

LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 145

MERCHANT SHIPPING

ARRANGEMENT OF SECTIONS

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MERCHANT SHIPPING ACT

An Act to provide for the registration of ships, to enable better provision to be made for the safety and equipment of ships, for the qualification, welfare and discipline of officers and crews of ships and for the carriage of passengers and cargo in ships ; to provide for the licensing of ships and the disposal of wrecks ; to regulate salvage ; to set up courts of investigation and survey ; to amend the law with respect to delivery of goods and carriage of goods by sea and the liability of shipowners and others ; and for connected purposes

16 of 1983
3 23/84

Commencement : 1st September, 1984 Except S. 30/1984
for Parts VI, VII, VIII, IX
and XI

1st December, 1986 for S. 23/1986
Parts IX and XI

1st November, 1988 per Parts
VII and VIII

PART I

S. 8/89

PRELIMINARY

1. This Act may be cited as the Merchant Shipping Act and shall come into operation on such date 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 or for different purposes of the same provision.

Short title
and com-
mencement

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

Interpre-
tation

(a) “alteration” includes deterioration ;

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

“bankruptcy” includes insolvency ;

“British ship” has the same meaning as in the Merchant Shipping Acts .

“Brunei ship” means a ship owned wholly by Bruneis or by bodies corporate established under, and subject to, the law of Brunei and having their principal place of business in Brunei ;

“Brunei licensed ship” means a ship licensed under Part IV ;

“collision regulations” means regulations from time to time in force under the provisions of section 103 ;

“consular officer” means in relation to a foreign country the officer recognised by His Majesty as a consular officer of that country ;

“court” in relation to any proceedings includes any court, judge or magistrate having jurisdiction in the matter to which the proceeding relates ;

“court of survey” means a court of survey appointed by His Majesty under section 133 (1) ;

“crew agreement” means the agreement referred to in section 72 ;

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

“Director” means the officer for the time being appointed to be the Director of Marine under the Ports Act or continued in office under that Act, and includes the Deputy Director of Marine appointed or continued in office under that Act ;

“functions” includes powers and duties ;

“government surveyor” means a surveyor appointed under section 209 ;

“hovercraft” means a vessel which is an air cushioned vehicle ;

“inspector” means an inspector appointed under section 212;

“Load Lines Convention” means the International Convention on Load Lines signed in London on 5th April 1966 and the regulations annexed thereto, and includes any amendment thereof and any international agreement from time to time superseding the said Convention or regulations;

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

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

“Minister” means the Minister of Communications;

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

“officers of the Marine Department” means the officers for the time being appointed to be officers of the Marine Department under the Ports Act or continued in office under that Act; Cap. 144

“passenger” means every person carried in a ship other than —

(i) the master and crew or other persons employed or engaged in any capacity on board a ship on the business of a ship; and

(ii) a child under one year of age;

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

“port in Brunei” means any area in Brunei declared to be a port under the Ports Act; Cap. 144

“prescribed” means prescribed by regulation made by the Minister with the approval of His Majesty;

“premises” includes messuages, houses, buildings, lands, tenements, easements and hereditaments of

any tenure, whether open or enclosed, whether permanently built on or not, whether public or private, whether on land or over water, and whether maintained or not under statutory authority;

“Preventing Collisions at Sea Convention” means the Convention on the International Regulations for Preventing Collisions at Sea, 1972 signed in London on 20th October 1972 and the regulations annexed thereto, and includes any amendment thereof and any international agreement from time to time superseding the said Convention or regulations;

“registered Brunei ship” means a ship registered under Part II;

“representation” means probate, administration, confirmation, or other instrument constituting a person the executor, administrator or other representative of a deceased person, and “legal personal representative” means the person so constituted executor, administrator or other representative of a deceased person;

“Safety Convention” means the International Convention for the Safety of Life at Sea signed in London on 1st November 1974 and includes any amendment thereof and any international agreement from time to time superseding the said Convention;

“sailing ship” means any ship not fitted with any mechanical means of propulsion;

“salvor” means, in the case of salvage services rendered by the officers and crew or part of the crew of any naval ship, the person in command of that ship;

“sea-going ship or vessel” means a ship or vessel going beyond port limits;

“seaman” includes every person, except masters and pilots, employed or engaged in any capacity on board any ship;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on the water;

“ship” includes every description of vessel not propelled by oars;

“ship’s boat” includes a life-raft;

“steamship” includes any vessel propelled by steam and, subject to any modification that may be prescribed, shall include a vessel propelled by electricity or other mechanical power;

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

“vessel” includes any ship or boat or 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;

“voyage” means the whole time and the whole distances between the ship’s port or place of departure and her final port or place of arrival; and

“wages” includes emoluments;

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

(c) any reference to this Act or any Part or section shall be deemed to include a reference to any regulation, rule or other instrument made under

this Act or under the Part or section, as the case may be.

Application
of Act

3. (1) This Act shall not, except where otherwise specially provided and subject to the provisions of subsection (2), 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.

(2) The Minister with the approval of His Majesty may by regulations direct that any provision of this Act 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, the Minister with the approval of 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 requirements contained in or prescribed under this Act or dispense with the observance of any such requirement in the case of any vessel or class of vessels.

Application
of Act to
hovercraft
and to certain
structures,
etc.

4. (1) The Minister with the approval of His Majesty may by regulations provide that, in their application to hovercraft or to persons, things and places connected with hovercraft, any of the provisions of this Act shall apply with such modifications as may seem to the Minister with the approval of His Majesty to be appropriate.

(2) The Minister with the approval of His Majesty may by regulations provide that a thing designed or adapted for use at sea and described in the regulations is or is not to be treated as a ship for the purposes of any provision specified in the regulations of this Act or any subsidiary legislation made thereunder; and such regulations may —

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

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

PART II

BRUNEI REGISTRY

Obligation to register Brunei Ships

5. (1) Every Brunei ship shall, unless exempted from registry, be registered under this Part.

Obligation to register Brunei ships s 6/89

(2) If a ship required by this section to be registered is not so registered, she shall not be recognised as a Brunei ship.

(3) A ship required by this section to be registered may be detained until the master of the ship, if so required, produces the certificate of registry of the ship.

(4) The Minister with the approval of His Majesty may make regulations with respect to the manner in which ships, or classes of ships, belonging to the Government or any statutory body, may be registered under this Part.

6. (1) The following ships are exempted from registry under this Part —

Exemptions from registry

(a) any ship not exceeding 15 tons burden (ascertained in accordance with section 65) employed solely in navigation on the waters of Brunei; and

(b) any Brunei licensed ship:

Provided that His Majesty may, subject to such terms and conditions as he thinks fit to impose, exempt any ship or class of ships from registry.

(2) Notice of every exemption under this section shall be published in the *Government Gazette*.

Procedure for Registration

Registrar of
Brunei ships

7. (1) The Director shall be the Registrar of Brunei ships.

(2) The Registrar of Brunei ships (hereinafter referred to as "the Registrar") shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of Registrar unless the same has happened through his neglect or wilful act.

Register
book

8. (1) At every port in Brunei the Registrar shall keep a book, register and entries in the book shall be made in accordance with the following provisions —

(a) the property in a ship shall be divided into 64 shares;

(b) subject to the provisions of this Part with respect to joint owners or owners by transmission, not more than 64 individuals shall be entitled to be registered at the same time as owners of any one ship; but this provision shall not affect the beneficial title of any number of persons or of any company represented by or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding 5

may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered; and

(e) a corporation may be registered as owner by its corporate name.

(2) In this Part, unless the context otherwise requires, "register book" means, in relation to a Brunei ship, the register book kept by the Registrar under subsection (1) at the port in Brunei where such ship is registered or intended to be registered under this Part.

9. Every Brunei ship shall before registry be surveyed by a government surveyor and her tonnage ascertained in accordance with the provisions of this Part, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Registrar, and such certificate shall be delivered to the Registrar before registry.

Survey and
measurement
of ship

10. (1) Every Brunei ship shall before registry be marked permanently and conspicuously to the satisfaction of the Registrar as follows —

Marking of
ship

(a) her name shall be marked on each of her bows, and her name and the name of her port of registry in Brunei shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than 4 inches, and of proportionate breadth;

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

(c) a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than 6 inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures shall be marked by being cut in and painted white or yellow on a dark ground or in such other way as the Registrar approves.

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

(3) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be guilty of an offence: Penalty, a fine of \$2,000.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Part.

(5) If an owner or master of a Brunei ship neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces or obliterates or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master or person shall be guilty of an offence: Penalty, a fine of \$2,000; and on a certificate from a government surveyor that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

11. An application for registry of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or by their agent, and in the case of corporations by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if corporation, under the common seal of that corporation.

Application
for registry

12. A person shall not be entitled to be registered as owner of a Brunei ship or of a share therein until he, or in the case of a corporation the person authorised by this Part to make declarations on behalf of the corporation, has made and signed a declaration of ownership, referring to the ship as described in the certificate of the surveyor, and containing the following particulars —

Declaration
of ownership
on registry

(a) a statement of his qualification to own a Brunei ship, or in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Brunei ship;

(b) a statement of the time when and the place where the ship was built, or, if the time and place of the building are unknown, a statement that the declarant does not know the time and place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or in the case of a ship condemned, a statement of the time, place and court at and by which she was condemned;

(c) a statement of the name of the master;

(d) a statement of the number of shares in the ship of which he or the corporation, as the case may be, is entitled to be registered as owner; and

(e) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

Evidence on first registry

13. (1) On the first registry of a ship the following evidence shall be produced in addition to the declaration of ownership —

(a) in the case of a Brunei built ship, a builder's certificate, that is to say, a certificate signed by the builder of the ship, and containing a true account of the proper denomination and of the tonnage of the ship, as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built, and if there has been any sale, the bill of sale under which the ship, or a share therein, has become vested in the applicant for registry;

(b) in the case of foreign-built ship, the same evidence as in the case of a Brunei built ship, unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, in which case there shall be required only the bill of sale under which the ship, or a share therein, became vested in the applicant for registry; and

(d) in the case of a ship condemned by any competent court, an official copy of the condemnation.

(2) If the person granting a builder's certificate under this section wilfully makes a false statement in that certificate he shall be guilty of an offence: Penalty, a fine of \$2,000.

14. As soon as the requirements of this Part preliminary to registry have been complied with, the Registrar shall enter in the register book the following particulars respecting the ship —

Entry of particulars in register book

(a) the name of the ship and the name of the port in Brunei to which she belongs;

(b) the details comprised in the government surveyor's certificate;

(c) the particulars respecting her origin stated in the declaration of ownership; and

(d) the name and description of her registered owner or owners, and if there are more owners than one, the proportions in which they are interested in her.

15. On the registry of a ship the Registrar shall retain in his possession the following documents, namely the government surveyor's certificate, the builder's certificate, any bill of sale of the ship previously made, the copy of the condemnation (if any), and all declarations of ownership.

Documents to be retained by Registrar

16. The port in Brunei at which a Brunei ship is registered for the time being shall be deemed to be her port of registry and the port to which she belongs.

Port of registry

Certificate of Registry

17. On completion of the registry of a Brunei ship, the Registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register book, with the name of her master.

Certificate of registry

18. (1) The certificate of registry shall be used only for the navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatever

Custody of certificate

had or claimed by mortgagee or other person to, on, or in the ship.

(2) If any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to the Registrar, an officer of customs, or any other person entitled by law to require such delivery, any Magistrate may summon the person so refusing to appear before him, and to be examined touching such refusal, and unless it is proved to the satisfaction of the court that there was reasonable cause for such refusal, the offender shall be guilty of an offence: Penalty, a fine of \$2,000, but if it is shown to the court that the certificate is lost, the person summoned shall be discharged, and the court shall certify that the certificate of registry is lost.

(3) If the person so refusing is proved to have absconded, or if he persists in not delivering up the certificate, the court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit.

Penalty for use of improper certificate

19. If the master or owner of a Brunei ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for one year, and the ship shall be subject to forfeiture under this Act.

Power to grant new certificate

20. The Registrar may, on the delivery up to him of the certificate of registry of a Brunei ship, grant a new certificate in lieu thereof.

Provision for loss of certificate

21. In the event of the certificate of registry of a Brunei ship being mislaid, lost or destroyed, the Registrar shall

grant a new certificate of registry in lieu of her original certificate.

22. Where the master of a registered Brunei ship is changed, the Registrar shall endorse and sign on the certificate of registry a memorandum of the change; and any person in any port or place in Brunei may refuse to admit any other person to do any act there as master of a Brunei ship unless that other person's name is inserted in or endorsed on her certificate of registry as her last appointed master.

Endorsement of change of master on certificate

23. (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry by the Registrar.

Endorsement of change of ownership on certificate

(2) The master shall, for the purpose of such endorsement by the Registrar, deliver the certificate of registry to him, forthwith after the change, if the change occurs when the ship is in Brunei, and if it occurs during her absence from Brunei, then upon her first return to Brunei.

(3) If the master fails to deliver to the Registrar the certificate of registry as required by this section he shall be guilty of an offence: Penalty, a fine of \$2,000.

24. (1) In the event of a registered Brunei ship being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing by reason of a transfer to persons not qualified to be owners of Brunei ships, or otherwise, to be a Brunei ship, every owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the Registrar, give notice thereof to the Registrar, who shall make an entry thereof in the register book and the registry of the ship in that book shall be considered as closed except so far as relates to an unsatisfied mortgages or existing certificates of mortgage entered therein.

Delivery up of certificate of ship lost, etc.

(2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, if the event occurs in a port or place in Brunei immediately, but if it occurs elsewhere then within 10 days after his arrival in a port or place in Brunei, forward the certificate to the Registrar.

(3) If any such owner or master fails, without reasonable cause, to comply with this section, he shall be guilty of an offence: Penalty, a fine of \$2,000.

Temporary passes in lieu of certificates of registry

25. Where it appears to the Director that by reason of special circumstances it would be desirable that permission should be granted to any Brunei ship to pass, without being previously registered, from any port or place in Brunei to any other port or place outside Brunei, the Director may grant a pass accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry.

Provisional certificate for ship which in a foreign country becomes Brunei owned

26. (1) If, at a port in a country other than Brunei where there is for the time being an authorised officer, a ship becomes the property of persons qualified to own a registered Brunei ship, and if some one or more of those persons declare to the authorised officer at that port an intent to apply to have the ship registered in Brunei, or if the master of the ship makes such a declaration and declares therein that he is authorised by some one or more of the owners of the ship to make the declaration, the authorised officer may grant to the master of the ship, on application by him, a provisional certificate, stating —

(a) the name of the ship;

(b) the time and place of her purchase, and the names and addresses of the purchasers;

(c) the name of the master; and

(d) the best particulars respecting the tonnage, build and description of the ship which he is able to obtain,

and shall forthwith forward a copy of the certificate to the Registrar.

(2) A provisional certificate granted in accordance with subsection (1) shall be deemed to be a certificate of registry until the expiry of 6 months from the date on which it was granted, or until the arrival of the ship in Brunei, whichever earlier date, and shall thereafter have no effect.

(3) The master of every ship in respect of which a provisional certificate is granted under this section shall, within 10 days of the ship's first arrival thereafter in Brunei deliver the certificate to the Registrar; and, if any master fails to comply with this subsection, he shall be guilty of an offence: Penalty, a fine of \$2,000.

(4) In this section "authorised officer" means, in relation to any port in a country other than Brunei, such person, if any, as the Director may, in his absolute discretion, authorise in writing, to perform for the time being the functions of an authorised person under subsection (1) in that port.

Transfers and Transmissions

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

Transfer of
ships or
shares

(2) The bill of sale shall be in the prescribed form or as near thereto as circumstances permit and shall contain such description of the ship as is contained in the government surveyor's certificate, or some other description sufficient to identify the ship to the satisfaction of the Registrar, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

Declaration
of transfer

28. Where a registered Brunei ship or a share therein is transferred the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorised by this Part to make declarations on behalf of the corporation, has made and signed a declaration (hereinafter in this Part referred to as “a declaration of transfer”) referring to the ship, and containing —

(a) a statement of the qualification of the transferee to own a Brunei ship, or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Brunei ship; and

(b) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

Registry of
transfer

29. (1) Every bill of sale for the transfer of a registered Brunei ship or of a share therein, when duly executed, shall be produced to the Registrar, with the declaration of transfer, and the Registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour thereof.

(2) Bills of sale of a ship or of a share therein shall be entered in the register book in the order of their production to the Registrar.

Transmission
of property in
ship on bank-
ruptcy or
death, etc.

30. (1) Where the property in a registered Brunei ship or share therein is transmitted to a person qualified to own a Brunei ship on the bankruptcy or death of any registered owner, or by any lawful means other than by a transfer under this Part —

(a) that person shall authenticate the transmission by making and signing a declaration (hereinafter in this Part referred to as "a declaration of transmission") identifying the ship and containing the several statements hereinbefore required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in courts of justice as proof of the title of persons claiming under a bankruptcy; and

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there is more than one such person, shall enter the names of all those persons, but those persons, however numerous, shall for the purpose of the provisions of this Part with respect to the number of persons entitled to be registered as owners, be considered as one person.

31. (1) Where the property in a registered Brunei ship or share therein is transmitted on bankruptcy or death or otherwise to a person not qualified to own a Brunei ship, the High Court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the

Order for sale on transmission to unqualified person

expenses thereof, be paid to the person entitled under such transmission or otherwise as the court may direct.

(2) The court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every such application for sale shall be made within 4 weeks after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the court may allow.

(4) If such an application is not made within the time aforesaid, or if the court refuses an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Part.

Transfer of
ship or sale
by order of
court

32. Where any court, whether under any provision of this Act or otherwise, orders the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and the Registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

Power of
court to pro-
hibit transfer

33. The High Court may, if it thinks fit (without prejudice to the exercise of any other power of the court), on the application of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein, and the court may make the order on any terms or conditions it thinks just, or may refuse to make the order or may discharge the order when made, with or without costs, and generally may act in the case as the justice of

the case requires; and the Registrar, without being made a party to the proceeding, shall on being served with the order or an official copy thereof obey the same.

Mortgages

34. (1) A registered Brunei ship or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (hereinafter in this Part referred to as "a mortgage") shall be in the prescribed form, or as near thereto as circumstances permit, and on the production of such instrument the Registrar shall record it in the register book.

Mortgage of
ship or share

(2) Mortgages shall be recorded by the Registrar in the order in time in which they are produced to him for that purpose, and he shall endorse and sign a memorandum on each mortgage stating the date and time of that record.

35. Where a registered mortgage is discharged, the Registrar shall, on the production of the mortgage, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on the entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom (having regard to any intervening acts and circumstances, if any,) it would have vested, if the mortgage had not been made.

Entry of dis-
charge of
mortgage

36. If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

Priority of
mortgages

37. Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be

Mortgagee
not treated as
owner

deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be the owner thereof.

Mortgagee to have power of sale

38. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of the High Court, sell the ship or share without the concurrence of every prior mortgagee.

Mortgage not affected by bankruptcy

39. A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had a ship or share in his possession, order or disposition, or was reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the bankrupt or any trustee or assignee on their behalf on board a ship or share.

Transfer of mortgages

40. A registered mortgage of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument, the Registrar shall record the transfer by entering in the register book the name of the transferee as mortgagee of the ship or share, and shall endorse and sign on the instrument of transfer a memorandum that the transfer has been recorded by him stating the date and time of the record.

Transmission of interest in mortgage by bankruptcy or death etc.

41. (1) Where the interest of a mortgage in a registered Brunei ship or any share therein is transmitted on the bankruptcy or death of the mortgagee, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.

(2) A declaration made under this section shall contain a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in the case of a corresponding transmission of the ownership of a registered Brunei ship or share therein.

(3) The Registrar on receipt of the declaration and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

Name of Ship

42. (1) A registered Brunei ship shall not be described by any name other than that by which she is for the time being registered. Rules as to name of ship

(2) The Minister with the approval of His Majesty may make regulations, not inconsistent with subsection (3), enabling the Registrar to refuse, on such grounds as may be specified in the regulations, the registry of any ship by the name by which it is proposed to register that ship.

(3) The Registrar may refuse to register any ship by the name by which it is proposed to register that ship if it is already the name of a ship which is registered in Brunei, or if the name by which it is proposed to register that ship is so similar to the name of such a Brunei ship as to be calculated to deceive. In the case of ships to which subsection (10) or (11) applies, the Registrar may require the name of such a ship to be changed immediately the ship has been registered.

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

(5) Application for that permission shall be in writing, and if the Registrar is of opinion that the application is reasonable he may entertain it, and thereupon require notice thereof to be published in such form and manner as he thinks fit.

(6) Any person who wishes to lodge an objection to the proposed change of name may do so in writing addressed to the Registrar to reach him not later than 7 days from the date of the publication of the notice.

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

(8) On permission being granted to change the name, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern.

(9) If it is shown to the satisfaction of the Registrar that the name of any Brunei registered ship has been changed without his permission he shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly.

(10) Where a ship having once been registered has ceased to be so registered no person unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register, and the Registrar shall not knowingly register the ship, except by the name by which she was previously registered, unless with the previous written permission of the Minister.

(11) Where any ship, not having at any previous time been registered as a Brunei ship, becomes a Brunei ship, no person shall apply to register, and the Registrar

shall not knowingly register the ship, except by the name which she bore immediately before becoming a Brunei ship, unless with the previous written permission of the Minister.

(12) If any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall be guilty of an offence: Penalty, a fine of \$2,000, and (except in the case of an application being made under this section with respect to a ship which, not having at any previous time been registered as a Brunei ship, has become a Brunei ship) the ship may be detained until the provisions of this section are complied with.

43. (1) When a registered Brunei ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, the owner shall apply for the ship to be registered anew.

Alteration of ship

(2) The Registrar shall, on receipt of the application and on the production of a certificate from a surveyor stating the particulars of the alteration, proceed as in the case of first registry and on the delivery up to him of the existing certificate of registry and on the other requisites as to registry being complied with, shall make such registry anew and grant a new certificate of registry containing a description of the ship as altered.

(3) If default is made in registering anew a Brunei ship so altered as aforesaid, the owner of the ship shall be guilty of an offence: Penalty, a fine of \$2,000 and, in addition, a fine of \$100 for every day during which the offence continues after conviction.

