shall comply with the order of the Court.

Section 40. Power of Court to prohibit dealings.

The High Court may on the application of any interested person make an order prohibiting, any dealing with the ship or any share therein or on any terms and conditions it thinks just.

Section 41. Mortgages of ship or share.

(1) A registered ship or a share therein may be made in security for a loan or other valuable consideration, and the instrument creating such security shall be in the form, as may be prescribed by the Minister.

(2) On production of the instrument to the registrar of the ship's port of registry he shall record such instrument in the register book; and when there are more mortgages than one, record them in the order in which they are produced to him and by memorandum notifying each mortgagor of the mortgage recorded by him.

Section 42. Entry of discharge of mortgage.

Where a registered [mortgage](#) is discharged the registrar shall make an entry in the register book to that effect and the property (if any) shall revert in the mortgagor.

Section 43. Priority of [mortgages](#).

If there are more mortgages than one registered in respect of the same ship or share, the mortgages shall have priority in the order of the date on which the mortgage is recorded in the register book.

Section 44. Mortgagee not deemed to be owner.

The mortgagee shall not by reason of the [mortgage](#) be deemed to be the owner of the ship or the shareholder, nor shall the mortgagor be deemed to have ceased to be the owner thereof except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt.

Section 45. Mortgagee to have power of sale.

(1) Every registered mortgagee may on the fore-closure of the [mortgage](#) dispose of the ship or the share in respect of which he is registered, and to give effectual receipts for the purchase money.

(2) Where there are more persons than one registered as the mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Section 46. [Mortgage](#) not affected by bankruptcy.

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

Section 47. Assignment.

(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 prescribed by the Minister.

(2) On production to the registrar the deed of assignment, he shall record it in the register book 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.

Section 48. Transmission of interest in [mortgage](#) on bankruptcy, etc.

(1) Where the interest of the mortgage in a ship or share is transferred, otherwise than by a transfer under this Ordinance, the person to whom the interest of the mortgage in the ship or share is transferred shall make a declaration in a manner as may be prescribed by the Minister, supported by the same evidence as required by this Ordinance.

(2) The registrar shall on receipt of the declaration and the evidence enter the name of the person entitled under the transmission in the register book as the mortgagee of the ship or share.

Section 49. Alterations of ship.

(1) When any alteration of a registered Malaysian ship does not correspond with the description contained in the register book, the registrar shall on application being made to him, and on receipt of a certificate from the Surveyor of Ships cause the alteration to be registered or direct that the ship be registered anew.

(2) If default is made in registering the alteration to or in registering of the ship anew the owner thereof shall be guilty of an offence and on conviction be liable to a fine of five thousand ringgit, and in addition, to a fine of two hundred ringgit for each day the offence continues.

Section 50. Regulation for registry of alterations.

The Minister may make regulations for the purpose of registry of the change of ownership, the transfer of the port of registry, the alteration on the registering anew of a ship.

Section 51. Transfer of ship to another flag.

(1) The owner of a Malaysian ship may with the approval of the Registrar General transfer the ship to a foreign registry if there are no outstanding claims against the ship in Malaysia.

[\[Am. Act A603:s.18\]](#)

(2) The owner of the ship shall submit to the registrar of the port of registry a written application specifying the name of the ship, the reasons for the proposed transfer, the name and nationality of the proposed new owner, and the name of the new country of registry.

Section 52. Restriction on re-registration of ships.

Where a ship has ceased to be registered as a Malaysian ship, for any reason other than capture by enemy or transfer to a person not qualified to own a Malaysian ship, the ship shall not be re-registered until such ship has been surveyed and certified by the Surveyor of Ships to be seaworthy.

Section 53. Provision for cases of incapacity.

Where by reason of infancy, mental infirmity or any other cause, any person interested in any ship or share therein is incapable of making any declaration or doing anything required by this Ordinance, the guardian or the committee, if any, of that person, or, if there is none, any person appointed by the Court, may make such declaration and do such act or thing in the name and on behalf of the incapable person.

Section 54. Power to dispense with declaration.

If it is shown to the satisfaction of the registrar the person is unable to make any declaration or produce any documentary evidence, the registrar may, with the approval of the Registrar General and on the

production of such other evidence, and subject to such terms as he may think fit, dispense with the declaration or documentary evidence.

Section 55. No notice of trust be registered.

No notice of any trust shall be entered in the register book; the registered owner or a shareholder of a Malaysian ship shall have power to dispose of the ship or share therein and to issue valid receipts, unless he has no notice of the trust.

Section 56. Evidence of register book, certificate of registry and other documents.

Any person, on payment of the prescribed fee, may apply to the registrar for inspection of any register book.

Section 57. Regulations.

The Minister may make regulations to carry out the purposes of this Part and such regulations may provide for any of the following -

- (a) for ascertaining the tonnage of any ship for the purpose of registration or otherwise and including the mode of measurement;
- (b) for establishing standard of seaworthiness required for registration of ship;
- (c) the manner in which surveys of ship shall be conducted and the form of certificate to be issued;
- (d) the fees that may be levied under this Part and the manner in which such fees shall be collected;

[\[Am. Act A603:s.19\]](#)

- (e) for requiring the periodic submission by registered owners of registered Malaysian ships to the registrar of the ship's port of registry -
 - (i) in the case where the ship is operated by a person other than the registered owner, of such particulars as may be prescribed concerning such person; and
 - (ii) in the case where the registered owner is a corporation, of such particulars as may be prescribed concerning the corporation;

[\[Ins. Act A603:s.19\]](#)

- (f) for giving effect to any recommendations of any international governmental organization on the treatment of shelter deck and other open space; and

[\[Ins. Act A603:s.19\]](#)

- (g) for prescribing anything which is required to be or may be prescribed under this Part.

[\[Ins. Act A603:s.19\]](#)

Section 58. Exemption.

The Minister may exempt any ship or the owner of the ship therein from any of the regulations specified in section 57 upon such terms and conditions as he may deem fit.

Section 58A. Terminable certificate of registry for small ships.

- (1) The Minister may make regulations providing that, on an application for registry under this Ordinance of any ship which does not exceed one hundred and fifty gross tonnage or twenty-four metres in length, the

registrar may grant, in lieu of a certificate of registry as required by this Ordinance, a terminable certificate of registry to be terminable at the end of a maximum period of five years from the granting thereof, and all certificates of registry granted under any such regulations shall be in such form and have effect subject to such conditions as the regulations may provide.

(2) Regulations made under this section —

- (a) may provide for the renewal of the terminable certificate of registry;
- (b) may prescribe the fees payable or chargeable for anything done for the purpose of this section; and
- (c) may prescribe on any other matter which may appear to the Minister to be expedient or necessary for the better carrying out of this section.

(3) Any ship to which a terminable certificate of registry is granted under the regulations made under this section shall, during the validity of the certificate, be deemed to be a registered Malaysian ship for the purposes of this Ordinance and in relation to all things done or omitted to be done during that period.

[\[Ins. Act A895:s.4\]](#)

Section 58B. Conditions on ownership of ship with terminable certificate of registry.

Notwithstanding subsection (1) of section 11, the owner of a ship to which a terminable certificate of registry is granted shall fulfill any one of the following conditions:

- (a) in the case where the ship is owned by an individual, the individual shall be a Malaysian citizen;
- (b) in the case where the ship is jointly owned, at least one of the owners shall be a Malaysian citizen; or
- (c) in the case where the ship is owned by a corporation, the corporation shall be a corporation registered in Malaysia and the principal place of business shall be in Malaysia.

[\[Ins. Act A895:s.4\]](#)

Section 58C. Security for loan.

A ship to which a terminable certificate of registry is granted may be made into security for a [loan](#) or other valuable consideration, and the instrument creating such security shall be in the form as may be prescribed by the Minister.

Section 59. National colours for Malaysian ships.

(1) The Minister may, by notification, prescribe an ensign which shall be the proper national colours for a registered Malaysian ship.

(2) No ship other than a registered Malaysian ship is entitled to fly the Malaysian national ensign.

(3) The master of the ship or the owner thereof and every other person hoisting any distinctive national colours other than the Malaysian national ensign on board any Malaysian ship shall be guilty of an offence and on conviction, be liable to a fine of two thousand ringgit.

(4) The Minister may prescribe special colours for any ship owned by the Government of Malaysia or any State thereof or any statutory body therein.

[\[Am. Act A603:s.20\]](#)

(5) Any port officer or any Malaysian diplomatic and consular officer or any other officer appointed by the Minister, as the case may be, may board any ship and seize any colour hoisted on the ship contrary to this Ordinance. The colours so seized shall be forfeited to the Government.

Section 60. Showing of national ensign.

- (1) A registered Malaysian ship shall hoist the Malaysian national ensign -
- (a) on an instruction transmitted by a signal from a ship of the Royal Malaysian Navy or by a ship in the service of the Government;
 - (b) on entering or leaving any Malaysian or foreign port;
 - (c) when passing a warship of the Royal Malaysian Navy or any foreign navy; and
 - (d) while in a Malaysian port from sun rise to sun set.
- (2) Default in complying with this section, shall render the master of the ship guilty of an offence and be liable on conviction to a fine of one thousand ringgit.
- (3) This section shall apply to fishing vessels of not less than ten tons.

Section 61. Penalty for unduly assuming Malaysian character.

A person not qualified to own a Malaysian ship and hoisting a Malaysian flag or assuming the character of a Malaysian ship for the purpose of making the ship appearing to be a Malaysian ship, shall be guilty of an offence and on conviction be liable to a fine of ten thousand ringgit and the ship may be forfeited.

Section 62. Penalty for concealment of Malaysian or assumption of foreign character.

The master or owner of a Malaysian ship who commits any act or permits anything to be done, or carries or permits to be carried any papers or document intending thereby to conceal the Malaysian character of the ship shall be guilty of an offence and on conviction be liable to a fine of ten thousand ringgit and the ship may be forfeited.

Section 63. Liability of ship not recognized as Malaysian.

Where it is provided by this Ordinance that a Malaysian ship shall not be recognized as a Malaysian ship, that ship shall not be entitled to any benefits, privileges, advantage or protection, enjoyed by a Malaysian ship, or to use the Malaysian flag or assume the Malaysian national character. Such ship, any person on board or the owner thereof shall be dealt with in the same manner in every respect as if she were a Malaysian ship, for the purpose of the payment of dues, the liability to fines and forfeiture and punishment for offences committed on board.

Section 64. National character of ships to be declared for clearance

No port clearance shall be granted to any ship until the master of the ship has declared the name of the country to which the ship belongs and any ship attempting to proceed to the sea without the clearance may be detained.

Section 65. Proceedings on forfeiture of ship.

A ship which has become a subject of forfeiture may be seized by the port officer or any officer appointed by the Minister.

PART IIB - THE DOMESTIC SHIPPING LICENCING BOARD

Section 65A. Interpretation.

In this Part, unless the context otherwise requires, "domestic shipping" means the use of a ship -

- (a) to provide services, other than fishing, in the Federation waters or the exclusive economic zone; or
- (b) for the shipment of goods or the carriage of passengers -- (i) from any port or place in Malaysia to another port or place in Malaysia; or
- (ii) from any port or place in Malaysia to any place in the exclusive economic zone or vice versa.

[\[Subs. Act A1014:s.3\]](#)

Section 65B. The Board

(1) There is hereby established a board to be called the Domestic Shipping Licensing Board (hereafter referred to as "the Board").

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

- (a) a Chairman;
- (b) a representative of the Ministry responsible for merchant shipping;
- (c) a representative of the Ministry of International Trade and Industry;
- (d) representative of the Marine Department, Peninsular Malaysia;
- (e) a representative of the Royal Customs and Excise Department; and
- (f) not less than three but not more than five other persons who have wide experience or special knowledge in matters relating to shipping.

[\[Am. Act A895:s.5\]](#)

[\[Subs. Act A603:s.23\]](#)

(2A) The Minister may in respect of each member of the Board other than the Chairman appoint an alternate member who may attend any meeting of the Board when the member, in respect of whom he is an alternate is, for any reason, unable to attend the meeting; and an alternate member when attending such a meeting shall be deemed to be a member of the Board.

[\[Ins. Act A603:s.23\]](#)

(2B) 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.

[\[Ins. Act A603:s.23\]](#)

(3) The Minister may appoint any member of the Board to exercise the functions of the Chairman during the temporary absence due to incapacity or illness or absence from Malaysia of the Chairman and such member shall during the period in which he is exercising the functions of the Chairman shall be deemed to be the Chairman.

- (4) (i) A member of the Board appointed under this section shall unless he sooner resigns or his appointment is 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.
- (ii) A member or an alternate member of the Board may at any time be removed from office by the Minister for disability, bankruptcy, negligence or misconduct or for any other cause which renders him unfit to continue his service as a member or an alternate member. [\[Am. Act A603:s.23\]](#)
- (5) The Fifteenth Schedule shall have effect with respect to the Board.

Section 65C. Function of the Board.

The function of the Board shall be to regulate and control the licensing of ships engaged in domestic shipping under this Ordinance or any regulation made thereunder.

Section 65D. Regulations.

The Board may, with the approval of the Minister, make such regulations as may be necessary or expedient for giving full effect to the provisions of this Part, and without prejudice to the generality of the foregoing, such regulations may -

- (a) prescribe the procedure for the application of a licence and the particulars to be supplied;
- (b) prescribe the conditions to be satisfied by any person applying for a licence;
- (c) provide for the issue of licences and the fees payable and the manner of payment in respect thereof, and the terms and conditions attached to such licences;
- (d) prescribe the rates which may be charged for the carriage of passengers or cargo by any ship engaged in domestic shipping;
- (e) prescribe anything required to be or may be prescribed under this Part; and
- (f) prescribe penalties for the contravention of the provisions thereof of a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

[\[Subs. Act A603:s.24\]](#)

Section 65E. Registers of licence and members' interest.

The Board shall keep or cause to be kept a register of licences and a register of members' interest.

Section 65F. Information on ship.

(1) The Board may by notice require the owner, master or agent of any ship in respect of which a licence was granted by the Board to furnish within the period specified in the notice information on -

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

(2) Any owner, master or agent on whom a notice has been served who fails to furnish the information or which he knows to be false on any material particular shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment not exceeding one year or both.

Section 65G. Minister's directions.

The Minister may issue general directions not inconsistent with this Ordinance and the Board shall comply with such directions.

Section 65H. Issue of licence.

- (1) Every application for a licence shall be made to the Board on a form and in the manner prescribed by the Board.
- (2) The applicant shall give to the Board such information as required by the Board.
- (3) The Board may refuse to determine an application made otherwise than in accordance with this Part and any regulations made thereunder. [\[Am. Act A603:s.25\]](#)
- (4) The Board shall have a discretion to grant or to refuse the application.
- (5) A licence granted under this Part shall be in such form as may be prescribed, subject to such terms and conditions as may be imposed and to such duration as may be specified. [\[Subs. Act A603:s.25\]](#)

Section 65I. Revocation of licence.

The Board may revoke any licence if it is satisfied that the licensee, his servant or agent has -

- (a) contravened any of the provisions of this Part or any regulations made thereunder; or
- (b) committed a breach of any of the terms or conditions of the licence;

Provided that no licence shall be revoked unless the licensee has been given a reasonable opportunity of making a representation against the intended revocation.

[\[Subs. Act A603:s.26\]](#)

Section 65J. Expiry of licence.

The licensee shall return the expired licence to the Board without any delay.

Section 65K. Appeal.

Any person aggrieved by the decision of the Board or of any person or body of persons delegated with the powers and duties of the Board under section 65T to refuse to issue or renew, or to revoke, any licence may, within thirty days of the decision being made known to him in writing, appeal to the Minister, whose decision shall be final. [\[Am. Act A603:s.27; Am. Act A895:s.6\]](#)

Section 65KA. Prohibition of non-Malaysian ships to engage in domestic shipping.

- (1) No ship other than a Malaysian ship may engage in domestic shipping.
- (2) A person not qualified to own a Malaysian ship as provided by section 11 shall not charter or otherwise engage any Malaysian ship for domestic shipping except under and in accordance with such conditions as the Minister may direct or prescribe.
- (3) The master, owner or agent of any ship who contravenes subsection (1) or any person who contravenes subsection (2), shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

[\[Ins. Act A603:s.28\]](#)

(4) *[Deleted by Act A895:s.7]*

See also *P.U.(B) 116/2003*

Section 65L. Licence for domestic shipping.

(1) No ship shall engage in domestic shipping without a licence.

(2) Any owner, charterer, master or agent of any ship contravening this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment not exceeding one year or both.

[\[Am. Act A603:s.29\]](#)

(3) The following vessels are exempted from subsection (1):

(a) any ship under fifteen tons nett;

(b) any vessel licensed under section 475;

(c) in relation to the State of Sabah, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sabah;
[Sabah Ord. 11/60];

(d) in relation to the State of Sarawak, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sarawak *[Sarawak Ord. 2/60]*; and

(e) any ship belonging to or in the employment of the Government of Malaysia or any State thereof or any Port Authority therein.

[\[Ins. Act A603:s.29\]](#)

Section 65M. Port clearance.

No port clearance shall be granted to a ship engaged in domestic shipping unless the owner, charterer, master or agent satisfies the proper officer of customs or such other authority authorized to issue port clearance that the ship is licensed to engage in domestic shipping or is exempted under section 65L from being required to be licensed.

[\[Subs. Act A603:s.30\]](#)

Section 65N. Disclosure of interest.

(1) A member of the Board acquiring any financial interest in any shipping undertaking which carries goods or passengers shall within four weeks after so doing or if he does not know of the interest within four weeks after it comes to his knowledge, give notice in writing to the Minister specifying the interest so acquired; and the Minister may if he deems fit declare the membership of the member vacant.

(2) A person shall be deemed to have an interest in shipping where a corporation has an interest in shipping and -

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

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

(c) that person, or the associates of that person or that person 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.

Section 65O. Interest of a spouse or child of a member.

- (1) The interest of the spouse or the child under the age of majority of a member of the Board (not being himself or herself a director) in shipping, shall be deemed to be an interest belonging to the member.
- (2) The member of the Board shall within 4 weeks of his spouse or child under the age of majority acquiring any interest in shipping notify the Minister in writing and any member of the Board who fails to disclose the interest belonging to the spouse or the child under the age of majority shall be guilty of an offence and on conviction be liable to a fine of twenty thousand ringgit or two years' imprisonment or both.
- (3) An interest in shipping shall not be disregarded by reason only of -
 - (a) its remoteness;
 - (b) the manner in which it arose; or
 - (c) the fact that the interest is, or is capable of being made subject to restraint and restriction.

Section 65P. Register of members' interest.

The Board shall keep and maintain a register of members' interest; and within fourteen days of receiving information thereof shall inscribe the information and the date of inscription against the member's name.

Section 65Q. Annual Report.

The Board shall not later than the 30th day of 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 containing such information as the Minister may from time to time require.

Section 65R. Power of Port Officer or officer of customs to board ship.

- (1) For the purpose of seeing that the provisions of this Part have been complied with, any Port Officer or officer of customs may go on board any ship in any port or place or within Federation waters or the exclusive economic zone and require the master of such ship to give such information relating to the ship, cargo, stores, crew, passengers or voyage as he may consider necessary; and such officer may demand all documents which ought to be on board and require all or any of such documents to be brought to him for inspection.
- (2) Any master of such ship who, without lawful excuse, refuses to allow any such officer to enter such ship or when so required refuses or fails to submit the required document to such officer or who, in submitting any required information, knowingly or recklessly makes any statement that is false in any material particular or who, with intent to deceive, submit a document that is false in any material particular, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

[\[Ins. Act A603:s.31\]](#)

Section 65S. Power to detain vessels.

Any Port Officer or officer of customs may detain any ship if such officer has reasonable cause to suspect that in respect of such ship there has been a contravention of any of the provisions of section 65KA or section 65L.

[\[Ins. Act A603:s.31\]](#)

Section 65T. Delegation of powers and duties.

(1) The Board, with the approval of the Minister, may by notification in the *Gazette* delegate to any person or body of persons any of its powers or duties under this Part except the power to make regulations.

(2) A delegation under subsection (1) may -

(a) be made subject to such conditions, qualifications and exceptions as may be prescribed in the notification;

(b) be revoked or varied by a subsequent notification made in the like manner.

(3) The Board may exercise a power or perform a duty notwithstanding that it has delegated its powers or duties under this section.

[\[Ins. Act A603:s.31\]](#)

Section 65U. Exemption by Minister.

