

LAWS OF BRUNEI
REVISED EDITION 1984

CHAPTER 144

PORTS

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Declaration of ports etc.
4. Appointment of Director of Marine and other Officers
5. Duties of the Director
6. Appointment of Controller of Ports and other officers
7. Duties of Controller
8. Powers of the Director and Controller
9. Powers of His Majesty in Council in relation to the Director and Controller
10. Control and management of Government land and buildings in land areas of ports

PART II

DUES AND RATES

11. Dues payable in respect of vessels
12. Receipts
13. Levy of rates
14. Remission and waiver of dues and rates and exemption from dues
15. Power of entry into vessels and private wharves
16. Lien on goods for recovery of rates
17. Power to sell goods remaining in custody
18. Power to distrain for non-payment of dues, rates, etc.
19. Remedy by civil proceedings
20. His Majesty in Council may prescribe requirements for payment of dues and rates

PART III

REGULATION OF PORTS AND WATERS

21. Power to prohibit and prevent vessels from entering or remaining in Brunei
22. Regulations
23. Powers of Director and Controller, and competent officers in relation to vessels
24. Penalty for disobedience of directions given under section 23 or regulations made under section 22
25. Discharging oil, etc., into waters of Brunei
26. Master to report arrival of vessel in Brunei
27. No vessel to leave port without port clearance
28. When port clearance may be refused
29. Enforcing detention of vessels
30. Hydrographic surveys, etc., not to be carried out without approval of His Majesty in Council
31. Restriction of certain works and operations in marine areas of ports

PART IV

PILOTAGE

- 32. Declaration of pilotage districts
- 33. Vessels may be required to be under pilotage
- 34. Employment of pilots
- 35. Liability of master or owner in the case of a vessel under pilotage
- 36. Limitation of pilot's liability when bond is given
- 37. Director and Government not liable for loss or damage occasioned by pilots
- 38. Regulations regulating pilotage and conduct of pilots

PART V

LIMITATION OF LIABILITY OF GOVERNMENT
AND MARINE DEPARTMENT AND PORTS
DEPARTMENT OFFICERS AND EMPLOYEES

- 39. Loss or destruction of or damage to goods other than transshipment goods
- 40. Liability of the Government for loss under contract
- 41. Loss or destruction of, or damage to, transshipment goods deposited with a competent Ports officer
- 42. Force majeure, etc.
- 43. Cargo subject to general or particular average
- 44. Government not responsible for acts of stevedores or workmen
- 45. Limitation of liability in respect of one occasion
- 46. Protection from personal liability

PART VI

REMOVAL OF VESSELS SUNK AND OTHER
OBSTRUCTIONS

47. Power to raise and remove vessel or aircraft sunk
48. Removal of obstructions other than vessels or aircraft
49. Removal of certain obstructions and compensation therefor
50. Removal of abandoned vessels

PART VII

OFFENCES

51. Injury to lighthouses etc.
52. Misconduct by person employed in lighthouse
53. Prevention of false lights
54. Offences in connection with safety of vessels, etc.
55. Penalties as to employment of pilot other than a licensed pilot
56. Offences of licensed pilots
57. Penalty on pilot endangering vessel, life or limb
58. Failure to employ licensed pilot under certain circumstances
59. Evasion of dues and rates
60. False returns
61. Penalty for giving false information as to draught of vessel, etc.
62. Duty to furnish information

PART VIII

MISCELLANEOUS PROVISIONS

- 63. Minister may appoint places to be used for the collection of revenue duties
- 64. Powers of revenue officers in Ports Department warehouses
- 65. Service of notices
- 66. Evidence of identity may be required in certain cases
- 67. Powers of arrest and boarding
- 68. Compensation, damages and costs to be determined by Court of a Magistrate
- 69. Court for trial and punishment of offences under this Act
- 70. Attorney General to sanction prosecution
- 71. Statement to be made in complaint or summons of offence
- 72. Application of Act

s. 17/88

Controller of Ports
or Controller → Director of Ports

Deputy Controller of
Ports or Deputy
Controller → Deputy Director
of Ports

PORTS ACT

An Act to provide for the regulation and control of the ports and waters of Brunei, for the erection and maintenance of lighthouses and navigational aids and for purposes incidental thereto

12 of 1982 → S 24/85 up 11.88
S 17/82

Commencement: 1-1-1986

S 25/85

PART I

PRELIMINARY

1. This Act may be cited as the Ports Act, and shall come into operation on such day as His Majesty the Sultan and Yang Di-Pertuan may, by notification in the *Government Gazette*, appoint, and different dates may be so appointed for different provisions of this Act.

Short title
and com-
mencement

2. (1) In this Act, unless the context otherwise requires —

Interpreta-
tion

“animal” means any animate thing of every kind except human beings;

“approaches” means, in relation to a port, any area in Brunei adjacent to a port and declared under section 3 to be the approaches to such port;

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

“competent Marine officer” means the Director or any other officer of the Marine Department acting in the fulfilment of his duties under this Act;

“competent Ports officer” means the Controller or any other officer of the Ports Department acting in the fulfilment of his duties under this Act;

“Controller” means the officer for the time being appointed to be the Controller of Ports under section 6 (1) or continued in that office under section 6 (2), and includes the Deputy Controller of Ports;

“Director” means the officer for the time being appointed to be the Director of Marine under section 4 (1) or continued in that office under section 4 (2), and includes the Deputy Director of Marine;

“dock” includes drydocks and the entrances thereto, graving docks, gridirons, slips, keel blocks, inclined planes, and all machinery, works, fixtures and things whatsoever attached or pertaining thereto;

“dues” includes port dues, light dues, goods dues, private wharf dues, garbage removal dues, pilotage dues and any other dues levied under this Act but does not include rates;

“garbage removal dues” means dues levied in respect of services provided by the Controller for the removal of refuse, waste or garbage from vessels;

“goods” includes animals, carcasses, baggage and any other movable property of any kind whatsoever;

“goods dues” means dues levied in respect of goods landed from or loaded into vessels;

“harbour craft” means any vessel which is used within a port for any purpose;

“land area” means, in relation to a port, the area of the port other than the marine area;

“licensed pilot” means a pilot employed by the Director pursuant to section 34;

“light dues” means dues levied in respect of lights, beacons and any other navigational aids maintained by the Director;

“lighthouse” shall, in addition to the ordinary meaning of the word, include any floating and other light exhibited for the guidance of vessels and also any siren 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;

“marine area” means, in relation to a port, the area of the port (excluding any wharf situate therein) which comprises sea and river waters and sea bed, river bed and foreshore;

“master” includes every person, except a pilot, having commands or charge of any vessel;

“navigation” means navigation of vessels;

“owner”, when used in relation to goods includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, discharge or delivery of such goods; and, when used in relation to any vessel, includes any part-owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of any such person;

“passenger” means every person carried in a vessel other than the master and crew or other persons employed or engaged in any capacity on board a vessel or on the business of a vessel;

“pilot” means any person not belonging to a vessel who has the conduct thereof;

“pilotage district” means any area in the waters of Brunei declared under section 32 to be a pilotage district;

“port” means any area in Brunei declared under section 3 to be a port;

“port dues” means dues levied in respect of a vessel for entering, using, leaving or plying in the port;

“private wharf” means any wharf comprised in the land area of a port which is not controlled and managed by or on behalf of the Government;

“rates” means any rates or charges leviable by the Director or the Controller under this Act but does not include dues;

“vessel” includes any ship or boat or air cushioned vehicle or floating rig or platform used in navigation or in any other form of operations in any sea, river or other waters, or any other description of vessel; and

“wharf” includes a quay, pier, jetty or other landing place.