44. (1) The registry of any registered Brunei ship may be transferred from one port in Brunei to another on the application to the Registrar made by declaration in writing of all persons appearing on the register book to be interested

Transfer of registry

therein as owners or mortgagees, but that transfer shall not in any way affect the right of those persons (hereinafter referred to as “the interested persons”) or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2) On the receipt of the aforesaid declaration by the Registrar and the delivery up to him of the ship’s certificate of registry the Registrar shall enter in the register book of the ship’s intended port of registry in Brunei all particulars relating to the ship and the names of all the interested persons, and grant a fresh certificate of registry in Brunei, and thenceforth such ship shall be considered as registered at the new port of registry, and the name of the ship’s new port of registry shall be substituted for the name of her former port of registry on the ship’s stern.

Restrictions
on re-
registration
of abandoned
ships

45. Where a ship has ceased to be registered as a Brunei ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a Brunei ship, the ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a government surveyor and certified by him to be seaworthy.

Incapacitated Persons

Provisions for
cases of in-
fancy or
other in-
capacity

46. Where by reason of infancy, lunacy, or any other cause any person interested in any ship or any share therein, is incapable of making any declaration or doing anything required or permitted by this Part to be made or done in connection with the registry of the ship or share, the guardian or committee, if any, of that person, or, if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on

behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted.

Trusts and Equitable Rights

47. (1) No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the Registrar, and, subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power absolutely to dispose in the manner in this Part provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

Notice of trusts not received

(2) Without prejudice to the provisions of subsection (1) and section 38, and without prejudice to the provisions of this Part relating to the exclusion of unqualified persons from the ownership of Brunei ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

Liability of Beneficial Owner

48. (1) Where any person is beneficially interested, otherwise than by way of mortgage, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this Act or any other written law on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

Liability of owners

(2) In this Part "beneficial interest" includes, in relation to Brunei ships, interests arising under contract and other equitable interests.

Managing Owner

Ship's managing owner or manager to be registered

49. (1) The Registrar shall record in the register book the name and address of the managing owner for the time being of every registered Brunei ship.

(2) Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities as if he was the managing owner.

(3) If default is made in complying with the provisions of this section the owner, or if there are more owners than one each owner, shall be guilty of an offence each time the ship leaves any port or place in Brunei: Penalty, a fine of \$1,000 or, if there are more owners than one, a proportion of such fine corresponding to the proportion of each owner's interest in the ship.

Declarations

Power of Registrar to dispense with declarations and other evidence

50. When, under this Part, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the Registrar, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, on the production of such other evidence, and subject to such terms as he may think fit, dispense with the declaration or evidence.

Mode of making declarations

51. (1) Declarations required by this Part shall be made before the Registrar or a Magistrate.

(2) Declarations required by this Part may be made on behalf of a corporation by the secretary or any other

officer of the corporation authorised by the corporation for the purpose.

Inspection of Register, Evidence and Forms

52. A person, on payment of a fee to be fixed from time to time by the Registrar, may on application to the Registrar at a reasonable time during the hours of his official attendance, inspect any register book. Inspection of register book

53. The following documents shall be admissible in evidence in the manner provided by this Act, namely — Evidence of register book, certificate of registry, and other documents

(a) any register book under this Part on its production from the custody of the Registrar or other person having the lawful custody thereof;

(b) a certificate of registry under this Part purporting to be signed by the Registrar or other proper officer;

(c) an endorsement on a certificate of registry purporting to be signed by the Registrar or other proper officer;

(d) every declaration made in pursuance of this Part in respect of a Brunei ship.

54. The Registrar may prescribe forms for the purposes of this Part. Forms

Forgery and false Declarations

55. If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book, builder's certificate, Government surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under this Part, or any entry or endorse- Forgery of documents

ment required by this Part to be made in or on any of those documents, that person shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 2 years.

False declara-
tions

56. (1) If any person in the case of any declaration made in the presence of or produced to the Registrar under this Part, or in any document or other evidence produced to the Registrar —

(a) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in any ship, or any share in a ship; or

(b) utters, produces, or makes use of any declaration or document containing any such false statement knowing the same to be false,

he shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for one year.

(2) If any person wilfully makes a false declaration touching the qualification of himself or of any other person or of any corporation to own a Brunei ship or any share therein, he shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for one year; and that ship or share shall be subject to forfeiture under this Part, to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or corporation on behalf of whom the declaration is made.

National Character and Flag

Crew lists of
registered
Brunei ships

57. (1) The Minister with the approval of His Majesty may make regulations requiring registered Brunei ships, to which this section applies to maintain on their crew lists such percentage of officers and such percentage of seamen who are Bruneians as may be specified in the regulations.

(2) Regulations under this section shall specify the ships or description of ships to which this section is to apply and may make different provisions for different descriptions of ship or for ships of the same description in different circumstances.

58. (1) If a person uses the Brunei flag and assumes the Brunei national character on board a ship owned in whole or in part by any person not qualified to own a Brunei ship, for the purpose of making the ship appear to be a Brunei ship, the ship shall be subject to forfeiture under this Part, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

Penalty for unduly assuming Brunei character

(2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the Brunei flag and assume the Brunei national character shall lie upon the person using and assuming the same.

59. If the master or owner of a Brunei ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the Brunei character of the ship from any person entitled to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be subject to forfeiture under this Part and the master, if he contravenes or is privy to the contravention of this section, shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for one year.

Penalty for concealment of Brunei or assumption of foreign character

60. If an unqualified person acquires as owner, otherwise than by such transaction as hereinbefore provided for, any interest, either legal or beneficial, in a ship using a Brunei flag and assuming the Brunei character, that interest shall be subject to forfeiture under this Part.

Penalty for acquiring ownership if unqualified

Liabilities of
ship not rec-
ognised as a
Brunei ship

61. Where it is declared by this Part that a Brunei ship shall not be recognised as a Brunei ship, that ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by Brunei ships nor to use the Brunei flag or assume the Brunei national character, but so far as regards the payment of dues, the liability to fines a forfeiture, and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised Brunei ship.

National col-
ours for reg-
istered
Brunei ships

62. (1) His Majesty may prescribe an ensign, which shall be the proper national colours for a registered Brunei ship.

(2) If any distinctive national colours other than the said ensign are hoisted on board any such ship without consent from His Majesty, the master of the ship or the owner thereof if on board the same, and every other person hoisting the colours shall be guilty of an offence: Penalty, a fine of \$1,000.

Penalty for
not showing
colours

63. (1) A Brunei ship shall hoist the proper national colours on entering or leaving any Brunei or foreign port.

(2) If default is made on board any such ship in complying with the provisions of this section, the master of the ship shall be guilty of an offence: Penalty, a fine of \$1,000.

Forfeiture of Ship

Proceedings
on forfeiture
of ship

64. (1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part, the Director may seize and detain the ship, and bring her for adjudication before the High Court, and the court may thereupon adjudge the ship with her tackle, apparel and furniture to be forfeited and made such order in the case as to the court seems just, and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the court thinks fit.

(2) The Director shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, if it is shown to the satisfaction of the court before which any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the court may award costs and damages to any party aggrieved, and make such other order in the premises as the court thinks just.

Measurement of Ships and Tonnage

524/87 65. (1) The Minister^{of communications} with the approval of His Majesty may make regulations for ascertaining the tonnage of ships to be registered under this Part. Ascertainment of registered tonnage

(2) Regulations under this section —

(a) may make different provision for different descriptions of ships or for the same description of ships in different circumstances;

(b) may make any provision thereof dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations; and

(c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a ship.

(3) Regulations under this section may make provision for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can be safely loaded, and for indicating on the ship, by such mark as may be specified in the regulations, that such a

lower tonnage has been assigned to it and, where it has been assigned to it as an alternative, the depth to which the ship may be loaded for the lower tonnage to be applicable.

(4) Regulations under this section may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations and notwithstanding section 9, by persons appointed by such organisations as may be authorised in that behalf by the Minister^{of Communication} with the approval of His Majesty; and such regulations may make provision for the payment to persons appointed in pursuance of this subsection of such fees as may be determined by the Minister^{of Communications} with the approval of His Majesty.

(5) Regulations under this section may make provision for the alteration (notwithstanding section 66) of the particulars relating to the registered tonnage of a ship.

(6) Regulations under this section may provide for the issue by the Director or by persons appointed by such organisations as may be authorised in that behalf by the Minister^{of Communication} with the approval of His Majesty of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in Brunei, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.

(7) Except in so far as provision is made under this section, the rules from time to time in force in the United Kingdom for ascertaining the tonnage of British ships shall apply in Brunei so far as the circumstances may render necessary.

Tonnage once ascertained and registered to be the tonnage of a ship

66. Whenever the tonnage of any ship has been ascertained and registered under this Part, that tonnage shall thenceforth be deemed to be the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of the

ship, or unless it is discovered that the tonnage of the ship has been erroneously computed; and in either of those cases the ship shall be remeasured, and her tonnage determined and registered in accordance with this Part.

67. (1) For the purposes of this Act, the tonnage of a foreign ship, other than a British ship or a ship to which subsection (2) applies, shall be ascertained as nearly as shall be practicable in accordance with this Part as though such ship were a Brunei ship requiring to be registered.

Tonnage of
ships of fore-
ign countries

(2) Whenever the Minister/^{of communications} with the approval of His Majesty shall, by notification in the *Government Gazette*, declare that for the purposes of this subsection the rules of any foreign country for the measurement of the tonnage of ships of that country (other than the tonnage regulations of the Merchant Shipping Acts) appear to the Minister with the approval of His Majesty to be not materially different from the rules under this Part for the ascertainment of the register tonnage of Brunei ships, then, until such declaration is cancelled or the time limit for its operation expires, this subsection shall apply to any ship of that country.

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(3) Any British ship and any ship to which subsection (2) applies shall, without being re-measured in Brunei, be deemed to be of the tonnage denoted in her certificate of registry or other national papers, in the same manner, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a Brunei ship is deemed to be the tonnage of that ship and any place shown by the certificate of registry or other national papers of any such ship as deducted from the tonnage shall, where a similar deduction in the case of a Brunei ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be deemed to comply with those conditions and be so evidenced, unless a government surveyor certifies to the Director that the construction and the equipment of the ship as respects that space do not come up to the standards which would be required if the ship were a Brunei ship registered under this Part.

(4) The Minister^{of Communications} with the approval of His Majesty may limit the time during which a declaration under subsection (2) is to remain in operation, and make the declaration subject to such conditions and qualifications (if any) as he may deem expedient, and the operation of the declaration shall be limited and modified accordingly.

PART III

MASTERS AND SEAMEN

Manning

Manning

68. (1) The Minister^{of Communications} with the approval of His Majesty may make regulations —

(a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified medical practitioners and qualified cooks and such number of other seaman or qualified seamen of any description as may be specified in the regulations; and

(b) prescribing or enabling the Director to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers, medical practitioners, cooks and other seamen of any description in order to be qualified for the purposes of this section.

(2) This section applies to every registered Brunei ship and also to such other ships or description of ships as may be specified in regulations made under subsection (1).

(3) Regulations under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.

(4) Without prejudice to the generality of subsection (1) (b), the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provisions, or enable the Director to make provisions, for —

(a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;

(b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and

(c) the issue, form and recording of certificates and other documents;

and different provisions may be so made or enabled to be made for different circumstances.

(5) An officer or seaman shall not be deemed to be qualified for the purposes of this section unless he is the holder for the time being of a valid certificate of competency granted under this section of a grade appropriate to his station in a ship or of a higher grade.

(6) Regulations under this section may exempt or enable the Director to exempt any ship or description of ships from any requirements of regulations made under this section and any exemption so given may be confined to a particular period or to one or more particular voyages.

(7) If a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers, seamen and other persons as it is required to carry under this section the owner or master shall be guilty of an offence: Penalty, a fine of \$2,000 and the ship, if Brunei, may be detained.

Special certificates of competency

69. The Minister with the approval of His Majesty may, by regulation, enable the Director to issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 68 (1) (b), and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 68 (4).

Unqualified persons going to sea as qualified officers or seamen

70. (1) Any person who —

(a) goes to sea as a qualified officer, seaman or other person without being such a qualified officer, seaman or person; or

(b) employs a person as a qualified officer, seaman or other person without ascertaining that the person so employed is qualified,

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

(2) In this section “qualified” means qualified for the purposes of section 68 or holding a valid certificate of competency under section 69.

Production of certificates and other documents of qualification

71. Any person serving or engaged to serve in any ship to which section 68 applies and holding any certificate or other document which is evidence that he is qualified for the purposes of that section or section 69 shall on demand produce it to the Director or a police officer and (if he is not himself the master) to the master of the ship, and if he fails to do so without reasonable cause he shall be guilty of an offence: Penalty, a fine of \$200.

Engagement and Discharge of Crews

Crew Agreements

72. (1) Except as provided under subsection (5), an agreement in writing shall be made between each person employed as a seaman in a registered Brunei ship and the

persons employing him and shall be signed both by him and by or on behalf of them.

(2) The agreements made under this section with the several persons employed in a ship shall be contained in one document (hereinafter referred to as a "crew agreement") except in such cases as the Director may approve.

(3) The provisions and form of a crew agreement shall be of a kind approved by the Director; and different provisions and forms may be so approved for different circumstances.

(4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.

(5) The Minister ^{or Communications} with the approval of His Majesty may make regulations providing for exemptions from the requirements of this section —

(a) with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or

(b) with respect to such descriptions of seamen as may be specified in the regulations;

and the Minister with the approval of His Majesty may authorise the Director to grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Director is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.

(6) Where, but for an exemption granted under subsection (5), a crew agreement would be required to be

carried in a ship or a crew agreement carried in a ship would be required to contain an agreement with a person employed in the ship, the ship shall carry such document evidencing the exemption as the Director may direct.

(7) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master and the person employing the crew shall be guilty of an offence: Penalty, a fine of \$500 and the ship, if in Brunei, may be detained.

Regulations
relating to
crew agree-
ments

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73. (1) The Minister ^{with the approval of His Majesty} may make regulations —

(a) requiring such notice as may be specified in the regulations to be given to the Director or such other person as may be specified in the regulations, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;

(b) requiring crew agreements to be made in the presence of such person and in such place as may be specified in the regulations;

(c) providing for the delivery to the Director or such other person as may be specified in the regulations of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;

(d) requiring the posting in ships of copies of or extracts from crew agreements;

(e) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or ex-

tracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew;

(f) requiring any documents carried in a ship in pursuance of section 72 to be produced on demand to such persons as may be specified in the regulations; and

(g) requiring any change in the crew of a ship which takes place after an agreement has been signed and before the ship leaves Brunei to be reported to the Director.

(2) Regulations under this section may make different provisions in respect of different voyages, different ships or descriptions of seamen.

74. (1) The Minister ^{of Communications} with the approval of His Majesty may make regulations —

(a) prohibiting the employment in a ship of any person under such age as may be specified in the regulations except as permitted by the regulations;

(b) prescribing circumstances in which and conditions subject to which persons under such age as may be specified in the regulations may be employed in a ship in such capacities as may be so specified;

(c) prescribing circumstances and capacities in which persons over such age as may be specified in the regulations but under such age as may be specified in the regulations shall not be employed in a registered Brunei ship or may be so employed only subject to such conditions as may be specified in the regulations.

Restriction on employment of young persons on board ship

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(2) Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.

Discharge of
seamen

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75. (1) The Minister ^{of Communications} with the approval of His Majesty may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from registered Brunei ships and for the discharge in Brunei of seamen from ships other than registered Brunei ships.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision —

(a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the Director or such other person as may be specified in the regulations, at a place specified in or determined under the regulations;

(b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to the Director or such other person as may be specified in the regulations;

(c) prohibiting in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, the discharge of any seamen outside Brunei from a registered Brunei ship without the consent of the Director or such other person as may be specified in the regulations;

(d) requiring that whenever any seamen is discharged the master of such ship shall —

(i) give to such seaman at the time of such discharge a written and signed certificate of his

discharge in a form approved by the Director specifying the time and nature of his service and the time and place of his discharge; and

- (ii) make and sign in a form approved by the Director a report of the conduct, character and qualifications of the seaman discharged or may state in the said form that he declines to give any opinion upon such particulars or upon any of them.

76. Regulations made under section 75 may apply any provision thereof, with such modifications as appear to the Minister ^{of Communications} with the approval of His Majesty to be appropriate, to cases where a seaman employed in a registered Brunei ship is left behind outside Brunei otherwise than on being discharged from the ship.

Seamen left behind abroad otherwise than on discharge
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77. Where a registered Brunei ship ceases to be a registered Brunei ship, any seamen employed in the ship shall, if he so desires, be discharged from the ship.

Discharge of seamen when ship ceases to be a Brunei ship

Wages, etc.

78. (1) Subject to the following provisions of this section, —

Payment of seaman's wages, etc.

(a) the wages due to a seaman under a crew agreement shall be paid to him in full at the time when he leaves the ship on being discharged therefrom;

(b) a seaman may, by means of an allotment note, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a registered Brunei ship or ships.

(2) The Minister ^{of Communications} with the approval of His Majesty may make regulations which may —

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(a) authorise deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorised by any provision of this Act or of any other written law for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

(b) regulate the manner in which any amounts deducted under the regulations are to be dealt with;

(c) prescribe the manner in which wages due to a seaman under a crew agreement are to be or may be paid;

(d) regulate the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship otherwise than on being discharged therefrom;

(e) prescribe the form and manner in which any account in respect of wages is to be prepared and the particulars to be contained therein (which may include estimated amounts);

(f) limit the circumstances in which allotments may be made;

(g) limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;

(h) limit the persons to whom allotments may be made by a seaman to persons of such descrip-

tions or persons standing to him in such relationships as may be prescribed by the regulations;

(i) prescribe the times and the intervals at which payments under allotment notes are to be made.

79. (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to the Director, or to such other person as the Director may in writing appoint, for decision; but the Director or such other person shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.

Power of Director and others to decide disputes about wages

(2) The decision of the Director or such other person on a dispute submitted to him under this section shall be final and shall not be subject to appeal to or review in any court.

Property of deceased seamen

80. (1) The Minister, ^{or Communications} with the approval of His Majesty may make regulations —

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Custody and disposal of property of deceased seamen

(a) providing for the custody of and dealing with —

- (i) any property left on board a registered Brunei ship by a seaman dying while or after being employed in the ship;
- (ii) any property left in a country outside Brunei by a seaman dying while or within 6 months after being employed in such a ship; and
- (iii) any property left in a country outside Brunei by a Brunei dying while or within 6 months after being employed in a ship other than a registered Brunei ship,

until it is disposed of by or under the direction of the Director;

(b) providing for the recovery by the Director of any wages which, at the time of a seaman's death, were due to him in respect of his employment in a registered Brunei ship;

(c) requiring the recording of particulars and the rendering of accounts;

(d) enabling the Director or any person having custody of a deceased seaman's property to sell it by auction or otherwise and account for the proceeds.

(2) Subject to any regulations under subsection (1), the master of a registered Brunei ship having on board any property of a deceased seaman shall take charge of such property and, as soon as practicable, shall deliver such property to the Director and pay to the Director any money due to the deceased seaman in respect of unpaid wages or account for the same.

(3) Where any property of a deceased seaman comes into the hands of the Director, the Director, after deducting any expenses incurred in respect of that seaman or his property, shall deal with the residue as follows —

(a) if the value of the residue exceeds \$5,000, he shall pay and deliver the residue to the legal personal representative of the deceased; or

(b) if the value of the residue does not exceed \$5,000, the Director may as he thinks fit either pay or deliver the residue to any claimant who is proved to his satisfaction to be the widow or a child of the deceased or to be entitled to such residue either under the deceased's will (if any) or any

statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(c) he may, if he thinks fit, require representation to be taken out, and pay and deliver the residue to the legal personal representative of the deceased; or

(d) where it appears to the Director that any person to whom any money or other property of a deceased seaman may be paid or delivered as aforesaid is resident in a foreign state, he may pay or deliver the money or property to a consular officer of that state on behalf of that person.

(4) Any person to whom any such residue is paid or delivered under subsection (3) shall apply the same in due course of administration.

(5) In this section "seaman" includes the master of a ship.

Provisions, Health and Accommodation

81. (1) The Minister ^{of Communications} with the approval of His Majesty may make regulations —

Provisions,
water and
medical
stores

(a) requiring such provisions and water to be provided for seamen employed in registered Brunei ships and such equipment for weighing and measuring the same as may be specified in the regulations;

(b) requiring such medicines and other medical stores and appliances (including instructions and advice) as may be specified in the regulations to be carried in registered Brunei ships;

(c) empowering such persons as may be specified in the regulations to inspect the provisions, water or medical stores carried in ships;

and the regulations may make different provision for different ships or description of ships, for different circumstances and for different descriptions of seamen.

(2) Subject to any regulations made under subsection (1), every registered Brunei ship shall, on commencing a voyage, have on board such provisions and quantity of water as, having regard to the nature of the voyage and the needs of the crew, is adequate and reasonable.

(3) If a person empowered under this Act to inspect the provisions, water or medical stores carried in a ship is not satisfied that the ship carries the provisions, water or medical stores which it is required to carry by this section or any regulations made thereunder, the ship, if in Brunei, may be detained.

Medical
treatment on
board ship

82. Where a registered Brunei ship does not carry a medical practitioner among the crew employed in it the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

Expenses of
medical treat-
ment etc.
during
voyage

83. If a person, while employed in a registered Brunei ship, receives outside Brunei any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed until his return to Brunei without impairing efficiency, the reasonable expenses thereof shall be borne by the person employing him; and if he dies while so employed and is buried or cremated outside Brunei, the expenses of the burial or cremation shall also be borne by such persons.

84. (1) The Minister with the approval of His Majesty may make regulations with respect to crew accommodation to be provided in registered Brunei ships.

Regulations
as to crew
accommoda-
tion

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may, in particular —

(a) prescribe the minimum space per man which must be provided in any ship to which the regulations apply by way of sleeping accommodation for seamen and the maximum number of persons by whom any specified part of such sleeping accommodation may be used;

(b) regulate the position in any such ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) require the submission to a government surveyor of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the government surveyor to inspect any such works;

(d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it was designed;

and may make different provision in respect of different classes of ships and in respect of crew accommodation provided for different classes of persons.

(2) In this section “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hos-

pital accommodation, store rooms and catering accommodation.