Without prejudice to any other powers conferred by this Part, the Minister may, by notification in the *Gazette*, exempt any ship from any of the provisions of this Part or any regulations made thereunder upon such terms and conditions as he may deem fit.

[\[Ins. Act A895:s.8\]](#)

PART IIC - MALAYSIA INTERNATIONAL SHIP REGISTRY⁷

Section 66. Interpretation and application.

(1) In this Part, unless the context otherwise requires, "age" in relation to a ship, means the difference between the year in which the ship was built and the year in which it is registered as a Malaysian ship.

(2) The provisions of Part IIA shall apply to ships registered under this Part, in so far as they are consistent with this Part.

[\[Ins. Act A 1014:s.4\]](#)

Section 66A. Port of the Malaysia International Ship Registry.

The Minister may declare any port or place in Malaysia to be the port of the Malaysia International Ship Registry.

[\[Ins. Act A1014:s.4\]](#)

Section 66B. Qualification to register ship in the Malaysia International Ship Registry.

(1) Notwithstanding section 11, the Registrar General may register a ship as a Malaysian ship under this Part, irrespective of where the ship was built, if it is owned by a corporation that satisfies the following requirements:

(a) the corporation is incorporated in Malaysia;

(b) an office of the corporation is established in Malaysia; and

(c) the majority of the shareholding, including the voting shares, of the corporation are not held by Malaysian citizens.

(2) The Registrar General may, without assigning any reason, refuse to register any ship as a Malaysian ship under this Part.

⁷ Part IIC came into force on 17 August 2006 vide P.U.(B) 222/2006

(3) The Minister may, if he thinks fit, prescribe other requirements in addition to the requirements stipulated in subsection (1).

(4) A ship shall cease to be registered under this Part if any of the requirements in this section are no longer fulfilled.

[\[Ins. Act A1014:s.4\]](#)

Section 66C. Appointment of a ship manager.

(1) The owner of a ship shall, before applying for a ship to be registered under this Part, appoint a ship manager.

(2) A ship manager appointed under this section shall be -

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

(b) a company incorporated in Malaysia and having its principal place of business in Malaysia.

(3) The owner of a ship shall ensure that a ship manager is appointed for the entire period that his ship remains registered under this Part.

(4) The owner of a ship shall submit to the Registrar General the particulars of the ship manager appointed by him, including the name, the identity card number or the corporation's registration number, the address, the telex number and the cable address of the ship manager.

(5) The particulars submitted under subsection (4) shall be entered in the Register Book.

(6) The owner of a ship or the ship manager shall notify the Registrar General of any change in any of the particulars submitted under subsection (4) within seven days of the change.

[\[Ins. Act A1014:s.4\]](#)

Section 66D. Paid-up capital for corporate ownership.

(1) A ship shall not be registered under this Part unless the corporation has a minimum paid-up capital of ten per cent of the value of the ship or one million ringgit, whichever is higher.

(2) Subsection (1) shall apply only to the first ship registered by the corporation.

[\[Ins. Act A1014:s.4\]](#)

Section 66E. Registration of ship.

(1) No ship shall be registered under this Part unless -

(a) it is fitted with mechanical means of propulsion;

(b) it is of not less than 1,600 gross tonnage; and

(c) the age of the ship is -

(i) not more than 15 years if it is a tanker or a bulk carrier; or

(ii) not more than 20 years if it is of a type other than a tanker or a bulk carrier.

(2) The Minister may exempt any ship from any requirements of this section on such terms and conditions as he may deem fit.

[\[Ins. Act A1014:s.4\]](#)

Section 66F. Initial registration fee and annual tonnage fee.

(1) An initial registration fee as prescribed in the Thirteenth Schedule and an annual tonnage fee of 30 sen per gross tonnage shall be payable in respect of every ship registered under this Part.

(2) The annual tonnage fee shall be paid by the owner of a ship at the time of the initial registration or renewal of registration of the ship and thereafter annually on or before the anniversary date of the initial registration or renewal of registration, as the case may be.

(3) All unpaid registration fees and annual tonnage fees due to the Registrar General shall constitute a maritime lien on the ship, subject only to liens for wages and salaries. [\[Ins. Act A1014:s.4\]](#)

Section 66G. Offence.

Any owner of a ship or ship manager who fails to comply with this Part shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

[\[Ins. Act A1014:s.4\]](#)

PART III - MASTERS AND SEAMEN Application

Section 69. Application of Part III.

(1) Except as specifically provided and in accordance with such conditions as the Minister may deem fit to impose, none of the provisions of this Part shall apply to Malaysian vessels exclusively employed in fishing industry.

(2) Subject to subsection (1) and to the next succeeding section, so far as it relates to pleasure yachts, this Part shall, unless the context or subject matter requires a different application, apply to Malaysian ships and to the owners, masters and crews thereof as follows: [\[Am. Act A792:s.5\]](#)

(a) the provisions relating to apprenticeship to the sea service, licences to supply seamen, engagement of seamen, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, power of Courts to rescind contracts and recovery of expenses of relief of distressed seamen shall apply to every sea-going ship; [\[Am. Act A792:s.5\]](#)

(b) the provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship;

(c) the provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition, and to discipline, shall apply to every sea-going ship; [\[Am. Act A792:s.5\]](#)

(d) the provisions relating to official logs shall apply to sea-going ships registered in the Federation and to any sea-going ship employed in trading exclusively within. [\[Am. Act A792:s.5\]](#)

(3) The provisions of this Part shall apply to an unregistered ship, which ought to have been registered under this Ordinance, as if such ship had been so registered. [\[Am. Act A792:s.5\]](#)

Section 70. Partial Application of Part III to pleasure yachts, etc.

The following provisions of this Part shall not apply to junks, native sailing craft and pleasure yachts or to the owners, masters and crews thereof;

- (a) the requirement of officers to hold certificates of competency and the production of those certificates;
- (b) the exemption from stamp duty and record of indentures of apprenticeship and matters to be done for the purpose of such record;
- (c) the entry in the agreement with the crew of the particulars respecting apprentices and matters to be done for the purpose of such entry;
- (d) the engagement or supply of seamen or apprentices by or through unlicensed persons;
- (e) agreements with the crew;
- (f) the compulsory discharge and payment of seamen's wages before a Port Officer and the compulsory delivery of an account of wages;
- (g) the accommodation for seamen;
- (h) the deduction and payment of fines imposed under stipulations in the agreement;
- (i) the delivery of documents at ports abroad to consular or customs officers; or
- (j) official log-books.

Section 71.
Qualification and Manning

The Minister may make such rules as he considers necessary or expedient to provide for the qualifications of officers and seamen of, and the manning requirements for, ships and for matters connected therewith, and without prejudice to the generality of such powers, may make rules providing for -

- (a) requiring officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships to be holders of certificates of competency, efficiency or authorization or letters of proficiency or otherwise and to satisfy such other conditions as may be prescribed, and providing for the grant, revocation, extension, validation, suspension, endorsement, grading or variation of such certificates;
- (b) the holding and conduct of examinations for such certificates, the qualifications of applicants for such examinations and the qualifications, appointment, removal, reappointment and remuneration of a board of examiners, and all such matters as the Minister considers necessary or expedient for the purpose of such examinations;
- (c) the issue, form and recording of certificates of competency, efficiency or authorization or letters of proficiency and other documents;
- (d) the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for such certificates;
- (e) the recognition, subject to such conditions as may be prescribed, of specified certificates of competency or proficiency issued by other countries, the declaration that such certificates shall have the same force and effect as if they had been granted in Malaysia, and the application to such certificates of all or any of the provisions and regulations relating to certificates of competency, efficiency or authorization issued in Malaysia;

- (f) the exemption of holders of certificates of competency or proficiency issued in other specified countries from all or such part or parts as may be prescribed of the examinations for corresponding Malaysian certificates of competency or proficiency;
- (g) the manning requirements in relation to different classes and types of ships, including the minimum number and grades of certified or qualified officers and seamen, if necessary according to nationalities, to be carried on such classes and types of ships, and the exemption by the Director of Marine of any ship or class or type of ships from any of such requirement;
- (h) the production and admissibility in evidence of certificates and such other documents as may be prescribed;
- (i) the refusal of port clearance or the detention of any ship on failure to comply with the provisions of any rules made under this section;
- (j) the standard of health and vision for, and the issue of certificates of medical [fitness](#) to, officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships;
- (k) the fees to be paid for anything to be done or permitted to be done under the rules;
- (l) penalties for the contravention of the provision of any rules made under this section of a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or both.

[\[Ins. Act A792:s.7\]](#)

Sections 71 – 87. [\[Deleted\]](#)

[\[Del. Act A792:s.7\]](#)

Section 88. Special provisions as to apprenticeship to the sea service.

- (1) Every indenture of apprenticeship to the sea service made in the Federation shall be executed in duplicate and shall be exempt from stamp duty.
- (2) Every such indenture of apprenticeship to the sea service and every assignment or cancellation thereof, and, where the apprentice bound dies or deserts, the fact of the death or desertion, shall be recorded.
- (3) For the purpose of the record -
 - (a) a person to whom an apprentice to the sea service is bound shall, within seven days of the execution of the indenture, take or transmit to the Port Officer of the port the indenture executed in duplicate, and the Port Officer shall keep and record the one indenture and endorse on the other the fact that it has been recorded and re-deliver it to the master of the apprentice;
 - (b) the master shall notify any assignment or cancellation of the indenture or the death or desertion of the apprentice to the Port Officer, within seven days of the occurrence, if it occurs within the Federation, or, as soon as circumstances permit, if it occurs elsewhere.
- (4) Any person who fails to comply with any requirement of this section shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 89. Production of indenture to Port Officer before voyage in foreign-going ship.

- (1) The master of a foreign-going ship shall, before carrying an apprentice to sea from a port in the Federation cause the apprentice to appear before the Port Officer before whom the crew are engaged, and shall produce to the Port Officer the indenture by which the apprentice is bound and every assignment thereof.

(2) The name of the apprentice, with the date the indenture and of the assignments thereof, if any, and the names of the ports at which the same have been recorded, shall be entered on the agreement with the crew.

(3) Any master who fails without reasonable cause to comply with any requirement of this section shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 90. Minimum age of employment of children in ships.

(1) No child under the age of fourteen years shall be employed or work in any capacity, upon any small craft which is, or should be, licensed under any written law providing for the licensing of small craft, or in any ship, except in any case where the craft or ship is under the personal charge of the parent or legal guardian of the child.

(2) Nothing in the foregoing provisions of this section shall apply to employment of children upon work approved and supervised by the Department of Education carried on in any Government or other technical school or in a training ship.

Section 91. Employment of young persons as trimmers or stokers in ships.

(1) Subject to the provisions of this section, no young person shall be employed or work as a trimmer or stoker in any ship:

Provided that -

(a) the foregoing provisions shall not apply -

(i) to the employment of a young person on such work as aforesaid in a school-ship or training-ship if the work is of a kind approved by the Minister and is carried on subject to supervision by officers of the Government; or

(ii) to the employment of a young person on such work as aforesaid in a ship which is mainly propelled otherwise than by means of steam; and

(b) where in any port a trimmer or stoker is required for any ship and no person over the age of eighteen years is available to fill the place, a young person over the age of sixteen years may be employed as a trimmer or stoker, but in any such case two young persons over the age of sixteen years shall be employed to do the work which would otherwise have been performed by one person over the age of eighteen years.

(2) There shall be included in every agreement with the crew a list of the young persons who are members of the crew, together with particulars, of the dates of their birth and, in the case of a ship in which there is no such agreement, the master of the ship shall, if young persons are employed therein, keep a register of those persons with particulars of the dates of their birth and of the dates on which they become or cease to be members of the crew.

(3) There shall be included in every agreement with the crew a short summary of the provisions of this section.

Section 92. Medical examination of young persons employed in ships.

(1) Subject to the provisions of this section, no young person shall be employed in any capacity in any ship, unless there has been delivered to the master of the ship a certificate granted by a duly qualified medical practitioner certifying that the young person is fit to be employed in that capacity:

Provided that -

(a) the foregoing provisions shall not apply to the employment of a young person in a ship in which only members of the same family are employed; and

(b) a Port Officer or consular officer may on the ground of urgency authorize a young person to be employed in a ship notwithstanding that no such certificate as aforesaid has been delivered to the master of the ship, but a young person in whose case any such authorization is given shall not be employed beyond the first port at which the ship calls after the young person has embarked thereon, except subject to and in accordance with the foregoing provisions of this section.

(2) A certificate under this section shall remain in force for a period of twelve months from the date on which it is granted and no longer:

Provided that, if the said period of twelve months expires at some time during the course of the voyage of the ship in which the young person is employed, the certificate shall remain in force until the end of the voyage.

Section 93. Penalties

(1) Any person who employs a child or young person in contravention of any of the provisions of sections 90, 91 and 92 or of any rule made under this Ordinance and any parent or guardian who knowingly or negligently suffers or permits such employment, shall be guilty of an offence, and liable on conviction to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding three months or to both, or, in the case of a second or subsequent offence, to a fine not exceeding one thousand ringgit or to imprisonment not exceeding two years or to both.

(2) If the master of a ship fails to keep such a register as is required to be kept by him under section 91 or, on being so required by a Port Officer or any other person having power to enforce compliance with the provisions of this Ordinance, refuses or neglects to produce for inspection by that Officer or person any such register as aforesaid or any certificate delivered to him under section 92, he shall be liable to a fine not exceeding two hundred ringgit.

Section 94. Interpretation.

In sections 90, 91, 92 and 93:

the expression "young person" means a person who is under the age of eighteen years;

the expression "ship" means any sea-going ship or boat of any description which is registered or licensed in the Federation, but does not include any tug, dredger, sludge vessel, barge or other craft whose ordinary course of navigation does not extend beyond the seaward limits of the port at which such vessel is regularly employed, if and so long as such vessel is engaged in her ordinary occupation.

Section 95. Licences to supply seamen.

(1) The Port Officer may grant to such persons as he thinks fit licences to engage or supply seamen or apprentices for merchant ships in the Federation.

(2) Any such licence shall continue for such period and may be granted and revoked on such terms and conditions as the Port Officer thinks fit.

Section 96. Penalty for engaging seamen without a licence.

(1) A person shall not engage or supply a seaman or apprentice to be entered on board any ship in the Federation unless that person either holds a licence under this Ordinance for the purpose, or is the owner or master or mate of the ship, or is *bona fide* the servant and in the constant employment of the owner, or is a Port Officer.

(2) A person shall not employ for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship in the Federation any person unless that person either holds a licence under this Ordinance for the purpose, or is the owner or master or mate of the ship, or is *bona fide* the servant and in the constant employment of the owner, or is a Port Officer.

(3) A person shall not receive or accept to be entered on board any ship any seaman or apprentice if that person knows that the seaman or apprentice has been engaged or supplied in contravention of this section.

(4) Any person who acts in contravention of this section shall, for each seaman or apprentice in respect of whom an offence is committed, be liable to a fine not exceeding two hundred ringgit, and, if a licensed person, shall forfeit his licence.

Section 97. Penalty for receiving remuneration from seaman for engagement.

(1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service, or from a person seeking employment as a seaman or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than such fees as are authorized by the Minister.

(2) Any person who acts in contravention of this section shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 98. Agreement with crew.

(1) The master of every ship, except ships of less than twenty-five tons exclusively employed in trading within such limits as are prescribed, shall enter into an agreement, in this Ordinance called the agreement with the crew, in accordance with this Ordinance with every seaman whom he carries to sea from any port in the Federation.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Ordinance, the master in the case of a foreign-going ship, and the master or owner in the case of a near-coastal trade ship, shall be liable for each offence to a fine not exceeding fifty ringgit.

[\[Am. Act A792:s.8\]](#)

Section 99. Form period and conditions of agreement with crew.

(1) An agreement with the crew shall be in a form approved by the Director of Marine, and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars:

(a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman;

(g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful

punishment for misconduct which have been approved by the Minister as regulations proper to be adopted and which the parties agree to adopt.

(3) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages, the supply of warm clothing or otherwise, as are not contrary to law.

(4) If the master of a ship registered at a port out of the Federation has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, and engages single seamen in the Federation, those seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the form approved by the Director of Marine.

(5) The Minister may, by notification in the *Gazette* and subject to such conditions as he thinks fit, exempt any steamer or class of steamer from any of the provisions of this section.

Section 100. Special provisions as to agreement with crew of foreign-going ships.

The following provisions shall have effect with respect to the agreements with the crew made in the Federation in the case of foreign-going ships registered either within or without the Federation:

- (a) the agreement shall, subject to the provisions of this Ordinance as to substitutes, be signed by each seaman in the presence of a Port Officer;
- (b) the Port Officer shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman, understands the same before he signs it, and shall attest each signature;
- (c) when the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Port Officer, and the other shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;
- (d) where a substitute is engaged in the place of a seaman who duly signed the agreement and whose services are, within twenty-four hours of the ship's putting to sea, lost by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before a Port Officer, and, when not practicable, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature;
- (e) the agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Ordinance referred to as running agreements;
- (f) running agreements shall not be for a longer period than six months, or the first arrival of the ship at her port of destination in the Federation after the expiration of that period, or the discharge of cargo consequent on that arrival;
- (g) on every return to a port in the Federation before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if a master wilfully makes a false statement in any such endorsement he shall for each offence be liable to a fine not exceeding two hundred ringgit;

- (h) the master shall deliver the running agreement so endorsed to the Port Officer, and the Port Officer shall, if the provisions of this Ordinance relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

Section 101. Special provisions as to agreement with crew of near-coastal trade ships.

The following provisions shall have effect with respect to the agreements with the crew of near-coastal trade ships for which an agreement with the crew is required under this Ordinance: [\[Am. Act A792:s.9\]](#).

- (a) agreements may be made either for the service in a particular ship or for service in two or more ships belonging to the same owner, but in the latter case the names of the ships and the nature of the service shall be specified in the agreement
- (b) crews or single seamen shall be engaged before a Port Officer in the same manner as they are required to be engaged for foreign-going ships, and the provisions contained in section 100 (d) with regard to substitutes shall apply;
- (c) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master; and the provisions of this Ordinance with respect to the making of the agreement shall apply accordingly;
- (d) agreements shall not be for a longer period than six months, or the first arrival of the ship at her final port of destination in the Federation after the expiration of the period, or the discharge of cargo consequent on that arrival; provided that the owner or his agent may enter into time agreements in forms sanctioned by the Director of Marine with individual seamen to serve in any one or more ships belonging to such owner, and those agreements need not expire at the time of the ship's agreement with the crew.

Section 102. Changes in crew of foreign-going ships to be reported.

- (1) The master of every foreign-going ship whose crew has been engaged before a Port Officer shall, before finally leaving the Federation, sign and send to the nearest Port Officer a full and accurate statement, in a form approved by the Director of Marine, of every change which takes place in his crew before finally leaving the Federation, and that statement shall be admissible in evidence in manner provided by this Ordinance.
- (2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 103. Certificate as to agreement with crew of foreign-going ships.

- (1) In the case of a foreign-going ship, on the due execution of an agreement with the crew in accordance with this Ordinance, and also, where the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Ordinance respecting that agreement, the Port Officer shall grant the master of the ship a certificate to that effect.
- (2) The master of every foreign-going ship shall, before proceeding to sea, produce to the Port Officer that certificate, and any such ship may be detained until the certificate is produced.
- (3) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the Federation or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the Port Officer, and the Port Officer shall give the master a certificate of that delivery.
- (4) Any master who fails without reasonable cause so to deliver the agreement with the crew shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 104. Certificate as to agreement with crew of near-coastal trade ships.

(1) The master or owner of a near-coastal trade ship shall, within twenty-one days after the expiration of any agreement with the crew or within forty-eight hours of her next arrival, deliver or transmit to a Port Officer in the Federation such agreement. [\[Am. Act A792:s.10\]](#)

(2) The Port Officer, on receiving such agreement, shall give the master or owner of the ship a certificate to that effect, and the ship shall be detained unless the certificate is produced at the Port Office before the master proceeds to sea.

(3) Any master or owner who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 105. Copy of agreement to be made accessible to the crew.

(1) The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement with the crew, omitting the signatures, to be posted up in some part of the ship which is accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 106. Forgery, etc., of agreement with crew.

(1) Any person who fraudulently alters, makes any false entry in or delivers a false copy of any agreement with the crew shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding two years.