Minister with the Approval of His Majesty the Sultan and YDP

S 24/85

(2) ~~His Majesty in Council~~ may by regulations provide that references or a particular reference to a buoy or beacon in this Act or any regulations made thereunder shall be construed as including, in such circumstances as are specified in the regulations made under this subsection, equipment of a kind so specified which is intended as an aid to the navigation of vessels.

Minister with the Approval of His Majesty the Sultan and YDP

S 24/85

(3) ~~His Majesty in Council~~ may by regulations provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a vessel for the purposes of any provision specified in the regulations of this Act or any regulations made thereunder; and regulations made under this subsection may —

(a) make different provision in relation to different occasions; and

(b) if the regulations provide that a thing is to be treated as a vessel for the purposes of provision specified in the regulations, provide that the provision shall have effect in relation to the thing with such modifications as are so specified.

3. (1) ~~His Majesty in Council~~ ^{Minister with the approval of His Majesty the Sultan and GDP} may by notification in the *Government Gazette* — ^{S 24/85 Declaration of ports etc.}

(a) declare any area in Brunei and any navigable river or channel leading into such area to be a port for the purposes of this Act; ^{S. 5/86}

(b) declare any area in Brunei adjacent to a port to be the approaches to such port. ^{S. 15/87}

(2) Every declaration under this section shall define the limits of the port or approaches thereto, as the case may be, and ~~His Majesty in Council~~ ^{Minister with the approval of His Majesty the Sultan and GDP} may from time to time, by notification in the *Government Gazette*, alter the limits so declared. ^{Am S 24/85}

4. (1) His Majesty may appoint a Director of Marine and a Deputy Director of Marine and so many other officers of the Marine Department under such official designations as His Majesty may deem expedient for the purpose of carrying out all or any of the provisions of the Act or any other written law. ^{Appointment of Director of Marine and other officers}

(2) Subject to the provisions of subsection (1), the officer performing the functions of Director of Marine immediately before the date of the coming into operation of this Act and all other officers of the Marine Department immediately before that date are hereby continued in their offices and shall have, enjoy and perform all powers, privileges and duties respectively conferred, granted and imposed upon the holders of their respective offices under the provisions of this Act or any other written law.

Duties of the
Director

5. Subject to the provisions of this Act and of any other written law, the Director shall be charged with the administration and control of the Marine Department and it shall be his duty, so far as public funds are available for the purpose, —

(a) to provide and maintain adequate, efficient and appropriate port services and facilities in the marine area of every port;

(b) to regulate and control navigation within the waters of Brunei and to provide pilotage services;

(c) to provide and maintain such lighthouses and all works, roads and appurtenances required in connection therewith, buoys and beacons and other navigational aids as may seem to him to be necessary to assist navigation;

(d) to carry out dredging operations and port conservancy;

(e) to disseminate navigational information;

(f) to provide, where expedient, a ferry service for the transportation of passengers, vehicles or goods within the waters of Brunei or to and from any such place outside such waters as may be authorised by His Majesty; and

(g) to carry out such other duties as are imposed upon the Director by this Act and any other written law.

Appointment
of Controller
of Ports and
other officers

6. (1) His Majesty may appoint a Controller of Ports, a Deputy Controller of Ports, and so many other officers of the Ports Department under such official designations as His Majesty may deem expedient for the purpose of carrying

out all or any of the provisions of this Act or any other written law.

(2) Subject to the provisions of subsection (1), the officer performing the functions of Controller of Ports immediately before the date of the coming into operation of this Act and all other officers of the Ports Department immediately before that date are hereby continued in their offices and shall have, enjoy and perform all powers, privileges and duties respectively conferred, granted and imposed upon the holders of their respective offices under the provisions of this Act or any other written law.

7. Subject to the provisions of this Act and of any other written law, the Controller shall be charged with the administration and control of the Ports Department and it shall be his duty, so far as public funds are available for the purpose, —

Duties of
Controller

(a) to provide and maintain adequate, efficient and appropriate port services and facilities in the land area of every port;

(b) to promote the use, improvement and development of the land area of every port; and

(c) to carry out such other duties as are imposed upon the Controller by this Act and any other written law.

8. Subject to the provisions of this Act the Director may carry on such activities as appear to him to be advantageous, necessary or convenient for him to carry on for or in connection with the discharge of his duties under this Act; and the Controller shall have the like powers in relation to his duties under this Act.

Powers of the
Director and
Controller

LAWS OF BRUNEI

14

CAP. 144

Ports

S 24/85
Powers of His Majesty in Council in relation to the Director and Controller

Minister with the approval of His Majesty the Sultan and YDP

9. ~~His Majesty in Council~~ may give to the Director or the Controller directions of a general or specific character, not inconsistent with the provisions of this Act, as to the exercise and performance of his functions under this Act and the Director or the Controller, as the case may be, shall give effect to such directions.

Control and management of Government land and buildings in land areas of ports

10. (1) Subject to the provisions of this section, the Controller shall be charged with the control and management of all land and buildings of the Government situate in the land area of a port, except any such land or buildings as may be specified in the notification defining or altering the limits of the port pursuant to section 3.

S 34/85

Minister with the approval of His Majesty the Sultan and YDP

(2) ~~His Majesty in Council~~ may from time to time, by notification in the *Government Gazette*, declare that any land or building of the Government situate in the land area of a port shall cease to be or shall become, as the case may be, subject to the control and management of the Controller.

Cap. 36

(3) Where, by virtue of subsection (1) or of any notification under subsection (2), any wharf, building or land becomes subject to the control and management of the Controller, any order made under section 57 of the Customs Act (relating to the establishment and maintenance of customs warehouses) and any regulations made under section 133 (33) of the said Act (relating to wharf dues payable under the said Act) affecting such wharf, building or land shall cease to have effect in relation thereto.

PART II

DUES AND RATES

Dues payable in respect of vessels

11. (1) The owner or master of every vessel which enters, leaves, uses or plies within any port or pilotage district or calls at any place in Brunei shall pay —

(a) to a competent Marine officer, such light, pilotage and other dues; and

(b) to a competent Ports officer, such port, goods, private wharf, garbage removal and other dues,

Minister with the approval of HM the Sultan and YDP
 as ~~His Majesty in Council~~ may, by notification in the *Government Gazette*, from time to time prescribe.

§ 24/85

(2) The dues payable under subsection (1) shall be paid in addition to the rates which the Director or the Controller may levy under section 13.

12. A receipt for any dues payable under section 11 shall be given to every person paying them and any vessel, in respect of which such receipt is not produced when demanded by a competent Marine or Ports officer may be detained until such receipt is produced.

Receipts

13. (1) Subject to the provisions of this Act, the Director and the Controller shall levy such rates as ~~His Majesty in Council~~ may, by notification in the *Government Gazette*, from time to time prescribe for the use of premises, works or appliances belonging to, and for services or facilities provided by, the Marine Department or the Ports Department, as the case may be, and without prejudice to the generality of the foregoing, for any of the following matters —

Levy of rates

§ 5/86

Minister with the approval of HM the Sultan and YDP

(a) the landing, shipping, wharfage, crantage, storage or carriage of goods;

(b) the carriage of passengers;

(c) the use by any vessel or person of any premises, wharf or dock under the control of the Director or the Controller;

(d) the use of any gear, tackle, instruments, tools, utensils, staging or materials supplied by the Director or the Controller for the purpose of any vessel using or any person working in any premises, wharf or dock under the control of the Director or the Controller;

(e) the use of any vessel or engine belonging to or maintained by the Director or Controller for the extinction of fire;

(f) the towing of, and rendering assistance to, any vessel;

(g) the supply of water, fuel, electric and other forms of energy by the Director or the Controller;

(h) the laying of moorings, cables or pipes;

(i) the use of pilotage and salvage services provided by the Director to any vessel.