Discipline

Provisions as
to discipline

85. (1) Any master or seaman employed in a registered Brunei ship who by wilful breach of duty or by neglect of duty or by reason of drunkenness or being under the influence of drugs —

(a) does any act tending to the immediate loss, destruction or serious damage of the ship or its machinery, navigational equipment or safety equipment or tending immediately to endanger the life of, or to cause serious injury to, a person belonging to or on board the ship; or

(b) refuses or omits to do any lawful act properly required of him to preserve the ship or its machinery, navigational equipment or safety equipment from immediate loss, destruction or serious damage or to preserve any person belonging to or on board the ship from immediate danger of death or serious injury.

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

(2) Any seamen employed in a registered Brunei ship who —

(a) deserts from his ship;

(b) neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within 24 hours of the ship's sailing from a port; or is absent at any time without leave and the ship is thereby delayed or goes to sea without him;

(c) quits his ship without leave after the ship's arrival and before the ship is placed in security;

(d) is, while on duty, under the influence of drink or a drug to such an extent that his capacity to carry out his duties is impaired;

(e) persistently and wilfully neglects his duty or persistently and wilfully disobeys his lawful commands;

(f) assaults the master or any officer of the ship;

(g) combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of a voyage;

(h) wilfully damages the ship or dishonestly appropriate or converts to his own use or wilfully damages any of the stores or cargo,

shall be guilty of an offence: Penalty, a fine of \$200 and imprisonment for 2 months.

(3) In proceedings for an offence under this section it shall be a defence to prove that at the time of the act or omission alleged against the defendant he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice or that he had no reason to believe that the drug might have the influence it had.

of *Communications*

(4) The Minister, with the approval of His Majesty may direct, by notification in the *Government Gazette*, that subsections (1) and (2) or any part or parts thereof shall apply in the case of such ships other than registered Brunei ships and in such circumstances as may be specified in such direction.

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(5) A seaman imprisoned under this section may by direction of a magistrate be sent on board his ship.

(6) For the purpose of maintaining discipline on board registered Brunei ships the Minister with the approval of His Majesty may make regulations specifying any misconduct on board as a disciplinary offence and —

(a) enabling the master, or such officer as may under the regulations be required or authorised to exercise the powers of the master, to impose fines on seamen committing disciplinary offences;

(b) specifying the maximum amount of any fine;

(c) enabling the master to remit the whole or part of any fine;

(d) prescribing the procedure to be followed in dealing with disciplinary offences; and

(e) providing for an appeal against a fine.

Arrest and detention of seamen who desert, etc.

86. The Minister ^{or communications} with the approval of His Majesty may make regulations providing for the arrest and detention of seamen —

(a) belonging to the crew of a registered Brunei ship who desert therefrom or absent themselves from their duty;

(b) belonging to the crew of a ship other than a registered Brunei ship who desert therefrom or absent themselves from their duty while such ship is in the waters of Brunei.

Unauthorised presence on board ship

87. (1) Any person who goes to sea in a registered Brunei ship or in any ship within the waters of Brunei without lawful authority and without the consent either of the master or of any other person entitled to give it shall be

guilty of an offence: Penalty, a fine of \$1,000 and imprisonment for 6 months.

(2) When any ship is in a port in Brunei or within the waters of Brunei and a person not authorised by law to do so —

(a) goes on board the ship without the consent of the master or of any other person authorised to give it; or

(b) remains on board the ship after being requested to leave by the master, a police officer or the Director or any person authorised by the Director to act in that behalf;

he shall be guilty of an offence: Penalty, a fine of \$500.

88. The master of any registered Brunei ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Master's
power of
arrest

Facilities for making Complaint

89. (1) If a seaman while on board a registered Brunei ship states to the master of the ship his desire to make a complaint to the Director or a magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit, allow the complainant to go ashore or send him in proper custody so that he may be enabled to make his complaint.

Facilities for
making com-
plaint

(2) Any master of a ship who fails without reasonable cause to comply with this section shall be guilty of offence: Penalty, a fine of \$200.

Documentation

*of Communications*Official log
books

90. (1) The Minister^{of Communications} with the approval of His Majesty may make regulations —

(a) requiring an official log book in a form approved by the Director to be kept in such registered Brunei ships as may be specified;

(b) prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed and the procedure to be followed in the making of such entries and in their amendment or cancellation;

(c) requiring the production or delivery of official log books to such persons, in such circumstances and within such time as may be specified.

(2) Any person who wilfully destroys, mutilates or renders illegible any entry in an official log book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log book, shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 2 years.

Lists of crew

91. (1) The Minister^{of Communications} with the approval of His Majesty may make regulations —

(a) requiring the master of a registered Brunei ship to make and maintain a list of crew containing such particulars as may be required by the regulations;

(b) limiting the time for which a list of the crew may remain in force;

(c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for

the notification to such persons of any changes therein;

(d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and

(e) for the delivery to such person and in such circumstances as may be specified of a list of the crew or a copy thereof maintained under the regulations and for the notification to such person of any changes in such a list.

(2) The Director shall, by means of any documents transmitted to him in pursuance of this Act and by any other means in his power, keep at his office a register of all persons who serve in registered Brunei ships.

of Communications
92. (1) The Minister ~~with~~ the approval of His Majesty may make regulations requiring the master of any registered Brunei ship to record in his official log book or otherwise such particulars as may be specified of any birth or death occurring in the ship, or any death wherever occurring outside Brunei of any person employed in the ship, and to notify any such birth or death to such person, in such manner and within such times as may be specified.

Returns of
births and
deaths in
Brunei ships

(2) For the purpose of this section a person dying in a ship's boat or being lost from a ship or ship's boat shall be deemed to die in the ship.

93. If a person ceases to be the master of a registered Brunei ship he shall deliver to his successor all documents relating to the ship or its crew kept under this Act which are in his custody.

Handing over
of documents
on change of
master

PART IV

CONTROL AND LICENSING OF SHIPS

Restriction
on trading in
Brunei

94. (1) No ship shall trade in or from the waters of Brunei unless it is provided with —

(a) a certificate of registry under Part II;

(b) a certificate of foreign registry or other document similar or equivalent to that required under Part II in the case of a Brunei ship;

(c) a licence under this Part; or

(d) a licence purporting to authorise such ship to enter the waters of Brunei issued under the laws of any such country or territory outside Brunei as the Minister, ^{or, (communications)} with the approval of His Majesty may from time to time designate for the purposes of this section by notification in the *Government Gazette*.

(2) Every register, certificate or licence authorised or required by this section may be proved either by the production of the original or by a copy thereof purporting to be a certified copy under the hand of the Director or any foreign registrar or other officer who may happen to have charge of the original.

(3) Every document when so proved shall, until the contrary is proved, be received as evidence of all matters therein recited, stated or appearing.

(4) The master, owner and agent of every ship contravening subsection (1) shall be guilty of an offence: Penalty, a fine of \$2,000 and the ship shall be liable to be detained.

Licensing of
ships

95. (1) The Minister, ^{of communications} with the approval of His Majesty may make regulations prescribing what ships used in the waters of Brunei shall be eligible to be licensed under this Part.

(2) Until provision is made under subsection (1), any ship not exceeding 100 tons gross tonnage used in the waters of Brunei shall be eligible to be licensed under this Part.

96. (1) Any qualified owner of a ship desirous of having such ship licensed in Brunei for the conveyance of passengers or cargo, for towing, or for fishing or for any other trade or business shall apply to the Director, who shall cause the ship to be examined and, if he is satisfied that it is eligible to be licensed under this Part and that it is seaworthy and proper for the intended use, may cause the ship to be licensed for any of the aforesaid purposes, and grant a licence accordingly subject to such conditions as to —

Licensing
how effected

(a) the specific purpose or purposes for which the ship may be used;

(b) the qualification of the master and crew and the number of crew to be employed;

(c) in the case of a ship for the conveyance of passengers, the number of passengers in addition to the crew, which may be carried;

(d) in the case of a cargo ship, the cargo carrying capacity of the ship and the number of passengers, in addition to the crew, which may be carried —

(i) when the ship is carrying cargo; and

(ii) when no cargo is on board;

(e) the limits within which the ship may ply;

(f) particulars of safety equipment to be carried; and

(g) any other matter which may be prescribed by regulations under section 102,

as he may determine.

(2) For the purpose of subsection (1), a person shall be deemed to be a qualified owner if he is the owner of the ship in respect of which he is applying for a licence and regulations made under section 102 (j) permit him to be the owner of a licensed ship.

(3) The Director shall assign a permanent number to every Brunei licensed ship and shall keep a register of licences.

(4) The Director may by endorsement on the licence of a cargo ship license the ship to carry such number of passengers as he may think fit and in that case it shall not be necessary for such cargo ship to be separately licensed as a ship for the conveyance of passengers.

(5) Subject to the provisions of subsection (4), separate registers shall be kept for licences for each of the purposes mentioned in subsection (1).

(6) Unless regulations under section 102 otherwise provide, the following particulars shall be entered on the register of licences —

(a) the number of the licence, the date of the licence and the date of its expiry;

(b) the name and address of the owner and master, grade and number of the master's certificate, if any, and if an engine driver is carried, his name and the number and grade of his certificate, if any;

(c) the length, breadth, depth, girth and tonnage of the ship, if known, or the estimated tonnage of the ship, if not known;

(d) the method of propulsion, including details of engine, if any;

(e) the permanent number assigned to the ship;

(f) the name of the ship; and

(g) the conditions specified in subsection (1) (a) to (g) subject to which the licence was granted.

(7) The grant of a licence under this section in respect of any ship for the purpose of fishing shall not authorise any person to use such ship for fishing or for carrying fish or fishing materials or appliances or contravention of the Fisheries Act, or any regulations made thereunder.

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97. (1) Every licence shall, unless the contrary is stated in regulations made under section 102 or in the licence, determine on the 31st day of December of the year in respect of which it is issued.

Duration of licence

(2) Every change of owner and of master and of any other particulars in the licence shall be reported to the Director who shall note the change on the register and amend the licence accordingly.

(3) Any owner or master who fails to report such change shall be guilty of an offence: Penalty, a fine of \$100.

98. Unless the contrary is shown, the persons whose names appear in the said register shall, for all the purposes of this Part and for all the purposes of the police and prevention of offences, be considered the owner and master respectively.

Registered owner and master

99. (1) The owner of every Brunei licensed ship, before he receives a certificate that his ship is licensed, shall cause the name and licence number of the ship to be painted, marked or affixed on each side of the ship or elsewhere as

Numbering and marking of ships

the Director directs and the permanent number assigned by the Director to the ship to be carved or branded on the main beam or other conspicuous part of the ship.

(2) The painting, marking, affixing, carving or branding required by this section shall be carried out to the satisfaction of the Director, and shall not be removed, altered or defaced except with his approval in writing.

Issue of licence

100. The Director shall deliver to the owner of every Brunei licensed ship a licence containing the particulars specified in the register of licences and the owner shall cause such licence or a copy certified by the Director to be kept at all times on board his ship in the custody of the person in charge of the ship, and such last mentioned person shall exhibit the same to the Director or any police officer who demands to see the same.

Cancellation of licence

101. The Director may cancel any ship licence issued under this Part.

Regulations

102. The Minister ^{of Communications} with the approval of His Majesty may make regulations —

(a) prescribing the form and duration of licences;

(b) prescribing fees for licences and providing for collection of such fees;

(c) for the management and working of Brunei licensed ships;

(d) for controlling the hire of such ships and the fees charged for such hire;

(e) as to the seaworthiness of such ships;

(f) as to the number of deck or other passengers, and quantity of cargo to be allowed;

(g) as to the number of men in such ships as crew and the managers or persons to be in charge of ships;

(h) as to articles left in such ships;

(i) as to reports of accidents;

(j) as to the nationality or other qualifications of persons permitted to own or be employed or carried in such ships;

(k) as to the furnishing of photographs, documents and other particulars by applicants for ship licences and by new owners on change of ownership;

(l) for providing for the safety of persons, animals and property carried in such ships and for preventing the commission of offences by persons employed in or being in such ships;

(m) for the manner in which applications for ship licences shall be made and dealt with;

(n) specifying the particulars to be entered on the register of licences;

(o) specifying any description of Brunei licensed ships which are not Brunei ships and directing that such of the provisions of this Act as may be specified in the regulations shall extend to ships of that description and to masters and seamen employed in them as if such ships were Brunei ships, with such exceptions, adaptations or modifications as may be so specified;

(p) for ascertaining the tonnage of ships to be licensed under this Part; and

(q) generally for the purposes of the licensing of ships, and the control of licensed ships.

PART V

SAFETY

Prevention of Collisions
*of Communications*Collision reg-
ulations

103. (1) The Minister/^{of Communications}with the approval of His Majesty may make regulations for preventing collisions at sea (hereinafter referred to as the “collision regulations”), 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.

(2) Regulations made under subsection (1) may include such provision as appears to the Minister/^{of Communications}with the approval of His Majesty to be requisite for enabling Brunei to implement the Preventing Collisions at Sea Convention.

(3) The power under subsection (1) shall include power to make regulations for the prevention of collisions at sea —

(a) between seaplanes on the surface of the water; and

(b) between vessels and seaplanes on the surface of the water.

(4) Without prejudice to anything contained in this section, the Minister/^{of Communications}with the approval of His Majesty may, in relation to Brunei ships and voyages by Brunei ships, make regulations under subsection (1) both before, as well as after, the accession of Brunei to the Preventing Collisions at Sea Convention.

(5) Any regulations whenever made under the authority of the Ports Act concerning lights and signals to be

carried, or the steps for avoiding collision to be taken by vessels navigating in the waters of a port in Brunei and the approaches thereto shall, notwithstanding anything in this Act, have full effect.

104. (1) All owners and masters of Brunei ships, wherever they may be, shall observe the collision regulations, and shall not carry or exhibit any other lights or use any other fog signals than such as are required by those regulations.

Observance
of collision
regulations

(2) All owners and masters of ships other than Brunei ships shall observe the collision regulations within the waters of Brunei and, in any case before a Brunei court concerning an infringement of the collision regulations arising within the waters of Brunei, ships other than Brunei ships shall, so far as respects collision regulations, be treated as if they were Brunei ships.

(3) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship that master or owner shall be guilty of an offence: Penalty, a fine of \$2,000.

(4) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

(5) Subsections (1), (2) and (3) shall apply to the owners and pilots of seaplanes on the surface of the water as they apply to the owners and masters of ships, and subsection (4) shall apply to the pilot or other person in charge of a seaplane as it applies to the person in charge of the deck of a ship.

Inspection as
to lights and
fog signals

105. (1) A government surveyor may inspect any ship for the purpose of seeing that the ship is properly provided with lights and the means of making fog signals in conformity with the collision regulations.

(2) If the government surveyor finds that the ship is not so provided, he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

(3) Every notice so given shall be communicated by the government surveyor to the Director, and unless the Director otherwise directs, the ship shall be detained until a certificate under the hand of a government surveyor is produced to the effect that the ship is properly provided with lights and with the means of making fog signals, in conformity with the collision regulations.

(4) For the purpose of an inspection under this Part a government surveyor shall have all the powers of an inspector under this Act.

Helm orders

106. (1) No person on any Brunei ship shall when the ship is going ahead give a helm or steering order containing the word "starboard" or "right", or any equivalent of "starboard" or "right", unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left", or any equivalent of "port" or "left", unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence: Penalty, a fine of \$2,000.

Duty to Render Assistance

General duty
to render
assistance to
persons in
danger at sea

107. (1) The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign

state at war with His Majesty, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of an offence: Penalty, a fine of \$4,000 and imprisonment for 3 years.

(2) Compliances by the master or person in charge of a vessel with the provisions of this section shall not affect his right or the right of any other person to salvage.

108. (1) In every case of collision between 2 vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew and passengers (if any),

Duty of vessel to assist the other in case of collision

(a) to render to the other vessel her master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and

(b) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) The failure of the master or person in charge of a vessel to comply with the provisions of subsection (1) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect or default.

(3) If the master or person in charge fails without reasonable cause to comply with the provisions of this section, he shall be guilty of an offence: Penalty, a fine of \$4,000 and imprisonment for 3 years.

Equipment

109. (1) Every Brunei sea-going steamship shall have her compasses properly adjusted from time to time.

Adjustment of compasses

(2) If any such steamship goes to sea from any port or place in Brunei without having her compasses adjusted in accordance with the provisions of this section, the owner, if in fault, shall be guilty of an offence: Penalty, a fine of \$2,000; and the master, if in fault, shall be guilty of an offence: Penalty, a fine of \$1,000.

Placing undue weight on safety valve

110. A person shall not place an undue weight on the safety-valve of any steamship, and, if he does so, he shall, in addition to any other liability which he incurs by so doing, be guilty of an offence under this section: Penalty, a fine of \$2,000.

Regulations for life-saving appliances

111. (1) The Minister ^{of Communications} with the approval of His Majesty may, in relation to any ships to which this section applies, make regulations (hereinafter referred to as the "regulations for life-saving appliances") with respect to all or any of the following matters, namely —

(a) the arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;

(b) the number, description, and mode of construction of the boats, life rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;

(c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;

(d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;

(e) the quantity, quality and description of buoyant apparatus to be carried on board ships, either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys;

(f) the position and means of securing the boats, life rafts, life-jackets and lifebuoys and buoyant apparatus;

(g) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;

(h) the manning of the lifeboats and the qualifications and certificates of lifeboat men;

(i) the provisions to be made for mustering the persons on board, and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);

(j) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;

(k) the assignment of specific duties to each member of the crew in the event of emergency;

(l) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;

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

(n) the practice in ships of boat-drills and fire-drills;

(o) the provision in ships of means of making effective distress-signals by day and by night;

(p) the provision, in ships engaged on voyages in which pilots are likely to be embarked, of suitable pilot-ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe; and

(q) the examination and maintenance at intervals to be prescribed by the regulations of any appliances or equipment required by the rules to be carried,

and different provisions may be made in respect of different classes of ships and for ships of the same description in different circumstances.

(2) This section applies to —

(a) Brunei ships; and

(b) all other ships while they are within the waters of Brunei.

(3) It shall be the duty of the owner and master of every ship to which this section applies to see that his ship is provided, in accordance with the regulations for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adopted for securing the safety of her crew and passengers, and that such appliances are kept so as to be at all times fit and ready for use.

Reports of Accidents and Loss of ships

112. (1) When a Brunei ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting the ship's seaworthiness or efficiency, the owner or master shall, as soon as possible after the accident or damage, transmit to the Director by letter signed by the owner or master a report of the accident or damage and of the probable occasion thereof, stating the ship's name, her official number, the port to which she belongs, the place where the ship is and giving any other prescribed particulars.

Reports of accidents and loss of ships

(2) If the owner or agent of any Brunei ship has reason, owing to non-appearance of the ship or to any other circumstances, to apprehend that ship has been wholly lost, he shall as soon as possible send to the Director notice in writing of the loss and the probable occasion thereof, stating the ship's name, her official number, the port to which she belongs and giving any other prescribed particulars.

(3) The Minister^{of Communications} with the approval of His Majesty may by regulations apply the provisions of this section in such circumstances and to such ships or descriptions of ships other than Brunei ships as may be specified in the regulations.

Safety and Load Lines Conventions

113. (1) The Minister^{of Communications} with the approval of His Majesty may make such regulations with regard to ships and voyages to which the Safety Convention applies as appear to him to implement the provisions of the Safety Convention.

Safety convention certificates

(2) Without prejudice to the generality of subsection (1), such regulations may provide for —

(a) the issue of an appropriate certificate in accordance with the terms of the Safety Convention (hereinafter referred to as a "Safety Convention Certificate") in respect of a ship complying with such regulations;

(b) the issue of an appropriate Safety Convention certificate in Brunei in respect of a ship registered in another country and by the government of another country in respect of a registered Brunei ship;

(c) the survey of ships and issue, cancellation and delivery up of Safety Convention certificates;

(d) the types and forms of certificates;

(e) the construction and equipment of ships including the provision and use of life-saving appliances, radiotelegraphy, radiotelephony, direction-finders and other navigational aids;

(f) the safety of navigation;

(g) the carriage of grain; and

(h) the carriage of dangerous goods.

(3) Such regulations may prohibit any ship from proceeding on a voyage to or from any port or place in Brunei unless there is in force an appropriate Safety Convention certificate in respect of such ship.

(4) In subsection (2) (h), “dangerous goods” has the meaning assigned to that expression under and by virtue of the Ports Act.

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Load line
certificates

of Communications

114. (1) The Minister with the approval of His Majesty may make such regulations with regard to ships and voyages to which the Load Lines Convention applies and for the issue of certificates in accordance with the terms of the Load Lines Convention (hereinafter referred to as “load line certificate”) as appear to him to implement the provisions of the Load Line Convention.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for —

(a) the survey and periodical inspection of ships and the issue, supervision and cancellation of load line certificates;

(b) the issue of an appropriate load line certificate in Brunei in respect of a ship registered in another country and by the government of another country in respect of a registered Brunei ship;

(c) the types and forms of such certificates;

(d) determining freeboards to be assigned from time to time to ships;

(e) determining, in relation to any ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description prescribed by the regulations;

(f) determining, by reference to that mark and the freeboards for the time being assigned to a ship, the positions in which each side of the ship is to be marked with lines of a description prescribed by the regulations, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the regulations;

(g) such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which the Load Lines Convention applies as are required by the regulations for the assignment of freeboards to ships; and

(h) the supply of such information relating to the stability, loading and ballasting of any ship and

of such other relevant information as may be required by the regulations.

(3) Such regulations may —

(a) prohibit any ship from proceeding on a voyage from any port or place in Brunei unless there is in force an appropriate load line certificate in respect of such ship;

(b) may make different provision by reference to different descriptions of ships, different areas, different seasons of the year and any other circumstances.

Additional
regulations

115. Regulations made under sections 113 and 114 may provide —

(a) for inspection of a ship for the purpose of seeing that the requirements of such regulations are complied with in respect of the ship;

(b) that any certificate required by such regulations to be in force shall be produced to such person or persons as may be designated, and that a clearance may be refused, and that the ship may be detained until any such certificate is so produced; and

(c) for notification specifying the countries and territories to which the Safety Convention and the Load Lines Convention respectively from time to time apply.

Application of
sections 113
to 115 to
Brunei ships

116. Without prejudice to anything contained in sections 113 to 115 the Minister, ^{or Ordinance 102/1982} with the approval of His Majesty may, in relation to Brunei ships and voyages by Brunei ships, make regulations and exercise any of the powers under those sections or any of them both before, as well as

after, the accession of Brunei to the Safety Convention and the Load Lines Convention or either of them.