(2) Any person who assists in committing or procures to be committed any such offence shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding two years.

Section 107. Alterations in agreement with crew.

Every erasure, interlineation or alteration in any agreement with the crew, except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration by the written attestation, if in Her Majesty's dominions, of some Port Officer, Superintendent, justice, officer of customs, or other public functionary, or elsewhere of a British consular officer, or where there is no such officer, of two respectable British merchants.

Section 108. Seamen not to be bound to produce agreement.

In any legal or other proceeding a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Section 109. Engagement of Asian seamen.

(1) In the case of Asian seamen who are British subjects or who are citizens, when it is agreed that the engagement of any such seaman shall end at any port not in the Federation, the agreement shall contain stipulations -

(a) for providing for such seaman fit employment on board some other vessel bound to the port at which he was shipped; or

(b) for providing for him a passage to such port free of charge or on such other terms as may be agreed on ; and

(c) in any case for the repayment to the Government of all expenses which it may incur in respect of any such Asian seaman who is discharged or left behind at any port out of the Federation and becomes distressed.

(2) Every such stipulation shall be signed by the owner of the vessel or by the master on his behalf.

(3) The agreement shall be in a form approved by the Director of Marine, and shall contain such stipulations as he prescribes.

Section 110. Engagements between masters of foreign ships and Asian seamen.

(1) When the master of a foreign ship being at any port in the Federation engages any Asian seaman who is a British subject or a citizen, to proceed to any port out of the Federation, he shall enter into an agreement with such seaman, and the agreement shall be made before a Port Officer in the manner hereinbefore provided for the making of agreements in the case of foreign-going ships.

(2) All the provisions of section 109 respecting the form of such agreements and the stipulations to be contained in them, and the making and signing of the same shall be applicable to the engagement of such seaman.

(3) The master of such foreign ship shall give to the Port Officer a bond with the security of some approved person resident in the Federation for an amount calculated at the rate of one hundred ringgit for every such seaman and conditioned for the due performance of the said agreement and stipulations and for the repayment to the Government of all expenses which it may incur in respect of any such Asian seaman who is discharged or left behind at any port out of the Federation and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts or of this Ordinance.

Section 111. Fees payable in respect of such engagement.

The fees prescribed in section 204 shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by section 205.

Section 112. Penalty for breach of sections 109 and 110.

(1) If any Asian seaman who is a British subject or a citizen is engaged by the master of any foreign ship otherwise than is allowed in sections 109 and 110, such master shall be liable to a fine not exceeding fifty ringgit for every such seaman so engaged.

(2) The Port Officer may enter on board any foreign ship upon which he has reason to believe that any such seaman has been shipped, and the provisions of section 522 shall be applicable in respect of every such ship.

Section 113. Discharge before Port Officer.

(1) When a seaman serving in a British or Malayan foreign-going or near-coastal trade ship is on the termination of his engagement discharged in the Federation, he shall, whether the agreement with the crew is an agreement for the voyage or a running agreement, be discharged in manner provided by this Ordinance in the presence of the Port Officer. [\[Am. Act A792:s.11\]](#)

(2) Any master or owner of a ship who acts in contravention of this section shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 114. Certificate of discharge and return of certificate to officer on discharge.

(1) The master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Director of Marine, specifying the period of his service and the time and place of his discharge, and if the master fails so to do he shall be liable for each offence to a fine not exceeding one hundred ringgit.

Return of officer's certificate

(2) The master shall also, upon the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if without reasonable cause he fails so to do he shall be liable for each offence to a fine not exceeding two hundred ringgit.

Section 115. Report of seaman's character.

(1) When a seaman is discharged before a Port Officer, the master shall make and sign, in a form approved by the Director of Marine, a report of the conduct, character and qualifications of the seaman discharged, or may state in the said form that he declines to give any opinion upon such particulars or upon any of them.

(2) The Port Officer before whom such discharge is made shall, if the seaman desires, give to him or endorse on his discharge a copy of such report, in this Ordinance referred to as the report of character.

Section 116. False or forged certificate of discharge or report of character.

Any person who -

(a) makes a false report of character under this Ordinance, knowing the same to be false; or

(b) forges or fraudulently alters any certificate of discharge or report of character or copy of a report of character; or

(c) assists in committing or procures to be committed any such offence as aforesaid; or

(d) fraudulently uses any certificate of discharge or report of character or copy of a report of character which is forged or altered or does not belong to him;

shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding two years.

Section 117. Sanction required for discharge of seaman in the Federation.

(1) The master of a ship shall not discharge a seaman, not being a seaman shipped in the Federation, at any place within the Federation, unless he previously obtains, endorsed on the agreement with the crew, the sanction of the Port Officer.

(2) Such sanction shall not be refused where the seaman is discharged on the termination of his service.

Certificate required where seaman is left behind in the Federation.

(3) The master of a ship shall not leave a seaman behind at any place within the Federation, except where the seaman is discharged in accordance with this Ordinance, unless he previously obtains, endorsed on the

agreement with the crew, the certificate of the Port Officer, stating the cause of the seaman being left behind, whether the cause is unfitness or inability to proceed to sea, desertion or disappearance or otherwise.

(4) The Port Officer to whom an application is made for sanction or for a certificate under this section shall examine into the grounds on which the seaman is to be discharged or left behind, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the sanction or certificate as he thinks just, but such sanction or certificate shall not be unreasonably withheld.

Forcing seaman on shore.

(5) A person belonging to a ship shall not wrongfully force a seaman on shore and leave him behind or otherwise cause a seaman to be wrongfully left behind at any place within the Federation.

(6) Any person who fails to comply with any of the foregoing provisions of this section shall be liable to a fine not exceeding fifty ringgit for each seaman discharged, left behind or forced on shore.

Seaman remaining behind.

(7) No seaman shall either wilfully or negligently remain at any place within the Federation after the departure of the ship in which he has arrived or shipped unless a sanction or certificate has been given by the Port Officer under subsection (1) or (3), and if he does so he shall be liable to a fine not exceeding one hundred ringgit, or to a term of imprisonment not exceeding one month, or both.

(8) Nothing in this section shall relieve any person from any liability or penalty to which he is subject under the provisions of the Merchant Shipping Acts.

Section 118. Payment of wages before Port Officer.

(1) Where a seaman is discharged before a Port Officer in the Federation, he shall receive his wages through or in the presence of the Port Officer, unless a competent Court otherwise directs.

(2) If in such a case the master or owner of a ship pays his wages within the Federation in any other manner, he shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 119. Master to deliver account of wages.

(1) The master of every ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Ordinance a full and true account, in a form approved by the Director of Marine, of the seaman's wages, and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered at or before the time of the seaman leaving the ship or to the Port Officer not less than twenty-four hours before the discharge or payment off.

(3) Any 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 fifty ringgit.

Section 120. Deductions from wages.

(1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of section 119, except in respect of a matter happening after the delivery.

(2) The master shall during the voyage enter the various matters in respect of which the deductions are made, with the amounts of the respective deduction, as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Section 121. Notice of disrating of seaman.

(1) Where the master of a ship disgrates a seaman, he shall forthwith enter or cause to be entered in the official log-book a statement of the disgrating and furnish the seaman with a copy of the entry.

(2) Any reduction of wages, consequent on the disgrating, shall not take effect until the entry has been so made and the copy so furnished.

(3) Any reduction of wages consequent on the disgrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 119 and 120.

Section 122. Time of payment of wages for foreign-going ships.

In the case of foreign-going ships, other than ships employed on voyages for which seamen by the terms of their agreement are wholly compensated by a share in the profits of the adventure, -

(a) the owner or master of the ship shall pay to each seaman on account at the time when he lawfully leaves the ship at the end of his engagement, one-fourth of the balance of wages due to him, and shall pay to him the remainder of his wages, within two clear days, exclusive of any weekly holiday, public holiday or bank holiday, after he so leaves the ship;

(b) if the seaman consents, the final settlement of his wages may be left to a Port Officer, and the receipt of the Port Officer shall in that case operate as if it were a release given by the seaman in accordance with this Part;

(c) in the event of the seaman's wages or any part thereof not being paid or settled as in this section mentioned, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

Section 123. Time of payment of wages for near-coastal trade ships.

(1) The master or owner of every near-coastal trade ship shall pay to every seaman his wages within two days after the termination of the agreement with the crew, or at the time when the seaman is discharged, whichever first happens. [\[Am. Act A792:s.12\]](#)

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

Section 124. Settlement of wages.

(1) Where a seaman is discharged, and the settlement of his wages completed, before a Port Officer, he shall sign in the presence of the Port Officer a release, in a form approved by the Director of Marine, of all claims in respect of the past voyage or engagement; and the release shall also be signed by the master or owner of the ship and attested by the Port Officer.

(2) The release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) The release shall be retained by the Port Officer, and on production from his custody shall be admissible in evidence in manner provided by this Ordinance.

(4) Where the settlement of a seaman's wages is by this Ordinance required to be completed through or in the presence of a Port Officer, no payment, receipt or settlement made otherwise than in accordance with this Ordinance shall operate as or be admitted as evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before a Port Officer, the Port Officer shall, if required, sign and give to the master a statement of the whole amount so paid; and the statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

Power to except claims from release on settlement of wages.

(6) A seaman may except from the release signed by him under this section any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release.

(7) Such release shall not operate as a discharge or settlement of any claim or demand so noted, nor shall subsection (4) apply to any payment, receipt or settlement made with respect to any such claim or demand.

Section 125. Decision of questions by Port Officer.

(1) Where a question as to wages is raised before a Port Officer between the master or owner of a ship and a seaman or apprentice, and the amount in question does not exceed one hundred ringgit, the Port Officer may, on the application of either party, adjudicate, and the decision of the Port Officer in the matter shall be final; provided that if the Port Officer is of opinion that the question is one which ought to be decided by a Court of law, he may refuse to decide it.

(2) Where any question, of whatever nature and whatever the amount in dispute, between a master or owner and any of his crew is raised before a Port Officer, and both parties agree in writing to submit the same to him, the Port Officer shall hear and decide the question so submitted.

(3) An award made by him upon the submission shall be conclusive as to the rights of the parties, and the submission or award shall not require a stamp; and a document purporting to be the submission or award shall be admissible as evidence thereof.

Section 126. Power of Port Officer to require production of ship's papers.

(1) In any proceeding under this Ordinance before a Port Officer relating to the wages, claims or discharge of a seaman, the Port Officer may require the owner, or his agent, or the master, or any mate or other member of the crew, to produce any log-books, papers or other documents in his possession or power relating to a matter in question in the proceeding, and may require the attendance of and examine any of those persons, being then at or near the place, on the matter.

(2) Any person so required who fails, without reasonable cause, to comply with the requisition, shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 127. Rule as to payment of seamen in currency other than that mentioned in agreement.

Where a seaman has agreed with the master of a British or Malayan ship for payment of his wages in the currency of the Federation or any other currency, any payment of, or on account of, his wages, if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement, for the time being current at the place where the payment is made.

Section 128. Advances restricted.

(1) (a) Where an agreement with the crew is required to be made in a form approved by the Director of Marine, the agreement may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement; and

- (b) stipulations for the allotment of a seaman's wages may be made in accordance with this Ordinance.

(2) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in the Federation shall be void, and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages, and a person shall not have any right of action, suit, or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Section 129. Regulations as to allotment notes.

(1) Any stipulation made by the seaman at the commencement of a voyage under the last preceding section for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) Such stipulation may provide for the allotment, by means of an allotment note, of any part (not exceeding one-half) of the seaman's wages in favour either of a near relative or of a savings bank;

Provided that by agreement with the master a stipulation may be inserted in the agreement with the crew for the allotment as aforesaid of a greater sum than one-half of the seaman's wages.

(3) Allotment notes shall be in a form approved by the Director of Marine.

(4) For the purposes of the provisions of this Ordinance with respect to allotment notes:

- (a) "near relative" means one of the following persons, namely, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman;
- (b) "savings bank" means a Government Savings Bank.

(5) In order to give effect to the provisions of this section, the Port Officer before whom a seaman is engaged shall, after the seaman has signed the agreement, inquire of the seaman whether he requires a stipulation for the allotment of his wages by means of an allotment note, and if the seaman requires such a stipulation, shall insert the stipulation in the agreement with the crew, and any such stipulation shall be deemed to have been agreed to by the master.

Section 130. Allotment through savings banks.

(1) An allotment in favour of a savings bank shall be made in favour of the persons and carried into effect in the manner prescribed by regulations of the Minister.

(2) The sum received by a savings bank in pursuance of an allotment shall be paid out only on an application made, through the Port Officer, by the seaman himself, or, in case of his death, by some person to whom his property, if under one thousand ringgit in value, may be paid under this Ordinance.

Section 131. Master to give facilities to seamen for remitting wages.

(1) Where the balance of wages due to a seaman is more than one hundred ringgit, and the seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting all or any part of the balance to a savings bank, or to a near relative in whose favour an allotment note is made, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is in excess of one hundred ringgit, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port, or otherwise than conditionally on the seaman going to sea in the ship.

(2) Any master of a ship who fails to comply with this section shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 132. Right of suing on allotment notes.

(1) The person in whose favour an allotment note under this Ordinance is made may, unless the seaman is shown, in manner in this Ordinance specified, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, recover the sums allotted, when and as the same are made payable, with costs from the owner of the ship with respect to which the engagement was made, or from any agent of the owner who has authorized the allotment, in the same Court and manner in which wages of seamen not exceeding five hundred ringgit may be recovered under this Ordinance; provided that the wife of a seaman, if she deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall forfeit all right to further payments under any allotment made in her favour.

(2) In any proceeding for such recovery it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court, -

(a) by the official statement of the change in the crew caused by his absence, made and signed by the master, as by this Ordinance is required;

(b) by a certificate copy of some entry in the official log-book to the effect that he has left the ship;

(c) by a credible letter from the master of the ship to the same effect; or

(d) by such other evidence as the Court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Section 133. Time for payment of an allotment note.

A payment under an allotment note shall begin at the expiration of one month, or by agreement with the master of the ship at the expiration of a period of less than one month, from the date of the agreement with the crew, and shall be paid at the expiration of every subsequent month after the first month, or by agreement with the master of the ship at intervals more frequent than one month, and shall be paid only in respect of wages earned before the date of payment.

Section 134. Right to wages, etc., when to begin.

A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Section 135. Right to recover wages and salvage not to be forfeited.

(1) A seaman shall not by any agreement forfeit his lien on the ship, or be deprived of any remedy for the recovery of his wages, to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship, or abandon any right that he has or obtains in the nature of salvage; and every stipulation in any agreement inconsistent with any provision of this Ordinance shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to any other ship.

Section 136. Wages not to depend on freight.

- (1) The right to wages shall not depend on the earning of freight.
- (2) Every seaman and apprentice who would be entitled to demand and recover any wages, if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same, notwithstanding that freight has not been earned.
- (3) In all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo, and stores, shall bar his claim to wages.
- (4) Where a seaman or apprentice who would, but for death, be entitled by virtue of this section to demand and recover any wages, dies before the wages are paid, they shall be paid and applied in manner provided by this Ordinance with respect to the wages of a seaman who dies during a voyage.

Section 137. Wages on termination of service by wreck or illness.

- (1) Where by reason of the wreck or loss of a ship on which a seaman is employed his service terminates before the date contemplated in the agreement, he shall be entitled, in respect of each day on which he is in fact unemployed during a period of two months from the date of termination of the service, to receive wages, at the rate to which he was entitled at that date.
- (2) A seaman shall not be entitled to receive wages under this section if the owner shows that the unemployment was not due to the wreck or loss of the ship and shall not be entitled to receive wages under this section in respect of any day if the owner shows that the seaman was able to obtain suitable employment on that day.
- (3) Where the service of a seaman terminates before the date contemplated in his agreement by reason of his being left on shore at any place under a certificate, granted as provided in the Merchant Shipping Acts, of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Section 138. Wages not to accrue during refusal to work or imprisonment.

A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement for his commencement of such work, nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Section 139. Forfeiture of wages, etc., of seaman when illness caused by his own default.

Where a seaman is by reason of illness incapable of performing his duty, and it is proved that the illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is by reason of the illness incapable of performing his duty.

Section 140. Costs of procuring punishment may be deducted from wages.

Whenever in any proceeding relating to seamen's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of an offence by a competent tribunal and rightfully punished for that offence by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman, not exceeding thirty ringgit, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Section 141. Compensation to seaman improperly discharged.

If a seaman, having signed an agreement, is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying that discharge, and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages which he has earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Section 142. Restriction on sale of and charge upon wages.

- (1) As respects wages due or accruing to a seaman or apprentice to the sea service -
 - (a) they shall not be subject to attachment or arrestment from any Court;
 - (b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;
 - (c) a power of attorney or authority for the receipt thereof shall not be irrevocable; and
 - (d) a payment of wages to the seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of those wages, or any attachment, encumbrance, or arrestment thereof.
- (2) Nothing in this section shall affect the provisions of this Ordinance with respect to allotment notes.

Section 143. Summary proceedings for wages.

A seaman or apprentice to the sea service, or a person duly authorized on his behalf, may as soon as any wages due to him, not exceeding one thousand ringgit, become payable, sue for the same in a summary manner before any Sessions Court in or near the place at which his service has terminated, or at which he has been discharged, or at which any person, on whom the claim is made, is or resides, and the order made by the Court in the matter shall be final.

Section 144. Restriction on suits for wages.

A proceeding for the recovery of wages not exceeding one thousand ringgit shall not be instituted by or on behalf of any seaman or apprentice to the sea service in the High Court except -

- (a) where the owner of the ship is adjudged bankrupt;
- (b) where the ship is under arrest or is sold by the authority of that Court;
- (c) where a Sessions Court under the authority of this Ordinance refers the claim to that Court; or
- (d) where neither the owner nor the master of the ship is or resides within the State or Settlement where the seaman or apprentice is discharged or put ashore.

Section 145. Remedies of master for wages, disbursements, etc.

- (1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Ordinance or by any law or custom.
- (2) The master of a ship, and every person lawfully acting as master of a ship by reason of the decease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.
- (3) If in any proceeding in the High Court exercising Admiralty jurisdiction touching the claim of a master

in respect of wages, or of such disbursements or liabilities as aforesaid, any right of set-off or counter-claim is set up, the Court may enter into and adjudicate upon all questions, and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Section 146. Powers of Court in case of unreasonable delay in paying master's wages.

In any action or other legal proceedings by the master of a ship for the recovery of any sum due to him on account of wages, the Court may, if it appears to it that the payment of the sum due has been delayed otherwise than owing to the act or default of the master, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the person liable to make the payment, order that person to pay, in addition to any sum due on account of wages, such sum as it thinks just as damages in respect of the delay, without prejudice to any claim which may be made by the master on that account.

Section 147. Power of Court to rescind contracts between owner or master and seaman or apprentice.

(1) Where a proceeding is instituted in or before any Court in relation to any dispute between an owner or master of a ship and a seaman or apprentice to the sea service, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the Court, if having regard to all the circumstances of the case it thinks fit, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the Court thinks just.

(2) This power shall be in addition to any other jurisdiction which the Court can exercise independently of this section.

Section 148. Property of seaman who dies during voyage.

(1) If any seaman or apprentice to the sea service belonging to a British or Malayan ship dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he thinks fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars:

(a) a statement of the amount of the money and a description of the effects;

(b) in case of a sale, a description of each article sold, and the sum received for each;

(c) a statement of the sum due to the deceased for wages and of the amount of deductions, if any, to be made from the wages.

(4) The entry shall be signed by the master and attested by a mate and some other member of the crew.

(5) The said money, effects, proceeds of sale of effects and balance of wages, are in this Part referred to as the property of the seaman or apprentice.

Section 149. Dealing with and account of property of seaman who dies during voyage.

(1) Where a seaman or apprentice dies as aforesaid the master shall, within forty-eight hours after his arrival at his port of destination in the Federation, deliver and pay the property to the Port Officer at that port.

(2) In all cases where a seaman or apprentice dies during the progress of a voyage or engagement, the master shall give to a Port Officer such account as, and in such form as, he requires of the property of the deceased.

(3) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book made and attested as required by this Ordinance, and also by such other vouchers, if any, as are reasonably required by the Port Officer.

(4) A Port Officer may, if he thinks fit, sell any of the property of a deceased seaman or apprentice delivered to him or of which he takes charge under this Ordinance, and the proceeds of such sale shall be deemed to form part of the said property.