(2) The Director or the Controller, as the case may be, may, with the approval of the Minister, enter into a special agreement in respect of any of the matters referred to in subsection (1) instead of charging the rate prescribed for it.

(3) The Director or the Controller, as the case may be, may make such charges as the Minister shall approve for services rendered or goods supplied by the Director or the Controller in pursuance of the powers conferred by this Act in respect of which no rates have been prescribed under subsection (1).

(4) Any rates prescribe under subsection (1) shall become due and payable as if the services, works or facilities have been rendered, performed or provided if the request for the services, works or facilities is withdrawn or cancelled

without the prescribed notice of withdrawal or cancellation of the request being given to the Director or the Controller, as the case may be.

14. The Minister may, if he thinks fit —

(a) remit or waive the whole or any part of any dues or rates paid or payable under this Part;

(b) exempt, upon such conditions as he may prescribe, any vessel or class of vessels from any dues payable under this Part.

Remission and waiver of dues and rates and exemption from dues

15. (1) Any competent Marine or Ports officer may enter into any vessel within the limits of a port or the approaches thereto or a pilotage district in order to ascertain the amount of the dues or rates payable to him in respect of the vessel.

Power of entry into vessels and private wharves

(2) Any such officer may enter upon any private wharf in a port to ascertain the amount of the private wharf dues payable to him in respect of a vessel, or, as the case may be, for the purpose of obtaining access to a vessel, when berthed at such a wharf, to ascertain the amount of dues or rates payable to him in respect of the vessel.

(3) Any person who without lawful excuse refuses to allow any such officer to enter into the vessel or upon any private wharf pursuant to subsection (1) or (2) shall be guilty of an offence: Penalty, a fine of \$2,000.

16. (1) For the amount of all rates leviable under this Act in respect of any goods, the Government shall have a lien on the goods and a competent Ports officer shall be entitled to seize and detain them until the rates are fully paid. Notwithstanding the provisions of any other written law, such a lien shall have priority over all other liens and claims howsoever arising.

Lien on goods for recovery of rates

(2) Rates in respect of goods to be landed shall become payable immediately on the landing of the goods.

(3) Rates in respect of goods to be shipped shall be payable before the goods are shipped.

(4) Rates in respect of goods to be removed from the premises of the Ports Department shall be payable on demand.

Power to sell
goods re-
maining in
custody

17. (1) Without prejudice to the provisions of section 16, if any goods which have been placed in or on the premises of the Ports Department are not removed therefrom within 28 days or in the case of transshipment goods within 42 days, the Controller may, at the expiration of the said period of 28 or 42 days, as the case may be, dispose of all or any such goods by public auction or public tender:

Provided that —

(a) in the case of goods of perishable nature, the Controller may direct their removal within such shorter period, not being less than 24 hours after the landing thereof as he may deem fit, and if not so removed, the Controller may dispose of such goods in such manner as he may deem fit; and

(b) in the case of goods which the owner thereof has placed in or on such premises with the approval of the Controller solely for the purpose of storage, the Controller shall serve such owner with not less than 28 days notice in writing requiring the removal of such goods and if the owner fails to comply with the notice in respect of any of such goods the Controller may dispose of them by public auction or public tender.

(2) For the purposes of subsection (1) a sale shall not be rendered invalid by reason only that it is made in or

on premises or at a place to which the public is not admitted except on presentation of a pass.

(3) Before making such a sale, the Controller shall —

(a) serve not less than 14 days notice in writing of the proposed sale on the owner of the goods in question or his agent; or

(b) if no such name and address are known to him, publish such a notice in the *Government Gazette*:

Provided that, if the goods in question are of such a perishable nature as, in the opinion of the Controller, to render their immediate sale or disposal necessary or advisable, the Controller shall give such notice, if any, as he shall deem appropriate to the circumstances of the case.

(4) The proceeds of sale shall be applied by the Controller in the following manner —

(a) firstly, in payment of the expenses of the sale;

(b) secondly, in payment of any duty payable to the Government;

(c) thirdly, in payment of the rates, charges and expenses due to the Government in respect of the goods; and

(d) fourthly, in payment of freight, and other claims or liens of which the Controller has been given notice under any written law relating to merchant shipping,

and by rendering the surplus, if any, to the person entitled thereto on demand, and, in case no such demand is made within one year from the date of the sale of the goods, by paying the surplus into the Consolidated Fund, whereupon all rights to the same of such person shall be extinguished.

Power to dis-
train for non-
payment of
dues, rates,
etc.

18. (1) If the master or owner of any vessel in respect of which any dues, rates or penalties are payable under this Act or any regulations made thereunder refuses or neglects to pay the same or any part thereof on demand, the Director or the Controller or both such officers, as the case may be, may, in addition to any other remedy to which Government may be entitled, distrain or arrest of his or their own authority the vessel and the tackle, apparel or furniture belonging thereto or any part thereof, and detain the same until the amount or amounts so due is paid.

(2) In case any part of the said dues, rates or penalties, or of the costs of the distress or arrest, or of the keeping of the said vessel, tackle, apparel or furniture remains unpaid for the space of 14 days next after any such distress or arrest has been so made, the Director or Controller or both such officers, as the case may be, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy those dues, rates or penalties and costs, including costs of sale remaining unpaid, rendering the surplus, if any, to the master or owner of the vessel on demand.

(3) If —

(a) the Director has reason to believe that an amount is due to the Marine Department; or

(b) the Controller notifies the Director that an amount is due to the Ports Department, in respect of dues, rates or penalties chargeable under this Act or any regulations made thereunder against

any vessel or the owner, agent or master of such vessel,

the Director shall not grant port clearance under this Act until the amount so chargeable has been paid or security has been given to the satisfaction of the Director or the Controller or both such officer as the case may be, for the amount thereof.

19. Notwithstanding anything contained in sections 16 to 18 and section 68, the Government may recover by civil proceedings any dues, rates, expenses, costs, or, in case of sale, the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to or recoverable by the Government under this Act or any regulations or orders made thereunder.

Remedy by
civil proceed-
ings

20. ^{Minister with the approval of HM the Sultan and YDP} ~~His Majesty in Council~~ may, by notification in the ^{S 24/85} ~~Government Gazette~~, prescribe —

~~His Majesty
in Council~~
may pre-
scribe re-
quirements
for payment
of dues and
rates

(a) the times, places and manner at or in which dues and rates shall be paid under this Act; and

(b) the particulars which shall be included in receipts issued in respect of the payment of dues and rates.

PART III

REGULATION OF PORTS AND WATERS

21. (1) His Majesty may prohibit and, if necessary, prevent any vessel from entering or remaining in the waters of Brunei if His Majesty is of the opinion that it would not be in the interests of Brunei for such vessel to enter or remain in Brunei.

Power to pro-
hibit and pre-
vent vessels
from entering
or remaining
in Brunei

(2) Any person who causes, permits or suffers any vessel to enter or remain in the waters of Brunei in contravention of any prohibition imposed under subsection (1) shall be guilty of an offence: Penalty, a fine and imprisonment for 2 years and, in the case of a continuing offence, a fine of \$1,000 for every day or part of a day during which the offence is continued after conviction.

(3) Any vessel which enters or remains in the waters of Brunei in contravention of any prohibition imposed under subsection (1) shall be liable to be detained.

