

(Presented and read a first time in the Dewan Ra'ayat and ordered to be printed, 1st December, 1965.)

A BILL

intituled

An Act to amend the Merchant Shipping Ordinance, 1952, in order to give legal effect to an International Convention for the Safety of Life at Sea signed in London on 17th June, 1964, and to International Regulations for Preventing Collisions at sea 1960 and to enable Malaysian vessels exclusively employed in the fishing industry to be exempted from the provisions of Part III of the Ordinance.

[]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Merchant Shipping (Amendment) Act, 1965 and shall come into force on such date as the Minister may by notification in the *Gazette* appoint:

Short title and commencement.

Provided that the Minister may by such notification appoint different dates for the coming into force of different provisions of this Act.

2. For the purpose of enabling effect to be given to the International Convention for the Safety of Life at Sea signed in London on 17th June, 1960 (in this Act referred to as "the Convention") which replaces the International Convention for the Safety of Life at Sea signed in London on 10th June, 1948 (in this Act referred to as "the Safety Convention") the Merchant Shipping Ordinance, 1952 (in this Act referred to as "the Ordinance"), shall have effect as if—

Application of Part V of the Ordinance to Convention of 1960.

(a) for references therein to the Safety Convention there were substituted references to the Convention; and

(b) references therein to the Ordinance included references to this Act.

3. (1) The Minister may make rules (in this Act referred to as "cargo ship construction and survey rules") prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any such

Cargo ship construction and survey rules.

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 Convention relating to the hull, equipment and machinery of such ships, except so far as those provisions are implemented by any other rules or regulations made under the Ordinance.

(3) 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 made by statutory instrument 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 under the following provisions of this Act.

Cargo ship
safety
construction
certificates
and
exemption
certificates.

4. (1) If the Surveyor-General of Ships or such person as he may authorise for the purpose is satisfied, on receipt of declarations of survey in respect of a ship to which section 3 of this Act 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 of not less than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Convention;
- (b) in any other case, a certificate showing that she complies with the said rules;

and any such certificate is in this Act 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 of the Ordinance or the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to

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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 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 Act 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) The Surveyor-General of Ships may by notification in the *Gazette* extend the period for which a certificate under this section may be issued to a period not exceeding six years.

(5) Without prejudice to the power of extension conferred by section 271 (4) of the Ordinance, 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.

(6) In relation to a certificate issued or extended under this section by a person authorised by the Surveyor-General of Ships—

(a) the provisions applied by section 271 (7) of the Ordinance (which relate to the transmission, cancellation, surrender, posting-up and falsification of certificates issued by the Minister); and

(b) sections 215 and 261 (4) of the Ordinance (fees); shall apply as they apply in relation to certificates issued by the Surveyor-General of Ships.

(7) An extension order under subsection (4) of this section may be varied or revoked by a subsequent order.

Notice of alterations and additional surveys.

5. (1) The duty of the owner or master of a ship under subsection (2) of section 269 of the Ordinance to notify alterations and renewals shall extend, in relation to any ship in respect of which any certificate under section 4 of this Act 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 authorised under the said section 4, be discharged by notifying him instead of the Surveyor-General of Ships.

(2) Subsection (4) of the said section 269 (additional survey and cancellation of certificates) 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.

Prohibition on proceeding to sea without appropriate certificates.

6. (1) No ship to which section 3 of this Act 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

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(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 one thousand dollars.

(3) The master of every ship to which section 3 of this Act applies and which is registered in Malaysia shall produce to the officer of customs from whom a clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section; and the clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

7. Where there is produced in respect of a ship not registered in Malaysia—

Exemption of ships holding appropriate certificates.

(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 exempting certificate;

the ship shall be exempt from the cargo ship construction and survey rules.

8. (1) 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 five thousand dollars.

Penalty for non-compliance with rules and powers to detain.

(2) 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 the 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.

(3) 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.

Transitional provisions.

9. (1) Nothing in section 6 of this Act or section 275 of the Ordinance shall prohibit a ship from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 6, until the expiry of two years from the commencement of this Act.

(2) Nothing in section 284, 270 (1) (b) (ii) or 275 of the Ordinance shall prohibit a ship of less than five hundred tons gross tonnage from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 270 (1) (b) (ii), until the expiry of one year from the commencement of this Act.

Power to make Regulations.

10. The Minister may by regulations 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 to which the Safety Convention applies shall be treated for the purposes of this Act as if it were a country to which the Convention applies; and

(b) any certificate which immediately before the commencement of this Act was an accepted Safety Convention certificate within the meaning of the Ordinance as originally enacted may be treated as if it were an accepted Safety Convention certificate within the meaning of the Ordinance as amended by this Act.

Amendments to the Merchant Shipping Ordinance, 1952.

11. The amendments specified in the second column of the Schedule to this Act, being amendments considered necessary for the purpose of giving effect to the Convention shall be made to the provisions of the Ordinance specified in the first column of the said Schedule.

SCHEDULE

Section

Amendments

- 2 ... (a) For the definition of "collision regulations", substitute the following—
 "‘collision regulations’ means regulations made under section 252 of this Ordinance;”.
 (b) For the definition of "construction rules", substitute the following—
 "‘construction rules’ means rules made under section 256A of this Ordinance;”.