Unseaworthy Ships

117. (1) If —

(a) a ship in any port or place in Brunei; or

(b) a registered Brunei ship which is in any other port or place,

Offence in respect of dangerously unsafe ship

is, having regard to the nature of the service for which the ship is intended, unfit by reason of the condition of the ship's hull, equipment or machinery or by reason of undermanning or by reason of overloading or improper loading to go to sea without serious danger to human life, then, subject to subsection (2), the master and the owner of the ship shall each be guilty of an offence: Penalty, a fine and imprisonment for 2 years.

(2) It shall be a defence in proceedings for an offence under subsection (1) to prove that at the time of the alleged offence —

(a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters aforesaid which are specified in the charge; or

(b) it was reasonable not to have made such arrangements.

(3) No proceedings for an offence under subsection (1) shall be begun except by or with the consent of the Attorney General.

Power to detain unsafe ship, and procedure for such detention

118. (1) Where a Brunei ship, being in the waters of Brunei, is an unsafe ship, that is to say, is, by reason of the defective condition of her hull, equipment or machinery or by reason of under-manning or by reason of overloading or improper loading, unfit to go to sea without serious damage to human life, having regard to the nature of the service for which she is intended, such ship (hereinafter described as unsafe) may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released as follows —

(a) the Director, if he has reason to believe, on complaint or otherwise, that a Brunei ship is unsafe, may order the provisional detention of such ship for the purpose of being surveyed or for ascertaining the sufficiency of her crew;

(b) when a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of detention, and the Director may, if he thinks fit, appoint some competent person or persons to survey and report thereon to him;

(c) the Director on receiving the report may either order the ship to be released or, if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo or the manning of the ship as the Director thinks necessary for the protection of human life, and he may vary or add to any such order;

(d) before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within 7 days after such service, the owner or master of the ship may appeal to a court of survey;

(e) where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that he shall be accompanied by such person of nautical, engineering or other special skill and experience to be approved by the Director as the owner or master may select, and in the case, if the surveyor and that person agree, the Director shall cause the ship to be detained or released accordingly, but if they differ, the Director may act as if the requisition had not appeal touching the report of the surveyor as is before provided by this section;

(f) where a ship is provisionally detained, the Director may at any time, if he thinks it expedient, refer the matter to the court of survey;

(g) the Director may at any time if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) a ship detained under this section shall not be released by virtue of her Brunei register being subsequently closed.

119. (1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship under section 118 the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship and compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability for
costs and
damages

(2) If a ship is finally detained under this Act or if it appears that a ship provisionally detained was at the time of

such detention unsafe, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship, and such costs shall without prejudice to any other remedy be recoverable in the same way as a fine imposed in a Court of a Magistrate.

(3) For the purposes of this Act, the costs of and incidental to any proceeding before a court of survey and a reasonable amount in respect of remuneration of the surveyor appointed under section 118 (1) (b) shall be part of the costs of the detention and survey of the ship.

(4) Any dispute as to the amount of the costs of and incidental to the detention and survey of a ship payable under subsection (2) to the Government may be referred to a Registrar, who shall, upon such reference being made to him ascertain and certify the proper amount of such costs.

(5) A claim for any costs or compensation payable by the Government under this section may be brought against the Director by his official title as if he were a corporation sole.

Power to require security for costs from complainant

120. (1) Where a complaint is made to the Director that a Brunei ship is unsafe, he may require the complainant to give security to his satisfaction for the costs and compensation which he may become liable to pay under subsection (3).

(2) Such security shall not be required where the complaint is made by one-fourth, being not less than 3, of the seamen belonging to the ship, and is not in the opinion of the director frivolous or vexatious, and the Director shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Govern-

ment is liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

121. (1) An order for the detention of a ship, whether provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

Supplementary provisions as to detention of ships

(2) The Director and a person authorised to survey a ship under this Part shall for that purpose have all the powers of an inspector and, in addition, power to muster the crew.

122. (1) Where a foreign ship (not being a Brunei licensed ship) whilst in the waters of Brunei is unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of undermanning or of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a Brunei ship, with the following modifications —

Application to foreign ships of provisions as to detention

(a) a copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs as well as on the master of the ship;

(b) where a ship has been provisionally detained, the consular officer on the request of the owner or master of the ship and if there is no such consular officer the owner or master of the ship, may require that the person, if any, appointed by the Director to survey the ship shall be accompanied by such person as such officer, or owner or master, as the case may be, may select and in that case, if the surveyor and such person agree, the Director shall cause the ship to be detained or released accordingly, but if they differ, the Director

may act as if the requisition had not been made and the owner and master shall have the like appeal to a court of survey touching the report of the surveyor as is hereinbefore provided in the case of a Brunei ship;

(c) where the owner or master of the ship appeals to the court of survey, the consular officer, on the request of such owner or master, may nominate any competent person or persons, not exceeding 2, to be members of the court of survey and His Majesty may appoint such person or persons to be members of the court of survey pursuant to section 133 (1).

(2) Nothing in this section shall affect any such foreign ship not bound to Brunei which comes into the waters of Brunei for any purpose other than that of embarking or landing passengers or taking in or discharging cargo or taking in bunkers.

Obligation of ship owner to crew with respect to use reasonable efforts to secure seaworthiness

123. (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the voyage.

(2) Nothing in this section —

(a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable; or

(b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in Brunei.

Ships Carrying Passengers
of Communication

124. The Minister ^{Ships carrying passengers} (with the approval of His Majesty may make regulations prohibiting any ship or description of ships from plying or carrying passengers to or from any port or place in Brunei except in the circumstances and subject to the conditions specified in the regulations and in particular and without prejudice to the generality of the foregoing power, regulations may provide for —

(a) surveys or other inspections of ships carrying passengers;

(b) the issue of a certificate specifying, subject to such conditions as may be specified, the maximum number of deck or other passengers which any such ship may carry and the voyages or class of voyages upon which such ship may ply or the limits beyond which such ship may not ply;

(c) the provision of such shelter and accommodation for the protection and use of deck and other passengers, if any, as having regard to the nature of the passage, the number of such passengers to be carried, the season of the year, the safety of the ship and the circumstances of the case as may be specified; and

(d) keeping order in ships carrying passengers.

PART VI

SPECIAL SHIPPING INQUIRIES AND COURTS

Inquiries and Investigations

125. (1) For the purpose of inquiries and investigations ^{Definitions} under this Part a shipping casualty shall be deemed to occur —

(a) when in any place a Brunei ship is lost, wrecked, stranded, damaged or abandoned; or

(b) when any loss of life ensues by reason of any casualty or material damage caused by or happening to or on board a Brunei ship.

(2) In this Part “qualified officer” means an officer qualified for the purposes of section 68 or holding a certificate of competency under section 69.

Preliminary inquiry

126. (1) Where a shipping casualty has occurred, a preliminary inquiry may be held, respecting the casualty, by the Director or any person appointed by him for the purpose.

(2) For the purpose of any such inquiry the person holding the same shall have the powers of an inspector under this Act.

(3) After hearing such inquiry, the person holding the same shall forward a report thereof to His Majesty without delay.

His Majesty may appoint court of investigation

127. (1) His Majesty may appoint a court of investigation for the purpose of holding a formal investigation in any case —

(a) where a shipping casualty has occurred, whether there has been a preliminary inquiry or not; or

(b) whenever His Majesty has reason to believe that any qualified officer is from incompetency or misconduct unfit to discharge his duty; or

(c) whenever His Majesty considers that such an investigation is desirable:

Provided that a court of investigation shall not be appointed for the purpose of holding a formal investigation

into any shipping casualty occurring to a ship registered in a country other than Brunei, unless either the casualty occurs in the waters of Brunei or the appointment of the court is requested or consented to by the government of the country in which the ship is registered.

(2) A court of investigation shall consist of a judge or a magistrate, with the assistance of not less than 2 nor more than 4 assessors.

(3) The Director shall not be a member of a court when he has held a preliminary inquiry with regard to the casualty which is the subject of investigation.

(4) Where an investigation involves or appears likely to involve any question as to the cancelling or suspension of any certificate, the court shall hold the investigation with the assistance of not less than 2 assessors having experience in the merchant service.

(5) The court after hearing the case shall make a report to His Majesty containing a full statement of the case and of the opinion of the court thereon, accompanied by such report of or extracts from the evidence and such observations as the court thinks fit.

(6) Each assessor shall either sign the report or state in writing on the report his dissent therefrom and the reasons for that dissent.

(7) The court may make such order as the court thinks fit respecting the costs of the investigation or any part thereof, and such order shall be enforced by the court in the same way as a fine in a Court of a Magistrate.

(8) His Majesty may, if in any case he thinks fit so to do, order the costs of any such investigation to be paid out of the Consolidated Fund.

(9) For the purposes of this section the court holding a formal investigation shall have all the powers of a Court of a Magistrate and shall also have all the powers of an inspector under this Act.

(10) Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person that person shall have an opportunity of making a defence.

Powers as to Certificates of officers, etc.

Power of
court of in-
vestigation as
to certificates

128. (1) The certificate of a qualified officer may be cancelled or suspended by a court holding an investigation into a shipping casualty, or into the conduct of a qualified officer, if the court finds that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is required under section 107 or 108.

(2) If the court holding an investigation is presided over by a magistrate, that court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court.

(3) Where any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate, that court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancellation or suspending thereof.

(4) A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report or a statement of the case on which the investigation has been ordered, has been furnished before the commencement of the investigation to the holder of the certificate.

129. (1) A court of investigation shall have the following further powers — Further powers of court

(a) it may remove the master of any ship if that removal is shown to the satisfaction of the court by evidence on oath to be necessary. Such removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship;

(b) it may appoint a new master instead of the one removed:

Provided that where the owner, agent or consignee of the ship is in Brunei, such an appointment shall not be made without the consent of that owner, agent or consignee;

(c) it may make such order as it thinks fit respecting the costs of the investigation or any part thereof, and such order shall be enforced by the Court in the same way as an order for costs in a Court of a Magistrate.

130. His Majesty may, if he thinks the justice of the case requires it, reissue and return any cancelled or suspended certificate, or shorten the time of its suspension, or grant a new certificate of the same or any lower grade in place of it. His Majesty may deal with certificate

131. Any person aggrieved by any determination of a court of investigation may appeal to the High Court which may — Provision for rehearing and appeal

(a) quash, confirm or vary the determination of the court of investigation; or

(b) if it finds that important evidence which could not be produced before the court of inquiry

has been discovered or that there are grounds for suspecting that a miscarriage of justice has occurred, order a rehearing either by the court by which the case was heard in the first instance or by another court of investigation.

Regulations as to procedure, fees, etc.

132. The Minister with the approval of His Majesty may make general regulations for carrying into effect the provisions relating to inquiries and investigations, to applications made under section 129 and to the rehearing of or appeal from any such inquiry, investigation or application, and in particular, with respect to the procedure, the appointment and summoning of assessors, the parties, the persons allowed to appear, the notice to such parties and persons or to persons affected, and the amount and application of fees.

Courts of Survey

Constitution, powers and procedure of court of survey

133. (1) His Majesty whenever occasion may arise may appoint a court of survey to consist of not less than 3 not more than 5 members, of whom one shall be a judge or magistrate and who shall preside over the court, and the remainder shall be masters of the mercantile marine or persons of nautical engineering or other special skill or knowledge, and in such case the following provisions shall have effect —

(a) the case shall be heard in open court;

(b) each member of the court may survey the ship, and shall have for such purpose all the powers of an inspector under this Act;

(c) the court, or in case of disagreement a majority of the members of the court, may order the ship to be surveyed and may appoint any competent person to survey the ship and report thereon to the court and such person shall have all the powers of an inspector under this Act;

(d) the court may order the ship to be released or finally detained, but unless a majority of the members concur in an order for its detention the ship shall be released; and

(e) the owner or agent and the master of the ship and any person appointed by the owner, agent or master, may attend at any inspection or survey made in pursuance of this section.

(2) In addition to the functions assigned to courts of survey under this Act, the Minister, with the approval of His Majesty may, by regulations, empower a court of survey to entertain such proceedings and to determine such matters as may be specified therein and he may, by regulations, prescribe and provide for carrying into effect the provisions of this Act with respect to a court of survey and appeals thereto, and in particular with respect to the summoning of and procedure before the court, the requiring of security for costs and damages on an appeal and the amount and application of fees.

(3) The court may make such order with respect to the costs of any proceedings before it as it may think fit, and such order shall be enforced in the same way as an order for costs in a Court of a Magistrate.

134. (1) If His Majesty is of opinion that any matter before a court of survey involves a question of construction or design, or of scientific difficulty, or important principle, he may refer the matter to such one or more out of a list of scientific referees from time to time approved by His Majesty as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the parties, or in default of any such agreement by His Majesty, and thereupon the matter shall be determined by the referee or referees, instead of by the court of survey.

Reference in
difficult cases
to scientific
persons

(2) If any party so requires and gives security to the satisfaction of His Majesty to pay the costs of and incidental to the reference, any matter shall be referred to a referee or referees so selected as aforesaid.

(3) The referee or referees shall have the same powers as a judge of the court of survey.

Payments to Officers of Courts

Payments to officers of courts

135. Such remuneration, if any, as His Majesty directs may be paid out of the Consolidated Fund to any judge, magistrate, assessor or other officers of or in any court of investigation or court of survey.

Indemnity

Indemnity

136. No action, suit or other proceeding shall be brought against any person for anything done or omitted to be done by him as a member of a court of investigation or a court of survey under this Part.

PART VII

WRECK AND SALVAGE

Vessels in Distress

Interpretation

137. In this Part, unless the context otherwise requires —

“receiver” means receiver of wreck;

“salvage” includes all expenses properly incurred by the salvor in the performance of salvage services;

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

138. His Majesty may, by notification in the *Government Gazette*, appoint any person to be a receiver of wreck in any district and to perform the duties of receiver under this Part.

Appointment
of receiver of
wreck

3, 9/89

139. (1) Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Brunei or any tidal water within the limits of Brunei, the receiver of wreck for the district in which that place is situate shall, upon being made acquainted with the circumstances, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this Part referred to as "shipwrecked persons") and of the cargo and apparel of the vessel.

Duty of re-
ceiver where
vessel in dis-
tress

(2) Any person who wilfully disobeys the directions of the receiver shall be guilty of an offence: Penalty, a fine of \$2,000, but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof unless he is requested to do so by the master.

140. (1) The receiver may, with a view to such preservation as aforesaid of shipwrecked persons or of the vessel, cargo or apparel —

Powers of re-
ceiver in case
of vessels in
distress

(a) require such persons as he thinks necessary to assist him;

(b) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel as is in his power;

(c) demand the use of any vessel or animal that may be near at hand.

(2) Any person who refuses without reasonable cause to comply with any such requisition or demand shall be guilty of an offence: Penalty, a fine of \$2,000.

Power to pass
over adjoining
lands

141. (1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass or repass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo or articles, in respect of or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of a dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) Any owner or occupier of any land who —

(a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing, upon request, to open the same, or otherwise; or

(b) impedes or hinders the deposit of any cargo or other articles recovered from the vessel as aforesaid on the land; or

(c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit.

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

142. (1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, the receiver may cause that person to be apprehended.

Power of receiver to suppress plunder and disorder by force

(2) The receiver may use force for the suppression of any such plundering, disorder or obstruction, and may command all persons to assist him so using force.

(3) If any person is killed, maimed or hurt, by reason of his resisting the receiver or any person acting under the orders of the receiver in the execution of the duties by this Part committed to the receiver, neither the receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person being so killed, maimed or hurt.

143. (1) Where a receiver is not present, the following officers or persons in succession, each in the absence of the other, in the order in which they are named, namely, superintendent or assistant superintendent of police, magistrate or commissioned officer on full pay in the armed forces may do anything under this Part authorised to be done by the receiver.

Exercise of powers of receiver in his absence

(2) Any officer acting under this section for a receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by this Act, be considered as the agent of the receiver, and shall place the same in the custody of the receiver, but he shall not be entitled to any fees payable to receivers or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

144. (1) Where any ship is or has been in distress on the coasts of Brunei, a receiver of wreck, or in his absence a magistrate, shall as soon as conveniently may be examine on oath any person belonging to the ship, or any other person

Examination in respect of vessel in distress

who is able to give any account thereof or of the cargo or stores thereof, as to the following matters —

- (a) the name and description of the ship;
- (b) the name of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports from and to which the ship was bound;
- (e) the occasion of the distress of the ship;
- (f) the services rendered;
- (g) such other matters or circumstances relating to the ship or to the cargo on board the same as the person holding the examination thinks necessary.

(2) The person holding the examination shall take the same down in writing, and shall send 2 copies thereof to the Director, who shall cause one of those copies to be placed in some conspicuous situation for the inspection of persons desirous of examining the same.

(3) The person holding the examination shall for the purposes thereof have all the powers of an inspector under this Act.

Dealing with Wreck

Rules to be
observed by
persons
finding wreck

145. (1) Where any person finds or takes possession of any wreck within the limits of Brunei or of any wreck found or taken possession of outside the limits of Brunei and brought within the limits of Brunei, he shall —

- (a) if he is the owner thereof, give notice to the receiver of the district stating that he has found or

taken possession of the same, and describing the marks by which the same may be recognised;

(b) if he is not the owner thereof, as soon as possible deliver the same to the receiver of the district.

(2) Any person who fails, without reasonable cause, to comply with this section, shall be guilty of an offence: Penalty, a fine of \$2,000, and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed, or if it is unclaimed to the person entitled to the same, double the value thereof, to be recovered in the same way as costs in the Court of a Magistrate.

146. (1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Brunei, or any tidal water within the limits of Brunei, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

Penalty for taking wreck at the time of casualty

(2) Any person, whether the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or any person authorised by him to demand the same, shall be guilty of an offence: Penalty, a fine of \$2,000.

(3) The receiver or any person authorised may take any such cargo or article by force from the person so refusing to deliver the same.

147. Where a receiver takes possession of any wreck, he shall within 48 hours cause to be posted at the office of the Director, and, if he thinks it desirable, he shall send to the secretary of Lloyd's in London, a description thereof and of any marks by which it is distinguished.

Notice of wreck to be given by receiver

Claims of
owners to
wreck

148. (1) The owner of any wreck in the possession of the receiver, upon establishing his claim to the same to the satisfaction of the receiver within one month from the time at which the wreck came into the possession of the receiver, shall, upon paying the salvage fees and expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any article belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of Brunei, or belonging to and forming part of the cargo, are found on or near those coasts or are brought within the limits of Brunei, the consular officer of the country to which the ship or, in the case of cargo, to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, as far as relates to the custody and disposal of the articles.

Immediate
sale of wreck
by receiver in
certain cases

149. (1) A receiver may at any time sell any wreck in his custody, if in his opinion —

(a) it is under the value of \$1,000;

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not sufficient value to pay for warehousing.

(2) The proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Unclaimed Wreck

Right of Gov-
ernment to
unclaimed
wreck

150. The Government is entitled to all unclaimed wreck found in any part of Brunei.

151. Where no owner establishes a claim to any wreck found in Brunei or to any wreck found or taken possession of outside Brunei and brought within Brunei, and in the possession of a receiver within one month after it came into his possession, the receiver shall sell the same, and shall pay the proceeds of the sale into the Consolidated Fund, after deducting therefrom the expenses of the sale and any other expenses incurred by him and his fees and paying thereout to the salvors such amount of salvage as His Majesty in each case or by any general rule determines.

Unclaimed
wreck

152. Upon delivery of wreck or payment of the proceeds of sale of wreck by a receiver, in pursuance of this Part, the receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which is raised by third parties concerning the right or title to the wreck.

Delivery of
unclaimed
wreck by re-
ceiver not to
prejudice ti-
tle

Removal of Wrecks

153. (1) Where any vessel is sunk, stranded or abandoned within the waters of Brunei, in such a manner as, in the opinion of the receiver, to be or to be like to become an obstruction or danger to navigation, the receiver may —

Removal of
wreck by re-
ceiver

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

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

(c) sell, in such manner as he thinks fit, any vessel or part so raised or removed, and also any other property recovered in the exercise of his powers under this section, and out of the proceeds of the sale reimburse himself for the expenses incurred by him in relation thereto under this section, and the receiver shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto.

(2) A sale shall not, except in the case of property which is of a perishable nature, or which would deteriorate in value by delay, be made under this section until at least 7 clear days' notice of the intended sale has been given by advertisement in some local newspaper circulation in or near the district over which the receiver has control.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on a payment to the receiver of the fair market value thereof, to be ascertained by agreement between the receiver and the owner, or failing agreement, by some person to be named for the purpose by His Majesty.

(4) The sum paid to the receiver as the value of any property under this provision shall, for the purposes of this section, be deemed to be the proceeds of sale of that property.

Powers of removal extend to tackle, cargo, etc.

154. The provisions of this Part relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel in the same manner as if it were included in the term "vessel", and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

Offences in respect of Wreck

Taking wreck out of Brunei

155. Any person who takes out of Brunei any vessel, stranded, derelict or otherwise in distress found within the limits of Brunei or on any tidal water within the limits of Brunei, or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found within those limits, and there sells the same, shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 5 years.

156. (1) No person shall, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress, unless that person is, or acts by command of, the receiver or a person lawfully acting as such.

Interfering
with wrecked
vessel or
wreck

(2) Any person who acts in contravention of subsection (1) shall be guilty of an offence: Penalty, a fine of \$2,000, and the master of the vessel may repel him by force.

(3) No person shall —

(a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or of any part of the cargo or apparel thereof or of any wreck;

(b) secrete any wreck, or deface or obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or any part of the cargo or apparel thereof or any wreck.

(4) Any person who acts in contravention of subsection (3) shall be guilty of an offence: Penalty, a fine of \$2,000, and such fine may be inflicted in addition to any punishment to which he may be liable by law under this Act or otherwise.

157. (1) Where a receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to any Court of a Magistrate for a search warrant.

Concealment
of wreck

(2) Such court may grant such a warrant, and the receiver by virtue thereof, may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck there found.

(3) If any such seizure of wreck is made in consequence of information given by any person to the receiver, the informer shall be entitled, by way of salvage, to such sum not exceeding in any case \$100 as the receiver allows.