(5) The Port Officer shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect.

Section 150. Penalty for non-compliance with provisions as to property of deceased seaman.

(1) Any master of the ship who fails to comply with the provisions of this Ordinance with respect to -

(a) taking charge of the property of a deceased seaman or apprentice; or

(b) making in the official log-book the proper entries relating thereto; or

(c) procuring the proper attestation of those entries as required by this Ordinance; or

(d) the payment or delivery of the property;

shall, in addition to paying and delivering the same accordingly, be liable for each offence to a fine not exceeding treble the value of the property not accounted for, or, if such value is not ascertained, not exceeding five hundred ringgit.

(2) If any such property is not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such property shall be recoverable from him accordingly, and if he fails to account for and deliver or pay the same, he shall, in addition to his liability for the same, be liable to a fine not exceeding treble the value of the property not accounted for, delivered, or paid over, or, if such value is not ascertained, not exceeding five hundred ringgit.

(3) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Ordinance.

Section 151. Recovery of wages of seamen lost with their ship.

(1) Where a seaman or apprentice is lost with the ship to which he belongs, the Port Officer may recover the wages due to him from the owner of the ship, in the same Court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages of other deceased seamen and apprentices under this Ordinance.

(2) In any proceeding for the recovery of the wages, if it is shown by some official return produced out of the custody of the Port Officer whether in that capacity or as Registrar of Shipping, or by other evidence, that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, she shall, unless it is shown that she has been heard of within twelve months after that departure, be deemed to have been lost with all hands on board, either immediately after the time at which she was last heard of, or at such later time as the Court hearing the case thinks probable.

(3) Any duplicate agreement made out, or statement of a change of the crew delivered, under this Ordinance, at the time of the last departure of the ship from the Federation, or a certificate purporting to be a certificate from a consular or other public officer at any port out of the Federation, stating that certain seamen and apprentices were shipped in the ship from the said port, shall, if produced out of the custody of the Port Officer, whether in that capacity or as Registrar of Shipping, be, in the absence of proof to the contrary, sufficient proof that the seamen and apprentices therein named as belonging to the ship were on board at the time of the loss.

Section 152. Property of seamen dying in the Federation.

If a seaman or apprentice to the sea service dies in the Federation, and is at the time of his death entitled to claim from the master or owner of a ship in which he has served any effects or unpaid wages, the master or owner shall pay and deliver or account for such property to the Port Officer at the port where the seaman or apprentice was discharged or was to have been discharged.

Section 153. Payment over of property of deceased seamen by Port Officer.

(1) Where any property of a deceased seaman or apprentice comes into the hands of a Port Officer, the Port Officer, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sum as he thinks proper to allow, shall, subject to this Ordinance, deal with the residue as follows:

(a) if the property exceeds in value one thousand ringgit, he shall pay and deliver the residue to the legal personal representative of the deceased;

(b) if the property does not exceed in value one thousand ringgit, he may, as he thinks fit either -

(i) pay or deliver the residue to any claimant who is proved to his satisfaction to be the widow or a child of the deceased, or to be entitled to the personalty of the deceased either under his will, if any, or any statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(ii) require representation to be taken out, and pay and deliver the residue to the legal personal representative of the deceased; or

(iii) if it appears to him that any person to whom the residue may be paid or delivered under the provisions of this paragraph is resident in a foreign State, pay or deliver the residue to a consular officer of that State on behalf of such person.

(2) Every person to whom any such residue is so paid or delivered shall apply the same in due course of administration.

Section 154. Dealing with deceased seaman's property when he leaves a will.

(1) Where a deceased seaman or apprentice has left a will, the Port Officer may refuse to pay or deliver the above-mentioned residue, -

(a) if the will was made on board ship, to any person claiming under the will, unless the will is in writing, and is signed or acknowledged by the testator in the presence of, and is attested by, the master or first or only mate of the ship; and

(b) if the will was not made on board ship, to any person claiming under the will, and not being related to the testator by blood or marriage, unless the will is in writing and is signed or acknowledged by the testator in the presence of, and is attested by, two witnesses, one of whom is a Port Officer or Superintendent, or is a minister of religion officiating in the place in which the will is made, or, where there are no such persons, a justice, a British consular officer, or an officer of customs.

(2) Whenever the Port Officer refuses under this section to pay or deliver the residue to a person claiming under a will, the residue shall be dealt with as if no will had been made.

Section 155. Claims by creditors.

(1) A creditor shall not be entitled to claim from the Port Officer the property of a deceased seaman or apprentice, or any part thereof, by virtue of representation obtained as creditor.

- (2) A creditor shall not be entitled by any means whatever to obtain payment of his debt out of the property, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after the death.
- (3) The demand shall be made by the creditor delivering to the Port Officer an account in writing, stating the particulars of his demand and the place of his abode, and signed by him and verified by a statutory declaration.
- (4) If before the demand is made, any claim to the property of the deceased made by any person has been allowed, the Port Officer shall give notice to the creditor of the allowance of the claim.
- (5) If no claim has been allowed, the Port Officer shall investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers and papers relating thereto; and if by means of them the creditor satisfies the Port Officer of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the property then in the hands of the Port Officer will extend for that purpose, and the Port Officer shall thereby be discharged from all further liability in respect of money so paid.
- (6) If the Port Officer is not satisfied as to the claim, or if such books, accounts, vouchers or papers as aforesaid are not produced, and sufficient reason is not given for their non-production, the demand shall be disallowed.
- (7) In any case whatever the Port Officer may delay the investigation of any demand made by creditor for the payment of his debt for one year from the time of the first delivery of the demand.
- (8) If in the course of such time a claim to the property of the deceased is made by any person as widow, next-of-kin or legatee, and allowed by the Port Officer under this Ordinance, the Port Officer may pay and deliver the same to that person.
- (9) Where the property has been paid and delivered by the Port Officer to any person as widow, next-of-kin or legatee of the deceased, whether before or after the demand made by the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

Section 156. Dealing with unclaimed property of deceased seaman.

- (1) Where no claim to the property of a deceased seaman or apprentice received by the Port Officer is substantiated within one month after the receipt thereof, the Port Officer shall pay the same, or the proceeds thereof, into the Treasury.
- (2) If any subsequent claim is made to such property, or the proceeds thereof, and is established to the satisfaction of the Port Officer, the amount, or so much as appears to be due to the claimant, shall be paid out of the Treasury.
- (3) If any claim is not established to the satisfaction of the Port Officer, the claimant may apply by summons to the High Court, and that Court, after taking evidence either orally or on affidavit, shall make such order on the summons as seems just.
- (4) After the expiration of six years from the receipt of such property or proceeds by the Port Officer no such claim shall be entertained without the sanction of the Minister.

Section 157. Forgery of documents, etc., for purpose of obtaining property of deceased seaman.

Any person, who, for the purpose of obtaining, either for himself or for any other person, any property of any deceased seaman or apprentice to the sea service -

- (a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered any document purporting to show or assist in showing any right to such property;

or

(b) makes use of any document which has been so forged or fraudulently altered as aforesaid; or

(c) gives or assists in giving, or procures to be given, any false evidence, knowing the same to be false; or

(d) makes or assists in making, or procures to be made, any false representation knowing the same to be false; or

(e) assists in procuring any false evidence or representation to be given or made, knowing the same to be false;

shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding two years.

Section 158. Provisions for return of distressed seamen.

(1) When either -

(a) any seamen or apprentices, whether subjects of Her Majesty or not, are found in any place in the Federation, and have been ship-wrecked from any British ship or any of Her Majesty's ships, or by reason of having been discharged or left behind from any such ship in any place in the Federation are in distress in that place; or

(b) any seaman or apprentices being subjects of Her Majesty, who have been engaged by any person acting either as principal or agent to serve in a ship belonging to the Government or to a subject or citizen of a foreign country, are in distress in any place in the Federation,

the Director of Marine or any person acting under his authority may, in accordance with and on the conditions prescribed by the distressed seamen regulations made under the Merchant Shipping Act, 1906, provide in accordance with that Act for the return of those seamen or apprentices, who are in this Ordinance included in the term "distressed seamen", to a proper return port within the meaning of Part IV of the Merchant Shipping Act, 1906, and also provide for their necessary clothing and their maintenance until their departure for such a port, and, in addition, in the case of ship-wrecked seamen or apprentices, for the repayment of any expenses incurred in their conveyance to port after their ship-wreck, and their maintenance while being so conveyed.

(2) The master of every British or Malayan ship shall receive on board his ship, and afford a passage and maintenance to all distressed seamen and apprentices whom he is required by the Director of Marine or any person acting under his authority to take on board his ship, not exceeding one for every fifty tons, and shall during the passage provide every such distressed seaman and apprentice with a proper berth or sleeping place, effectually protected against sea and weather.

(3) Any master of a British or Malayan ship who fails without reasonable cause to comply with subsection (2) in the case of any distressed seaman or apprentice for each offence be liable to a fine not exceeding one thousand ringgit.

Section 159. Recovery of expenses of relief of distressed seamen.

(1) When any expenses, other than excepted expenses as defined by this section, are incurred by or on behalf of the Government, or are incurred by the Government of a foreign country and repaid to that Government by or on behalf of the Government, on account of a distressed seaman or apprentice either for his maintenance, necessary clothing, conveyance to a proper return port, within the meaning of Part IV of the Merchant Shipping Act, 1906, or in case of death for his burial, or otherwise in accordance with that Act, such expenses, together with the wages, if any, due to the seaman or apprentice, shall be a charge upon the ship, whether British, Malayan or foreign, to which the distressed seaman or apprentice belonged, and shall be a debt due to the Government from the master of the ship, or from the owner of the ship for the time being, or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss, or where

the ship has been transferred to some person not being a British subject or a citizen, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, and also, if the ship is a foreign ship, from the person, whether principal or agent, who engaged the seaman or apprentice for service in the ship.

(2) The debt, in addition to any fines which have been incurred, may be recovered by any of the ways and means for the time being in force for the recovery of debts due to the Government, or in the Court and manner in which wages of seamen may be recovered under this Ordinance.

(3) In any proceeding for such recovery the production of the account, if any, of the expenses, furnished in accordance with the Merchant Shipping Acts or the distressed seamen regulations made under the Merchant Shipping Act, 1906, and proof of payment of the expenses by or on behalf of the Accountant-General, shall be *prima facie* evidence that the expenses were incurred or repaid under the Acts by or on behalf of the Government.

(4) For the purposes of this section, "excepted expenses" are expenses incurred in cases where the certificate of the proper authority within the meaning of Part IV of the Merchant Shipping Act, 1906, obtained on leaving a seaman or apprentice behind states, or the Attorney-General is otherwise satisfied, that the cause of the seaman or apprentice being left behind is desertion, or disappearance, or imprisonment for misconduct, or discharge from his ship by a naval court on the ground of misconduct, and expenses incurred on account of the return to a proper return port of a distressed seaman or apprentice who has been discharged at the port at which he was shipped, or at some neighbouring port.

Section 160. Complaints as to provisions or water.

(1) If three or more of the crew of a British or Malayan ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity, they may complain thereof to any Port Officer or Port Health Officer, and the officer may either examine the provisions or water complained of, or cause them to be examined.

(2) If the officer or person making the examination, finds that the provisions or water are of bad quality and unfit for use, or deficient in quantity, he shall signify it in writing to the master of the ship.

(3) If the master of the ship does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine not exceeding three hundred ringgit.

(4) The officer directing, or the person making, the examination shall enter a statement of the result of the examination in the official log-book, and send a report thereof to the Port Officer, and that report shall be admissible in evidence in any legal proceedings.

(5) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Section 161. Allowance for short or bad provisions.

(1) In either of the following cases -

(i) if during a voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore; or

(ii) if it is shown that any of those provisions are or have during the voyage been bad in quality and unfit for use;

the seaman shall receive, by way of compensation for that reduction, or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to, and to be recoverable as, wages:

(a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement, a sum not exceeding twenty sen a day in the case of a European seaman or other person shipped on the footing of a European seaman, or ten sen a day in the case of an Asian seaman.

(b) if his allowance is reduced by more than one third of that quantity, forty sen a day in the case of the European seaman or other person shipped on the footing of a European seaman, or twenty sen a day in the case of an Asian seaman;

(c) in respect of bad quality as aforesaid, a sum not exceeding fifty sen a day in the case of a European seaman or other person shipped on the footing of a European seaman, or twenty sen a day in the case of an Asian seaman.

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires.

Section 162. Medicines to be provided and kept on board certain ships.

(1) All British or Malayan ships of a tonnage exceeding twenty-five tons, whether registered within or without the Federation, whose voyage commences from any port in the Federation, shall have on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the Minister and published in such manner as the Minister notifies.

(2) In default thereof, the owner or master of every such ship shall be liable to a penalty not exceeding one hundred ringgit.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in the Federation and coming within section 200 of the Merchant Shipping Act, 1894.

Section 163. Weights and measures on board.

(1) The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out the provisions and articles in the presence of a witness whenever any dispute arises about the quantities.

(2) Any 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 one hundred ringgit.

Section 164. Inspection of medicines and medical appliances.

(1) The Port Health Officer may inspect the medicines and appliances with which a ship is required by this Part or under the Merchant Shipping Acts to be provided.

(2) If the Port Health Officer is of opinion that the articles inspected are deficient in quantity or quality, or are placed in improper vessels, he shall give notice in writing to the Port Officer of the Port where the ship is lying, and also to the master, owner or consignee thereof.

(3) The master of the ship before proceeding to sea shall produce to the Port Officer a certificate under

the hand of the Port Health Officer that the default found by the Port Health Officer has been remedied.

(4) If such certificate is not so produced, the ship shall be detained until the certificate is produced, and if the ship proceeds to sea, the owner, master or consignee of the ship shall be liable for each offence to a fine not exceeding two hundred ringgit.

Section 165. Medical inspection of seamen.

(1) The Port Health Officer shall, on application by the owner or master of any ship whether registered within or without the Federation, examine any seaman applying for employment in that ship, and give to the Port Officer a report under his hand stating whether the seaman is in a fit state for duty at sea, and a copy of the report shall be given to the master or owner.

(2) The applicant for such medical examination shall pay to the Port Officer such fees as the Minister directs.

(3) The fees payable under this section shall be paid into the Treasury.

Section 166. Expenses of medical attendance in case of injury or illness.

(1) If the master of, or a seaman or apprentice belonging to, a ship receives any hurt or injury in the service of the ship, or suffers from any illness, not being an illness due to his own wilful act or default, or to his own misbehaviour, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is returned to a proper return port within the meaning of Part IV of the Merchant Shipping Act, 1906, and of his conveyance to that port, and in case of death the expense, if any, of his burial, shall be defrayed by the owner of the ship, without any deduction on that account from his wages.

(2) If the master or a seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of the removal and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in like manner.

(3) The expense of all medicines, surgical and medical advice, and attendance, given to a master, seaman or apprentice whilst on board his ship shall be defrayed in like manner.

(4) In all other cases any reasonable expenses duly incurred by the owner for any seaman or apprentice in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall if duly proved, be deducted from the wages of the seaman or apprentice.

Section 167. Recovery of expenses from owner.

(1) If any of the expenses attendant on the illness, hurt or injury of a seaman or apprentice, which are to be paid under this Ordinance or under the Merchant Shipping Acts by the master or owner, are paid by any British consular officer or other person on behalf of the Government, or if any other expenses in respect of the illness, hurt or injury of any seaman or apprentice, whose wages are not accounted for under this Ordinance or under the Merchant Shipping Acts to that officer or other person, are so paid, those expenses shall be repaid to the officer or other person by the master or owner of the ship.

(2) If the expenses are not so repaid, the amount thereof shall with costs be a charge upon the ship, and be recoverable from the master or from the owner of the ship for the time being, or where the ship has been lost from the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject or a citizen, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, as a debt to the Government, either by any of the ways and means for the time being in force for the recovery of debts due to the Government or in the same Court and manner in which wages of seamen may be recovered under this Ordinance.

(3) In any proceeding for such recovery, a certificate of the facts, signed by the said officer or other person, together with such vouchers, if any, as the case requires, shall be sufficient proof that the said expenses were duly paid by that officer or other person.

Section 168. Accommodation.

(1) Every place in a British or Malayan ship, being a near-coastal trade ship registered within the Federation, occupied by or appropriated to the use of an Asian seaman or apprentice shall be not less in space than seventy-two cubic feet nor than twelve square feet measured on the deck or floor of that place:

[\[Am. Act 792:s.13\]](#)

Provided that in the case of ships built before the first day of January, 1940, "thirty-six cubic feet" shall be substituted for "seventy-two cubic feet" and "six square feet" shall be substituted for "twelve square feet".

(2) Every place in a British or Malayan ship, not being a near-coastal trade ship registered within the Federation, occupied by or appropriated to the use of a seaman or apprentice in any of the following cases: -

[\[Am. Act 792:s.13\]](#)

- (a) in the case of the seaman or apprentice being either a European or an Asian and of the ship -
 - (i) having been registered before the twenty-first day of December, 1906;
 - (ii) having been in course of construction on the first day of January, 1907; or
 - (iii) being not more than three hundred tons;
- (b) in the case of the seaman or apprentice being a lascar; or
- (c) in the case of the seaman or apprentice being an Asian and of the ship being registered in the Federation and employed only in trading or going within the tropics between the fortieth degree of East longitude and the one hundred and sixtieth degree of East longitude;

shall not be less in space than seventy-two cubic feet nor than twelve square feet measured on the deck or floor of that place.

(3) Every place in a British or Malayan ship occupied by or appropriated to the use of a seaman or apprentice in any case not specified in subsections (1) and (2) shall be not less in space than one hundred and twenty cubic feet nor than fifteen superficial feet measured on the deck or floor of that place.

(4) To give effect to the foregoing provisions of this section the provisions of sections 79 and 210 of the Merchant Shipping Act, 1894, and of section 64 of the Merchant Shipping Act, 1906, so far as they require a larger amount of space to be appropriated to the use of an Asian seaman, are, in so far as they apply to any ship registered in the Federation, by virtue of section 735 of the Merchant Shipping Act, 1894, hereby repealed.

(5) In estimating the space available for the proper accommodation of seamen and apprentices under subsection (3), there may be taken into account the space occupied by any mess rooms, bath rooms or washing place appropriated exclusively to the use of those seamen and apprentices, so however that the space in any place appropriated to the use of those seamen or apprentices in which they sleep is not less than seventy-two cubic feet and twelve square feet for each seaman or apprentice.

(6) In every case the place shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvia which may be caused by cargo or bilge water.

(7) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine not exceeding two hundred ringgit.

(8) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(9) If any such place is not so kept free, the master shall forfeit and pay to each seaman or apprentice lodged in that place the sum of fifty sen for each day during which after complaint has been made to him by any two or more of the seamen so lodged it is not so kept free.

(10) The Minister may by regulations not inconsistent with the provisions of this section make further provision with regard to any of the matters therein mentioned.

Section 169. Power of inspection of ship and crew.

(1) A **PORT OFFICER**, Port Health Officer and Surveyor of Ships, may enter on board any ship and inspect the provisions and water provided for the use of the crew or passengers, and the accommodation for seamen or passengers, for the purpose of ascertaining whether the same are in accordance with the requirements of this Ordinance or the Merchant Shipping Acts.

(2) A Port Health Officer may -

(a) enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship;

(b) require and enforce the production of log-books and any other books, papers or documents which he thinks necessary for the purpose of inquiring into the health and medical condition of the persons on board the ship;

(c) call before him and question for any such purpose all or any of those persons and require true answers to any questions which he thinks fit to ask;

(d) require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

(3) If, on inspection, the provisions or water on board any ship are found to be of bad quality and unfit for use or deficient in quantity, the Port Health Officer shall proceed as provided in section 160, and the **FINE** described by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water, and the ship shall be **DETAINED** until the defects are remedied to the satisfaction of the Port Health Officer.

Section 170. Facilities for making complaint.

(1) If a seaman or apprentice whilst on board ship states to the master of the ship his desire to make a complaint to a Port Officer or to a Magistrate's Court against the master or any of the crew, the master shall, as soon as the service of the ship will permit -

(a) if the ship is then at a place where there is a Port Officer or Magistrate's Court as aforesaid, after such statement; and

(b) if the ship is not then at such a place, after her first arrival at such a place;

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make his complaint.

(2) Any 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 one hundred ringgit.

Section 171. Assignment or sale of salvage invalid.