S 24/85
Regulations

Minister with the approval of His Majesty the Sultan and YDP

22. (1) ~~His Majesty in Council~~ may make regulations for the maintenance, control and management of any port and the approaches thereto, and for the maintenance of good order and generally for carrying out the purposes of this Act therein and in the waters of Brunei, and in particular and without prejudice to the generality of the foregoing power, may make regulations for in respect of all or any of the following matters —

(a) regulating traffic and preventing and removing obstructions or impediments to navigation;

(b) regulating the flags and signals to be used by vessels arriving at, lying in and departing from a port;

(c) regulating the berths, stations and anchorages to be occupied by vessels in a port 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;

(d) regulating, the manner in which, and the conditions under which, persons, animals, or goods, may be permitted ingress, and use of any

premises belonging to, or administered or operated by the Ports Department;

(e) regulating the manner in which the conditions under which the loading and discharging of vessels shall be carried out, and for varying the position of vessels loading or discharging;

(f) keeping free passages of such width as is deemed necessary within a port and the approaches thereto and along or near to the wharves, docks, moorings and other similar works in or adjoining the same and for marking out the spaces so to be kept free;

(g) regulating and anchoring, fastening, mooring and unmooring and warping of all vessels and the use of warps, mooring buoys, chain and other moorings and the granting of permission, on such conditions as the Director may think fit, for the keeping or placing of private moorings or buoys;

(h) regulating traffic, preventing and removing obstructions and keeping order on wharves and docks and for ensuring the safety of the same and any cargo thereon;

(i) regulating the towage or other assistance to vessels and the terms and conditions of such towage or assistance;

(j) regulating and controlling the use of harbour craft and providing for the licensing thereof;

(k) regulating the use of fires and lights and the signals to be used and measures to be taken in case of fires in a port;

(l) enforcing and regulating the use of navigation lights, signals and signal lights by vessels and the steps to be taken for avoiding collision by vessels navigating in the waters of a port and the approaches thereto;

(m) providing for inspection of vessels in a port and regulating the manner in which vessels shall be boarded and such inspection carried out;

(n) the prohibition of chipping, scaling or noisy repairs on vessels or the breaking up of vessels except at such places and at such times as may be prescribed;

(o) permitting, regulating and controlling the embarkation, landing and movements on shore of persons or things on or from vessels of all kinds;

(p) ensuring the safety of persons employed in a port and in ships using a port;

(q) the safe and convenient use of the wharves, docks and premises and of any ferry service;

(r) prohibiting any operation which may be undesirable in a port or in the waters of Brunei;

(s) regulating the reception, storage and removal of goods within and from premises in a port, and declaring the procedure to be followed for taking charge of goods which have been damaged before landing or are alleged to have been so damaged;

(t) prescribing the terms and conditions for the sale and supply of water in a port and prohibiting such sale and supply within a port except as prescribed;

(u) preventing excessive smoke or other nuisance from vessels, keeping clean the basins, works and premises in a port and the water of the port and the approaches thereto and preventing oil, filth, rubbish or any other thing being thrown or entering therein or thereon;

(v) supervising, regulating and controlling all activities carried on within a port and providing for the licensing thereof;

(w) prescribing the conditions under which hydrographic or hydrologic surveys or other studies of the waters or sea-bed may be made within the waters of Brunei;

(x) prohibiting or regulating the provision and maintenance in the waters of Brunei of light-houses, buoys and beacons and other navigational aids not owned or erected by the Government;

(y) providing for the making good of damage or loss or both caused by the Marine Department or Ports Department, where such damage or loss is not otherwise provided for in this Act; and

(z) excluding or limiting the liability of the Government in respect of anything done pursuant to this Act.

Minister with the approval of HM the Sultan and GDP

(2) ~~His Majesty in Council~~ may make regulations for the conveyance, loading, discharging and storage of dangerous goods within the waters of Brunei or within the limits of a port and, in particular and without prejudice to the generality of the foregoing, for all or any of the following matters —

S 24/85

(a) classifying goods as dangerous goods;

(b) regulating the navigation and place of berthing of vessels carrying dangerous goods;

(c) regulating the mode of storing and keeping dangerous goods on board such a vessel;

(d) regulating and controlling the lighterage, landing, loading and discharging of dangerous goods;

(e) prohibiting or subjecting to conditions and restrictions the conveyance of any kind of dangerous goods with any other kind of goods, articles or substances;

(f) prohibiting the loading or discharging of dangerous goods at places where such loading or discharging appears specially dangerous to the public;

(g) fixing the places and times at which dangerous goods are to be loaded or discharged and the quantity to be loaded or discharged at any time;

(h) regulating the mode of, and the precautions to be observed in, conveying or keeping dangerous goods and in the loading or discharging of them;

(i) fixing the times at which lights or fires are to be allowed or not allowed on board vessels carrying dangerous goods;

(j) generally for protecting, whether by means similar to those abovementioned or not, persons and property from danger.

(3) For the purposes of subsection (2), “dangerous goods” includes aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitroglycerine, petroleum, and ex-

platives as defined by notification under the Arms and Explosives Act and any other goods which ~~His Majesty in Council~~ may, by regulation, declare to be dangerous goods for the purposes of this section.

Cap. 58
Minister with the approval of His Majesty the Sultan and Yang Di' Pertuan
s 24/85

s 24/85 Minister with the approval of His Majesty the Sultan and Yang Di' Pertuan

(4) ~~His Majesty in Council~~ may, in making any regulation under this section, provide —

(a) that any contravention of any regulation shall be an offence and may prescribe as a penalty in respect of any one offence a fine not exceeding the sum of \$2,000, and in the case of a continuing offence a fine not exceeding \$500 for every day or part of a day during which such offence is continued after the date of the conviction thereof; and

(b) for payment of any expense incurred in the removal of any obstruction or impediment caused by the offender.

23. (1) Regulations made under section 22 may provide that the Controller or any other competent Ports officer may —

Powers of Director and Controller, and competent officers in relation to vessels

(a) direct where any vessel shall be berthed alongside any wharf situated in the land area of a port; and

(b) direct the removal of any vessel from any berth alongside any such wharf to another such berth or to another mooring or anchorage, and the time within which such removal is to be effected.

(2) Any such direction shall be valid in default of any prior or subsequent overriding direction by the Director or any other competent Marine officer under subsection (3) (a) or (b).

(3) Nothing contained in subsection (1) shall prejudice the exercise of the overriding power hereby conferred on the Director or any other competent Marine officer, within the waters of Brunei to —

(a) direct where any vessel shall be berthed, moored or anchored and the method of anchorage;

(b) direct the removal of any vessel from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected; and

(c) regulate the movement and mooring of vessels:

Provided that the Director or such competent Marine officer shall, where circumstances permit, consult with the Controller prior to directing any vessel to be berthed alongside any wharf situated in the land area of a port or to be removed from any berth alongside such a wharf.

Penalty for disobedience of directions given under section 23 or regulations made under section 22

24. (1) Any person who, without lawful excuse, fails or neglects to obey any direction lawfully given by a competent Marine officer or Ports officer under section 23 or any regulation made under section 22 shall be guilty of an offence: Penalty, a fine of \$2,000 and, in the case of a continuing offence, a fine of \$500 for every day or part of a day which the offence is continued after conviction.

(2) In case of such failure or neglect the Director or the Controller, as the case may be, may, whether any proceedings have been instituted against any person for such offence or not, do or cause to be done all such acts as are in his opinion reasonable or necessary for the purpose of carrying such direction into effect, and may hire and employ such persons as he considers proper and necessary for such purposes.

(3) All expenses incurred in doing such acts shall be paid and borne by the person or persons so offending.