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10	... In subsection (5) the following expression shall be deleted— “as to the manner in which passenger steamer shall be constructed (to be called ‘construction rules’), and”.
69	... For subsection (1), substitute the following— “69. (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.”.
208	... (a) For subsection (1), substitute the following— “(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.”. (b) At the end of subsection (2), remove the fullstop and insert the following— “unless the voyage or excursion on which she is about to proceed is one in respect of which she has been exempted as aforesaid”.
250	... In subsection (1) for the expression “made under section 418 of the Merchant Shipping Act, 1894”, substitute the following expression— “made under section 252 of this Ordinance”.
252	... Substitute the following— “Collision Regulations. 252. (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 one hundred dollars.”.

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Amendments

256A ... Immediately after the caption "Life saving appliances and equipment" occurring just before section 257, insert the following new section 256A—

"Construction Rules for passenger steamers.

256A. (1) The Minister may make rules (in this Ordinance called 'construction rules') prescribing the requirements that the hull, equipments and machinery of 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 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.

(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."

257 (1) ... (a) In paragraph (e) the words "carrying passengers" shall be omitted;

(b) after paragraph (m) there shall be inserted the following paragraph—

"(mm) The provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire;"

(c) in paragraph (q) after the word "examination" there shall be inserted the words "and maintenance".

262 ... (a) Delete the fullstop at the end of subsection (3), and add the following—

"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."

(b) For subsection (4), substitute the following—

"(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

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- 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.”;
- (c) Between the word “installation” and the word “and” occurring in line 4 of subsection (8), insert the following—
- “and portable radio apparatus required to be carried by the boats or life rafts on any ship”.
- 267 ... Immediately after subsection (3), insert the following new subsection (4)—
- “(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.”.
- 271 ... Immediately after subsection (8), insert the following new subsection (9)—
- “(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 of this Ordinance or under paragraph (a) of section 4 (2) of the Merchant Shipping (Amendment) Act, 1965, 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.”.
- 272 ... In subsection (1) the words “the preceding provisions of” shall be deleted.
- 276 ... For subsection (2), the following shall be substituted—
- “(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

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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.”.

278 ... Substitute for fullstop at the end of subsection (1) a semicolon and thereafter add the following—

“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.”.

284 ... There shall be added immediately after subsection (3) the following new subsection (4)—

“(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 3 of the Merchant Shipping (Amendment) Act, 1965, 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 4 of the Merchant Shipping (Amendment) Act, 1965;

by reason only that she is of less than five hundred tons gross tonnage.”.

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EXPLANATORY STATEMENT

This Bill provides for additions to and modifications of the Merchant Shipping Ordinance, 1952, to enable Malaysia to give effect to the International Convention for the Safety of Life at Sea signed in London on the 17th June, 1960. This Convention came into force on May 26, 1965 and replaced the International Convention for the Safety of Life at Sea signed in London on 10th June, 1948.

2. Another main object of this Bill is to enable Malaysia to make collision regulations thereby complying with International Regulations for the Prevention of Collisions at sea signed in London at the above said conference in 1960.

3. Clause 2 of the Bill applies the Merchant Shipping Ordinance, 1952, to the new Convention. Clauses 3 to 11 give effect to the requirements of the Convention for the construction and survey of the hull, machinery and equipment of cargo ships. The rules to be made by the Minister under clause 3 will apply to cargo ships registered in Malaysia and to foreign cargo ships whilst in Malaysian ports unless exempted. The requirements in the first place will only apply to ships of 500 gross tons or over but the Minister is empowered to extend them to sea going cargo ships below that tonnage. Clauses 4, 5, 6, 7 and 8 deal with certification and enforcement of the new requirements. Clause 9 provides a transitional provisions for cargo ships affected by the new Convention.

4. The Bill has a Schedule which deals with consequential amendments and some other important amendments. Section 69 of the Merchant Shipping Ordinance is to be amended for the purpose of exempting certain provisions of Part III of the Merchant Shipping Ordinance from being applicable to Malaysian fishing vessels.

5. Section 208 of the Ordinance is to be amended for the purpose of improving the present section.

6. The Merchant Shipping Ordinance, 1952, of Malaya has its root in the United Kingdom Merchant Shipping Act, 1894, and a number of subsequent legislation of the United Kingdom on the same subject. Since the Ordinance was passed in 1952 at a time when Malaya was still under the British rule the Ordinance was made specifically subject to the United Kingdom Merchant Shipping legislation. Thus powers to make rules having extra territorial effect were only vested under the United Kingdom law; and up to date, the Merchant Shipping Ordinance, 1952, contains no powers for the Minister to make these rules. Thus when the International Collisions Regulations came into effect, power must be provided for in the Merchant Shipping Ordinance, 1952, so as to enable the Minister to give legal effect to these International Regulations. Hence section 252 requires to be amended.

7. Similarly, under the present Merchant Shipping Ordinance, 1952, construction rules for passengers steamers are invariably made by the United Kingdom Minister of Transport and though power is provided under the Ordinance for our Minister to make these rules, this power is not explicitly stated. Thus an insertion of a new section 256A requires to be made.

8. The rest of the amendments contained in the Schedule are merely minor and consequential amendments.

[AG. 3419.]