Subject to the provisions of this Ordinance, an assignment or sale of salvage payable to a seaman or apprentice to the sea service made prior to the accruing thereof shall not bind the person making the same; and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable.

Section 172. No debt exceeding two ringgit recoverable till end of voyage.

A debt exceeding in amount two ringgit incurred by any seaman after he is engaged to serve shall not be recoverable until the service agreed for is concluded.

Section 173. Penalty for overcharges by lodging-house keepers.

Any person who demands or receives from a seaman or apprentice to the sea service payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 174. Penalty for detaining seamen's effects.

(1) Any person who receives or takes into his possession or under his control any money or effects of a seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by the seaman or apprentice, subject to such deduction as is justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, shall be liable for each offence to a fine not exceeding one hundred ringgit.

(2) A Magistrate's Court may, besides inflicting a fine, by summary order direct the amount of the money, or the value of the effects, subject to such deduction as aforesaid, if any, or the effects themselves, to be forthwith paid or delivered to the seaman or apprentice.

Section 175. Penalty for solicitations by lodging-house keepers.

If within twenty-four hours after the arrival of a ship at a port in the Federation a person then being on board the ship solicits a seaman to become a lodger at the house of a person letting lodgings for hire, or takes out of the ship any effects of a seaman, except under the personal direction of the seaman, and with the permission of the master, he shall be liable for each offence to a fine not exceeding fifty ringgit.

Section 176. Penalty for being on board ship without permission before the seamen leave.

(1) Where a ship is about to arrive, is arriving or has arrived at any port, and any person, not being in the service of the Government or not being duly authorized by law for the purpose -

(a) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged, whichever last happens; or

(b) being on board the ship, remains there after being warned to leave by the master, or by a police officer, or by the Port Officer;

that person shall be liable for each offence to a fine not exceeding two hundred ringgit, or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both.

(2) The master may take such person into custody and deliver him up forthwith to a police officer to be taken before a Magistrate's Court to be dealt with according to law.

Section 177. Misconduct endangering life or ship.

Any master, seaman or apprentice belonging to a British or Malayan ship, who by wilful breach of duty or by neglect of duty or by reason of drunkenness -

- (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 a person belonging to or 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 immediate loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from immediate 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 not exceeding two years.

Section 178. Desertion and absence without leave.

Any seaman lawfully engaged, or any apprentice to the sea service, who commits any of the following offences, shall be liable to be punished summarily as follows:

- (a) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board, and of the wages which he has then earned, and also, if the desertion takes place out of the Federation, of the wages he may earn in any other ship in which he may be employed until his next return to the Federation, and to satisfy any excess of wages paid by the master or owner of the ship to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him; and also he shall be liable to imprisonment for a term not exceeding twelve weeks;
- (b) if he neglects or refuses without reasonable cause to join his ship, or to proceed to sea in his ship, or is absent without leave at any time within twenty-four hours of the ship's sailing from a port, either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason, from his ship or from his duty, he shall, if the offence does not amount to desertion, or is not treated as such by the master, be guilty of the offence of absence without leave, and be liable to forfeit out of his wages a sum not exceeding two days' pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute; and also he shall be liable to imprisonment for a term not exceeding ten weeks.

Section 179. Provisions as to failure to join ship and desertion.

(1) Where a seaman who has been lawfully engaged and has received under his agreement an advance note, after negotiating his advance note, wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he shall be liable to a fine not exceeding fifty ringgit or, at the discretion of the Court, to imprisonment for a term not exceeding twenty-one days.

(2) Nothing in this section shall take away or limit any remedy by action or otherwise which any person would otherwise have in respect of the negotiation of the advance note, or which an owner or master would otherwise have for breach of contract.

(3) Where it is shown to the satisfaction of a Port Officer that a seaman lawfully engaged has wilfully or through misconduct failed to join his ship, the Port Officer may direct that any of the seaman's certificates of discharge shall be withheld for such period as he thinks fit.

(4) While a seaman's certificates of discharge is so withheld, the Port Officer and any other person having the custody of the necessary documents may, notwithstanding anything in this Ordinance, refuse to furnish copies of any of his certificates of discharge or certified extracts of any particulars of service or character.

Section 180. Conveyance of deserter on board ship.

(1) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave, or otherwise absents himself from his ship without leave, the master, any mate, the owner or agent of the ship, may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires he shall first be taken before a Magistrate's Court to be dealt with according to law.

(3) If it appears to the Magistrate's Court that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner or agent, as the case may be, a fine not exceeding two hundred ringgit.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

Section 181. Power of Court to order offender to be taken on board ship.

Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion, or of absence without leave, or of otherwise absenting himself without leave, the Court, if the master or the owner or his agent so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards earn.

Section 182. Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion, or of absence without leave, or for having committed any other breach of discipline, and, during his imprisonment and before his engagement is at an end, his services are required on board his ship, a Magistrate's Court may, on the application of the master or of the owner or his agent, notwithstanding that the period of imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed.

Section 183. General offences against discipline.

Any seaman lawfully engaged, or any apprentice to the sea service, who commits any of the following offences (in this Ordinance referred to as "offences against discipline"), shall be liable to be punished summarily as follows:

- (a) if he quits the ship without leave after her arrival at her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (b) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a term not exceeding four weeks, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay;

- (c) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term not exceeding twelve weeks, and also, at the discretion of the Court, to forfeit for every twenty-four hours' continuance of disobedience or neglect either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute;
- (d) if he assaults the master or any other certificated officer of the ship, he shall be liable to imprisonment for a term not exceeding twelve weeks;
- (e) if he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for term not exceeding twelve weeks;
- (f) if he wilfully damages his ship, or misappropriates or commits criminal breach of trust in respect of, or wilfully damages, any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for a term not exceeding twelve weeks;
- (g) if he is convicted of an offence whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

Section 184. Summary remedies not to affect other remedies.

- (1) Nothing in the last preceding section or in the sections relating to the offences of desertion or absence without leave shall take away or limit any remedy by action or otherwise which an owner or master would but for those provisions have for any breach of contract in respect of the matters constituting an offence under those sections.
- (2) An owner or master shall not be compensated more than once in respect of the same damage.

Section 185. Penalty for false statement as to last ship or name.

- (1) Any seaman who on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, shall be liable for each offence to a fine not exceeding fifty ringgit.
- (2) The fine may be deducted from any wages which the seaman earns by virtue of his engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Ordinance.

Section 186. Entry of offences in official log.

If any offence, within the meaning of this Ordinance, of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine, -

- (a) an entry of the offence or act shall be made in the official log-book, and signed by the master and also by the mate or one of the crew;
- (b) the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit;
- (c) a statement of a copy of the entry having been so furnished, or of the entry having been so read

over, and, in either case, the reply, if any, made by the offender, shall likewise be entered and signed in manner aforesaid; and

(d) in any subsequent legal proceeding the entries by this section required shall, if practicable, be produced or proved, and in default of that production or proof the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

Section 187. Facilities for proving desertion in proceedings for forfeiture of wages.

(1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in the Federation and the ship has not returned, that he is absent from her, and that an entry of his desertion has been duly made in the official log-book.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Section 188. Application of forfeitures.

(1) Where any wages or effects are under this Ordinance forfeited for desertion from a ship, those effects may be converted into money, and those wages and effects, or the money arising from the conversion of the effects, shall be applied towards reimbursing the expenses caused by the desertion to the master or owner of the ship, and subject to that reimbursement shall be paid into the Treasury and carried to the account of General Revenue.

(2) For the purpose of such reimbursement, the master or the owner, or his agent, may, if the wages are earned subsequently to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited, and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Ordinance in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Section 189. Decision of questions of forfeiture and deductions in suits for wages.

Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Ordinance made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Section 190. Ascertainment of the amount of forfeiture out of wages.

(1) If a seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Ordinance shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of such forfeiture, as the case may be, bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Section 191. Deduction from wages and payment to Port Officer of fines.

(1) Every fine imposed on a seaman or apprentice for any act of misconduct for which his agreement imposes a fine shall, if the offender is discharged in the Federation and the offence and entry in the log-book required by this Ordinance or by the Merchant Shipping Acts in respect thereof are proved to the satisfaction of the Port Officer before whom the offender is discharged, be deducted by the master or owner of the ship from the wages of the offender and shall be paid to the Port Officer.

(2) Any master or owner who fails without reasonable cause so to pay the fine shall be liable for each offence to a fine not exceeding six times the amount of the fine not so paid.

(3) An act of misconduct for which any fine has been inflicted and paid by, or deducted from the wages of, the seaman or apprentice, shall not be otherwise punished under this Ordinance.

Section 192. Penalty for enticing to desert and harbouring deserters.

(1) Any person who by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall, for each offence in respect of each seaman or apprentice, be liable to a fine not exceeding one hundred ringgit.

(2) Any person who wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join, or has deserted from, his ship, knowing or having reason to believe the seaman or apprentice to have so done, shall, for every seaman or apprentice so harboured or secreted, be liable to a fine not exceeding two hundred ringgit.

Section 193. Penalty on stowaways.

(1) Any person who secretes himself intending to go to sea in a ship without the consent of either the owner, consignee or master or of a mate, or of the person in charge of the ship, or of any other person entitled to give that consent, shall be liable to a fine not exceeding five hundred ringgit, or to imprisonment for a term not exceeding six months or to both.

(2) Every seafaring person whom the master of a ship is, under the authority of this or any other Ordinance or of the Merchant Shipping Acts, compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be deemed to belong to the ship, and be subject to the same laws and regulations for preserving discipline, and to the same fines and punishments for offences constituting or tending to a breach of discipline, as if he were a member of, and had signed the agreement with, the crew.

(3) This section applies to all British or Malayan ships within the Federation.

Section 194. Documents to be handed over to successor on change of master.

(1) If during the progress of a voyage the master is removed, or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of his ship and to the crew thereof which are in his custody.

(2) If he fails without reasonable cause to do so, he shall be liable to a fine not exceeding one thousand ringgit, and his successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Section 195. Desertion from foreign ship.

(1) Where an Order in Council is in force under section 238 of the Merchant Shipping Act, 1894, with regard to the ships of a foreign country, and a seaman or apprentice deserts when within the Federation from a merchant ship belonging to a subject of that country, any Magistrate's Court shall, on the application of a consular officer of the foreign country, aid in apprehending the deserter, and for that purpose may, on information given on oath, issue a warrant for his apprehension, and, on proof of the desertion, order him to be

conveyed on board his ship or delivered to the master or mate of his ship, or to the owner of the ship or his agent, to be so conveyed, and any such warrant or order may be executed accordingly.

(2) Any person who harbours or secretes any deserter liable to be apprehended under this section, knowing or having reason to believe that he has deserted, shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 196. Attesting witness need not be called.

(1) In any proceeding under the last preceding section it shall not be necessary, for the purpose of proving the list, roll, articles or agreement, under or by which any seaman has shipped, joined or engaged to serve on board any such vessel, to call any subscribing or attesting witness thereto, but such list, roll, articles or agreement, as aforesaid, may be proved as if there were no such subscribing or attesting witness.

Copies to be evidence

(2) A copy of any such list, roll, articles or agreement, as aforesaid, certified, under the hand of the consular officer of the foreign country to which such vessel belongs, to be a true copy, shall be received as *prima facie* evidence of the existence and contents thereof.

Certificate of consular officer

(3) The certificate of the consular officer of the foreign country in which such list, roll, articles or agreement has been made as to the true spirit, effect and meaning thereof, according to the law of such foreign country shall, subject to all just exceptions, be received as *prima facie* evidence of the effect of such list, roll, articles or agreement in all matters not inconsistent with the language thereof respectively.

Section 197. Expenses with regard to foreign seamen.

All expenses incidental to the apprehension, detention, support and removal of any seaman under section 195, shall be paid or secured beforehand by the consular officer who has applied to the Court to exercise its powers under the said section; and, if not so paid on demand or secured, proceedings may be stopped.

Section 198. Official logs to be kept and to be evidence.

(1) Subject to the provisions of sections 69 and 70, an official log shall be kept in every ship, in the appropriate form for that ship approved by the Director of Marine. In the case of a near-coastal trade ship commanded by a Malay master this may be kept in the Malay language. [\[Am. Act 792:s.14\]](#)

(2) The Director of Marine shall approve forms of official log-books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Ordinance.

(3) The official log may, at the discretion of the master or owner, be kept distinct from, or united with, the ordinary ship's log, so that in all cases the spaces in the official log-book shall be duly filled up.

(4) An entry required by this Ordinance in an official log-book shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as that occurrence shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge shall not be made more than twenty-four hours after that arrival.

(5) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew; and also -

(a) if it is an entry of illness, injury or death, shall be signed by the surgeon or medical practitioner on board, if any;

(b) if it is an entry of wages due to, or of the sale of the effects of, a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master;

(c) if it is an entry of wages due to a seaman serving in the Royal Malayan Navy, shall be signed by the seaman, or by the officer authorized to receive the seaman into that service.

(6) Every entry made in an official log-book in manner provided by this Ordinance shall be admissible in evidence.

Section 199. Entries required in official log-book.

(1) The master of a ship for which an official log is required by this Ordinance shall enter or cause to be entered in the official log-book the following matters:

(a) every conviction by a legal tribunal of a member of his crew and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the copy or reading over of that entry, and concerning the reply, if any, made to the charge, as is by this Ordinance required;

(c) every offence for which punishment is inflicted on board and the punishment inflicted;

(d) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;

(e) every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted, if any;

(f) every case of death happening on board and the cause thereof;

(g) every birth happening on board, with the sex of the infant and the names of the parents;

(h) every marriage taking place on board, with the names and ages of the parties;

(i) the name of every seaman or apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and cause thereof;

(j) the wages due to any seaman serving in the Royal Malayan Navy during the voyage;

(k) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(l) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and the sum received for it;

(m) every collision with any other ship, and the circumstances under which the same occurred;

(n) any casualty or accident of which a report is required to be made under this Ordinance;

(o) any other matter directed by this Ordinance to be entered.

(2) Entries of births and deaths shall give the particulars specified in the Second Schedule.

Section 200. Offences in respect of official logs.

(1) If an official log-book is not kept in the manner required by this Ordinance, or if an entry directed by this Ordinance to be made therein is not made at the time and in the manner directed by this Ordinance, the master shall be liable for each offence to the specific fine in this Ordinance mentioned in respect thereof, or where there is no such specific fine, to a fine not exceeding fifty ringgit.

(2) Any person who makes, or procures to be made, or assists in making, any entry in an official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after that arrival, shall be liable for each offence to a fine not exceeding three hundred ringgit.

(3) Any person who wilfully destroys or mutilates or renders illegible any entry in an official log-book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, shall be liable for each offence to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding two years.

Section 201. Delivery of official logs to Port Officer.

(1) The master of every ship for which an official log is required by this Ordinance shall, within forty-eight hours after the ship's arrival at her final port of destination in the Federation or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the Port Officer before whom the crew is discharged.

(2) Any master of a ship who fails without reasonable cause to comply with the provisions of this section shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 202. Official logs to be sent to Port Officer in case of transfer of ship or of loss.

(1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship, the master or owner of the ship shall, if the ship is then in the Federation, within one month, and, if she is elsewhere, within six months, after such cessation, deliver or transmit to the Port Officer at the port to which the ship belonged the official log-book, if any, duly made out to the time of such cessation.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Port Officer at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) Any master or owner of a ship who fails without reasonable cause to comply with the provisions of this section shall be liable for each offence to a fine not exceeding one hundred ringgit.

Section 203. Business of Port Officers.

(1) Port Officers in the discharge of their duties under this Part shall -

(a) afford facilities for engaging seamen by keeping registers of their names and characters;

(b) superintend and facilitate the engagement and discharge of seamen in the manner in this Ordinance provided;

(c) facilitate the making of apprenticeships to the sea service;

(d) perform such other duties relating to seamen, apprentices and merchant ships as are by or in pursuance of this Ordinance, or any Ordinance relating to merchant shipping, committed to them.

(2) The Minister may appoint any Port Officer to perform the duties of a Superintendent, Officer of Customs and Chief Officer of Customs under the Merchant Shipping Acts.

Section 204. Fees to be paid upon engagements, etc.

- (1) The fees specified in Table 1 in the Third Schedule shall be payable upon all engagements and discharges effected before Port Officers.
- (2) Scales of the fees payable for the time being shall be conspicuously placed in the Port Offices, and all Port Officers, their deputies, clerks and servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.
- (3) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements, the crew shall be considered to be engaged when the agreement is first signed and to be discharged when the agreement is first signed and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Section 205. Fees by whom to be paid.

- (1) Every owner, master or agent of a ship, engaging or discharging any seamen in a Port Office or before a Port Officer, shall pay to the Port Officer the whole of the fees hereby made payable in respect of such engagement or discharge and may, for the purpose of in part reimbursing himself, deduct, in respect of each such engagement or discharge from the wages of all persons, except apprentices, so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table 2 in the Third Schedule.
- (2) If in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the Port Officer in addition to such fee.

Section 206. Fees for business transacted outside prescribed hours.

- (1) The Minister may prescribe hours for the transaction of business by owners, masters or agents of ships at a Port Office at any port or ports in the Federation.
- (2) There shall be paid for the transaction of any such business outside the prescribed hours such fees as the Minister may specify in respect of the services of Port Officers and other persons whose services may be required for the purposes aforesaid, and such fees shall be in addition to any other fees which may be prescribed under this Ordinance.

Section 207. Penalty on Port Officer taking other remuneration.

Any Port Officer, Deputy Port Officer, Port Health Officer, Deputy Port Health Officer, or any clerk or servant in any Port Office who demands or receives, save as provided by this Ordinance, any remuneration whatever, either directly or indirectly, for hiring or supplying any seamen for a ship or transacting any business which it is his duty to transact, shall be liable for every such offence to a fine not exceeding two hundred ringgit, and also to dismissal from his office.

PART IV - PASSENGER SHIPS **Survey of Passenger Steamers**

Section 208. Every passenger steamer to have certificate of survey.

- (1) Every passenger steamer 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.

(2) A passenger steamer 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.

(3) No steamer 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 steamer is a passenger steamer 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 steamer is about to proceed, such certificate shall be of the same force as if it were a passenger steamer's certificate issued under this Part.

(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 steamer 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 steamer 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.

Section 209. Surveys and declarations of survey.

(1) Subject to the provisions of the last preceding section, the owner, agent or master of every passenger steamer shall cause the same to be surveyed by a Surveyor of Ships appointed under this Ordinance.

(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.

Section 210. Surveyors may direct repairs.

If the Surveyor of Ships finds that any steamer 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.

Section 211. Transmission of declaration.

(1) The owner, agent, or master of a passenger steamer surveyed shall, within fourteen days after the receipt by him of a declaration of survey, transmit it to the Surveyor-General of Ships.

(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.

[\[Am. Act A792:s.54\]](#)

Section 212. Issue of passenger steamer'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 steamer's certificate, that is to say, a certificate stating such compliance and stating, according to the declaration -

(a) the voyages or class of voyages upon which the steamer is fit to ply, or the limits beyond which the steamer is not fit to ply; and

(b) the number of passengers which the steamer is fit to carry, distinguishing, if necessary, the number to be carried in each part of the steamer, and any conditions and variations to which the number is subject.

Section 213. If correctness of survey doubted Minister may order second survey.

(1) If any steamer 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 steamer 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 steamer.

Proceedings thereon

(2) The surveyors so appointed shall forthwith survey the said steamer, 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 steamer 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 steamer 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.

Section 214. Transmission of certificate.

(1) The Minister shall transmit the passenger steamer's certificate in duplicate to the Port Officer at the port mentioned by the owner, agent or master of the steamer for the purpose, or at the port where the owner, agent or master or his agent resides, or where the steamer has been surveyed, or is for the time lying.

(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 steamer'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.

Section 215. Fees for certificate.

The grantee of a passenger steamer's certificate shall pay the fees specified in the Fourth Schedule.

Section 216. Duration of certificate.

(1) A passenger steamer'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 steamer, that the Minister has cancelled it.

(2) If a passenger steamer 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.

Section 217. Cancellation of certificate.

(1) The Minister may cancel a passenger steamer's certificate where he has reason to believe that -

(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 steamer 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 steamer is liable to cancellation under this section, he may detain the steamer pending the decision of the Minister.

Section 218. Delivery of certificate.

(1) The Minister may require a passenger steamer's certificate, which has expired or been cancelled, to be delivered up as he directs.