25. No person shall discharge any oil, oily substance or oily liquid into the waters of Brunei without the written permission of the Director or such other person as may be authorised by His Majesty or without lawful excuse, and any person who so discharges the same or causes the same to be discharged and the owner and master of any vessel from which the same is discharged shall be guilty of an offence: Penalty, a fine of £50,000 in addition to any expenses which are incurred by the Director in removing or procuring the removal of the same.

Discharging oil, etc., into waters of Brunei

26. (1) The master of every vessel anchoring in, or going alongside any wharf in a port in Brunei shall forthwith —

Master to report arrival of vessel in Brunei

(a) report or cause to be reported the arrival of his ship at the office of the Director and shall, if required, produce to a competent Marine officer the certificate of registry or other equivalent documents as may be prescribed; and

(b) deposit or cause to be deposited at the office of the Director —

- (i) his clearance from his last port;
- (ii) a copy of the manifest of cargo to be discharged or transhipped in the port;
- (iii) a list of passengers;
- (iv) a list of crew,

or such other documents as may be prescribed.

(2) ^{Minister with the approval of HM the Sultan and YDP} ~~His Majesty in Council~~ may make regulations —

is 24/85

(a) prescribing anything that may be prescribed under subsection (1);

(b) regulating the manner in which vessels arriving in a port or place in Brunei are to be boarded by officers of the Marine Department and other officers of the Government;

(c) regulating the information to be supplied to such officers by the masters and owners of such vessels and by other persons in respect of such vessels and of goods loaded or discharged at the wharves and premises in a port, and the time and manner in which such information shall be supplied; and

(d) regulating the entries to be made by such officers in such books as may be specified in the regulations.

(3) The master of any vessel or any other person who fails to comply with the provisions of this section or of any regulation made under subsection (2) shall be guilty of an offence: Penalty, a fine of \$2,000.

No vessel to
leave port
without port
clearance

27. (1) No vessel shall leave any port in Brunei without the master obtaining a port clearance from a competent Marine officer.

(2) If the master of any vessel obtains a port clearance and does not sail within 48 hours thereafter, he shall report to a competent Marine officer his reason for not sailing, and if so required, obtain a fresh port clearance.

(3) This section shall not apply to vessels of a class which have been exempted from the operation of this section by His Majesty.

(4) If any vessel, not being exempted from the operation of this section, leaves or attempts to leave any port without a port clearance, or contrary to the provisions of subsection (2), the master of the vessel and also the owner

and any person who sends or attempts to send the vessel to sea, if that owner or person is party or privy to the offence, shall be liable for each offence to a fine of \$1,000, and the vessel, if she has not left Brunei, may be detained.

28. (1) Without prejudice to section 18 (3), a competent Marine officer may refuse to issue a port clearance to any vessel —

When port clearance may be refused

(a) whose owner or master has not complied with any written law relating to import or export of goods into or from any port or place in Brunei;

(b) whose owner or master has not complied with any provisions of this Act or of any other written law;

(c) where there are on board the vessel passengers of any description in excess of the number authorised by the vessel's licence or certificate or otherwise in contravention thereof;

(d) where, under this Act or any other written law, the vessel may not leave the waters of or any port in Brunei or is to be or may be detained.

(2) Any vessel to which port clearance is refused may be detained.

29. (1) Where under this Act or any other written law a vessel is to be or may be detained, any commissioned officer on full pay in the armed forces of His Majesty or a competent Marine officer may detain the ship and may place on board a police guard which may take such steps as are necessary to prevent the ship from leaving a port or the waters of Brunei.

Enforcing detention of vessels

(2) If the vessel, after detention, or after service on the master of any notice of or order for detention, goes to

sea before it is released by a competent authority, the master of the vessel and also the owner or any person who sends the vessel to sea, if that owner or person is party or privy to the offence, shall be liable to a fine of \$2,000.

(3) Where a vessel going to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the vessel or any police guard, the owner and master of the vessel shall each be liable to pay all expenses of and incidental to the officer or police guard being so taken to sea, and also to a fine of \$2,000 and a further fine of \$200 for every day until the officer or police guard returns or until such time as would enable him after leaving the vessel 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.

(4) Any person who opposes or in any way obstructs any officer authorised to detain the vessel or any police guard shall be guilty of an offence: Penalty, a fine of \$1,000.

Hydro-
graphic sur-
veys, etc.,
not to be car-
ried out with-
out approval
of His Majes-
ty in Council
s 24/85

30. (1) No person shall carry out or cause to be carried out any hydrographic or hydrologic surveys or other studies of the waters and sea-bed within the waters of Brunei except with the approval of His Majesty in Council. ~~Minister with the approval of His Majesty the Sultan and YDP~~

(2) Any person who contravenes subsection (1) shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 6 months.

(3) This section shall not apply to any hydrographic or hydrologic survey or other study carried out —

(a) for or on behalf of the Government; or

(b) pursuant to a licence issued or lease granted under the Mining Act; or

(c) pursuant to a petroleum mining Agreement entered into under the Petroleum Mining Act. Cap. 44

31. (1) No person shall, without the permission of ~~His Majesty in Council~~ or a public officer authorised by ~~His Majesty in Council~~ in that behalf, —

Restriction of certain works or operations in marine areas of ports
 Minister with the approval of His Majesty the Sultan and YDP
 S. 24/85

(a) construct, alter or improve any works in any part of the marine area of a port; or

(b) deposit in the marine area of a port, or remove or carry away therefrom, any rock, stones, shingles, gravel, sand, soil or other materials whatsoever.

(2) The restriction imposed by subsection (1) shall not apply to any dredging operations or other works carried out by or on behalf of the Government.

(3) For the purpose of this section, “works” includes any architectural or engineering operations or the laying of cables.

(4) Any person who contravenes subsection (1) shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 6 months and liability to pay all reasonable expenses which may be incurred in repairing any injury caused by that person to any part of the marine area of a port.

PART IV

PILOTAGE

32. (1) ~~His Majesty in Council~~ may by notification in the *Government Gazette*, declare any area in the waters of Brunei to be a pilotage district.

Minister with the approval of His Majesty the Sultan and YDP
 Declaration of pilotage districts
 5/13/89

Minister with
the approval
of His Majesty
the Sultan and
YDP
5/24/85

(2) Every such declaration shall define the limits of the pilotage district and such limits may be varied from time to time by ~~His Majesty in Council~~ by notification in the *Government Gazette*.

Vessels may
be required
to be under
pilotage

33. (1) A competent Marine officer may, if it appears to him to be necessary, require any vessel while navigating in any pilotage district or part thereof to be under pilotage and the master or owner of that vessel shall comply with that requirement.

(2) A vessel while being moved within any area of a port which is or forms part of a pilotage district shall be deemed to be a vessel navigating in a pilotage district.

Employment
of pilots

34. (1) Subject to the provisions of this Act, the Director shall have the general responsibility for employment of pilots for the purposes of providing pilotage service in a pilotage district.

(2) The Director shall examine, or cause to be examined, every candidate for employment as a pilot and on being satisfied as to his fitness and competency may issue to him a licence to act as pilot in a specified pilotage district and such licence may contain such conditions as the Director may deem fit.

(3) Every pilot shall whenever the Director considers that owing to changed conditions or for any other sufficient reason, the further testing of any such pilot's fitness and competency is necessary, present himself for further examination and shall in every such case first deposit with the Director his licence to be returned to him or cancelled as the result of such examination determines.

(4) No person shall be employed as a pilot in a pilotage district unless he holds a valid licence to act as a pilot in such district.

35. The master or owner of a vessel navigating in 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 be if pilotage were not compulsory.

Liability of master or owner in the case of a vessel under pilotage

36. (1) Every pilot shall give a bond in such sum as may be prescribed in favour of the Government for the proper performance of his duties under this Act.