Salvage

Salvage payable for saving life

158. (1) Where the services are rendered wholly or in part within Brunei in saving life from any vessel, or elsewhere in saving life from any Brunei vessel, there shall be payable to the salvor by the owner of the vessel, cargo or apparel saved, a reasonable amount of salvage, to be determined in case of dispute in the manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

(3) Where the vessel, cargo and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life His Majesty may, in his discretion, award to the salvor out of the Consolidated Fund such sum as His Majesty thinks fit in whole or part satisfaction of any amount of salvage so left unpaid.

Salvage of cargo or wreck

159. Where any vessel is wrecked, stranded, or in distress at any place on or near the coasts of Brunei or any tidal waters within the limits of Brunei, and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck, a reasonable

amount of salvage to be determined in case of dispute in manner hereinafter mentioned.

Procedure in Salvage

160. (1) Disputes as to the amount of salvage, whether of life or property and whether rendered within or without Brunei, arising between the salvor and the owners of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined by a Court of a Magistrate in any case where —

Determina-
tion of sal-
vage disputes

(a) the parties to the dispute consent; or

(b) the value of the property saved does not exceed \$50,000; or

(c) the amount claimed does not exceed \$10,000.

(2) Subject as aforesaid, disputes as to salvage shall be determined by the High Court, but if the claimant does not recover in the High Court more than \$10,000, he shall not be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim unless such court certifies that the case is a fit one to be tried by the High Court.

(3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved or of their respective agents.

161. A court may, for the purpose of determining a dispute as to salvage, call in to its assistance any person conversant with maritime affairs as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum as His Majesty directs.

Assistance of
assessors in
salvage dis-
putes

Appeal in
case of sal-
vage disputes

162. No appeal shall lie from a decision of any court relating to salvage unless the sum in dispute exceeds \$500.

Valuation of
property by
receiver

163. (1) Where any dispute as to salvage arises, the receiver of the district where the property is in respect of which the salvage claim is made may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

(2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceedings.

(3) Such fee as His Majesty directs shall be paid in respect of the valuation by the person applying for the same.

Detention of
property li-
able to sal-
vage by a re-
ceiver

164. (1) Where salvage is due to any person under this Act, the receiver shall —

(a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under the Act, detain the wreck.

(2) Subject as hereinafter mentioned, the receiver shall detain the vessel and the cargo and apparel, or the wreck (hereinafter referred to as “detained property”), until payment is made for salvage or process is issued for the arrest or detention thereof by the High Court.

(3) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds \$1,000 and any question is raised as to the sufficiency of the security, to the satisfaction of a Registrar.

(4) Any security given for salvage in pursuance of this section to an amount exceeding \$1,000 may be enforced by the High Court in the same manner as if bail had been given in that court.

165. (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention in the following case —

Sale of detained property

(a) where the amount is not disputed and payment of the amount due is not made within 20 days after the amount is due;

(b) where the amount is disputed but no appeal lies, and payment is not made within 20 days after the decision of the court; or

(c) where the amount is disputed and an appeal lies from the decision of the court and within 20 days of that decision neither payment of the sum due is made nor have any proceedings been taken for the purpose of appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive the same.

166. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Brunei has been finally determined, either in a Court of a Magistrate or by agreement, and does not exceed \$10,000, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver for liberty to pay the same to him.

Apportionment of salvage by receiver

(2) The receiver shall, if he thinks fit, receive, the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid and to his vessel, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(3) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same on such evidence and in such shares and proportions as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(4) A distribution made by the receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed and such distribution shall not be subject to appeal to or review in any court.

Apportionment of salvage by High Court

167. Whenever the aggregate amount of salvage payable in respect of salvage service rendered in Brunei has been finally ascertained and exceeds \$10,000, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever that amount may be, then, if any delay or disputes arises as to the apportionment thereof, the High Court may —

(a) cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect;

(b) compel any person in whose hands or under whose control the amount may be to distribute the

same or to bring the same into court to be there dealt with as the court directs; and

(c) issue such processes as it thinks fit for the aforesaid purposes.

168. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew and other persons in the service of any foreign vessel, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

Apportionment of salvage amongst owners, etc., of foreign vessel

Jurisdiction in Salvage

169. Subject to the provisions of this Act, the High Court or the Court of a Magistrate, as the case may be, shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed out of or within Brunei, or partly out of and partly within Brunei, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land or partly on the sea and partly on the land.

Jurisdiction in salvage

Fees of Receivers of Wreck

170. (1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of such other matters as may be prescribed, such fees, not exceeding such amounts, as may be prescribed, but a receiver shall not be entitled to any remuneration other than those payments.

Receiver's fees

(2) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any receiver in respect of expenses or fees, that

dispute shall be determined by His Majesty, or such person as he may appoint in that behalf, whose decision shall be final and shall not be subject to appeal to or review in any court.

(4) All fees received by a receiver in respect of any services performed by him as receiver shall be accounted for the Government, and shall be applied in defraying any expenses duly incurred in carrying this Act into effect, and, subject to such application, shall form part of the Consolidated Fund.

PART VIII

DELIVERY OF GOODS

Delivery of Goods and Lien for Freight

Interpreta-
tion

171. In this Part, unless the context otherwise requires —

“goods” includes every description of wares and merchandise;

“owner” if used in relation to goods means every person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien, if any, to that lien;

“shipowner” includes the master of the ship and every other person authorised to act as agent for the owner or entitled to receive the freight, demurrage, or other charges payable in respect of the ship;

“warehouse” includes all warehouses, buildings and premises in which goods, when landed from ships, may be lawfully placed;

“warehouseman” means the occupier of a warehouse;

“wharf” includes all wharves, quays, docks and premises in or upon which any goods, when landed from ships, may be lawfully placed;

“wharfinger” means the occupier of a wharf.

172. (1) In the absence of any arrangement whereby the owner of any goods imported in any ship into any port or place in Brunei is entitled to land or take delivery of such goods, or in case the owner of such goods is not ready or does not offer to land or take delivery under such arrangement as soon as the ship is ready to unload, a shipowner may land or unship the goods imported in any ship into Brunei at any time after the arrival of the ship.

Powers of
shipowner to
land goods

(2) Where a shipowner lands goods in pursuance of this section, he shall place them, or cause them to be placed —

(a) if any wharf or warehouse is named in the charterparty, bill of lading or agreement, as the wharf or warehouse where the goods are to be placed and if they can be conveniently there received, on that wharf or in that warehouse; and

(b) in any other case, or some wharf or in some warehouse on or in which goods of a like nature are usually placed.

173. (1) If at the time when any goods are landed from any ship and placed in the custody of any person as a wharfinger or warehouseman the shipowner gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in the notice, the goods so landed shall, in the hands of the wharfinger or warehouseman, continue subject to the same lien, if any, for such charges, as they were subject to before the landing thereof.

Lien for
freight on
landing goods

(2) The wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as hereinafter mentioned, and shall, if he fails so to do, make good to the shipowner any loss thereby occasioned to him.

Discharge of
lien

174. The said lien for freight and other charges shall be discharged —

(a) upon the production to the wharfinger or warehouseman of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a release of freight from the shipowner; and

(b) upon the deposit by the owner of the goods with the wharfinger or warehouseman of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner.

but in the latter case the lien shall be discharged without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

Provisions as
to deposits by
owners of
goods

175. (1) When a deposit as aforesaid is made with the wharfinger or warehouseman, the person making the same may, within 15 days after making it, give to the wharfinger or warehouseman notice in writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given the wharfinger or warehouseman may, at the expiration of the 15 days, pay the sum deposited over to the shipowner.

(2) If a notice is given as aforesaid, the wharfinger or warehouseman shall immediately apprise the shipowner of it, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by the notice to be payable, and shall retain the balance, or, if no sum as admitted to be

payable, the whole of the sum deposited, for 30 days from the date of the notice.

(3) At the expiration of those 30 days, unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any disputes which have arisen between them concerning the freight or other charges as aforesaid, and notice in writing of those proceedings has been served on the wharfinger or warehouseman, the wharfinger or warehouseman shall pay the balance or sum to the owner of the goods.

(4) A wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof.

(5) For the purposes of this section "legal proceedings" shall be deemed to include arbitration.

176. (1) If the lien is not discharged and no deposit is made as aforesaid, the wharfinger or warehouseman may, and, if required by the shipowner, shall, at the expiration of 90 days from the time when the goods were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as in his discretion he thinks fit, sell by public auction the goods or so much thereof as is necessary to satisfy the charges hereinafter mentioned. Sale of goods

(2) Before making the sale the wharfinger or warehouseman shall give notice thereof by advertisement in a local newspaper circulating in Brunei, and shall also, if the address of the owner of the goods has been stated on the manifest of the cargo or on any of the documents which have come into the possession of the wharfinger or warehouseman or is otherwise known to him, send notice of the sale to the owner of the goods by post.

(3) The title of a bona fide purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section, nor shall any such purchaser be bound to inquire whether the notice has been sent.

Application
of proceeds
of sale

177. The proceeds of sale shall be applied by the wharfinger or warehouseman as follows and in the following order —

(a) first, in payment of any duties payable to the Government in respect thereof; then

(b) in payment of the expenses of the sale; then

(c) in payment of the charges of the wharfinger or warehouseman and the shipowner according to such priority as is determined by the terms of the agreement, if any, in that behalf between them, or if there is no such agreement —

(i) in payment of the rent, rates and other charges due to the wharfinger or warehouseman in respect of the said goods; and then

(ii) in payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods,

and the surplus, if any, shall be paid to the owner of the goods.

Warehouse-
man's rent
and expenses

178. Whenever any goods are placed in the custody of a wharfinger or warehouseman under the authority of this Part, the wharfinger or warehouseman shall be entitled to rent in respect of the same, and may also, at the expenses of the owner of the goods, do all such reasonable acts as in the judgement of the wharfinger or warehouseman are necessary for the proper custody and preservation of the goods, and shall have a lien on the goods for the rent and expenses:

Provided that, in the case of goods so placed in the custody of the Port Department, the appropriate rates leviable under the Ports Act shall be payable in respect of the goods instead of the aforesaid rent, and the lien of the Government on the goods and all other powers and remedies of the Government under that Act for the recovery of such rates shall be exercisable on behalf of the Government in accordance with the provisions of that Act. Cap. 144

179. Nothing in this Part shall compel any wharfinger or warehouseman to take charge of any goods which he would not have been liable to take charge of if this Act had not been passed, nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Part. Warehouseman's protection

PART IX

LIABILITY OF CARRIERS, SHIPOWNERS AND SALVORS

Carriage of passengers and luggage by sea

180. (1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea as set out in Part I of Schedule 1 (hereinafter in this section and in Parts II and III of that Schedule referred to as "the Convention") shall have effect subject to the provisions of that Part. Scheduled convention to have force of law

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and subsection (1) shall have effect subject to the provisions of that Part.

(3) On and after the date when this subsection and Part III of Schedule 1 come into operation, Parts I and II of that Schedule shall have effect with the modifications specified in the said Part III.

(4) If it appears to the Minister^{of Communications} that there is a conflict between the provisions of this section or of Part I or II of Schedule 1 and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air in —

(a) any convention which has been signed or ratified on behalf of or given the force of law in Brunei before the passing of this Act; or

(b) any written law giving effect to such a convention,

he may with the approval of His Majesty by regulations make such modifications of this section or that Schedule or any such written law as he considers appropriate for resolving the conflict.

(5) If it appears to the Minister^{of Communications} that the Government of Brunei has agreed to any revision of the Convention or that such agreement has been made on behalf of such Government, he may with the approval of His Majesty by regulations make such modifications of Part I and II of Schedule 1 as he considers appropriate in consequence of the revision.

(6) Nothing in subsection (1), (2) or (3) or in any modification made by virtue of subsection (4) or (5) shall affect any rights or liabilities arising out of an occurrence which took place before the day on which subsection (1), (2) or (3), or as the case may be the modification, comes into force.

(7) This section shall bind the Government, and any regulations made by virtue of this section may provide that the regulations or specified provisions thereof shall bind the Government.

(8) A notification in the *Government Gazette* made by virtue of section 1 which appoints a date for the coming into operation of Part III of Schedule 1 may contain such

transitional provisions as His Majesty considers appropriate in connection with the coming into operation of that Part.

181. (1) The Minister ^{of Communications} may with the approval of His Majesty by regulations provide that, during any period before the coming into force of section 180 (1) and (2), Part I of Schedule 1 —

Application of Schedule 1 to international carriage before coming into force of section 180 (1) and (2)

(a) shall have the force of law in Brunei, with such modifications as are specified in the regulations, in relation to, and to matters connected with, any contract of carriage for international carriage which is made in Brunei and any contract of carriage for international carriage under which a place in Brunei is the place of departure or destination; and

(b) shall, as modified in pursuance of paragraph (a), have effect in relation to, and to matters connected with, any such contract subject to the provisions of Part II of that Schedule or to those provisions with such modifications as are specified in the regulations.

(2) If a notification in the *Government Gazette* appointing a date for the coming into operation of section 180 (1) and (2) is made in pursuance of section 1 at a time when regulations made by virtue of subsection (1) are in force, the notification appointing the date may contain such provisions as His Majesty considers appropriate (including provisions modifying provisions of Schedule 1 as they have effect by virtue of section 180 (1) and (2)) for the purpose of dealing with matters arising, in connection with such a contract as is mentioned in subsection (1), in consequence of the coming into operation of section 180 (1) and (2).

(3) Regulations made by virtue of subsection (1) may provide that the regulations or specified provisions of the regulations shall bind the Government.

(4) In subsection (1), expressions to which meanings are assigned by article 1 of the Convention set out as mentioned in section 180 (1) have those meanings but any reference to a contract of carriage excludes such a contract which is not for reward.

Liability of shipowners and salvors

Limitation of liability

182. (1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 2 (hereinafter in this section and in Parts II and III of that Schedule referred to as “the Convention”) shall have the force of law in Brunei.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) shall have effect subject to the provisions of that Part.

(3) On and after the date when this subsection and Part II of Schedule 2 come into operation Parts I and II of that Schedule shall have effect with the modifications specified in the said Part III.

(4) If it appears to the Minister ^{of Communication} with the approval of His Majesty that the Government of Brunei has agreed to any revision of the Convention or that such agreement has been made on behalf of such Government, he may by regulations make such modifications of Parts I and II of Schedule 2 as he considers appropriate in consequence of the revision.

(5) A notification in the *Government Gazette* made by virtue of section 1 which appoints a date for the coming into operation of Part III of Schedule 2 may contain such transitional provisions as His Majesty considers appropriate in connection with the coming into operation of that Part.

Exclusion of liability

183. (1) Subject to subsection (3), the owner of a Brunei ship shall not be liable for any loss or damage in the following cases, namely —

(a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or

(b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3), where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of —

(a) the master, member of the crew or servant; and

(b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention in Part I of Schedule 2.

(4) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager of operator of the ship.

184. (1) Nothing in sections 182 and 183 or Schedule 2 shall apply in relation to any liability arising out of an occurrence which took place before the coming into operation of those sections.

Application
of sections
182 and 183

(2) The provisions having the force of law under section 182 shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if he is on board or employed under a contract of service governed by the law of Brunei, and in this subsection “ship” and “salvage operations” have the same meaning as in those provisions.

PART X

PROVISIONS AS TO COLLISIONS AND LIMITATION

Provisions as to Collisions, etc.

Rules as to
division of
loss

185. (1) Where, by the fault of 2 or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:

Provided that —

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and

(b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and

(c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law,

or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Part, "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

186. Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessel shall be joint and several:

Damages for personal injuries

Provided that nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

187. (1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault:

Right of contribution

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purposes of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

General Provisions

Limitation of actions

188. No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within 2 years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment:

Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

Application of Part

189. (1) The provisions of this Part shall apply to any persons, other than owners, responsible for the fault of the vessel as though "owners" included such persons, and in

any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, those provisions shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.

(2) The Law Reform (Contributory Negligence) Act shall not apply to any claim to which section 185 applies and this part shall have effect as if the said Act were not enacted.

PART XI

CARRIAGE OF GOODS BY SEA

190. (1) In this Part, “the Rules” means the International Convention for the unification of certain rules of law relating to bills of lading signed at Brussels on 25th August 1924, as amended by the Protocol signed at Brussels on 23rd February 1968.

Application
of Hague
Rules as
amended

(2) The provisions of the Rules, as set out in Schedule 3 shall have the force of law.

(3) Without prejudice to subsection (2), the said provisions shall have effect (and have the force of law) in relation to and in connection with the carriage of goods by sea in ships where the port of shipment is a port or place in Brunei, whether or not the carriage is between ports in 2 different States within the meaning of Article X of the Rules.

(4) Subject to subsection (6), nothing in this section shall be taken as applying anything in the Rules to any contract for the carriage of goods by sea, unless the contract expressly or by implication provides for the issue of a bill of lading or any similar document of title.

(5) His Majesty may from time to time by notification in the *Government Gazette* specify the respective amounts which for the purposes of paragraph 5 of Article IV of the Rules and of Article IV bis of the Rules are to be taken as equivalent to the sums expressed in francs which are mentioned in subparagraph (a) of that paragraph.

(6) Without prejudice to Article X (c) of the Rules, the Rules shall have the force of law in relation to —

(a) any bill of lading if the contract contained in or evidenced by it expressly provides that the Rules shall govern the contract; and

(b) any receipt which is a non-negotiable document marked as such if the contract contained in or evidenced by it is a contract for the carriage of goods by sea which expressly provides that the Rules are to govern the contract as if the receipt were a bill of lading,

but subject, where paragraph (b) applies, to any necessary modifications and in particular with the omission in Article III of the Rules of the second sentence of paragraph 4 and of paragraph 7.

(7) If and so far as the contract contained in or evidenced by a bill of lading or receipt within subsection (6) (a) or (b) applies to deck cargo or live animals, and Rules as given the force of law by that subsection shall have effect as if Article I (c) did not exclude deck cargo and live animals.

(8) In subsection (7), “deck cargo” means cargo which by the contract of carriage is stated as being carried on deck and is so carried.

(a) a State specified in the notification is a contracting State, or is a contracting State in respect of any place or territory so specified; or

(b) any place or territory specified in the notification forms part of a State so specified (whether a contracting State or not),

the notification shall, except so far as it has been superseded by a subsequent notification, be conclusive evidence of the matters so certified.

(2) A notification under this section may be varied or cancelled by a subsequent notification.

192. There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply by virtue of this Act an absolute undertaking by the carrier of the goods to provide a seaworthy ship.

Absolute warranty seaworthiness not in contracts to which Rules apply

193. It is hereby declared that for the purposes of Article VIII of the Rules section 183 is a provision relating to limitation of liability.

Supplemental

PART XII

LEGAL PROCEEDINGS

Prosecution of Offences

194. No person shall be charged with any offence under this Act, other than an offence under sections 117 (1) or an offence relating to discipline or order on board a ship, except on the complaint or with the sanction of the Director, the Registrar, a government surveyor or a police officer of or above the rank of inspector.

Prosecutions, by whom to be instituted

195. Without prejudice to sections 55 and 56, any person who —

False statements, forgery, etc.

(a) for the purpose of any provision of this Act makes any statement which he knows to be false or recklessly makes a statement which is false in a material particular; or

(b) makes, assists in making or procures to be made any false representation for the purpose of procuring either for himself or for any other person any certificate, licence or other document which may be issued or required under this Act; or

(c) forges or fraudulently alters, suppresses or destroys or assists in forging or fraudulently altering, suppressing or destroying, or procures to be forged or fraudulently altered, suppressed or destroyed any register or any such certificate, licence or other document; or

(d) fraudulently uses any register or any such certificate, licence or other document which has been forged, altered, cancelled or suspended, or to which he is not entitled; or

(e) fraudulently allows any register or any such certificate, licence or other document to be used by any other person; or

(f) sells, purchases, parts with, accepts or makes use of any register or any such certificate, licence or other document to which he is not entitled;

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

Contra-
vention of Act an
offence

196. Any person who wilfully contravenes any provision of this Act shall be guilty of an offence and if no special penalty is imposed in the Act for such contravention, shall be liable to a fine of \$1,000 and imprisonment for 6 months.

197. Unless the context otherwise requires, any offence under this Act may be tried by either the High Court or a Court of a Magistrate and, notwithstanding the provisions of any other written law, a Court of a Magistrate shall have jurisdiction to impose the maximum penalty provided for such offence by this Act.

Court for trial of offences

Liability and Protection of Public Servants

198. Every person appointed or authorised under this Act for any of the purposes of this Act —

Liability and protection of public servants

(a) shall, when acting in pursuance of any such purpose, be deemed to be a public servant within the meaning of the Penal Code; and

Cap. 22

(b) shall not be personally liable for any act done or omitted to be done by him in good faith in the execution or intended execution of any functions under this Act.

Jurisdiction

199. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose or in any place in which the offender or person complained against may be.

Provisions as to jurisdiction in case of offences

200. Where any district within which any court has jurisdiction either under this Act or any written law or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such court shall have jurisdiction over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court.

Jurisdiction over vessels lying off the coast

Jurisdiction
in case of off-
ences on
board ship

201. Where any person, being a Brunei, is charged with having committed any offence on board any Brunei ship on the high seas or in any foreign port or harbour or on board any foreign ship to which he does not belong, or, not being a Brunei, is charged with having committed any offence on board any Brunei ship on the high seas, and that person is found within the jurisdiction of any court in Brunei which would have had cognizance of the offence if it had been committed on board a Brunei ship within the limits of its ordinary jurisdiction, the court shall have jurisdiction to try the offence as if it had been so committed.

Detention of Ship and Distress on Ship

Enforcing de-
tention of
ship
Cap. 144

202. Where under this Act a ship is to be or may be detained, and after such detention, the provisions of section 29 of the Ports Act shall apply.

Sums ordered
to be paid
leviable by
distress on
ship

203. Where any court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court which made the order may, in addition to any other powers which it has for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Evidence and Service of Documents

Depositions
to be re-
ceived in evi-
dence when
witness can-
not be pro-
duced

204. (1) Whenever in the course of any legal proceeding instituted before any court, or before any persons authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of that proceeding, then upon due proof that the witness cannot be found in Brunei, any deposition that the witness has previously made on oath in relation to the same subject matter before any judge or magistrate in any part of the Commonwealth or before any British consular officer elsewhere shall be admissible in evidence:

Provided that —

(a) if the deposition was made in Brunei, it shall not be admissible in any proceeding instituted in Brunei; and

(b) if the proceeding is criminal, it shall not be admissible unless it was made in the presence of the person accused.

(2) A deposition so made shall be authenticated by the signature of the judge, magistrate or consular officer before whom it is made; and the judge, magistrate or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.