(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.

[\[Am. Act A792:s.54\]](#)

Section 219. Posting of certificate.

(1) The owner or master of every steamer required to have a passenger steamer'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 steamer, 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 steamer is in use.

(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 steamer 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.

[\[Am. Act A792:s.54\]](#)

Section 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 steamer's certificate; or

(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.

[\[Am. Act A792:s.54\]](#)

Section 221. Penalty for alteration in steamer 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 steamer, 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.

[\[Am. Act A792:s.54\]](#)

Section 222. Special survey may be ordered on any passenger steamer

(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 steamer 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.

(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.

Section 223. Equipment of passenger steamers with compasses, hose, deck shelters and safety appliances.

(1) A sea-going passenger steamer 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.

(2) A near-coastal trade passenger steamer 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.

[\[Am. Act A792:s.16\]](#)

(3) A passenger steamer 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.

(4) If a passenger steamer 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.

[\[Am. Act A792:s.54\]](#)

Section 224. Prohibition of increasing weight on safety-valve.

A person shall not increase the weight on the safety-valve of a passenger steamer 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.

[\[Am. Act A792:s.54\]](#)

Section 225. Offences in connection with passenger steamers.

(1) If any of the following offences is committed in the case of a passenger steamer for which there is a passenger steamer's certificate in force -

(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 steamer;

(b) if any person, being reasonably supposed to be under the influence of alcohol or behaving in a disorderly manner on board the steamer, is requested by the owner or any person in his employ to leave the steamer 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 steamer, 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 steamer by the owner or any person in his employ on account of the steamer 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 steamer;

(e) if any person having gone on board the steamer at any place, and being requested, on account of the steamer being full, by the owner or any person in his employ to leave the steamer, 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 steamer 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 steamer 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 steamer at a point to which he has paid his fare, knowingly and wilfully refuses or neglects to quit the steamer;

(i) if any person on board the steamer 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 steamer;

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 steamer 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 steamer, or to obstruct, impede or molest the crew or any of them, in the navigation or management of the steamer, or otherwise in the execution of their duty on or about the steamer, 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 steamer, 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 steamer, 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 steamer.

[\[Am. Act A792:s.54\]](#)

Section 226. Power to exclude drunken passengers.

(1) The master of any near-coastal trade passenger steamer 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.

[\[Am. Act A895:s.9\]](#)

(2) A person so refused admittance or put on shore shall not be entitled to the return of any fare he has

Section 227. Ships to sail only from ports.

(1) A passenger steamer 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.

(2) After any such steamer 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 steamer 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 steamer, 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.

Penalty for passenger steamer unlawfully departing or receiving passengers on board

(4) If -

- (a) a passenger steamer 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
- (b) a person is received as a passenger on board a passenger steamer in contravention of subsection (2); or
- (c) a passenger is landed or conveyed in contravention of subsection (3);

the master or owner of the passenger steamer or the person in charge of such vessel, as the case may be, shall, for every passenger carried in the steamer, or for every passenger so discharged, transhipped or received on board the steamer, 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.

[\[Am. Act A792:s.54\]](#)

(5) The steamer 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.

Section 228. Notice to be given of day of sailing.

The master, owner or agent of any passenger steamer, departing or proceeding from any port in the Federation, shall give the prescribed notice to the Port Officer that the steamer 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.

Section 229. Power to enter on and inspect steamer.

After receiving the notice, the Port Officer, Port Health Officer or a Surveyor of Ships may at all times enter on the steamer and inspect her and her fittings and the provisions and stores in her, and may muster and count the passengers on board.

Section 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 steamer 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.

Section 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 steamer complying with section 209 of the Merchant Shipping Act, 1894.

Section 232. Boats in tow.

(1) No open boat in tow of any steamer, 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 steamer is allowed to carry passengers contrary to this section, the master of the steamer shall be liable to a fine not exceeding five thousand ringgit and one hundred ringgit for every passenger so carried.

[\[Am. Act A792:s.54\]](#)

Section 233. Statement of number and nationality of passengers to be given by master to Port Officer.

(1) The master of a passenger steamer, 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 steamer, signed either by himself or by some person authorized by the owner or agent to sign such document.

[\[Am. Act A895:s.10\]](#)

(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 steamer, shall be liable to a fine not exceeding one thousand ringgit.

[\[Am. Act A792:s.54 ; Am. Act A895:s.10\]](#)

Section 234. Regulations as to carrying of passengers generally.

(1) A passenger steamer shall not carry passengers, whether cabin or deck passengers, on more than one deck below the water line.

(2) If this section is not complied with in the case of any steamer, 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.

[\[Am. Act A792:s.54\]](#)

Section 235. Penalty for sailing without certificate of survey or in breach of terms of certificate.

The owner or master of any passenger steamer 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.

[\[Am. Act A792:s.54\]](#)

Section 236. Penalty for having excessive number of passengers on board.

(1) If a passenger steamer 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 steamer, a number of passengers which is greater than the number allowed for the steamer 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.

[\[Am. Act A792:s.17\]](#)

(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 steamer 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.

Section 237. Penalty for bringing passengers from foreign port in excess of authorized number.

(1) If a passenger steamer 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 steamer by or under this Part or than the number allowed by the certificate, if any, granted in respect of the steamer 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. [\[Am. Act A792:s.54\]](#)

(2) For the purposes of this section "certificate" means a certificate recognised as valid under the provisions of section 208.

Section 238. Penalty for landing passengers at a place other than that at which he has contracted to land.

Any master of a passenger steamer 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.

[\[Am. Act A792:s.54\]](#)

Section 239. Penalty for making voyage in contravention of contract with passengers.

If a passenger steamer, 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 steamer 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.

[\[Am. Act A792:s.54\]](#)

Section 240. Penalty for bringing passengers in filthy or insanitary passenger steamer.

(1) If any passenger steamer 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.

[\[Am. Act A792:s.54\]](#)

(2) The Port Health Officer shall inspect every such ship on its arrival in order to ascertain the sanitary condition thereof.

(3) No passenger steamer shall carry any cargo likely to injure the health or endanger the safety of the passengers.

(4) If any passenger steamer carries any cargo likely to injure the health or endanger the safety of the passengers the master of the steamer shall be liable on conviction to a fine not exceeding ten thousand ringgit and the steamer may be detained until such fine is paid.

[\[Am. Act A792:s.54\]](#)

Section 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 steamer 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 steamer at any port or place in the Federation, whether such passenger is on board or not when the steamer is examined on such arrival.

Section 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 steamer carrying passengers touches or arrives shall, with reference to the provisions of this Part, send any particulars which he deems important respecting the steamer and the passengers carried therein to the Port Officer at the port or place from which the steamer 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 steamer touches or arrives may enter on the steamer 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.

Section 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.

Section 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 steamers 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 steamer or class of passenger steamer -

- (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 steamer 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 steamer or any steamer 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 steamer or any steamer 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 steamers carrying one hundred persons or upwards on board shall carry a medical practitioner and the qualifications of such medical practitioner.

(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 steamer holding a certificate referred to in subsection (3) or (4) of section 208.

Section 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.

[\[Am. Act A792:s.19\]](#)

Section 246. Expenses incurred under 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.

Section 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.

Section 248. Power to exempt steamer from Part IV.

(1) The Minister may, subject to such conditions as he thinks fit, exempt any steamer or class of steamer from any provision of this Part not being a provision applicable to such steamer or class of steamers 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.

[\[Am. Act A792:s.54\]](#)

Section 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 [\[Am. Act A1316/2007\]](#)

Maritime Transport Security

Interpretation.

249A. 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 bareboat 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;

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.

Application

249B. 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.

Exemption

249C. 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.

Designated Authority

249D. (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.

Maritime transport security area

249E. 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.

Designated marine facility

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.

Appointment of Maritime Transport Security Officer

249G. (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.

Appointment of Marine Facility Security Officer

249H. (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.

Appointment of Company Security Officer

249I. 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.

Appointment of Ship Security Officer

249J. (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.

Issuance of certificate and interim certificate

249K. (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.

Revocation of certificate or interim certificate.

249L. (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.

Surrender of certificate or interim certificate

249M. (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.

Replacement of certificate or interim certificate

249N. (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.

Pre-arrival notification

249O. (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.

Requirement for declaration of security

249P. 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.

Request for declaration of security

249Q. (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.

Reporting of security incident

249R. (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.

Direction to ships

- 249S. (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.

- 249T. (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.

Master's discretion for ship security.

249U. 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.

Detention of ship.

249V. 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.

Equivalent security arrangements.

249W. 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. **Security organization.**

- 249X. (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.

Alternative security arrangements.

249Y. (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.

(2) 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.

Power to inspect.

249Z. 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.

Power to investigate.

249AA. (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 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.

Maritime transport security rules.

249AB. 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 under 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.

Safe Operation of Ships

Section 249AC Interpretation.

"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.

Application.

249AD. 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.

Exemption.

249AE. (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.

General supervision by the Surveyor-General of Ships on matters relating to the safe operation of ships, etc.

249AF. 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.

Appointment of designated person.

249AG. (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.

Safety Management System.

249AH. (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 amongst 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.

Master's responsibilities.

249AI. (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.

Issuance of certificate or interim certificate.

249AJ. (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.

Revocation of certificate or interim certificate.

249AK. (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.

Surrender of certificate or interim certificate.

249AL. (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.

Replacement of certificate or interim certificate.

249AM. (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.

Powers to investigate.

249AN. (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.

Safety rules.

249AO. (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.

Prevention of Collisions

Section 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.

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.

[\[Am. Act A792:s.54\]](#)

Section 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.

[\[Am. Act A792:s.54\]](#)

Section 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.

[\[Am. Act A792:s.54\]](#)

Section 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.

[\[Am. Act A792:s.54\]](#)

Section 255. Report to Port Officer of accidents to steamships.

(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 steamship 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 steamers.

Section 256. Notice of loss of ship registered in Federation, or passenger steamer to be given to the Director of Marine.

(1) If the managing owner or the agent of any ship registered in the Federation or of any passenger steamer 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.

(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.

[\[Am. Act A792:s.54\]](#)

Section 256A. Construction rules for passengers steamers.

(1) The Minister may make rules (in this Ordinance called "construction rules") prescribing the requirements that the hull, equipments and machinery of and the fuel used in passenger steamers 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, equipments and machinery of and the fuel used in passenger steamers 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.

[\[Am.Act A792:s.21\]](#)

(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.

Section 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 organisations 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 steamers, 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.

(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.

[\[Ins.Act A792:s.22\]](#)

Section 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 life-saving 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.

Section 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.

Section 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 steamer, boat-drill or fire-drill is not practised on board the ship in any week;

(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.

[\[Am. Act A792:s.54\]](#)

Section 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.

Section 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.

Section 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 steamer of whatever tonnage, or for any ship of sixteen hundred tons gross tonnage or upwards which is neither a passenger steamer nor a fishing vessel, shall be a radiotelegraph installation; and
 - (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.

Section 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 direction-finder 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.

Section 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.

[\[Am. Act A792:s.54\]](#)

Section 265. Issue for passenger steamers of safety certificates and exemption certificates.

(1) If the Minister, on receipt of declarations of survey in respect of a British or Malayan passenger steamer registered in the Federation, is satisfied that the steamer complies with the construction rules, rules for life-saving appliances, radio rules and rules for direction-finders applicable to the steamer 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 steamer a certificate showing that the steamer 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":

Provided that if the voyages on which the steamer 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 steamer complies with requirements of the Safety Convention applicable to her as steamer 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 steamer as aforesaid is satisfied that the steamer 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 steamer 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 steamer -

(a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the steamer is exempt from and that the exemption is conditional on the steamer'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 steamer 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.

Section 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 steamer, 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".

(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".

Section 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 steamer, 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".

(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 steamer, 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 -

(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.

Section 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.

Section 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.

[\[Ins. Act A792:s.23\]](#)

Section 269. Notice of alterations and additional surveys.

(1) The owner or master of a passenger steamer in respect of which any passenger steamer's certificate issued under this Ordinance is in force shall, as soon as possible after any alteration is made in the steamer's hull, equipments or machinery affecting the efficiency thereof or the seaworthiness of the steamer, give written notice to the Surveyor-General of Ships containing full particulars of the alteration.

(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 steamer, 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 steamer) have sustained any injury or are otherwise insufficient; or
- (c) the appliances or equipments of the ship (not being a passenger steamer) mentioned in subsection (2) of this section have sustained any injury or are otherwise insufficient;

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 steamer'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.

Section 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 Surveyor-General 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 steamer;

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.

Section 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 steamer, 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;
- (b) if she is not a passenger steamer, both
 - (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 steamer, 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 steamer.

(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 steamer, the owner or master of the steamer 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 steamer; and the owner or master of any tender by means of which passengers have been taken on board the steamer shall be liable for each offence to a like fine for every passenger so taken on board; and

[\[Am. Act A792:s.54\]](#)

(b) in the case of a ship not being a passenger steamer, the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

[\[Am. Act A792:s.54\]](#)

(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 steamer 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 steamer is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between the said ports.

(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.

[\[Am. Act A792:s.54\]](#)

Section 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 steamer,

applicable to the ship and to the voyage on which she is about to proceed.

(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.

[\[Ins. Act A792:s.26\]](#)

Section 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 steamers' certificates.

[\[Am. Act A792:s.27\]](#)

(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 steamer's certificate.

(6) Any certificate issued by the Minister under this Part, and any passenger steamer'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.

[\[Am. Act A792:s.27\]](#)

(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 steamer's certificates and passenger steamers.

(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 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 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.

[\[Ins. Act A792:s.27\]](#)

Section 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 steamer not registered in the Federation a memorandum which

(a) has been issued by or under the authority of the government of the country in which the steamer 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.

Section 273. Modified survey of passenger steamers holding Convention certificates

(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger steamer not registered in the Federation -

(a) the steamer 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 steamer's certificate.

(2) Where there is produced in respect of any such passenger steamer 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 steamer is registered showing the number of passengers that the steamer 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 British or Malayan passenger steamer registered in the Federation, he may if he thinks fit dispense with any survey of the steamer 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 steamer's certificate.

Section 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.

Section 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.

[\[Ins.Act A792:s.28\]](#)

Section 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.

Section 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.

Section 277. Openings in passenger steamers' hulls and watertight bulkheads.

(1) The Minister may in relation to British or Malayan passenger steamers registered in the Federation make rules for any of the following matters -

(a) for closing and keeping closed the openings in steamers' 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 steamer as aforesaid, the master of the steamer shall be liable to a fine not exceeding ten thousand ringgit.

[\[Am. Act A792:s.54\]](#)

Section 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.

Section 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.

Section 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 log-book 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.

Section 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.

Section 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 life-saving 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.

Section 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 steamer 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 steamer provide, or any person authorised by him for the purpose, may, at the request of the master of the steamer, issue a memorandum stating the total number of persons carried on the steamer 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.

(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 steamer shall be liable to a fine not exceeding two thousand ringgit.

[\[Am. Act A792:s.54\]](#)

Section 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 steamer or to any ship not propelled by mechanical means.

(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.

Section 286. Adjustment of compasses and provision of hose.

(1) Every British or Malayan sea-going steamship, if employed to carry passengers, and every British or Malayan near-coastal trade steamship shall have her compasses properly adjusted from time to time, and every steamship 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 steamship 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.

[\[Am. Act A792:s.54\]](#)

Section 287. Placing undue weight on safety-valve.

A person shall not place an undue weight on the safety-valve of any steamship, 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.

[\[Am. Act A792:s.54\]](#)

Section 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.

[\[Am. Act A792:s.54\]](#)

Section 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.

[\[Subs. Act A792:s.32\]](#)

Section 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.

[\[Am. Act A792:s.33\]](#)

Section 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.

Section 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.

Section 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.

[\[Subs Act A792:s.36\]](#)

Section 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.

Section 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.

Section 296. Power to exempt certain steamers.

The Minister may, by order to be published in the *Gazette*, exempt any particular steamer or class of steamers 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.

Section 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. [\[Subs. Act A792:s.37\]](#)

Section 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.

Section 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.

Section 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.

Section 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.

[\[Ins. Act A792:s.39\]](#)

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 under-manning, 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]*

Section 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.

(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.

(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.

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

Section 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;
 - (d) pleasure crafts in Malaysian waters;
 - (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.

[\[Ins. Act A792:s.42\]](#)

Section 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;

[Ins.ActA1316/2007]

"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 -

(i) release of harmful substances or chemicals for purposes of legitimate scientific research into pollution abatement or control;

(ii) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972, or dumping with the consent of the Government; or

(iii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; *[Ins.ActA1316/2007]*

"harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea;

"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];

[Amd.ActA1316/2007]

"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]

Section 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.

(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.A1316.s:7/2007]

Section 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:

- (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. [\[Ins. Act A792:s.42\]](#)

Section 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.

Section 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 non-compliance was not necessary for the alleged purpose or was not a reasonable step to take in the circumstances.

[\[Ins. Act A792:s.42\]](#)

Section 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.

(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.

[\[Ins. Act A792:s.42\]](#)

Section 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.

[\[Ins. Act A792:s.42\]](#)

Section 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.

(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.

[\[Ins. Act A792:s.42\]](#)

Section 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 -

- (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.

[\[Ins. Act A792:s.42\]](#)

Section 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.

(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.

Section 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.

[\[Ins.A1316.s:8/2007\]](#)

Section 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.

[\[Ins. Act A792:s.42\]](#)

Section 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.A1316.s:9/2007]

Section 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.A1316.s:9/2007]

Section 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.A1316.s:9/2007]

Section 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.

[Ins.A1316.s:9/2007]

Section 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.

[Ins.A1316.s:9/2007]

Section 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.

(3) The Director of Marine or any authorised officer shall not, in exercising his powers under this section, unreasonably detain any ship.

[Ins.A1316.s:9/2007]

Section 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.”

[Ins.A1316.s:9/2007]

PART VI - LOAD LINE AND LOADING

Preliminary

Section 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 steamers 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.

Section 308. 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".

Section 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.

[\[Ins. Act A792:s.43\]](#)

Section 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 "deck-line") 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.

Section 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.

Section 312. Submersion of subdivision load lines.

(1) If --

(a) a British or Malayan passenger steamer registered in the Federation has been marked with subdivision load lines, that is to say, load lines indicating the depth to which the steamer 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 steamer, is lower than the load line indicating the maximum depth to which the steamer is for the time being entitled under the provisions of this Part to be loaded;

the steamer shall not be so loaded as to submerge in salt water the appropriate subdivision load line on each side of the steamer when the steamer has no list.

(2) If any such steamer is loaded in contravention of this section, the owner or master of the steamer 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 steamer 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 steamers not registered in the Federation, while they are within any port in the Federation, as they apply to British or Malayan passenger steamers registered in the Federation.

Section 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.

Section 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.

Section 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.

Section 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 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 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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. [\[Am. Act A895:s.13\]](#)

(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.

Section 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.

Section 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.

Section 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.

Section 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.

[\[Ins. Act A792:s.45\]](#)

PART VII - SPECIAL SHIPPING INQUIRIES AND COURTS
Inquiries and Investigations as to Shipping Casualties

Section 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.

[\[Subs. Act A792:s.46\]](#)

Section 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.

[\[Am. Act A792:s.47\]](#)

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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**

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 SHIPOWNERS

Section 358. Interpretation and application.

(1) In this Part --

"Convention" means the International Convention relating to the limitation of the liability of owners of sea-going ships signed in Brussels on the 10th October 1957;

"Convention country" means any country in respect of which the Convention is in force, including any country to which the Convention extends by virtue of article 14 thereof; and for the purpose of this definition an order made by the Minister declaring a country to be a Convention country shall be conclusive evidence that that country is a Convention country;

"Malaysian ship" means any ship registered or licensed under this Ordinance;

"owner" includes the charterer to whom a ship is demised and any owner, builder or other party interested in any ship built at any place in Malaysia and also includes --

(a) where it occurs in section 359, every person whose liability is excluded by subsections (2) and (3); and

(b) elsewhere, except in the second place where it occurs in section 364, every person whose liability is limited by subsections (2) and (3);

"relevant port" --

(a) in relation to any claim, means the port where the event giving rise to the claim occurred or, if that event did not occur in a port, the first port of call after the event occurred; and

(b) in relation to a claim for loss of life or personal injury or for damage to cargo, includes the port of disembarkation or discharge;

"ship" includes any structure, whether completed or in the course of construction, launched and intended for use in navigation as a ship or part of a ship.