Limitation of pilot's liability is given

(2) Any such bond shall not be liable to stamp duty.

(3) A pilot who has given a bond in accordance with this section shall not be liable for neglect, want of skill or incapacity in office beyond the penalty of such bond and the amount of the pilotage dues in respect of the voyage in which he was engaged when he became so liable.

37. (1) The issue of a licence to a pilot under section 34 shall not impose any liability on the Director or the Government for any loss or damage occasioned by any act, omission or default of such pilot.

Director and Government not liable for loss or damage occasioned by pilots

(2) A pilot while engaged in any pilotage act shall, notwithstanding that he may be employed at a salary by or on behalf, of the Government, be deemed to be the servant only of the master or owner of the vessel under pilotage and neither the Government nor any person employed by the Government shall be liable for any act, omission or default of such pilot.

38. (1) ^{Minister with the approval of His Majesty the Sultan and YDP} ~~His Majesty in Council~~ may make regulations — ^{S 24/85} Regulations regulating pilotage and conduct of pilots ^{S 21/88}

(a) prescribing or enabling the Director to specify standards of competence to be attained and other conditions to be satisfied in order that a licence might be issued under section 34;

(b) prescribing the conditions subject to which such licence may be issued and the duration of any such licence;

(c) prescribing the amount of the bond to be given by a pilot under section 36;

(d) providing for the conduct and discipline of pilots and for matters relating to their duties;

(e) regulating pilotage and providing for any other matters relating to pilotage.

s 24/85

(2) ^{Minister with the approval of HM the Sultan and YDP} ~~His Majesty in Council~~ may, in making any regulations under this section, provide that any contravention of any regulation shall be an offence and may prescribe as a penalty in respect of any one offence a fine not exceeding \$2,000.

PART V

LIMITATION OF LIABILITY OF GOVERNMENT AND MARINE DEPARTMENT AND PORTS DEPARTMENT OFFICERS AND EMPLOYEES

Loss or destruction of or damage to goods other than trans-shipment goods

39. (1) The Government shall not be liable —

(a) for any loss caused to any person by reason of misdelivery, short delivery or non-delivery of any goods deposited with or placed in the custody or control of the Ports Department, other than transshipment goods;

(b) for damage to or destruction of such goods as have been duly acknowledged by a competent Ports officer to be in the custody of the Ports Department in the sum of more than \$2,000 per package or unit unless the nature and value of the

goods contained therein have, prior to delivery to the Department, been declared in writing to a competent Ports officer by the person delivering or causing the same to be delivered, and the Government shall not in any event be liable therefor where the value of any such goods has been misstated.

(2) In this section and in section 41 —

“transshipment goods” means goods landed from a vessel and placed in the custody of a competent Ports officer for the purposes of shipment on another vessel on a through bill of lading dated at the port of loading of such goods and showing that the destination is via a port in Brunei, with the ultimate port of destination marked on each package or unit containing such goods and declared on a transshipment manifest lodged with such competent Ports officer prior to or at the time such goods are placed in his custody; and

“package or unit” includes a container, pallet or similar article of transport used to consolidate goods.

40. Notwithstanding the provisions of section 39, the Controller may, on application made to him by the owner of any vessel or goods, enter into a contract with such owner whereby the Controller shall accept liability on behalf of the Government for any loss caused by reason of short delivery by the Ports Department of any goods placed in storage or deposited with or placed in the custody or control of the Department or any failure by that Department to deliver or account for them, and for the purposes of this section, His Majesty in Council may make regulations prescribing the terms and conditions of such contract and may, by notification in the *Government Gazette*, from time to time prescribe the rates to be levied; and such regulations may prescribe

Liability of
the Govern-
ment for loss
under con-
tract

different terms and conditions and different rates for different circumstances.

Loss or destruction of, or damage to transshipment goods deposited with a competent Ports officer

41. In respect of any transshipment goods delivered by any person to, or placed by any person in the custody of, a competent Ports officer, the Government shall, from time of acknowledgment of the receipt of such goods and until delivery of such goods alongside the on-carrying vessel for loading, be liable, subject to the provisions of section 42, for the loss or destruction of, or damage to, such goods:

Provided that the Government shall not be liable for any such loss, destruction or damage in a sum of more than \$2,000 per package or unit unless the nature and value of the goods contained therein have, prior to delivery to such competent Ports officer, been declared in writing to such officer by the person delivering or causing them to be delivered, and the Government shall not in any event be liable therefore where the value of any such goods has been misstated.

Force majeure, etc.

42. The provisions of sections 39 and 41 shall not impose on the Government any liability for the loss or destruction of, or damage to, any goods arising from —

(a) fire or flood, unless caused by the actual fault or privity of the Marine Department or Ports Department;

(b) an act of God;

(c) an act of war or of public enemies;

(d) seizure under any legal process;

(e) quarantine restrictions;

(f) any act, omission or default of the owner or carrier of such goods;

(g) strikes, lockouts or stoppages or restraints of labour from whatever cause, whether partial or general;

(h) riots and civil commotions;

(i) saving or attempting to save life or property;

(j) insufficient or improper packing, defective or insufficient marks or leakage from defective drums, containers or packages;

(k) any inherent liability to wastage in bulk or weight, latent or inherent defect or natural deterioration;

(l) any deficiency in the contents of unbroken packages; or

(m) the dangerous nature of such goods.

43. (1) The owner or master of any vessel discharging or intending to discharge any cargo which is the subject or likely to be the subject of a declaration of general or particular average into the premises of the Ports Department shall inform a competent Ports officer of the existence or likelihood of such declaration and of the particulars of the cargo affected or likely to be affected thereby prior to the commencement of such discharge.

Cargo subject to general or particular average

(2) The Government shall be exempt from all liability in respect of the discharge, reception, storage or removal of any cargo referred to in subsection (1).

44. Any stevedore or workman whilst engaged in performing work in or in respect of any vessel shall, notwithstanding that his wage or remuneration for performing the said work is paid by the Government, be deemed to be the servant of the owner and master of such vessel and the

Government not responsible for acts of stevedores or workmen

Government shall be exempt from all liabilities for any loss or damage caused by any act, omission or default of such stevedore or workman.

Limitation of liability in respect of one occasion

45. The limitation of liability under this Part shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such losses or damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any written law and notwithstanding anything contained in such written law.

Protection from personal liability

46. No matter or thing done and no contract of any kind entered into by the Director or the Controller on behalf of the Government and no matter or thing done by any officer of the Marine Department or Ports Department or by any employee of either of such Departments or any other person whomsoever acting under the direction of the Director or the Controller shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of carrying out the provisions of this Act, subject any such officer or employee or any such other person acting under the direction of the Director or the Controller personally to any action, liability, claim or demand whatsoever in respect thereof.

PART VI

REMOVAL OF VESSELS SUNK AND OTHER OBSTRUCTIONS

Power to raise and remove vessel or aircraft sunk

47. (1) If in the opinion of the Director any vessel or aircraft sunk, stranded or abandoned in the waters of Brunei is, or is likely to become, an obstruction, impediment or danger to navigation in such waters or to the safe and convenient use or operation of a port, the Director or any person authorised by him may —

(a) take possession of and raise, remove or destroy the whole or any part of such vessel or aircraft;

(b) light, mark or buoy such vessel or aircraft until the raising, removal or destruction thereof; and

(c) sell, in such manner as he thinks fit, any such vessel or aircraft together with its cargo or anything else associated with it and out of the proceeds of sale reimburse the Government for the whole of the expenses incurred by him on behalf of the Government in the exercise of his powers under this section, and shall on demand pay the surplus, if any, of the proceeds of such sale to the owner.