(3) A deposition so made shall be deemed to be duly authenticated if it purports to be signed by the judge, magistrate or consular officer before whom it is made.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceeding a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

(5) Nothing herein shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any other law or interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

205. In any proceeding in any court against any person for a breach of any provision of this Act, all entries in the official log book of any ship and in any crew agreement shall be received in evidence subject to all just exceptions.

Use of official log and crew agreement as evidence

206. (1) Where, for the purposes of this Act, any document is to be served on any person, that document may be served —

Service of documents

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship, where there is no master or where he is not known or cannot be found and the ship is in Brunei, on the managing owner of the ship, or where there is no managing owner or where he is not known or cannot be found, on some agent of the owner residing in Brunei, or where there is no such agent or where he is not known or cannot be found, by affixing a copy thereof to the mast of the ship.

(2) Any person who obstructs the service of any document on the master of a ship shall be guilty of an offence: Penalty, a fine of \$500; and if the owner, agent or master of the ship is party or privy to such obstruction, he shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months.

PART XIII

SUPPLEMENTAL

General Control of Marine Department

Superintendence of merchant shipping by Marine Department

207. (1) The Marine Department shall be the department to undertake the general superintendence of all matters relating to merchant shipping and seamen, and the Director is authorised, subject to subsection (2), to carry into execu-

tion the provisions of this Act and of all other written law relating to merchant shipping and seamen for the time being in force, except where otherwise provided by that written law, or except so far as that written law relates to the revenue.

(2) The Minister ^{of Communications} with the approval of His Majesty may give to the Director directions of a general or specific character, not inconsistent with the provisions of this Act or of any other written law as aforesaid, as to the exercise and performance of the Director's functions under this Act or such other written law, and the Director shall give effect to such directions.

Powers for enforcing Compliance with Act

208. (1) Where the Director or any inspector under this Act or any police officer of or above the rank of assistant superintendant has reason to suspect that the provisions of this Act or of any law for the time being in force relating to merchant seamen or navigation are not complied with, that officer may —

Power of seeing that Act is complied with

(a) require the owner, master or any of the crew of any Brunei ship to produce any log-books or other documents relating to the ship or to the crew or any member thereof in their respective possession or control;

(b) require any such master to produce a list of all persons on board his ship, and take copies of the log-books or documents or of any part thereof;

(c) muster the crew of any such ship; and

(d) summon the master to appear and give any explanation concerning the ship or her crew or the log-books or documents produced or required to be produced.

(2) Any person who, on being duly required by an officer authorised under this section fails without reasonable cause to produce to that officer any such log-book or document as he is required to produce under this section, or who refuses to allow the same to be inspected or copied, or impedes any muster of the crew required under this section, or refuses or neglects to give any explanation which he is required under this section to give, or knowingly misleads or deceives any officer authorised under this section to demand any such explanation, shall be guilty of an offence: Penalty, a fine of \$1,000.

Government Surveyors

Appointment
of govern-
ment sur-
veyors

209. His Majesty may either generally or for special purposes or on special occasions, appoint, any person to be a government surveyor for the purposes of this Act.

Power of gov-
ernment sur-
veyor for pur-
pose of sur-
vey of ships

210. (1) A government surveyor in the execution of his duties may go on board any ship in a port or in the waters of Brunei at all reasonable times and inspect the same or any part thereof, or any of the machinery, boats, equipment or articles on board thereof, or any certificate of any officer to which the provisions of this Act apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage.

(2) If in consequence of any accident to the ship or for any other reason he considers it necessary so to do, he may require the ship to be taken into dock for the purpose of surveying the hull thereof.

Returns by
government
surveyor

211. (1) A government surveyor shall make to the Director such returns as the Director may require with respect to the build, dimensions, draught, tonnage, rate of sailing, room for fuel and the nature and particulars of machinery and equipment of ships surveyed by him.

(2) Every owner, master and engineer of any ship so surveyed shall, on demand, give to a government surveyor all such information and assistance within his power as such surveyor requires for the purpose of those returns.

(3) Any owner, master or engineer who, on being applied to for that purpose, fails without reasonable cause to give any such information or assistance shall be guilty of an offence: Penalty, a fine of \$500.

Inspectors

212. His Majesty may, as and when he thinks fit, appoint any person as an inspector and may require him to report to him —

Appointment of inspector to report accidents etc.

(a) upon the nature and causes of any accident or damage which any ship has sustained or caused or is alleged to have sustained or caused;

(b) whether the provisions of this Act or any other written law have been complied with; or

(c) whether the hull and machinery of any ship are sufficient and in good condition.

213. (1) An inspector so appointed and any person having the powers of such an inspector —

Powers of inspectors

(a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, boats, equipment or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any enquiries which he thinks fit to make;

(d) may require and enforce the production of all books, papers or documents which he considers important for the purpose of his report;

(e) may administer oaths or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(2) Every witness summoned under this section shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the High Court.

(3) In case of any dispute as to the amount of those expenses, the same shall be referred to a Registrar, who shall, on request made to him for that purpose under the hand of the inspector or person having the powers of an inspector, ascertain and certify the proper amount of those expenses.

(4) Any person who refuses to attend as a witness before an inspector or before any person having the powers of an inspector, after having been required to do so in manner provided by this section, and after having had a tender made to him of the expenses, if any, to which he is entitled under this section, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declaration which an inspector or person having the powers of an inspector is hereby empowered to require, shall be guilty of an offence: Penalty, a fine of \$1,000.

214. The master of any ship, and any other person having charge of any person, premises or thing liable to inspection or examination under this Act, shall give to the officer entitled to inspect or examine every reasonable facility for the purpose of inspection or examination, and if he refuses or fails to do so, or if any person impedes or obstructs any inspection or examination under this Act, he shall be guilty of an offence: Penalty, a fine of \$1,000.

Facilities for inspection and examination

Miscellaneous

215. (1) The Director or any government surveyor or police officer may arrest without warrant any person found committing or whom he has reason to believe has committed an offence punishable under this Act:

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 article concerning, by or for which an offence has been committed may be seized and taken to a police station or court by any such officer, unless given up sooner by order of a court, until the charge is finally disposed of in due course of law.

(3) 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 regulation made thereunder or otherwise by law.

(4) Any person who without lawful excuse refuses to allow any such officer so to enter such vessel or to seize and take such article shall be guilty of an offence: Penalty, a fine of \$2,000.

Functions of
the Director
and the Reg-
istrar of
Brunei ships

216. The powers conferred and the duties imposed on the Director and the Registrar of Brunei ships under this Act or under any written law for the time being in force relating to merchant shipping and seamen may be exercised and performed by the Director personally or by such officers of the Marine Department or such other public officers as the Director may from time to time authorise expressly or impliedly for any purpose.

Regulations

217. (1) In addition to the powers hereinbefore given the Minister ^{of Communications} with the approval of His Majesty may make regulations not inconsistent with the provisions of this Act, —

(a) regulating, directing and controlling the use of vessels within the waters of Brunei and providing for the licensing thereof;

(b) regulating and controlling the conduct of salvage business in Brunei;

(c) providing for the control of vessels operating within the waters of Brunei for which no other provision has been made in this Act or under any other written law or which have been generally or partially exempted from the provisions of this Act;

(d) providing for the classification of ships, either in relation to the seaworthiness of such ships or the manning thereof, and defining or restricting the area within which any class of such ships may ply;

(e) providing for appeals by persons aggrieved by anything done or omitted to be done under this Act;

(f) providing for the imposition and payment of fees in respect of registration or of the grant of certificates, clearances, licences, permits, exemp-

tions and other documents, or of the performance of services or surveys, or of the grant of facilities under this Act, or of anything done or required to be done under this Act;

(g) prescribing documents and forms to be used for the purpose of this Act, and providing for the admissibility in evidence and exemption from stamp duty of such documents and forms and of any forms prescribed by the Registrar under section 54;

(h) specifying any description of Brunei licensed ships, or any description of Brunei ships which is not registered in Brunei or elsewhere and directing that such of the provisions of this Act as may be specified in the regulations shall extend to ships of that description as if such ships were registered Brunei ships and to masters and seamen employed in them, with such exceptions, adaptations or modifications as may be specified;

(i) providing for such adaptations of any provisions of this Act as appears to him appropriate for the purpose of replacing references therein to units other than metric units by references to metric units which are either equivalent thereto or such approximations thereto as appear to him desirable for the purpose of securing that such provisions as adapted are expressed in convenient terms;

(j) providing for the better and more effectual carrying out of the provisions of this Act.

(2) Any regulations made under this Act may provide a penalty for the breach or contravention thereof not exceeding a fine of \$2,000 and imprisonment for 6 months.

Power to give effect to international agreements

218. (1) In this section —

(a) “international agreement” means any international agreement which has been ratified by or on behalf of Brunei and which, in the opinion of the Minister, ^{of Communications} relates to merchant shipping or to any matter incidental to or connected with merchant shipping; and

(b) “agreement” includes an agreement which provides for the modification of another agreement.

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(2) The Minister, ^{of Communications} with the approval of His Majesty may by Order make, in relation to Brunei, such provision as appears to him to be requisite for enabling Brunei to implement any international agreement.

(3) The powers conferred by subsection (2) to make provision to implement an international agreement include power to provide for the provision to come into force although the international agreement has not come into force.

(4) Without prejudice to the generality of subsection (2), an Order under that section may in particular include provision —

(a) for amending this Act and any other written law to the extent requisite as aforesaid;

(b) with respect to the application of the order to the Government and the extra-territorial operation of any provision made by or under the order;

(c) for imposing penalties in respect of any contravention of a provision made by or under the order; and

(d) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 29 of the Ports Act (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the order. Cap. 144

(5) Without prejudice to the generality of subsection (4) (a), the power to amend by virtue of that provision includes power so to amend this Act and any other written law as to extend the scope of the subsidiary legislation which may be made by virtue thereof.

(6) An order under subsection (2) may —

(a) make different provision for different circumstances;

(b) provide for exemptions from any provisions of the Order;

(c) provide for the delegation of functions exercisable by virtue of the Order;

(d) include such incidental, supplemental and transitional provisions as appear to the Minister with the approval of His Majesty to be expedient for the purposes of the Order;

(e) authorise the making of regulations and other instruments for any of the purposes of this section; and

(f) provide that any written law applied by the Order shall have effect as so applied subject to such modification as may be specified in the Order.

(7) No Order shall be made under this section unless a draft of the Order has been laid before, and approved by a resolution of, the Council of Ministers.

(8) The powers conferred on the Minister^{as Comptroller} with the approval of His Majesty under this section shall be in addition to and not in derogation of the powers conferred on him under any provision of Part V or Part IX in relation to any convention therein mentioned.

Lien of Registrar and Director

219. All unpaid fees due to the Registrar or the Director under this Act or any other written law shall constitute a maritime lien on the ship concerned, subject only to liens for wages and salaries.

SCHEDULE 1

Sections 180
and 181CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS
AND THEIR LUGGAGE BY SEA

PART I

TEXT OF CONVENTION

ARTICLE 1

Definitions

In this Convention the following expressions have the meaning hereby assigned to them —

1. (a) “carrier” means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;

(b) “performing carrier” means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or part of the carriage;
2. “contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;
3. “ship” means only a seagoing vessel, excluding an air-cushion vehicle;
4. “passenger” means any person carried in a ship, —
 - (a) under a contract of carriage, or
 - (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention;
5. “luggage” means any article or vehicle carried by the carrier under a contract of carriage, excluding —
 - (a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and
 - (b) live animals;

6. “cabin luggage” means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle;

7. “loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

8. “carriage” covers the following periods —

(a) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for the purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;

(b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;

(c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;

9. “international carrier” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State.

ARTICLE 2

Application

1. This Convention shall apply to any international carriage if —
 - (a) the ship is flying the flag of or is registered in a State Party to this Convention, or
 - (b) the contract of carriage has been made in a State Party to this Convention, or
 - (c) the place of departure or destination, according to the contract of carriage, is in a State Party to this Convention.

2. Notwithstanding paragraph 1 of this Article, this Convention shall not apply when the carriage is subject, under any other international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

ARTICLE 3

Liability of the Carrier

1. The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.
2. The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.
3. Fault or neglect of the carrier or of his servants or agents acting within the scope or their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of loss or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant.

ARTICLE 4

Performing carrier

1. If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Convention. In addition, the performing carrier shall be subject and entitled to the provisions of this Convention for the part of the carriage performed by him.

2. The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.

3. Any special agreement under which the carrier assumes obligations not imposed by this Convention or any waiver of rights conferred by this Convention shall affect the performing carrier only if agreed by him expressly and in writing.

4. Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.

5. Nothing in this Article shall prejudice any right of recourse as between the carrier and the performing carrier.

ARTICLE 5

Valuables

The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in paragraph 3 of Article 8 unless a higher limit is agreed upon in accordance with paragraph 1 of Article 10.

ARTICLE 6

Contributory fault

If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

ARTICLE 7

Limit of liability for personal injury

1. The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 700,000 francs per carriage. Where in accordance with the law of the court seized of the case damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.

2. Notwithstanding paragraph 1 of this Article, the national law of any State Party to this Convention may fix, as far as carriers who are nationals of such State are concerned, a higher *per capita* limit of liability.

ARTICLE 8

Limit of liability for loss of or damage to luggage

1. The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 12,500 francs per passenger, per carriage.

2. The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 50,000 francs per vehicle, per carriage.

3. The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 of this Article shall in no case exceed 18,000 francs per passenger, per carriage.

4. The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 1,750 francs in the case of damage to a vehicle and not exceeding 200 francs per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

ARTICLE 9

Monetary unit and conversion

1. The franc mentioned in this Convention shall be deemed to refer to a unit consisting of 65.5 milligrams of gold of millesimal fineness 900.

2. The amounts referred to in Articles 7 and 8 shall be converted into the national currency of the State of the court seized of the case on the basis of the official value of that currency, by reference to the unit

defined in paragraph 1 of this Article, on the date of the judgement or the date agreed upon by the parties.

ARTICLE 10

Supplementary provisions on limits of liability

1. The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Articles 7 and 8.
2. Interest on damages and legal costs shall not be included in the limits of liability prescribed in Articles 7 and 8.

ARTICLE 11

Defences and limits for carrier's servants

If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Convention, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Convention.

ARTICLE 12

Aggregation of claims

1. Where the limits of liability prescribed in Articles 7 and 8 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.
2. In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.
3. In any case where a servant or agent of the carrier or of the performing carrier is entitled under Article 11 of this Convention to avail himself of the limits of liability prescribed in Articles 7 and 8, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

ARTICLE 13

Loss of right to limit liability

1. The carrier shall not be entitled to the benefit of the limits of liability prescribed in Articles 7 and 8 and paragraph 1 of Article 10, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

2. The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

ARTICLE 14

Basis for claims

No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Convention.

ARTICLE 15

Notice of loss or damage to luggage

1. The passenger shall give written notice to the carrier or his agent —

(a) in the case of apparent damage to luggage:

(i) for cabin luggage, before or at the time of disembarkation of the passenger;

(ii) for all other luggage, before or at the time of its re-delivery;

(b) in the case of damage to luggage which is not apparent, or loss of luggage, within 15 days from the date of disembarkation or re-delivery should have taken place.

2. If the passenger fails to comply with this Article, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.

3. The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

ARTICLE 16

Time-bar for actions

1. Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of 2 years.

2. The limitation period shall be calculated as follows —

(a) in the case of personal injury, from the date of disembarkation of the passenger;

(b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed 3 years from the date of disembarkation;

(c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

3. The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of a period of 3 years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.

4. Notwithstanding paragraphs 1, 2 and 3 of this Article, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

ARTICLE 17

Competent jurisdiction

1. An action arising under this Convention shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to this Convention —

- (a) the court of the place of permanent residence or principal place of business of the defendant, or
- (b) the court of the place of departure or that of the destination according to the contract of carriage, or
- (c) a court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to the jurisdiction in that State, or
- (d) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.

2. After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

ARTICLE 18

Invalidity of contractual provisions

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in paragraph 4 of Article 8, and any such provision purporting to shift the burden of proof specified in paragraph 1 of Article 17, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Convention.

ARTICLE 19

Other conventions on limitation of liability

This Convention shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in international conventions relating to the limitation of liability of owners of seagoing ships.

ARTICLE 20

Nuclear damage

No liability shall arise under this Convention for damage caused by a nuclear incident —

(a) if the operation of a nuclear installation is liable for such damage under either the Paris Convention of 29th July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28th January 1964, or the Vienna Convention of 21st May 1963 on Civil Liability for Nuclear Damage, or

(b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or the Vienna Conventions.

ARTICLE 21

Commercial carriage by public authorities

This Convention shall apply to commercial carriage undertaken by State or Public Authorities under contracts of carriage within the meaning of Article 1.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH
CONVENTION

Interpretation

1. In this Part of this Schedule any reference to a numbered Article is a reference to the Article of the Convention which is so numbered and any expression to which a meaning is assigned by Article 1 of the Convention has that meaning.

Provisions adapting or supplementing specified Articles of the
Convention

2. For the purposes of paragraph 2 of Article 2, provisions of such an international convention as is mentioned in that paragraph which apart from this paragraph do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.

3. The reference to the law of the court in Article 6 shall be construed as a reference to the Law Reform (Contributory Negligence) Act.

4. The Minister with the approval of His Majesty may by regulations provide that, in relation to a carrier whose principal place of business is in Brunei, paragraph 1 of Article 7 shall have effect with the substitution for the limit for the time being specified in that paragraph of a different limit specified in the regulations (which shall not be lower than the limit specified in that paragraph at the passing of this Act or, if paragraph 1 of Part III of this Schedule has come into force, specified in paragraph 1 of Article 7 as amended by paragraph 1 of that Part).

5. The value which in pursuance of Article 9 shall be considered as the official values in Brunei of the amounts in francs for the time being specified in Articles 7 and 8 shall be such amounts in Brunei dollars as the Minister with the approval of His Majesty may from time to time specify by notification in the *Government Gazette*.

6. It is hereby declared that by virtue of Article 12 the limitations on liability there mentioned in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in Brunei or elsewhere.

7. Article 16 shall apply to an arbitration as it appears to an action; and for the purposes of that Article —

(a) an arbitration shall be deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated;

(b) any such notice as aforesaid may be served either —

(i) by delivering it to the person on whom it is to be served; or

(ii) by leaving it at the usual or last known place of abode in Brunei of that person; or

(iii) by sending it by post in a registered letter addressed to that person at his usual or last known place of abode in Brunei;

as well as in any other manner provided in the arbitration agreement; and where a notice is sent by post in a manner prescribed by subpara-

graph (iii), service thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

8. The court before which proceedings are brought in pursuance of Article 17 to enforce a liability which is limited by virtue of Article 12 may at any stage of the proceedings make such orders as appear to the court to be just and equitable in view of the provisions of Article 12 and of any other proceedings which have been or are likely to be begun in Brunei or elsewhere to enforce the liability in whole or in part; and without prejudice to the generality of the preceding provisions of this paragraph such a court shall, where the liability is or may be partly enforceable in other proceedings in Brunei or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court or to make any part of its award conditional on the results of any other proceedings.

Other provisions adapting or supplementing the Convention

9. Any reference in the Convention of carriage excludes a contract of carriage which is not for reward.

10. If the Minister with the approval of His Majesty declares by notification in the *Government Gazette* that any State specified in the notification is a party to the Convention in respect of a particular country the notification shall, subject to the provisions of any subsequent notification made by virtue of this paragraph, be conclusive evidence that the State is a party to the Convention in respect of that country.

11. The Minister with the approval of His Majesty may by regulations make provision —

(a) for requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the regulations, notice of such of the provisions of Part I of this Schedule as are so specified;

(b) for a person who fails to comply with a requirement imposed on him by the regulations to be guilty of an offence and liable on conviction to a fine of an amount not exceeding \$2,000.

Applications of sections 182 and 183 of this Act

12. Nothing in section 183 shall relieve a person of any liability imposed on him by the Convention.

13. It is hereby declared that nothing in the Convention affects the operation of section 182.

PART III

MODIFICATIONS OF PARTS I AND II IN CONSEQUENCE OF PROTOCOL OF 19TH NOVEMBER 1976

1. In Part I of this Schedule, in Article 7 of the Convention, for the words "700,000 francs" or any other words which, by virtue of paragraph 4 of Part II of this Schedule, are specified in that Article in the place of those words there shall be substituted the words "46,666 units of account".

2. In the said Part I, in Article 8 of the Convention, for the word "francs" wherever it occurs there shall be substituted the words "units of account" and for the figures "12,500", "50,000", "18,000", "1,750", and "200" there shall be substituted respectively the figures "833", "3,333", "1,200", "117" and "13".

3. In the said Part I, for Article 9 there shall be substituted the following —

"ARTICLE 9

Unit of account and conversion

The unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 7 and 8 shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date of the judgement or the date agreed upon by the Parties."

4. In Part II of this Schedule for paragraph 5 there shall be substituted the following —

"5. (1) For the purpose of converting from special drawing rights into Brunei dollars the amounts mentioned in Articles 7 and 8 of the Convention in respect of which a judgement is given, one special drawing right shall be treated as equal to such a sum in Brunei dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

(a) the day on which the judgement is given; or

(b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Minister responsible for Finance stating —

(a) that a particular sum in Brunei dollars has been fixed as mentioned in the preceding subparagraph for a particular day; or

(b) that no sum has been so fixed for that day and a particular sum in Brunei dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day,

shall be conclusive evidence of those matters for the purposes of Articles 7 to 9 of the Convention; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(3) The Minister responsible for Finance shall be entitled to charge a reasonable fee for any certificate given by him or on his behalf under subparagraph (2).”

Sections 182,
183 and 184

SCHEDULE 2

CONVENTION ON LIMITATION OF LIABILITY FOR
MARITIME CLAIMS 1976

PART I

TEXT OF CONVENTION

CHAPTER I. THE RIGHT OF LIMITATION

ARTICLE 1

Persons entitled to limit liability

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.

2. The term "shipowner" shall mean the owner, charterer, manager or operator of a seagoing ship.

3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1 (d), (e) and (f),

4. If any claim set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.

5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.

6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.