(2) The person whose liability in connection with a ship is excluded or limited by this Part shall include any charterer and any person interested in or in possession of the ship, and in particular, any manager or operator of the ship.

(3) In relation to a claim arising from the act or omission of any person in his capacity as master or member of the crew, or otherwise than in that capacity, in the course of his employment as a servant of the owners or of any such person as is mentioned in subsection (2) --

(a) the person whose liability is excluded or limited as aforesaid shall also include the master, member of the crew or servant and, in the case where the master or member of the crew is the servant of a person whose liability would not be excluded or limited apart from this paragraph, the person whose servant he is; and

(b) the liability of the master, member of the crew or servant himself shall be excluded or limited as aforesaid notwithstanding his actual fault or privity in that capacity, except in the cases mentioned in paragraph (b) of section 359.

(4) This Part shall apply to any ship qualified to be registered as a Malaysian ship notwithstanding that it has not yet been registered.

[\[Subs. Act A792:s.49\]](#)

Section 359. Limitation of shipowner's liability in certain cases of loss of or damage to goods.

The owner of a Malaysian ship, or any share therein, shall not be liable to make good to any extent whatever any loss or damage happening without his actual fault or privity in the following cases:

(a) where any goods, merchandise or other thing whatsoever taken in or put on board his ship are lost or damaged by reason of fire on board the ship; or

(b) where any gold, silver, diamonds, watches, jewels or precious stones taken in or put on board his ship, the true nature and value of which have not at the time of shipment been declared by the owner or shipper thereof to the owner or master of the ship in the bills of lading or otherwise in writing, are lost or damaged by reason of any robbery, theft, breach of trust or misappropriation thereof.

[\[Subs. Act A792:s.49\]](#)

Section 360. Limitation of owner's liability in certain cases of loss of life, injury or damage.

(1) The owner of a Malaysian or foreign ship shall not, where all or any of the following occurrences take place without his actual fault or privity, namely:

(a) where any loss of life or personal injury is caused to any person being carried in the ship;

(b) where any damage or loss is caused to any goods, merchandise or other things whatsoever on board the ship;

(c) where any loss of life or personal injury is caused to any person not carried in the ship through the act of any person, whether on board the ship or not, in the navigation management of the ship, or in the loading, carriage or discharge of her cargo, or in the embarkation, carriage or disembarkation of her passengers, or through any other act of any person on board the ship; or

(d) where any loss or damage is caused to any property, other than any property mentioned in paragraph (b), or any rights are infringed through the act of any person, whether on board the ship or not, in the navigation or management of the ship, or in the loading, carriage or discharge of her cargo, or in the embarkation, carriage or disembarkation of her passengers, or through any other act of any person on board the ship,

be liable to damages beyond the following amounts:

(aa) in respect of loss of life or personal injury, either alone or together with such loss, damage or infringement as is mentioned in paragraphs (b) and (d), an aggregate amount not exceeding an amount equivalent to three thousand one hundred gold francs for each ton of the ship's tonnage; and

(bb) in respect of such loss, damage or infringement as is mentioned in paragraphs (b) and

(d), whether there is in addition loss of life or personal injury or not, an aggregate amount not exceeding an amount equivalent to one thousand gold francs for each ton of the ship's tonnage.

(2) For the purposes of this section —

(a) a gold franc shall be taken to be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred;

(b) the Minister may from time to time by order to be published in the *Gazette* specify the amount equivalent to three thousand one hundred gold francs and one thousand gold francs;

(c) the tonnage of a Malaysian ship, other than a sailing ship, shall be her registered tonnage with the addition of any engine room space deducted for the purpose of ascertaining that tonnage;

(d) the tonnage of a Malaysian sailing ship shall be her registered or licensed tonnage;

(e) where a ship built at any port or place in Malaysia but not registered or licensed under this Ordinance or the law of any other country, or a foreign ship, has been or can be measured according to Malaysian law, her tonnage as ascertained by that measurement shall be deemed to be her tonnage;

(f) where a ship built at any port or place in Malaysia but not registered or licensed under this Ordinance or the law of any other country, or a foreign ship, has not been and cannot be measured according to Malaysian law, the Surveyor General shall, on receiving from or by the direction of the Court hearing the case in which the tonnage of the ship is in question such evidence concerning the dimensions of the ship as it is practicable to furnish, give a certificate under his hand stating what would in his opinion have been the tonnage of the ship if she had been duly measured according to Malaysian law, and the tonnage so stated in that certificate shall for the purposes of this section be deemed to be the tonnage of the ship;

(g) the tonnage of any structure included in the definition of the expression "ship" by virtue of subsection (1) of section 358 shall, for the purposes of this Part, be ascertained as provided in this subsection for a foreign ship; and

(h) in the case of paragraph (aa) of subsection (1), a ship of less than three hundred tons shall be deemed to be a ship of three hundred tons.

(3) The limits set by this section to the liabilities mentioned therein shall apply to the aggregate of such liabilities which are incurred on any distinct occasion without regard to any liability incurred on another occasion.

(4) The application of this section to any liability shall not be excluded by reason only that the occurrence giving rise to the liability was not due to the negligence of any person.

(5) Nothing in this section shall apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property or infringement of any right of a person who is on board or employed in connection with the ship under a contract of service with all or any of the persons whose liabilities are limited by this section, if that contract is governed by the law of any country outside Malaysia and that law either does not set any limit to that liability or sets a limit exceeding that set to it by this section.

[\[Subs. Act A792:s.49\]](#)

Section 361. Release of ship, etc.

(1) Where a ship or other property is arrested in connection with a claim which appears to the Court to be founded on a liability to which a limit is set by section 360, or security is given to prevent or obtain release from

such an arrest, the Court may, and in the circumstances mentioned in subsection (3) shall, order the release of the ship, property or security if the conditions specified in subsection (2) are satisfied; but where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim.

(2) The conditions referred to in subsection (1) are:

(a) that security which in the opinion of the Court is satisfactory (in this section referred to as "guarantee") has previously been given, whether in Malaysia or elsewhere, in respect of such liability or any other liability incurred on the same occasion, and the Court is satisfied that, if the claim is established, the amount for which the guarantee was given, or such part thereof as corresponds to the claim, will be actually available to the claimant; and

(b) that either the guarantee is for an amount not less than such limit or further security is given which, together with the guarantee, is for an amount not less than that limit.

(3) The circumstances mentioned in subsection (1) are that the guarantee was given in a port which, in relation to the claim, is the relevant port (or, as the case may be, a relevant port) and that that port is in a Convention country.

(4) For the purposes of this section —

(a) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which security was last given;

(b) any question whether the amount of any security is either by itself or together with any other amount not less than any limit set by section 360 shall be decided as at the time at which the security is given; and

(c) where part only of the amount for which a guarantee was given will be available to a claimant, that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subsection (1).

[\[Subs. Act A792:s.49\]](#)

Section 362. Restriction on enforcement after giving of security.

(1) No judgment or decree for a claim founded on a liability to which a limit is set by section 360 shall be enforced, except so far as it is for costs, if security for an amount not less than that limit has been given, whether in Malaysia or elsewhere, in respect of the liability or any other liability incurred on the same occasion and the court is of opinion that the security is satisfactory and is satisfied that the amount for which it was given, or such part thereof as corresponds to the claim, will be actually available to the person in whose favour the judgment or decree was given or made.

(2) For the purposes of this section —

(a) any question whether the amount of any security is not less than any limit set by section 360 shall be decided as at the time at which the security is given; and

(b) where part only of the amount for which security has been given will be available to the person in whose favour the judgment or decree was given or made that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subsection (1).

[\[Subs. Act A792:s.49\]](#)

Section 363. Power of Court to consolidate claims against owners, etc.

(1) Where any liability is alleged to have been incurred by the owner of a Malaysian or foreign ship in respect of any occurrence in respect of which his liability is limited under section 360, and several claims are

made or apprehended in respect of that liability, then the owner may apply to the High Court, and that Court may determine the amount of the owner's liability, and may distribute that amount rateably among the several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the Court thinks just.

(2) In making any distribution in accordance with this section the Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court in any country outside Malaysia.

(3) No lien or other right in respect of any ship or property shall affect the proportions in which, under this section, any amount is distributed amongst several claimants.

[\[Subs. Act A792:s.49\]](#)

Section 364. Part owners to account in respect of damages.

All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under this Part, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

[\[Subs. Act A792:s.49\]](#)

Section 365. Insurances of certain risks not invalid.

An insurance effected against the happening, without the owner's fault or privity, of any or all of the events in respect of which the liability of owners is limited under this Part shall not be invalid by reason of the nature of the risk.

[\[Subs. Act A792:s.49\]](#)

Section 365A. Proof of passengers on board ship.

In any proceeding under this Part against the owner of a ship or share therein with respect to loss of life, the passenger 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.

[\[Subs. Act A792:s.49\]](#)

PART X - WRECK AND SALVAGE Vessels in Distress

Section 366. Interpretation.

In this Part, unless the context otherwise requires --

"receiver" means receiver of wreck;

"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.

Section 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*.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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)*

Section 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.

Section 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, to be or likely to become an obstruction or danger to navigation or a public nuisance or to cause inconvenience, the receiver may either --

(a) take possession of, and raise, remove or destroy, the whole or any part of the ship;

(b) light or buoy any such ship or part until the raising, removal or destruction thereof;

(c) sell, in such manner as he thinks fit, any ship or part 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, reimburse himself for the expenses incurred by him in relation thereto under this section, and the receiver shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto; and

(d) take all necessary measures to prevent pollution from the ship;

or alternatively --

(e) consent to the owner or master of the ship taking such action under paragraphs (a) to (d) as the receiver thinks fit; and

(f) require the owner or master to furnish security in such reasonable amount as the receiver may consider necessary for the purpose of ensuring the performance of all actions which the owner or master has agreed to undertake.

(2) Apart from the proceeds of any sale carried out by the receiver pursuant to paragraph (c) of subsection (1), the receiver may also resort to the security furnished under paragraph (f) to reimburse himself and if the proceeds of sale together with any security are insufficient to cover the costs incurred by the receiver when acting under paragraphs (a) to (d) of subsection (1), he may recover the difference from the owner or master of the ship concerned.

[\[Subs. Act A792:s.50\]](#)

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 towage.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

PART XI - LIGHTHOUSES

Section 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 five hundred ringgit.

Section 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.

Section 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

Section 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*.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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*.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 428. Pilotage Dues.

The Minister may by notification in the *Gazette* prescribe the dues to be charged by pilots for their services.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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*.

Section 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.

Section 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

Section 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;

[\[Ins. Act A792:s.51\]](#)

(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;

[\[Ins. Act A792:s.51\]](#)

(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.

[\[Am. Act A792:s.51\]](#)

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

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.

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.

Section 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 ship.

Section 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.

Section 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) 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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

Section 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 steamers 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) steamers belonging to any Telegraph Company such steamers 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 473. When native sailing ships to be licensed.

(1) Save as hereinafter provided no native sailing ship shall ply at any port or place in the Federation without a licence issued by a Port Officer, unless such ship is duly registered or licensed as described in subsection (4) (b) of this section.

Term and conditions of licence.

(2) Every such licence shall be valid for the period of one year from the date thereof and shall be subject to such conditions, to be endorsed thereon, as the Port Officer shall determine.

Markings.

(3) On a licence being so granted for any native sailing ship the master thereof shall cause the number of such licence to be painted on each bow, the name of the ship to be painted on the stern and the permanent number assigned by the Port Officer to such ship to be carved or branded on the main beam or other conspicuous part of the ship. All the requirements of this subsection shall be carried out to the satisfaction of the Port Officer.

Provisos.

(4) No licence shall be granted under this section --

(a) unless the intended licensee enters into a bond, together with one or more sureties resident in the Federation and to be approved of by the Port Officer, conditioned in any sum not exceeding one thousand ringgit for the observance of the conditions of such licence;

(b) if the ship is duly registered or licensed in accordance with the laws of any country or territory outside the Federation.

Offences.

(5) Any owner or master of a native sailing ship to which the provisions of paragraph (b) of subsection (4) apply, who obtains or attempts to obtain or causes to be obtained a licence under this section, or who knowingly fails to report to the Port Officer that a licence has been obtained in contravention of this section, shall be guilty of an offence under this Ordinance and shall be liable to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding six months.

Register of licences to be kept.

(6) A register of all licences granted under this section shall be kept by the Port Officer and shall contain the following particulars --

(a) the name of the licensee;

(b) the name, rig, dimensions and tonnage of the native sailing ship;

(c) the names of the sureties of the licensee;

(d) the date of the licence;

and such other particulars as are directed by the Director of Marine.

Change of name and alteration of markings to be approved by Port Officer.

(7) The name of any native sailing ship in respect of which a licence has been granted under this section shall not be changed, nor any painting, carving or branding required by subsection (3) removed, altered or defaced, accept with the approval in writing of the Port Officer.

(8) No such painting, carving or branding shall be obscured from view or overhung by any part of the ship or by anything thereon.

Change of name, transfer, etc.

(9) Every change of name, and every transfer, transmission, licensing anew, [mortgage](#), and transfer of mortgage of and every bill of sale over any such native sailing ship shall be endorsed on or contained in such licence, and shall be entered in the register kept under the provisions of this section.

Cancellation of licence.

(10) The Port Officer may, with the sanction of the Director of Marine cancel any licence granted under this section.

Fees.

(11) Such fees shall be charged for anything done in pursuance of this section as are specified in the Eleventh Schedule.

(12) The owner of every licensed or registered native sailing ship shall cause such licence or certificate of registry to be kept at all times on board his ship in custody of the person in charge of the ship and such last-mentioned person shall exhibit the same to the Port Officer or any police officer who demands to see the same.

(13) Failure to carry out the provisions of the last preceding subsection shall render the person or persons on board the ship liable to a fine not exceeding fifty ringgit and the ship may be detained.

(14) If any native sailing ship required to be licensed under subsection (1) of this section plies at any port or place in the Federation without a licence, or contrary to the conditions (if any) of a licence granted under that subsection, the owner and master and any person who causes or permits such vessel so to ply shall be liable to a fine not exceeding two hundred ringgit or to imprisonment for a term not exceeding three months.

Section 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.

[\[Ins. Act A603:s.32; Subs. Act A1014:s.5\]](#)

Section 473B. Exemptions.

The following vessels are exempted from the provisions of sections 474 to 485:

- (a) any ship registered under Part IIA;
- (b) in relation to West Malaysia, any native sailing ship licensed under this Part;
- (c) in relation to the State of Sabah, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sabah; [\[Sabah Ord. 11/60\]](#); and
- (d) in relation to the State of Sarawak, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sarawak. [\[Sarawak Ord.2/60\]](#).

[\[Ins. Act A603:s.32\]](#)

Licensing of Boats

Section 474. When boats to be licensed.

- (1) Every boat that plies at any port, river or place in the Federation 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 or under any written law relating to fisheries.

[\[Sub. Act A895:s.14\]](#)

- (2) Any person who uses a boat or causes or permits a boat to be used without a licence or for a purpose other than the purpose for which it was licensed or contrary to the conditions (if any) of such licence shall be liable to a fine not exceeding one thousand ringgit.

[\[Am. Act A603:s.33\]](#)

- (3) [\[Deleted by Act A603: s.33\]](#).

Section 475. Licensing how effected.

- (1) Any person desirous of having a boat licence shall apply to the Port Officer of the nearest port, who shall examine the boat, and, if he thinks it seaworthy and proper for the purpose for which licence is applied, may cause the boat to be licensed for such purpose. [\[Subs. Act A603:s.34\]](#)

- (2) The Port Officer may by endorsement on the licence of a licensed cargo boat, license the boat to carry, when empty of cargo, such number of passengers as he thinks fit, and in that case it shall not be necessary for such licensed cargo boat to be separately licensed as a passenger boat.

- (3) The following particulars shall be entered on the register licences:

- (a) the name and residence of the owner and of the master;
- (b) the length, breadth, depth and gross tonnage of the boat;
- (c) the number of crew to be employed;
- (d) the number of persons which the boat is to be permitted to carry in addition to the crew, if a passenger boat;
- (e) the number of persons which the boat, when empty of cargo, is to be permitted to carry in addition to the crew, if a cargo boat;
- (f) the number in the register, which shall be the number of boat.

(4) *[Deleted by Act A603:s.34]*

Section 476. Fees for licensing.

The fees to be charged for licensing boats for each period of twelve months and the fee to be charged for the Licence Book shall be those specified in the Twelfth Schedule provided that if the period for which the licence is issued is less than twelve months but not less than three, a proportionate fee may be charged but in no case shall such fee be less than 50 cents.

Section 477. Duration of licence.

(1) Every licence issued shall be valid for a period not exceeding twelve months from the date of issue.

[*\[Subs. Act A792:s.52\]*](#)

(2) Every change of owner and of master shall be reported to the Port Officer who shall note the same on the register.

(3) Any owner or master who fails to report such change shall be liable to a fine not exceeding one thousand ringgit, or to a term of imprisonment not exceeding ten days, or both.

[*\[Subs. Act A792:s.52\]*](#)

Section 478. Registered owner and master.

The persons whose names appear in the said register shall, for all the purposes of this Part and for all the purposes of the police and prevention of offences, be considered the owner and master, respectively.

Section 479. Numbering and marking of boats.

(1) The owner of every such licensed boat, before he receives a certificate that his boat is licensed, shall cause the licence number of the boat to be painted, marked or affixed on each side of the boat or elsewhere as the Port Officer directs and the permanent number assigned by the Port Officer to the boat to be carved or branded on the main beam or other conspicuous part of the boat.

(2) The painting, marking, affixing, carving or branding required by this section shall be carried out to the satisfaction of the Port Officer, and shall not be removed, altered or defaced except with his approval in writing.

(3) No such licence number or number so painted, marked, affixed, carved or branded shall be obscured from view overhung by any part of the boat or by anything thereon.

Section 480. Certificate of licensing.

The Port Officer shall deliver to the owner of every licensed boat a licence containing the particulars specified in subsection (3) of section 475.

Section 481. Copy to be given to owner.

The owner of every such licensed boat shall cause such licence to be kept at all times on board his boat in custody of the person in charge of the boat, and such last-mentioned person shall exhibit the same to any police officer or intending employer who demands to see the same.

Section 482. Cancellation of licence.

The Port Officer may cancel any boat licence issued under this Part.

Section 483. Rules.

The Minister may make rules --

- (a) providing for the collection of fees for licences issued under this Part;
- (b) for the management and working of boats (save in respect of fishing boats where such matters are regulated under any written law relating to fisheries); [\[Subs. Act A603:s.35\]](#)
- (c) as to the seaworthiness of the boats;
- (d) as to the number of passengers, and quantity of cargo to be allowed;
- (e) as to the number of men in the boats as boatmen, and the managers or persons to be in charge of boats;
- (f) as to lights to be used at night within Federation waters;
- (g) as to articles left in boats;
- (h) as to reports of accidents;
- (i) as to the seaworthiness, survey and inspection of, and manning requirements for, fishing vessels; as to the requirements concerning their construction and equipment, including equipment relating to avoidance of collisions, life-saving and fire-fighting; and as to the requirements concerning accommodation on board fishing vessels, articles of agreement and discipline of the crew of such vessels; [\[Subs. Act A603:s.35\]](#)
- (j) as to the furnishing of photographs by applicants for boat licences and by new owners on change of ownership; and
- (k) generally for providing for the safety of persons and property carried in such boats and for preventing the commission of offences by persons employed in or being in such boats.

Section 483A. Rules as to fares.

The Ruler in Council or the Governor in Council may make rules for the fares to be paid for the use of cargo boats or passenger boats or both or of steam vessels not exceeding forty tons gross tonnage at any port in the State or elsewhere within Federation waters adjacent to such State:

Provided that any rules made by the Minister prior to the date of the coming into force of this section and in force at such date shall be deemed for all purposes to have been made under this section, and shall continue in force until revoked or replaced by rules made under this section.

Section 483B. Boat licensed under this Part shall not proceed beyond coastal waters of a State.

(1) Unless for special reasons express provision to the contrary is contained in the licence or unless such action is necessary due to stress of weather or other cause beyond the control of the master, a boat licensed under section 475 in any State shall not proceed beyond the coastal waters of such State extending up to the outer limits of the Federation waters.

(2) The master or owner of any vessel who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit.

[\[Ins. Act A603:s.36\]](#)

Section 483C. Manning of boats licensed under this Part.