(2) If the proceeds of sale under subsection (1) are insufficient to reimburse the Government for the whole of the aforesaid expenses, the Director may recover the balance from the owner of the vessel or aircraft as a debt in any court of competent jurisdiction.

(3) For the purposes of this section, "owner" includes not only the owner of the vessel or aircraft at the time of the sinking, stranding or abandonment thereof but also any purchase of any such vessel or aircraft so long as the same remains sunk, stranded or abandoned.

48. (1) The Director or any person authorised by him may take possession of and remove or destroy anything (other than a vessel or aircraft) causing or likely to become an obstruction, impediment or danger to navigation in the waters of Brunei or to the safe and convenient use or operation of a port.

Removal of obstructions other than vessels or aircraft

(2) The Director may, at such time and in such a manner as he thinks fit, dispose of anything removed by him

or on his authority under this section and apply the proceeds of sale towards payment of the expenses incurred by him on behalf of the Government under this section and any surplus shall be paid to any person who, within 3 months from the date the thing was removed by or on behalf of the Director, proves to the reasonable satisfaction of the Director that such person was the owner thereof.

(3) If anything removed under this section is unsaleable or is sold by the Director and the proceeds of sale are insufficient to reimburse the Government for the whole of the aforesaid expenses, the Director may recover as a debt in any court of competent jurisdiction the deficiency or the whole of the expenses, as the case may be, from the owner of the thing removed by the Director.

(4) The provisions of this section shall not affect the application of section 49 in respect of obstructions which have been lawfully made or have become lawful.

Removal of
certain ob-
structions
and com-
pensation
therefor

49. (1) If any obstruction or impediment to the navigation of a port has been lawfully made or has become lawful by reason of the long continuance of such approval of His Majesty in Council, cause the same to be removed or altered, making to the persons who suffer damage by such removal or alteration reasonable compensation for the damage done.

(2) If any dispute arises concerning such compensation, the amount and, if necessary, any question of liability shall be summarily ascertained and determined by a Court of a Magistrate.

(3) An appeal shall lie to the High Court from any decision of a Court of a Magistrate under this section and those provisions of the Criminal Procedure Code shall *mutatis mutandis* apply to all such appeals.

(4) The provisions of section 68 shall not apply where compensation is claimed or payable under this section.

50. (1) Where any vessel has been abandoned or appears to be abandoned on the foreshore, sea-bed, or the bank of any river or inland watercourse or in any public place near or adjacent to the sea or any river or inland watercourse, the Director may by notice in writing require the owner of such vessel to remove the same within the time appointed by the Director.

Removal of
abandoned
vessels

(2) Any notice to be served by the Director under subsection (1) may be served by affixing the same on the vessel which has been abandoned or appears to be abandoned and shall be deemed to be properly addressed if addressed by the description of the "owner" without further name or description.

(3) The owner of a vessel who fails to comply with a notice served by the Director under subsection (1) shall be guilty of an offence: Penalty, a fine of \$5,000.

(4) Where a notice has been served by the Director under subsection (1) and the vessel is not removed from the foreshore, sea-bed, bank of any river or watercourse or from a public place near or adjacent to the sea or any river or watercourse within the time stipulated in the notice, the Director may, notwithstanding any proceedings which may be instituted against the owner of the vessel for an offence under this section, cause the vessel to be removed and may sell or destroy the same.

(5) The proceeds of the sale of a vessel under this section shall be forfeited to the Government.

(6) Where a vessel is removed, sold or destroyed under this section, the owner thereof shall be liable to pay to the Director all the costs and expenses incurred therefore

and the same may be recovered as a debt due to the Director.

PART VII

OFFENCES

Injury to
lighthouses
etc.

51. Any person who wilfully and without lawful excuse —

(a) injures any lighthouse or the lights exhibited therein, or any buoy, beacon or navigational aid or any cables, wires or other apparatus, either in connection therewith or otherwise; or

(b) removes, loosens, sets adrift, alters or destroys any light-ship, buoy, beacon or navigational aid, or any cables, wires or other apparatus, either in connection therewith or otherwise; or

(c) rides by, makes fast to, or runs foul of, any lightship, buoy, beacon or navigational aid; or

(d) loosens or removes any vessel from her moorings or from her fastenings alongside a wharf,

shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months and, in addition, payment of the expenses of making good any damage so occasioned.

Misconduct
by person
employed in
lighthouse

52. Any person employed in or about a lighthouse who wilfully or negligently omits to do any act proper and requisite to be done by him with respect of the lights or signals exhibited in a lighthouse, shall, if such omission is of a nature likely to cause danger to navigation, be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 2 years.

53. (1) Wherever 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 or in such a manner as to affect the visibility of the light proceeding from a lighthouse, the Director 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.

Prevention of
false lights

(2) 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 guilty of an offence: Penalty, a fine of \$2,000.

(3) If any owner or person on whom a notice under this section is served neglects for a period of 2 days to extinguish or effectually screen the fire or light mentioned in the notice, the Director may, by his officers or employees enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage, and the expenses incurred by him in so doing shall be paid to him by the owner or person on whom the notice has been served.

54. Any person who —

(a) without any lawful excuse discharges any gun in a port except for the purposes of making a signal of distress or for such other purpose as is allowed under any written law;

(b) graves, breams or smokes any vessel in a port, or boils or heats any pitch, tar, wax, resin, dammar, turpentine oil or other such combustible matter on board any vessel within a port, at any time or within any limits at or within which such act is prohibited by any regulation made under this

Offences in
connection
with safety of
vessels, etc.

Act or by any order or direction of a competent Marine officer or the master of such vessel;

(c) uses a naked light when drawing off spirits, turpentine oil or other inflammable oils or liquids of any kind on board any vessel in a port; or

(d) uses a vessel, or permits a vessel to be used within the waters of Brunei —

(i) when such vessel is in such a state that by reason of the defective condition of its hull, equipment or machinery, or by reason of under-manning or otherwise of any person is likely to be endangered; or

(ii) when such vessel is so loaded with cargo or passengers or both cargo and passengers as to endanger the life of any person on board,

shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months.

Penalties as to employment other than a licensed pilot

55. (1) Subject to the provisions of subsection (2), any person who, not being a licensed pilot, engages in any pilotage act or attempts to obtain employment as a pilot of a vessel entering or being within any pilotage district shall be guilty of an offence: Penalty, a fine of \$2,000.

(2) The owner of any private wharf may, with the approval of the Director and subject to such conditions as the Director may impose, authorise any person to act as a berthing master for the purposes of berthing and unberthing vessels at such private wharf.

(3) Any master or owner of a vessel entering or being within any pilotage district who knowingly employs as a pilot any person who is not a licensed pilot or who is not authorised in accordance with the provisions of

subsection (2), shall be guilty of an offence: Penalty, a fine of \$2,000.

(4) For the purposes of this section, a licensed pilot, acting beyond the limits for which he is licensed or in contravention of any conditions imposed under the provisions of section 34, shall be deemed not to be a licensed pilot.

(5) Any person, may, without subjecting himself or his employer to any penalty, act as the pilot of a vessel entering or leaving any pilotage district, when such vessel is in distress or under circumstances making it necessary for the master to avail himself of the best assistance that can be found at the time.

56. (1) Any licensed pilot, either within or without the pilotage districts for which he is licensed, who — Offences of licensed pilot

(a) is in any way directly or indirectly concerned in any corrupt practices relating to vessels, their tackle, furniture, cargoes, crews or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels;

(b) lends his licence;

(c) acts as pilot while suspended;

(d) acts as pilot when in a state of intoxication;

(e) refuses or wilfully delays, when not prevented by illness or other reasonable cause, to pilot any vessel within the limits for which he is licensed by the Director upon being required to do so by a competent Marine officer; or

(f) quits the vessel under his pilotage without the consent of the master, before the service for which he was engaged has been performed,

shall be guilty of an offence: Penalty, a fine of \$2,000.