7. The act of invoking limitation of liability shall not constitute an admission of liability.

ARTICLE 2

Claims subject to limitation

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability —

(a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1 (d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

ARTICLE 3

Claims excepted from limitation

The rules of this Convention shall not apply to —

(a) claims for salvage or contribution in general average;

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants of the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

ARTICLE 4

Conduct barring limitation

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

ARTICLE 5

Counterclaims

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

CHAPTER II. LIMITS OF LIABILITY

ARTICLE 6

The general limits

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows —

- (a) in respect of claims for loss of life or personal injury,
 - (i) 5 million monetary units for a ship with a tonnage not exceeding 500 tons,
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i) —
 - for each ton from 501 to 3,000 tons, 7,500 monetary units;
 - for each ton from 3,001 to 30,000 tons, 5,000 monetary units;
 - for each ton from 30,001 to 70,000 tons, 3,750 monetary units;
 - for each ton in excess of 70,000 tons, 2,500 monetary units;
- (b) in respect of any other claims,

- (i) 2.5 million monetary units for a ship with a tonnage not exceeding 500 tons,
- (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in (i) —
 - for each ton from 501 to 30,000 tons, 2,500 monetary units;
 - for each ton from 30,001 to 70,000 tons, 1,850 monetary units;
 - for each ton in excess of 70,000 tons, 1,250 monetary units;

2. Where the amount calculated in accordance with paragraph 1 (a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1 (b) shall be available for payment of the unpaid balance of claims under paragraph 1 (a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1 (b) .

3. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

ARTICLE 7

The limit for passenger claims

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 700,000 monetary units multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate, but not exceeding 375 million monetary units.

2. For the purposes of this Article "claims for loss of life or personal injury to passenger of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship —

(a) under a contract of passenger carriage, or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

ARTICLE 8

Monetary Unit

1. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

2. The monetary unit referred to in Articles 6 and 7 corresponds to 65½ milligrammes of gold of millesimal fineness 900. The conversion of the amounts referred to in Articles 6 and 7 into the national currency shall be made according to the law of the State concerned.

ARTICLE 9

Aggregation of claims

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion —

(a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or

(b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

ARTICLE 10

Limitation of liability without constitution of a limitation fund

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

CHAPTER III. THE LIMITATION FUND

ARTICLE 11

Constitution of the fund

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.
3. A fund constituted by one of the persons mentioned in paragraph 1 (a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1 (a), (b) or (c) or paragraph 2, respectively.

ARTICLE 12

Distribution of the fund

1. Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion of their established claims against the fund.

2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.

4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

ARTICLE 13

Bar to other actions

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted —

(a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or

(b) at a port of disembarkation in respect of claims for loss of life or personal injury; or

(c) at the port of discharge in respect of damage to cargo;
or

(d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

ARTICLE 14

Governing law

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

CHAPTER IV. SCOPE OF APPLICATION

ARTICLE 15

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule any reference to a numbered Article is a reference to the Article of the Convention which is so numbered.

Right to limit liability

2. The right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of "shipowner" in paragraph 2 of Article 1 shall be construed accordingly.

Claims subject to limitation

3. Paragraph 1 (d) of Article 2 shall not apply in relation to claims of the kind there mentioned when made by or on behalf of the Government or any port or conservancy authority.

The general limits

4. (1) In the application of Article 6 to a ship with a tonnage less than 300 tons that Article shall have effect as if —

(a) paragraph (a) (i) referred to 2.5 million monetary units; and

(b) paragraph (b) (i) referred to 1.25 million monetary units.

(2) For the purposes of Article 6 and this paragraph a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by regulations made by His Majesty in Council.

(3) Any regulation under this paragraph shall, so far as appears to His Majesty in Council to be practicable, give effect to the regulations in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

Limit for passenger claims

5. (1) In the case of a ship carrying passengers the ship's certificate mentioned in paragraph 1 of Article 7 shall be the passenger steamer's certificate issued under regulations made under section 124 (b).

(2) In paragraph 2 of Article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the Fatal Accident Act 1846 (9 & 10 Vict. c. 93) and the Fatal Accident Act 1864 (27 & 18 Vict. c. 95) as applied in Brunei under the Application of Laws Act (Cap. 2).

Monetary Units

6. (1) The conversion of the amounts mentioned in Articles 6 and 7 from monetary units into Brunei dollars in accordance with Article 8 shall be made in such a manner as to express in Brunei dollars as far as possible the same real value for the amounts in Articles 6 and 7 as is expressed in units of account in respect of those Articles in paragraphs 1 and 2 of Part III of this Schedule.

Bar to other actions

9. Where the release of a ship or other property is ordered under paragraph 2 of Article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of “court”

10. References in the Convention and the preceding provisions of this Part to the court are to the High Court.

Meaning of “ship”

11. References in the Convention and in the preceding provisions of this Part to a ship include references to any structure (whether completed or in the course of completion) launched and intended for use in navigation as a ship or part of a ship but do not include —

(a) air-cushion vehicles;

(b) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.

Meaning of “State Party”

12. A notification in the *Government Gazette* published for the purposes of this paragraph by the Minister with the approval of His Majesty and declaring that any State specified in the notification is a party to the Convention shall, subject to the provisions of any subsequent notification made for those purposes, be conclusive evidence that the State is a party to the Convention.

PART III

MODIFICATION OF PARTS I AND II IN CONSEQUENCE OF
BRUNEI BECOMING A MEMBER OF THE INTERNATIONAL
MONETARY FUND

1. In Part I of this Schedule, in Article 6 of the Convention, for the words “monetary units” wherever they occur there shall be substituted the words “Units of Account” and for the figures “5 million”, “7,500”, “5,000”, “3,750”, “2,500”, “2.5 million”, “2,500”, “1,850” and “1,250” there shall be substituted respectively the figures “333,000”, “500”, “333”, “250”, “167”, “167,000”, “167”, “125”, and “83”.

2. In the said Part I, in Article 7 of the Convention, for the words "700,000 monetary units" and "375 million monetary units" there shall be substituted respectively the words "46,666 Units of Account" and "25 million Units of Account".

3. In the said Part I, for Article 8 there shall be substituted the following —

“ARTICLE 8

Unit of Account

1. The Unit of Account referred to in Articles 6 and 7 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.”

4. In paragraph 4 (1) of Part II of this Schedule, for the words "2.5 million monetary units" and "1.25 million monetary units" there shall be substituted respectively the words "166,667 Units of Account" and "83,333 Units of Account".

5. In the said Part II —

(a) for the words "Monetary Units" immediately above paragraph 6 there shall be substituted the words "Units of Account"; and

(b) for paragraph 6 there shall be substituted the following —

“6. (1) For the purpose of converting the amounts mentioned in Articles 6 and 7 from special drawing rights into Brunei dollars one special drawing right shall be treated as equal to such a sum in Brunei dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

(a) the relevant date under paragraph 1 of Article 8; or

(b) if no sum has been fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Minister responsible for Finance stating —

(a) that a particular sum in Brunei dollars has been fixed as mentioned in subparagraph (1) for a particular date; or

(b) that no sum has been so fixed for that date and that a particular sum in Brunei dollars has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those Articles; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(3) The Minister responsible for Finance shall be entitled to charge a reasonable fee for any certificate given by him or on his behalf under subparagraph (2).”

Section
190 (2)

SCHEDULE 3

THE HAGUE RULES AS AMENDED BY THE BRUSSELS
PROTOCOL 1968

ARTICLE I

In these Rules the following words are employed, with the meanings set out below —

(a) “Carrier” includes the owner or the charterer who enters into a contract of carriage with a shipper.

(b) “Contract of carriage” applies to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from

the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same.

(c) "Goods" includes goods, wares, merchandise, and articles of every kind whatsoever except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried.

(d) "Ship" means any vessel used for the carriage of goods by sea.

(e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time they are discharged from the ship.

ARTICLE II

Subject to the provisions of Article VI, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

ARTICLE III

1. The carrier shall be bound before and at the beginning of the voyage to exercise due diligence to —

(a) Make the ship seaworthy.

(b) Properly man, equip and supply the ship.

(c) Make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

3. After receiving the goods into his charge the carrier or the master or agent of the carrier shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things —

(a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage.

(b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper.

(c) The apparent order and condition of the goods.

Provided that no carrier, master or agent of the carrier shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

4. Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (a), (b) and (c). However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within 3 days, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has, at the time of their receipt, been the subject of joint survey or inspection.

Subject to paragraph 6 bis the carrier and the ship shall in any event be discharged from all liability whatsoever in respect of the goods, unless suit is brought within one year of their delivery or of the date when they should have been delivered. This period may, however, be extended if the parties so agree after the cause of action has arisen.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

6 bis. An action for indemnity against a third person may be brought even after the expiration of the year provided for in the preceding paragraph if brought within the time allowed by the law of the Court seized of the case. However, the time allowed shall not be less than 3 months, commencing from the day when the person bringing such action for indemnity has settled the claim or has been served with process in the action against himself.

7. After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier, to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted, if it shows the particulars mentioned in paragraph 3 of Article III, shall for the purpose of this Article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to, or in connection with, goods arising from negligence, fault, or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect. A benefit of insurance in favour of the carrier or similar clause shall be deemed to be a clause relieving the carrier from liability.

ARTICLE IV

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped and supplied, and to

for the purposes of this paragraph as far as these packages or units are concerned. Except as aforesaid such article of transport shall be considered the package or unit.

(d) A franc means a unit consisting of 65.5 milligrammes of gold of millesimal fineness 900. The date of conversion of the sum awarded into national currencies shall be governed by the law of the court seized of the case.

(e) Neither the carrier nor the ship shall be entitled to the benefit of the limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

(f) The declaration mentioned in subparagraph (a) of this paragraph, if embodied in the bill of lading, shall be prima facie evidence, but shall not be binding or conclusive on the carrier.

(g) By agreement between the carrier, master or agent of the carrier and the shipper other maximum amounts than those mentioned in subparagraph (a) of this paragraph may be fixed, provided that no maximum amount so fixed shall be less than the appropriate maximum mentioned in that subparagraph.

(h) Neither the carrier nor the ship shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly mis-stated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place, or destroyed or rendered innocuous by the carrier without compensation and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

ARTICLE IV BIS

1. The defences and limits of liability provided for in these Rules shall apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.
2. If such an action is brought against a servant or agent of the carrier (such servant or agent not being an independent contractor), such servant or agent shall be entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under these Rules.
3. The aggregate of the amounts recoverable from the carrier, and such servants and agents, shall in no case exceed the limit provided for in these Rules.
4. Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of this Article, if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that the damage would probably result.

ARTICLE V

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and obligations under these Rules, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper. The provisions of these Rules shall not be applicable to charter parties, but if bills of lading are issued in the case of a ship under a charter party they shall comply with the terms of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

ARTICLE VI

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge

of the goods carried by sea, provided that in the case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed are such as reasonably to justify a special agreement.

ARTICLE VII

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to, or in connection with, the custody and care and handling of goods prior to the loading on, and subsequent to the discharge from, the ship on which the goods are carried by sea.

ARTICLE VIII

The provisions of these Rules shall not affect the rights and obligations of the carrier under any statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

ARTICLE IX

These Rules shall not affect the provisions of any international Convention or national law governing liability for nuclear damage.

ARTICLE X

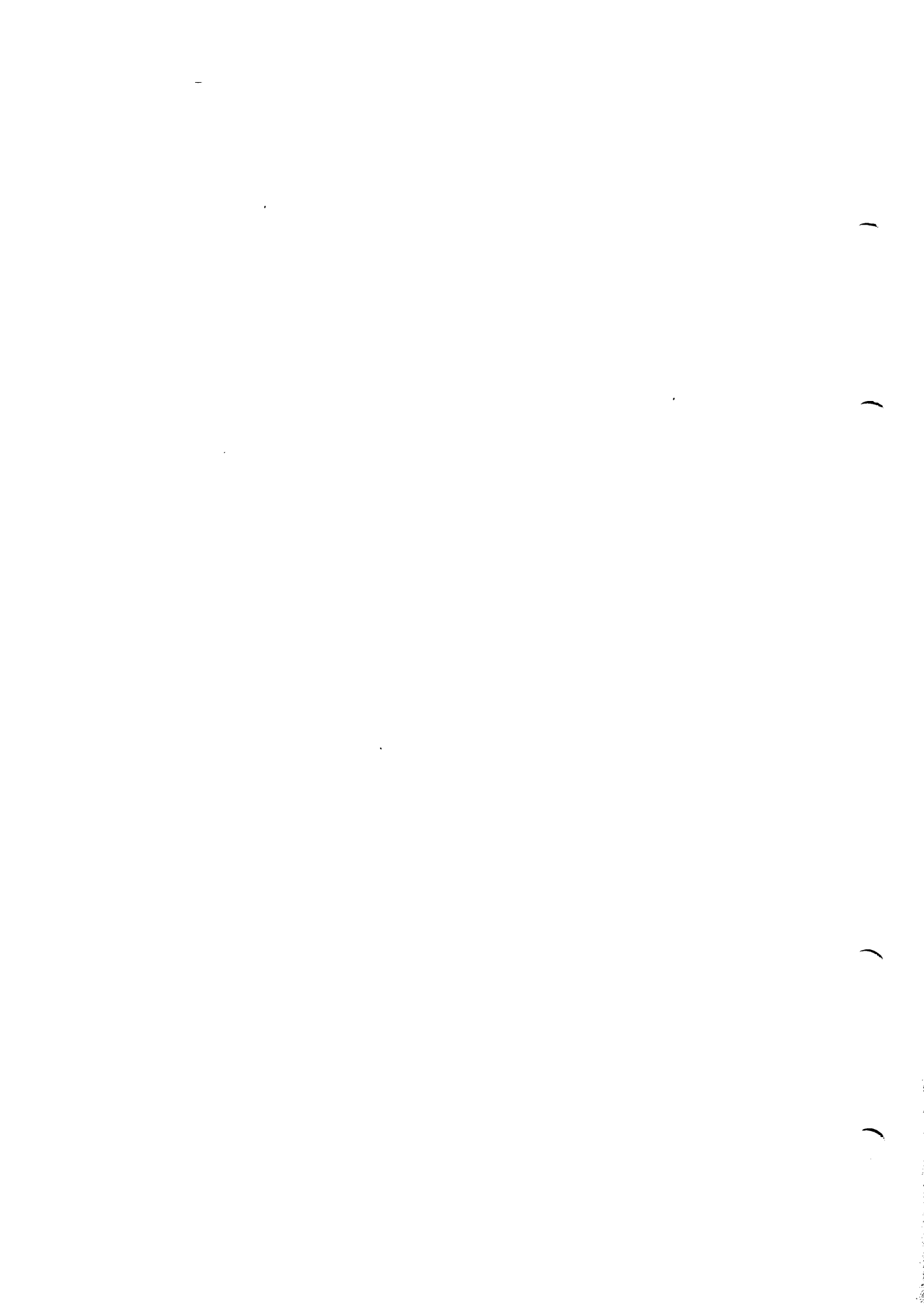
The provisions of these Rules shall apply to every bill of lading relating to the carriage of goods between ports in two different States if —

- (a) the bill of lading is issued in a contracting State, or
- (b) the carriage is from a port in a contracting State, or
- (c) the contract contained in or evidenced by the bill of lading provides that these Rules or legislation of any State giving effect to them are to govern the contract.

whatever may be the nationality of the ship, the carrier, the shipper, the consignee, or any other interested person.

(The last 2 paragraphs of this Article are not reproduced. They require contracting States to apply the Rules to bills of lading mentioned in the Article and authorise them to apply the Rules to other bills of lading.)

(Articles 11 to 16 of the International Convention for the unification of certain rules of law relating to bills of lading signed at Brussels on 25th August 1924 are not reproduced. They deal with the coming into force of the Convention, procedure for ratification, accession and denunciation, and the right to call for a fresh conference to consider amendments to the Rules contained in the Convention.)



[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under section 54

MERCHANT SHIPPING (PRESCRIBED FORMS) REGULATIONS, S. 29/84
1984

Commencement : 1st September, 1984

1. These Regulations may be cited as the Merchant Shipping (Prescribed Forms) Regulations, 1984. Citation.

2. The Regulations specified in the Schedule to these Regulations shall subject to the provisions of paragraph 3 hereof be in force as written law in Brunei Darussalam as if the same had been expressly made by the Registrar pursuant to the powers conferred by the provisions of Section 54 of the Merchant Shipping Enactment, 1982. Adoption of Regulations.

3. (1) The Registrar shall cause the said Regulations to be printed and published in the *Government Gazette* with such short title, date of commencement, amendments and additions as in his opinion are expedient to make such Regulations applicable to Brunei Darussalam. Publication of Regulations with amendments and additions.
 - (2) Until the said Regulations are printed and published in the *Government Gazette* references therein to —
 - (a) “Director” shall be construed as reference to the Director of Marine of Brunei Darussalam as defined under the Merchant Shipping Enactment, 1982 ;
 - (b) “The Merchant Shipping Act (Cap. 172)” shall be construed as reference to the Merchant Shipping Enactment, 1982 of Brunei Darussalam ;
 - (c) “Republic of Singapore” or “Singapore” shall be construed as reference to Brunei Darussalam.

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SCHEDULE

The Merchant Shipping (Prescribed Forms) Regulations, 1971 (No. S 198 of 1971) of the Republic of Singapore made on 2nd day of July, 1971, as amended and in force on 1st September, 1984.

[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under Section 65(4) and 217(1) f

MERCHANT SHIPPING (FEES) RULES, 1984

S. 46/84.

Commencement : 29th September, 1984

1. These Rules may be cited as the Merchant Shipping (Fees) Rules, 1984. Citation.
2. Fees shall be payable in accordance with the provisions contained in the Schedule to these Rules. Schedule.

THE SCHEDULE

PART I

FEES FOR INSPECTION OF SIDESCUTTLES, FIRE RESISTING DOORS, SHIPS' SIDE AND OTHER FITTINGS IN CONNECTION WITH THE HULL STRUCTURE

A fee of \$60 shall be charged for the examination of designs of fittings proposed to be accepted as standard in connection with the sub-division or structural arrangements of ships. The fee for the survey of approved fittings intended for ships not under survey for survey for passenger certificate or load line assignment shall be \$60 for each 15 completed fittings or part of 15 surveyed.

This fee includes the testing of the materials. If a certificate of survey is required an additional fee of \$30 shall be charged whether the vessel is or is not under survey for load line or passenger certificate.

A further fee of \$10 shall be charged if a duplicate certificate is required.

PART II

FEES FOR MISCELLANEOUS SURVEYS AND INSPECTIONS

The fees in the following table shall be charged for surveys and inspections other than those included in the survey for passenger certificate, made at the request, and for the convenience of shipowners, shipbuilders, engine-builders, boiler-makers and steel-makers.

The certificates shall be issued by the Surveyor-General Ships and not by the Surveyors who made the inspection.

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Survey for Boilers, Machinery, etc of Ships

| | Fee \$ |
|---|-----------|
| Survey of marine engine having 1,000 circular inches or under cylinder area, or of turbines 1,000 shaft h.p. or under ... | 260 |
| For every additional 1,000 circular inches or 750 shaft h.p. or part thereof ... | 85 |
| Survey of one superheater for a single-ended boiler ... | 85 |
| For every additional superheater for single-ended boiler in the same ship (a double-ended boiler is to be counted as two single-ended boilers) ... | 70 |
| Approval of design of a new boiler ... | 115 |
| Survey, during building of a new boiler ... | 145 |
| Survey of mountings of one marine boiler ... | 85 |
| For every additional similar set ... | 45 |
| Approval of design of an air receiver ... | 30 |
| Survey of an air receiver ... | 30 |
| Survey of one evaporator ... | 70 |
| Survey of one feed heater ... | 45 |
| Survey of one feed filter ... | 45 |
| Survey of one distiller ... | 45 |
| Survey of one water circulator ... | 45 |
| For every additional evaporator, feed heater, feed filter, distiller or water circulator ... | 45 |
| Survey of an installation for burning oil fuel \$110 + \$65 for first boiler minimum \$175 ... | 175 |
| For every additional boiler (a double-ended boiler is to be counted as two single-ended boiler) ... | 60 |
| Survey of double-bottom tanks or other tanks forming part of the vessel's structure and intended for the storage of oil fuel | 175 |
| Survey during construction of heaters and filters for use in connection with oil fuel installation. For each item inspected | 20 |
| If the heaters and filters are eventually installed in a vessel under survey for passenger certificate the fee is to be regarded as part of the survey fee. | |
| Survey of one or two watertight bulkhead doors if tested at the same time ... | 30 |

| | Fee \$ |
|--|-----------|
| For every additional visit for doors included in the same order... | 30 |
| Survey of one or two safety valves ... | 30 |
| For every additional similar safety valve included in the same order | 10 |
| Testing deck flares and lifebuoy lights submitted by makers for approval ... | 60 |
| Special certificate or certifying letter for an engine, boiler, distiller or evaporator, etc., or for an engine, evaporator, etc., for the same vessel, if in the latter case only one certificate is required ... | 45 |
| Duplicate copy of certificate ... | 10 |
| Survey in connection with a coal trimmers' escape holes, for not more than two visits ... | 60 |
| For each subsequent visit ... | 30 |
| Test and Inspection of Steel Material and Wood Substitutes | |
| Witnessing tests of steel or iron plates or bars, 15 plates or bars or portion thereof, tested ... | 60 |
| Witnessing tests of steel or iron plates and bars included in one and the same order and made at the same works, 15 plates and bars in the aggregate, or portion thereof, tested ... | 60 |
| Witnessing special bending tests of a set of plates, etc. (i.e. tests additional to those usually required) for 15 plates or portion thereof, tested ... | 60 |
| Witnessing tests of steel forgings for an engine when all the forgings are made by the same maker, and not more than two visits by the Surveyor are required for 15 forgings, or portion thereof, tested ... | 60 |
| For each additional visit beyond two made by the Surveyor in connection with the tests or forgings, plates, bars, etc. ... | 30 |
| Inspection and tests of one or two steel furnaces ... | 60 |
| For each additional furnace included in the same order ... | 30 |
| Inspection and tests of one or two steel forgings, or steel castings for stem, sternpost, rudder, etc., if made by the same maker... | 60 |
| For each additional forging, or casting as the case may be, by the same maker, included in the same order ... | 30 |

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| | <i>Fee</i> |
|--|------------|
| | <i>\$</i> |
| Witnessing tests of materials of solid drawn steam pipes, for each 15 test pieces or portion of 15 test pieces ... | 60 |
| For each 30, or portion of 30 pipes tested by hydraulic pressure... | 60 |
| Inspection of wrought iron steam pipes including hydraulic test : for each 15, or portion of 15, pipes inspected ... | 60 |
| Inspection and tests of boiler tubes subject to external pressure, for which a certificate is required :— | |
| Lapwelded iron tubes and lapwelded or solid drawn steel tubes for which a stress greater than that allowed for iron is not required, for the first 100 or part of 100 tubes ... | 60 |
| For each succeeding 100, or part of 100 tubes ... | 45 |
| Lapwelded or solid drawn steel tubes for which a stress greater than that allowed for iron is required, for the first 100, or part of 100 tubes ... | 85 |
| For each succeeding 100, or part of 100 tubes ... | 60 |
| Inspection and tests of boiler tubes subject to internal pressure for which a certificate is required. For each 15 or portion of 15 tested for tensile strength and ductility ... | 60 |
| For each 90 or portion of 90 tubes tested by hydraulic pressure... | 45 |
| Inspection test and stamping of superheater headers for stock :— | |
| For each 15 or portion of 15 tubes tested for tensile strength and by bending, in one order ... | 60 |
| For each 50 tubes or portion of 50 tubes stamped, in one order | 60 |
| For each visit beyond two made in connection with the order... | 30 |
| Inspection of finished manhole doors and compensating rings :— | |
| For the first 15, or portion of 15, inspected at the same time... | 60 |
| For each additional 15, or portion of 15, included in the same order and inspected at the same time ... | 30 |
| Inspection of plates after flanging or working, for each 15, or portion of 15, inspected at the same time ... | 60 |
| Certified copy of the results of tests or certificate of inspection... | 45 |
| The fees for witnessing tests of plates, bars, forgings, etc. cover one order only and separate fees must be paid for each order, although the plates, bars, etc., for different orders may be tested at one time. | |

| | Fee \$ |
|--|-----------|
| Amended copy of a certificate when incorrect particulars have been supplied ... | 10 |
| Certificate of inspection of propeller shafts and of hydraulic tests of boilers, steam pipes, etc., previously made ... | 45 |
| Testing bronze propeller blades for ships not under survey for passenger certificate, when all the castings are made by the same maker for the same ship and not more than two visits by the Surveyor are required, for 4 or fewer castings tested ... | 60 |
| For each additional visit beyond two made by the Surveyor in connection with the testing of propeller blades ... | 30 |
| Testing composition intended for sheathing ships' deck in place of wood, for each test ... | 115 |
| Testing and examining chemical fire extinguishers either when first submitted for approval, or when re-submitted after alterations ... | 60 |
| For the first visit ... | 60 |
| For each subsequent visit ... | 35 |

PART III

INSPECTION OF MARKING

In cases where application for the inspection of the marking of a ship is made by the owner or his agent, a fee of \$30 shall be charged.