Every boat that is licensed under this Part shall be manned in accordance with the rules and regulations made under this Ordinance:

Provided that the Director of Marine may determine the manning requirements for a boat that is licensed for a purpose other than for the purpose of trade or business, which requirements shall be included as a condition of the licence.

Section 484. Penalties.

Any person who offends against any of the provisions of section 479 and 481, or against any rules made under section 483, shall if no other penalty is provided be liable to a fine not exceeding one thousand ringgit.

[\[Am. Act A603:s.37\]](#)

Section 485. Refusing to let boat for hire.

Any person who refuses without reasonable excuse to let for hire his cargo or passenger boat licensed under this Part, on tender of the amount of hire to be fixed in any rules of the Minister in that behalf, shall be liable to a fine not exceeding five hundred ringgit.

Registration of Off-shore Industry Structures, Off-shore Industry Mobile Units and Off-shore Industry Vessels

Section 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 off-shore 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 off-shore 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).

[\[Ins. Act A603:s.38\]](#)

Section 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 imposed 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 A - CONTROL OF SHIPPING

Section 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. [\[Ins. Act A895:s.16\]](#)

Section 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;
- (j) pilotage;
- (k) ship-to-ship activity; or [\[Ins. Vide Act A1316/2007\]](#)
- (l) any other activity as determined by the Director of Marine, [\[Ins. Vide Act A1316/2007\]](#)

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.

[\[Ins. Act A895:s.16\]](#)

Section 491C. Powers of the Director of Marine.

(1) The Director of Marine may, where he has reason to believe that an offence has been committed under this Part, with a warrant --

- (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.

[\[Ins. Act A895:s.16\]](#)

Section 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.

[\[Ins. Act A895:s.16\]](#)

Section 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

Section 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.

[\[Am. Act A792:s.53\]](#)

Section 493. Charge with offence under Ordinance.

No person shall be charged with any offence under this Ordinance, other than an offence relating to discipline or order on board a ship, except on the complaint or with the sanction of a Port Officer, a Port Health Officer, a Surveyor of Ships or a police officer.

Section 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.

Section 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.

Section 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.

Limitation of Time for Proceedings

Section 497. Prosecution of offences.

(1) Subject to any special provisions of this Ordinance, neither a conviction for an offence nor an order for payment of money shall be made under this Ordinance in any proceeding instituted in a Sessions Court or a Magistrate's Court in the Federation, unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises, as the case may be; or, if both or either of the parties to the proceeding happen during that time to be out of the Federation, unless the same is commenced, in the case of a conviction within two months, and in the case of an order within six months, after they both first happen to arrive or to be at one time within the Federation.

(2) No law for the time being in force under any Ordinance, or otherwise, which limits the time within which proceedings may be instituted in a Sessions Court or a Magistrate's Court, shall affect any proceeding under this Ordinance.

Jurisdiction

Section 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.

Section 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.

Section 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

Section 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

Section 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

Section 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

Section 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.

[\[Am.Act A895:s.17\]](#)

Section 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.

Section 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.

Section 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

Section 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.

Section 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.

Section 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.

Section 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

Section 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.

Section 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.

(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

Section 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.

Section 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.

Section 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.

Section 516. Application of sections 513, 514 and 515.

Sections 513, 514 and 515 shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression "owners" included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, the said sections shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.

Section 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

Section 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.

Section 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

Section 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. vide Act A1316/2007]

Inspection

Section 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

Section 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

Section 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

Section 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 steamship, 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.

Section 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

Section 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 steamship 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

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 subject-matter 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.

**FIRST SCHEDULE
(SECTION 81)**

*Table of Fees to be paid by Applicants for
Examinations for certificates of Competency or Efficiency*

	RM	sen
Master of a foreign-going ship	30	00
First mate of a foreign-going ship	20	00
Second mate of a foreign-going ship	20	00
Mate of a home-trade ship	15	00
Master of a home-trade ship	20	00
Master of a local-trade ship under one hundred tons	15	00
Mate of a local-trade ship	10	00
Helmsman	6	00
Helmsman of a fishing boat	6	00
Steersman	3	00
First-Class engineer	30	00
Second-Class engineer	20	00
First-Class engine-driver	15	00
Second-Class engine-driver	10	00
Third-Class engine-driver	7	50
Lifeboat man	3	00

**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 204-5)

TABLE 1
(SECTION 204)

Fees to be charged for Matters transacted at Port Offices

1. Every engagement or discharge of crew – RM50.00

[subs. P.U.(A) 370/2009 c.i.f. 19/10/2009]

TABLE 2
(SECTION 205)

*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	-	RM5.00
From wages of any other crew	-	RM2.00

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 c.i.f. 19/10/2009]

FOURTH SCHEDULE
(SECTION 215)

Fees to be paid for Passenger Steamer's Certificate

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 sen
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 00

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 sen
For inspection of the whole of the life-saving appliances on a ship on or before registry or re-registry	50 00
For each periodical inspection of the whole of the life-saving appliances of a ship	20 00
For inspection, during their construction, of boats, buoyant apparatus and other life-saving appliances:	
Lifeboats, length 20 feet and under	10 00
Lifeboats over 20 feet long	20 00
Motor Lifeboats of any length	50 00
Each buoyant apparatus or raft	5 00
Life jackets, for each hundred or fraction of a hundred	5 00

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 "deck-line") 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 he 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

cause 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

**NINTH SCHEDULE
(SECTION 404)**

Fees payable to receivers of Wreck

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 RM sen
10 00

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 00

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.

[Am. Ord. 49/55]

ELEVENTH SCHEDULE

**ELEVENTH SCHEDULE
(SECTION 473 (11))**

For each licence for a native sailing ship –	RM	sen
(1) 100 tons gross and under	15	00
(2) Above 100 tons and less than 200 tons gross	30	00
For each endorsement of change of name of a native sailing ship	2	00
For each transfer, transmission, licensing anew, mortgage and transfer of a mortgage, according to the gross tonnage of the ship, as follows –		
Under 10 tons	1	00
10 tons and under 20 tons	2	00
20 tons and under 30 tons	4	00
30 tons and under 40 tons	5	00
40 tons and under 50 tons	6	00
50 tons and under 75 tons	7	00
75 tons and under 100 tons	9	00
100 tons and under 125 tons	10	00
and a further fee of RM1 for every additional 50 tons or part of 50 tons.		
<i>Miscellaneous</i>		
For every bill of sale (if made in the Port Office)	10	00
For every certified copy of documents or extract	2	00
For every inspection of any record	1	00
<i>Fee for Licence Book</i>		
For every licence book	1	00

TWELFTH SCHEDULE
(SECTION 476 And 509 (2))

Fees for Licensing Boats

	RM	sen
For every cargo boat or lighter of less than 5 tons gross tonnage and not mechanically propelled	5	00
For every cargo boat or lighter of or over 5 tons and less than 20 tons gross tonnage and not mechanically propelled	15	00
For every cargo or lighter of 20 tons gross tonnage or over and not mechanically propelled	30	00
For every mechanically propelled cargo boat of less than 25 tons gross tonnage	50	00
For every mechanically propelled cargo boat of 25 tons gross tonnage and over	100	00
For every passenger boat not mechanically propelled	3	00
For every mechanically propelled passenger boat of less than 20 tons gross tonnage	30	00
For every mechanically propelled passenger boat of 20 tons gross tonnage and over	60	00
For every fishing boat	50	00
<i>Fee for Licence book</i>		
For every cargo fishing or passenger boat	50	00

Fees for Transfers, etc.

For each transfer, transmission, [mortgage](#) and transfer of mortgage, according to the gross tonnage of the boat, as follows:

Under 10 tons	1	00
10 tons and under 20 tons	2	00
20 tons and under 30 tons	4	00
30 tons and under 40 tons	5	00
40 tons and under 50 tons	6	00
50 tons and under 75 tons	7	00
75 tons and under 100 tons	9	00
100 tons and under 125 tons	10	00

and a further fee of RM1 for every additional 50 tons or part of 50 tons.

For every bill of sale (if made in the Port Office)	10	00
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For every certified copy of document or extract	2	00
For every inspection of any record	1	00
<i>Fee for Boat Number Plates</i>		
Per Pair	1	00

THIRTEENTH SCHEDULE
(SECTION 67, 509 (2) And 528)

PART 1

Schedule of Fees for Registration of Shipping

1 – On Initial Registry

	RM	sen
1. Vessels up to 50 tons gross	10	00
Vessels over 50 to 100 tons	15	00
Vessels over 100 to 200 tons	20	00

with RM5 for every additional 100 tons or fraction of 100.

2 – Transfer and [Mortgage](#)

2. On Transfer, Transmission, Registry anew, Transfer of Registry, Mortgage, and Transfer of Mortgage:

According to the gross tonnage represented by the ships or shares of ships transferred, etc. (e.g., the transfer of a 1/64 share in a ship of 6,400 tons to be reckoned as the transfer of 100 tons) –

Under 10 tons	1	00
10 tons and under 20 tons	2	00
20 tons and under 30 tons	4	00
30 tons and under 40 tons	5	00
40 tons and under 50 tons	6	00
50 tons and under 75 tons	7	00
75 tons and under 100 tons	9	00
100 tons and under 125 tons	10	00

and a further fee of RM1 for every additional 50 tons, or part of 50 tons.

3 – Miscellaneous

3. For every bill of sale (if made in the Port Office)	10	00
For every certified copy of documents or extract	2	00
For every inspection of any record	1	00

PART II

Fees for measurement of ships under the Tonnage Admeasurement rules made under the Merchant Shipping Acts.

Tons gross.	(a) Measurement under Rule I	(b) Measurement under Rule II	(c) Various Measurements (see below)
50 tons and under	30	15	5
Over 50 tons and not exceeding 100 tons	40	20	8
For each additional 100 tons or part of 100 tons above 100 tons up to 20,000 tons	5	3	1
For each additional 100 tons or part of 100 tons above 20,000 tons	3	2	1

The following rules shall be observed in the calculation of fees under this Part:

1. When a ship previously measured under Rule II is remeasured under Rule I, the full fee in scale (a) is chargeable, without any deduction for measurement under Rule II.
2. The fees for remeasurement in consequence of alterations on the upper deck or in the engine room or under sections 77(4), 78(2), 79(1), and 80 of the Merchant Shipping Act, 1894, or section 54 of the Merchant Shipping Act, 1906, are shown in column (c) above. The maximum fee in respect of each item is RM50. The fee for measurement under section 79(1) (a) (i) includes the inspection of crew spaces if made at the same time as the measurement.

The fee for measurement under section 81, Merchant Shipping Act, 1894, and in all other cases where, in consequence of alterations, remeasurement of the under deck tonnage is found necessary is that stated in column (a) above.

3. In the case of foreign ships applying for the renewal of their Certificates of British Tonnage, the principal dimensions are to be retried, and, if they are found to agree with the certificate, a fee of RM20 only will be charged for the issue of the new certificate. If the dimensions do not practically agree with the certificate of tonnage, the ship must be remeasured throughout under Rule I or II, as the case may be, and the proper fees must be charged.

4. In cases of application for the issue or amendment of a "Suez Canal" or "Panama Canal" Special Tonnage Certificate, a fee of two-fifths of the full tonnage fee is to be charged for each certificate whether the measurement is made at the same time as the measurement for British registry or not. This fee includes remeasurement of British tonnage (except under deck) if made at the same time. Certified copies of Suez Canal or Panama Canal certificates are issued on payment of RM5 each copy.

Where the alteration is of a minor character, it shall be lawful for the Surveyor-General of Ships upon application made in that behalf to direct refundment of part of the fee paid.

5. In the case of a foreign ship originally registered as a British ship, and subsequently seeking re-registration

a fee of RM20 only is to be charged if, on comparison, the principal dimensions are found to agree with the original tonnage formula of the ship. But if they do not agree and the ship has to be measured throughout, a full tonnage fee is payable. If the under deck tonnage is found to agree and the other items differ, then, in addition to the RM20 fee for check measurement, further fees are chargeable for these inspections in accordance with the foregoing regulations.

6. In cases where a ship is being transferred from the British register to that of a foreign country, details of the British tonnage calculations may be supplied for the guidance of the foreign Customs Authorities on payment of a fee RM5 per sheet with a minimum fee of RM20.

7. In cases where it is desired by the owner of a ship details of the tonnage calculations may be supplied to him on payment of a fee of RM5 per sheet with a minimum fee of RM20.

8. The fee paid in accordance with scale (a) covers any number of visits that the Surveyor may find it necessary to make before he is able to fill up the formula of tonnage and grant his certificate to enable a ship to obtain registry. It also covers the inspection of crew spaces and lights and sound signals, if the Surveyor is able to make these inspections on the occasion on which the measurement is performed, but not otherwise. For any further visits necessary for the completion of inspection of crew spaces and lights and sound signals, further fees in accordance with the law will be charged.

9. The fee for the inspection of minor alterations (e.g. of rig, engines, etc.) is RM10.

PART III

Fees for Inspection of Accommodation of Seamen under Part III of this Ordinance

1. The fee for each visit to the ship shall not exceed ten ringgit.

2. The aggregate amount of the fees for any such inspection shall not exceed twenty ringgit, whatever be the number of separate visits.

3. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for the inspection.

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 Enacment	The whole
Perlis Enactment No. 8 of 1337...	Harbours Enactment, 1337	The whole
Federation of Malaya Ordinance No. 23 of 1950	Pilots Enactment (Application to Terengganu) Ordinance, 1950	The whole

FIFTEENTH SCHEDULE
(SECTION 65B (5))

Supplementary Provisions Respecting The Board

1. (1) There shall be paid to members of Board, or to such of them as the Minister may determine, such allowances as he may determine.
 - (2) The appointment of every member and alternate member of the Board shall be published in the *Gazette*.
 - (3) 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.
2. (1) The quorum of the Board shall be five.
 - (2) If on any question to be determined by the Board there is an equality of votes, the Chairman shall have a casting vote.
 - (3) Subject to subparagraphs (1) and (2), the Board shall determine its own procedure.
3. All members of the Board shall be deemed to be public servants within the meaning of the Penal Code.

[\[Ins. Act A603:s.39\]](#)

LIST OF AMENDMENTS

<i>Amending Law</i>	<i>Short Title</i>	<i>In force from</i>
Ord. 19/53	The Merchant Shipping (Amendment) Ordinance, 1953	1 March 1953
LN. 858/53	Merchant Shipping – Amendment to Twelfth Schedule.	1 January 1954
LN. 355/54	Merchant Shipping – Amendment of fees.	24 June 1954
Ord. 49/55	The Merchant Shipping (Amendment) Ordinance, 1955	8 December 1955

LN. 126/56	Merchant Shipping – Amendment to Twelfth Schedule.	19 April 1956
LN. 218/58	Merchant Shipping (fees) Rules 1958.	1 August 1958
LN. 332/58	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958.	13 November 1958
LN. 301/59	Corrigenda to LN. 332/58	
LN. 173/60	Merchant Shipping Ordinance, 1952	1 August 1960
Act 34 /63	Merchant Shipping (Amendment) Act, 1963	12 September 1963
Act 34/ 63	Merchant Shipping (Amendment) Act, 1963	12 November 1964
LN. 191/64	Modification of Laws (Merchant Shipping) (Malaysia Registry) Order 1964	25 June 1964[Repealed]
Act 15 / 1966	Merchant Shipping (Amendment) Act 1966.	[Repealed by Act A792/91]
Act 62 / 1966	Merchant Shipping (Amendment) Act 1966	to amend Act 15/66
A212	Merchant Shipping (Amendment) Act 1973.	[Repealed by Act A792/91]
A393	Merchant Shipping (Amendment and Extension) Act 1977.	18 March 1977 - West Malaysia 1 June 1991 - Sabah & Sarawak
A433	Merchant Shipping (Amendment and Extension) (Amendment) Act 1978.	to amend A393/77
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) 502/83	Merchant Shipping (Alteration of fees in Tenth Schedule.	9 December 1983
PU(B) 368/84	Merchant Shipping (Alteration of fees in Schedule).	31 August 1984
PU(B) 559/84	Merchant Shipping (Alteration of fees in Schedule).	23 November 1984
A603	Merchant Shipping (Amendment and Extension) Act 1984.	2 June 1991
A792	Merchant Shipping (Amendment) Act 1991.	1 August 1991
A895	Merchant Shipping (Amendment) Act 1994	i) s. 5, 6, 7 & 8 - 1 January 1994 (ii) s. 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17 & 18 - 1 April 1999 [PU(B) 118/99]

A1014	Merchant Shipping (Amendment) Act 1998	Section 3 - 1 January 2001 <i>[PU(B) 463/2000]</i>
A1316	Merchant Shipping (Amendment and Extension) Act 2007	Sections 2 & 5 - 19 April 2001 <i>[PU(B) 109/2001]</i> P. Malaysia – 24 December 2008 <i>[P.U.(B)481/2008]</i> Sabah & Sarawak – 24 December 2008 <i>[P.U.(B) 482 December 2]</i>

Notes:

Section 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.

Section 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.

Section 46. References to "Ordinance in the Sabah and Sarawak Merchant Shipping Ordinance include references to extended provisions.

In the Merchant Shipping Ordinance 1960 of Sabah and the Merchant Shipping Ordinance 1960 of Sarawak any reference to such Ordinance shall be construed as including a reference to the provisions of the Merchant Shipping Ordinance 1952 extended by the Merchant Shipping (Amendment and Extension) Act 1977 and by this Act. [\[Act A603:s.40\]](#)

RULES

[Port \(Sungai Udang\) Rules 2004 - P.U.\(A\) 81/2004;](#)

[Merchant Shipping \(Training And Certification\) Rules 1999 - P.U.\(A\) 152/99;](#)

[Merchant Shipping \(Medical Examination\) Rules 1999 - P.U.\(A\) 151/99;](#)

[Merchant Shipping \(Manning, Hours Of Work And Watchkeeping\) Rules 1999 - P.U.\(A\) 150/99;](#)

[Merchant Shipping Examination For Certificate Of Competency \(Marine Engineer Officers\) Rules 1998 - P.U.\(A\) 117/98;](#)

[Superseded By P.U.(A) 152/99]

[Merchant Shipping Examination For Certificate Of Competency \(Deck\) Rules 1998 - P.U.\(A\) 116/98;](#)

[Superseded By P.U.(A) 152/99]

[Merchant Shipping Manning Rules 1994 - P.U.\(A\) 333/94.](#)

[Superseded By P.U.(A) 150/99]

Merchant Shipping Fees Rules 1994 - P.U.(A) 332/94;

Port (Negeri Sembilan) Rules 1989 - P.U.(A) 117/89;

Penang Port (Navigation Within The Area Of The Bridge) Rules 1986 - P.U.(A) 213/86;

Merchant Shipping (Tonnage) Regulations 1985 - P.U.(A) 83/85;

Port (Safety Of Workers) Rules 1985 - P.U.(A) 72/85;

Kedah Port Rules 1984 - P.U.(A) 389/84;
Merchant Shipping (Central Mercantile Marine Fund) Rules 1984 - P.U.(A) 235/84;
Merchant Shipping Certificate Of Competency (Marine Engineer Officer Requirements) Rules 1984 - P.U.(A) 232/84;
Merchant Shipping Certificate Of Competency (Marine Engine-Driver Requirements) Rules 1984 - P.U.(A) 231/84;
Examinations For Certificates Of Competency (Deck) Rules 1983 - P.U.(A) 411/83;
Port (Trengganu) Rules 1983 - P.U.(A) 356/83;
Certificates Of Competency In The Merchant Navy (Marine Engineer Officer Requirements) Rules 1983 - P.U.(A) 340/83;
Port (Malacca) Rules 1983 - P.U.(A) 283/83;
Port (Malacca) Rules 1981 - P.U.(A) 348/81;
Domestic Shipping Licensing Board Regulations 1981 - P.U.(A) 27/81;
Port (Malacca) Rules 1978 - P.U.(A) 327/78;
Boat (Furnishing Of Photographs By Applicants For Licences And New Owners) Rules, 1965 - L.N. 17/65;
Merchant Shipping (Central Mercantile Marine Fund) Rules, 1965 - L.N. 16/65;
Port (Pahang) Rules, 1964 - L.N. 229/64;
Native Sailing Ships And Boats (Safety Mark) Rules, 1961 - L.N. 167/61;
Merchant Shipping (Surveyors Of Ships And Radio Surveyors) (Fees) Rules, 1960 - L.N. 170/60.