(2) Any person who procures, aids, abets or connives at the commission of any offence under this section shall be guilty of an offence: Penalty, a fine of \$2,000.

(3) Any licensed pilot who commits an offence under this section, or procures, aids, abets or connives at the commission of any offence, shall be liable on conviction to suspension or dismissal by the Director.

Penalty on pilot endangering vessel, life or limb

57. Any licensed pilot who, when engaged in the pilotage of a vessel, 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 vessel, or tending immediately to endanger the life or limb of any person on board the vessel; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from loss, destruction or serious damage, or for preserving any person belonging to or on board the vessel from danger to life or limb,

shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 2 years, and also suspension or dismissal by the Director.

Failure to employ licensed pilot under certain circumstances

58. The master or owner of a vessel navigating in circumstances in which the vessel is required by a competent Marine officer under section 33, to be under pilotage who does not employ a licensed pilot for such purpose shall be guilty of an offence: Penalty, a fine of \$2,000.

Evasion of dues and rates

59. (1) Any master or owner of any vessel or any owner of any goods who, by any means whatsoever, evades or attempts to evade any of the dues or rates leviable under

this Act shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 4 months, and, in addition, payment to the Director or the Controller, as the case may be, of double the amount of the dues or rates such offender, evaded or attempted to evade.

(2) The tender to or acceptance by the Director or the Controller or any of his officers of any dues or rates, the payment of which has been previously evaded or left unpaid, shall not release or discharge any person from any liability for any damages or penalty consequent upon such evasion or non-payment.

60. Any person who makes any statement which is false in any material particular in any return, claim or other document which is requested or required by a competent Marine officer or Ports officer shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months. False returns

61. Any master, owner or agent of a vessel entering or leaving or intending to enter or leave any dock, or come alongside or depart from any wharf, who gives false information of the draught, length or beam of such vessel to a competent Marine officer or a competent Ports officer or to any employee of the Marine Department or the Ports Department whose duty it is to ascertain the same, shall be guilty of an offence: Penalty, a fine of \$1,000. Penalty for giving false information as to draught of vessel, etc.

62. Any person who without reasonable cause or lawful excuse fails or refuses to furnish to a competent Marine officer any information required by such officer relating to the movement of vessels in or around Brunei and other matters affecting the movement and safety of such vessels shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 6 months. Duty to furnish information

PART VIII

MISCELLANEOUS PROVISIONS

Minister may appoint places to be used for the collection of revenue duties

63. (1) The Minister may, notwithstanding anything in this Act, appoint any part of the wharves or premises under the control and management of the Controller as a place for the collection of import or other revenue duties payable to the Government.

(2) Whenever any part of such wharves or premises has been so appointed as a place for the collection of such import or other revenue duties, the Controller shall set apart and maintain such place, in such manner as the Minister requires, for the use of the persons entitled to collect such duties.

Powers of revenue officers in Ports Department warehouses

64. Any person being or having the powers of a revenue officer under any written law for the time being in force shall at all times be admitted to all parts of any warehouse of the Ports Department, and shall be permitted to inspect the books kept in connection therewith and the stock therein.

Service of notices

65. (1) Every notice, order or document required or authorised by this Act or any regulations made thereunder to be served on any person may be served —

(a) by delivering the same to such person or by delivering the same at the last known place of abode of such person to some adult member or servant of his family;

(b) by leaving the same at the usual or last known place of abode or business of such person in a cover addressed to such person; or

(c) by forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of abode or business.

(2) Notwithstanding the provisions of subsection (1), any notice required to be given to any person who causes, permits or suffers anything which is an obstruction or impediment to navigation and whose identity is unknown, shall be deemed to be properly served if affixed on, at or near the place where such obstruction or impediment is.

66. (1) Any police officer, or any competent Marine officer or Ports officer who reasonably believes that any person has committed an offence under this Act or any regulations made thereunder may require such person to furnish evidence of his identity as may be required by such officer.

Evidence of identity may be required in certain cases

(2) Any person who refuses to furnish any information required of him by any police officer or any competent Marine officer or Ports officer under subsection (1) or wilfully misstates such information shall be guilty of an offence: Penalty, a fine of \$100.

67. (1) A police officer, or any competent Marine officer or Ports officer may arrest without warrant any person found committing or whom he has reason to believe has committed an offence punishable under this Act or any regulations made thereunder:

Powers of arrest and boarding

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a court unless the order of court for his continued detention is obtained.

(2) Any such officer may go either alone or with any other person on board any vessel within the waters of Brunei whenever he suspects that any such offence has been or is about to be committed in that vessel, or whenever he considers it necessary for him so to do in the discharge of any duty imposed upon him by this Act or any regulations made thereunder or otherwise by law.

(3) Any person who without lawful excuse refuses to allow any such officer so to enter the vessel be guilty of an offence: Penalty, a fine of \$2,000.

Compensation, damages and costs to be determined by Court of a Magistrate

68. (1) Except as otherwise provided in this Act in all cases where compensation, damages, costs or expenses are by this Act or any regulations made thereunder directed to be paid, the amount and, if necessary, the apportionment of the same and any question of liability shall, in case of dispute be summarily ascertained and determined by a Court of a Magistrate.

(2) If the amount of compensation, damages, costs or expenses is not paid by the party liable to pay the same within 7 days after demand, that amount may be reported to a Court of a Magistrate and recovered in the same way as if it were a fine imposed by that court.

(3) An appeal shall lie to the High Court from any decision of a Court of a Magistrate under this section, and the provisions of the Criminal Procedure Code shall mutatis mutandis apply to all such appeals.

Cap. 7

Court for trial and punishment of offences under this Act

69. Any offence under this Act or any regulations made thereunder may be tried by a Court of a Magistrate and such court may award the full penalty for such offence.

Attorney General to sanction prosecution

70. No proceedings for an offence punishable under this Act or any regulations made thereunder shall be instituted, except by or with sanction of the Attorney General.

Statement to be made in complaint or summons of offence

71. (1) It shall be sufficient, in any complaint or summons to be made before or issued by any Court of a Magistrate against any firm or company, or against any person carrying on any trade or business in co-partnership, or in any conviction to be afterwards made for any fine imposed or damages incurred by virtue of this Act or any regulation made thereunder, to state the offence committed by the firm

and to direct the summons to the firm or company or any member thereof.

(2) Service of the summons at the usual place of business of the firm shall be taken to be a sufficient service thereof.

(3) Such conviction may be recovered by the warrant of any Court of a Magistrate, to be made out and issued in the name of and against such firm or company, and to be levied and recovered by distress and sale of the goods of such firm or company or of any individual partner thereof.

72. (1) Subject to subsection (2), this Act shall not apply to vessels belonging to or for the time being in the service of His Majesty or of the Government or to vessels of war of any country. Application of Act

Minister with the approval of HM the Sultan and YDP say 185
 (2) ~~His Majesty in Council~~ may by regulations direct that any provision of this Act or of any regulations made thereunder shall apply to any such vessels referred to in subsection (1) as may be specified in the regulations.

(3) Without prejudice to any other powers conferred by or under this Act, His Majesty may, if he thinks fit, and subject to such conditions as he may think fit to impose, exempt any vessel or any class of vessels from all or any of the provisions of this Act or any regulations or notifications made or published thereunder, or dispense with the observance of any requirement contained in any such provisions in the case of any vessel or class of vessels.