This fee covers the number of visits required for the inspection of marking, but does not include any other service.

No charge shall be made for the inspection of marking on change of name of ship, or if the ship is being measured for registry or re-registry and the fees for tonnage measurement have been paid.

PART IV

OVERTIME CHARGES

Whenever Surveyors are called upon to perform services out of office hours and on Sundays and official holidays, application shall be made by the owners or their agents to the Registrar of Ships. The application shall include an undertaking to pay the overtime charges.

Overtime shall be charged as follows :—

Week days —

8 a.m. to 9 a.m. and 4.30 p.m. to 6 p.m. ... \$30 per hour.

6 a.m. to 8 a.m. and 6 p.m. to 8 p.m. ... \$60 per hour.

Before 6 a.m. and after 8 p.m. ... \$80 per hour.

Sundays and holidays —

Between 6 a.m. and 8 p.m. ... \$80 per hour.

A service occupying less than an hour shall be charged for as one hour.

For services exceeding one hour, a quarter fee shall be charged for every quarter or part quarter of one hour, but for a service exceeding ten hours in any one case, the charge shall be limited to that for ten hours.

PART V

FEEs FOR SURVEY OF SHIPS ALLEGED TO BE UNSEAWORTHY

1. When a ship is finally detained or when it appears that a ship provisionally detained was at the time of that detention an unsafe ship, the following survey fees shall be charged, viz :—

If the ship is detained on account of overloading, improper loading, insufficient ventilation of coal cargoes, undermanning or defective equipments, such as chronometers or charts, the fee shall be that prescribed by the scale in paragraph 2(a).

If the ship is detained on account of defective hull or machinery, the fee shall be that prescribed by the scale in paragraph 2(b).

2. The scale of fees fixed by the Minister for cases in which survey is made by direction of a court upon the complaint of the crew of a ship, shall be as follows :—

(a) If the Surveyor is one of the Surveyors of Ships appointed under section 11 of the Enactment, the following shall be the fees —

| Gross Tonnage of Ships | Amount of Fees \$ |
|-------------------------------|-------------------------|
| Under 500 tons | ... 145 |
| 500 tons and under 750 tons | ... 175 |
| 750 tons and under 1,000 tons | ... 200 |
| For every additional 500 tons | ... 30 |

(b) If the Surveyor is a person appointed for the purpose by the Court under section 133 of the Enactment, the fees shall be as follows —

| Gross Tonnage of Ships | Amount of Fees \$ |
|-------------------------------|-------------------------|
| Under 500 tons | ... 175 |
| 500 tons and under 750 tons | ... 230 |
| 750 tons and under 1,000 tons | ... 290 |
| For every additional 500 tons | ... 60 |

The fees do not include any other services whatever.

PART VI

FEES FOR SURVEY OF SHIPS PRIOR TO CHANGE OF NAME

1. When a Surveyor is directed to survey a ship for seaworthiness, with a view to change of her name, fees shall be charged in accordance with the scale prescribed in paragraph 2(b) of Part V.
2. The fee for authorising the change of name of a Brunei registered vessel shall be as follows :—

| | Fee \$ |
|---|-----------|
| For a steamship holding a passenger certificate | ... 85 |
| For a ship not holding a passenger certificate | ... 45 |

This fee shall be charged in all cases without reference to the description or employment of the ship, and covers the inspection of marking the change of name on the loadline, Suez and Panama Canal certificates, and in the case of steamers holding passenger certificates, showing the new name and any alterations in the ownership and port of registry.

PART VII

FEES FOR SURVEY, PRIOR TO RE-REGISTRY OF A SHIP WHOSE REGISTRY HAS BEEN CLOSED ON ACCOUNT OF WRECK, ETC

1. The fee payable for the survey and certificate, shall be the same as that prescribed in paragraph 2(b) of Part V.
2. In the case of hulks and lighters and sailing barges which do not go to sea the fee shall be \$60.

PART VIII

SURVEY OF A SHIP BEFORE TRANSFER TO A FOREIGN FLAG

The fees of \$175 shall be charged in cases of survey before transfer to a foreign flag.

PART IX

(A) FEES IN RESPECT OF PASSENGER SHIPS' CERTIFICATES

| Tons (Gross) | Fee \$ |
|--|-----------|
| Not exceeding 50 | ... 130 |
| Exceeding 50 and not exceeding 100 | ... 240 |
| Exceeding 100 and not exceeding 300 | ... 360 |
| Exceeding 300 and not exceeding 600 | ... 450 |
| For every additional 300 tons or part of 300 tons up to a total tonnage of 21,000 tons, an additional | ... 90 |
| For every additional 300 tons or part of 300 tons exceeding a total tonnage of 21,000 tons and not exceeding a total tonnage of 39,000 tons, an additional | ... 60 |
| For every additional 300 tons or part of 300 tons exceeding a total tonnage of 39,000 tons | ... 30 |

The following rules shall be observed in the circulation of fees :—

- (i) Where a certificate for less than twelve months is required, the fee shall be in proportion to the period of the certificate, at the rate of one-twelfth of the full fees for each month or part of a month, but in no case shall less than three-twelfths of a twelve months' fee be paid.
- (ii) The full twelve months' fee shall be paid for the survey of a new ship or a ship coming under survey for a passenger certificate for the first time, even though a certificate for twelve months may not be required.
- (iii) In any case in which the duration of the certificate has been limited by the Surveyor's declaration, owing to special reasons rendering one or more further surveys necessary within the ensuing twelve months the total fee paid for certificates covering a period of twelve consecutive months shall not exceed that payable for a twelve months' certificate.

- (iv) The fee paid in accordance with the foregoing regulations covers any number of visits that a surveyor may require to make before granting his declaration, and it includes the survey of the hull, the boilers and propelling machinery, and the inspection of the equipments of the vessel, including the lights and sound signals.
- (v) The fee for the inspection of drawings, consideration of subdivision plans and flooding calculations of new passenger ships and passenger ships which have not previously been surveyed in Singapore, shall be one-half of that specified for a passenger ship's certificate, with a maximum of \$1,000. When the construction of the vessel is commenced, the balance of the full fee for passenger certificate shall be paid, and no declaration shall be issued by the Surveyors until this has been done.
- (vi) When a ship is surveyed during construction as for a passenger certificate, and the survey is to be completed with the exception of certain details, and a "Certificate Letter" is applied for, the appropriate fee for a passenger ship's certificate shall be charged.
- (vii) When it is necessary to survey and to issue a passenger and safety certificate to a ship which already has a passenger and safety certificate in force issued by another administration which has ratified the Convention for the Safety of Life at Sea, the fee shall be one-third of the appropriate fee in respect of a passenger certificate.
- (viii) When a memorandum is issued to a passenger ship a fee of \$30 shall be charged.
- (ix) An additional fee of \$100 is charged when the Radio installation on a ship is surveyed.
- (x) If while a passenger and/or safety certificate is in force the owner wishes to make alterations to the accommodation or life saving appliances in order to increase or decrease the number of passengers and/or crew, and after such alteration the ship complies with the Enactment and rules made thereunder, a fresh declaration and passenger and/or safety certificate may be issued upon payment of a fee of \$115. Such passenger and/or safety certificate shall expire on the same date as the original certificate or before that date. The original certificate shall be delivered when application for a new certificate under this rule is made.

(B) FEES FOR SHIPS' BOTTOM CERTIFICATES

Survey of ships in dry-dock to include Bottom Certificate in duplicate \$115, with an additional charge of \$45 for every visit of the Surveyor

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after his first visit to the ship. This fee applies only to ships holding passenger certificates issued by the Government or certificates accepted by the Government as equivalent thereto. In other cases the fee for survey in dry-dock is the same as that charged for three months passenger certificate plus \$20 for each propeller shaft drawn for examination.

| | Fee \$ |
|--|-----------|
| (C) FEE FOR RADIOTELEGRAPHY OR RADIOTELEPHONY SURVEY | 100 |

PART X

FEES FOR INSPECTION OF LIGHTS AND SOUND AND FOG SIGNALS

| | Fee \$ |
|---|-----------|
| For every visit to the ship at the request of the owner, agent or master and for each visit when the lights and sound and fog signals are found to be defective ... | 30 |
| Provided that the aggregate amount of fees for any such inspection shall not whatever may be the number of separate visits, exceed ... | 60 |

PART XI

FEES FOR INSPECTION OF LIFE SAVING APPLIANCES

- (i) For inspection of life saving appliances on a ship on or before first registry or re-registry, a fee of \$85 for ships under 500 tons gross and \$145 for ships of 500 tons gross and over shall be charged including issue of certificate.
- (ii) For subsequent inspection of life saving appliances at the request of the owner, master or agent, or in the case of a ship found to have defective or deficient life saving appliances, a fee of \$60 shall be charged, including the issue of the certificate.
- (iii) For inspection during construction of boats, buoyant apparatus or other life saving appliances intended to form part of the Statutory life saving appliances of a ship including issue of certificate —

| | Fee |
|--|---------|
| | \$ |
| Each life-boat 20 feet in length and under | ... 35 |
| Each life-boat over 20 feet in length | ... 60 |
| Each motor-life boat of any length | ... 145 |

(iv) For each life-boat which is required to undergo extensive repairs the same fee shall be chargeable.

(v) For inspection, during construction, of each buoyant apparatus or life raft a fee of \$6 shall be charged, with a minimum fee of \$20.

(vi) For the inspection and stamping of new or recovered life jackets at maker's works, a fee of \$12 shall be charged for each hundred or fraction of a hundred.

PART XII

FEES FOR LOCAL FREEBOARD CERTIFICATES

(A) STANDARD FEES

| | CLASSED SHIPS | | | UNCLASSED SHIPS | | |
|----------------------------------|-------------------------------|---------------------------------|------------------------|--|---------------------------------|------------------------|
| | FEES | | | FEES | | |
| | Issue of Certificate \$ | Renewal of Certificate \$ | Annual Survey \$ | Issue of Certificate \$ | Renewal of Certificate \$ | Annual Survey \$ |
| Under 100 tons | 90 | 40 | 40 | 380 | 380 | 60 |
| 100 tons and under 300 tons | 150 | 40 | 40 | 500 | 500 | 60 |
| 300 tons and under 500 tons | 200 | 70 | 70 | 690 | 690 | 90 |
| 500 tons and under 1,000 tons | 240 | 80 | 80 | 930 | 930 | 130 |
| 1,000 tons and under 1,500 tons | 310 | 110 | 110 | 1,200 | 1,200 | 160 |
| 1,500 tons and under 2,000 tons | 350 | 120 | 120 | 1,380 | 1,380 | 190 |
| 2,000 tons and under 2,500 tons | 390 | 130 | 130 | 1,570 | 1,570 | 190 |
| 2,500 tons and under 3,000 tons | 430 | 150 | 150 | 1,750 | 1,750 | 220 |
| 3,000 tons and under 4,000 tons | 450 | 160 | 160 | 1,940 | 1,940 | 250 |
| 4,000 tons and under 5,000 tons | 550 | 160 | 160 | 2,130 | 2,130 | 250 |
| 5,000 tons and under 6,000 tons | 550 | 160 | 160 | 2,310 | 2,310 | 250 |
| 6,000 tons and under 7,000 tons | 590 | 170 | 170 | 2,500 | 2,500 | 250 |
| 7,000 tons and under 8,000 tons | 620 | 170 | 170 | 2,690 | 2,690 | 250 |
| 8,000 tons and under 9,000 tons | 640 | 170 | 170 | 2,880 | 2,880 | 250 |
| 9,000 tons and under 10,000 tons | 660 | 190 | 190 | 3,070 | 3,070 | 250 |
| 10,000 tons and above | 660 | 190 | 190 | and for every additional 1,000 tons add \$190 | | |

(B) VARIATIONS OF STANDARD FEES

(i) Annual Survey carried through in one operation —

For every annual survey of any ship over 300 tons (classified or unclassified) which is carried through in one operation there shall be paid —

(a) the standard fee ; and

(b) in addition, a single fee of \$60 if for the purposes of the survey, more than one visit is paid to the ship by the Surveyor.

(ii) Annual Survey not carried through on one operation —

For every annual survey of any ship (classified or unclassified) which is not carried through in one operation there shall be paid —

(a) the standard fee ;

(b) in addition, a fee of \$60 for every partial annual survey of a ship under 300 tons ;

(c) for any ship of over 300 tons, in addition, a single fee of \$60 for every partial annual survey in respect of which, for the purposes of the partial annual survey more than one visit is paid to the ship by the Surveyor and a fee of \$120 for more than one visit.

(iii) Renewal survey carried out concurrently with a special survey for classification purposes —

In the case if the survey of a classed ship for renewal of the Load Line Certificate, the fee in column 2 shall be paid if the renewal is carried out concurrently with a special survey for classification purposes, for which a fee is charged. Otherwise the fee will be 50 per cent of that in column 1.

(iv) Issue or renewal survey carried out concurrently with a survey for Brunei Government Passenger or Passenger and Safety Certificate —

Where the survey for the issue or renewal of a Load Line Certificate is carried out by a Brunei Government Surveyor concurrently with that for a Passenger or Passenger and Safety Certificate and the ship is —

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(a) a classed ship — no fee will be charged under column 1 or column 2 ;

(b) an unclassed ship — half the fee under column 4 or column 5 shall be paid.

(v) Annual survey carried out concurrently with survey for Brunei Government Passenger or Passenger and Safety Certificate —

When the annual load line survey is made by a Brunei Government Surveyor at the same time as the survey for the issue of a Passenger or Passenger and Safety Certificate, no fee will be charged under column 3 or column 6.

(vi) Survey where minor alterations have been made to a ship —

Where minor alterations have been made to a ship having a Load Line Certificate in force, which involve an alteration of the freeboard but do not required a full survey, the fee in column 2 shall be paid whether the ship be classed or unclassed.

(vii) Partial survey for issue of a short term certificate —

Where for special reasons a partial survey is made and a certificate is issued or renewed for a period not exceeding twelve months one-half of the standard fee appropriate to a full survey shall be paid.

PART XII

(a) FEES FOR MEASUREMENT OF SHIPS UNDER THE TONNAGE ADMEASUREMENT RULES

| Tons Gross | Measurement under Rule I | Measurement under Rule II | Various Measurements |
|---|--------------------------|---------------------------|----------------------|
| | \$ | \$ | \$ |
| 50 tons and under ... | 85 | 45 | 20 |
| Over 50 tons and not exceeding 100 tons ... | 115 | 60 | 25 |
| For each additional 100 tons or part of 100 tons above 100 tons up to 20,000 tons ... | 15 | 10 | 4 |

| Tons Gross | Measurement under Rule I | Measurement under Rule II | Various Measurements |
|---|--------------------------------|---------------------------------|-------------------------|
| | \$ | \$ | \$ |
| For each additional 100 tons or part of 100 tons above 20,000 tons | ... | 10 | 6 |
| | | | 4 |

The following rules shall be observed in the calculation of fees under this Part :—

- (i) When a ship previously measured under rule II is remeasured under rule I, the full fee is scale (a) is chargeable, without any deduction for measurement rule II.
- (ii) The fees for re-measurement in consequence of alterations on the upper deck or in the engine room are shown in column (c) above. The maximum fee in respect of each item is \$145.
- (iii) In case of application for the issue or amendment of a "Suez Canal" or "Panama Canal" Special Tonnage Certificate, a fee of two-fifths of the full tonnage fee is to be charged for each certificate. Certified copies of Suez Canal or Panama Canal certificates are issued on payment of \$15 each copy.
- (iv) In cases where it is desired by the owner of a ship details of the tonnage calculations may be supplied to him on payment of a fee of \$15 per sheet with a minimum fee of \$60.

(b) FEES FOR INSPECTION OF ACCOMMODATION OF SEAMEN

- (i) The fee for each visit to the ship shall not exceed thirty-five dollars.
- (ii) The aggregate amount of the fees for any such inspection shall not exceed sixty dollars, whatever be the number of separate visits.
- (iii) When the accommodation is inspected at the same time with the measurement of the tonnage no separate fee shall be charged for the inspection.

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(c) FEES FOR REGISTRATION OF SHIPPING

(1) On Initial Registry.

(i) An initial registration fee of Brunei two dollars and fifty cents per net ton and an annual tonnage tax of twenty cents per ton shall be payable in respect of every Brunei Ship. Provided that for any ship of less than five hundred net tons the registration fee and the annual tonnage tax shall be equal to that required for a ship of five hundred net tons.

(ii) All unpaid fees and tonnage taxes due to the registrar shall constitute a Maritime lien on the ship, subject only to lien for wages and salaries.

(2) Transfer and Mortgage.

On transfer, transmission, registry anew, transfer of registry, mortgage and transfer of mortgage :—

According to the gross tonnage represented by the ships transferred, etc (e.g. the transfer of a 1/64 share in a ship 6,400 tons to be reckoned as the transfer of 100 tons.)

| | Fee \$ |
|-----------------------------|-----------|
| Under 10 tons | ... 1 |
| 10 tons and under 20 tons | ... 2 |
| 20 tons and under 30 tons | ... 4 |
| 30 tons and under 40 tons | ... 5 |
| 40 tons and under 50 tons | ... 6 |
| 50 tons and under 75 tons | ... 7 |
| 75 tons and under 100 tons | ... 9 |
| 100 tons and under 125 tons | ... 10 |

and a further fee of \$1 for every additional 50 tons, or part of 50 tons up to 500 tons after which \$1 for every 100 tons, or part of 100 tons.

(3) Miscellaneous.

| | Fee \$ |
|---|-----------|
| For every bill of sale (if made in the office) | ... 10 |

| | Fee \$ |
|---|-----------|
| For a certified copy of the particulars entered by the registrar in the register book on the registry of a ship together with a certified statement showing the ownership of the ship at the time being ... | 4 |
| For a certified copy of any declaration or document, a copy of which is made evidence by the Merchant Shipping Acts ... | 4 |
| For each inspection of the register book ... | 1 |

PART XIV

| | |
|--|----|
| For a Special Passenger and Safety Certificate ... | 70 |
|--|----|

PART XV

SURVEYS ABROAD

In cases where the Minister decided to allow a survey to be made abroad by a Surveyor of Ships in addition to the usual surveys fees and all the Surveyor's expenses incurred in this connection, a charge of \$230 will be made for every 24 hours or during which the Surveyor is absent from the Port at which he is stationed.

All fees and a deposit to cover the additional charges must be paid into the Treasury in advance and an undertaking given for the payment of any balance of fees and expenses connected with the service.

SURVEYOR'S EXPENSES

The Surveyors expenses shall include all travelling expenses actually and necessarily paid out of pocket for travelling, insurance and taxation, and all board and lodging expenses.

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[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under sections 65(4), 65(6), 113, 114, 124 and 217

S. 44/84

**MERCHANT SHIPPING (APPOINTMENT OF CERTIFYING
AUTHORITY) REGULATIONS, 1984**

Commencement : 29th September, 1984

Citation.

1. These Regulations may be cited as the Merchant Shipping (Appointment of Certifying Authority) Regulations, 1984.

Appointment
of Certifying
Authority.

2. (1) The persons or organisations specified in the Schedule are hereby appointed to be the Certifying Authority for the purposes of surveying ships and issuing certificates under the provisions of the Merchant Shipping (Safety Convention) Regulations, 1984 ; the Merchant Shipping (Load Line) Regulations, 1984 ; the Merchant Shipping (Special Limits Passenger Ships) Safety Regulations, 1984 ; and the Merchant Shipping (Non Convention Ships) Safety Regulations, 1984.

(2) No person or organisation shall act as a Certifying Authority unless appointed under these Regulations.

(3) A certificate issued by any organisation appointed under paragraph (1) of this Regulation shall have effect for the purposes of these Regulations as if it had been issued by the Minister.

SCHEDULE

The Director of Marine
The American Bureau of Shipping
The Bureau Veritas
Det Norske Veritas
Lloyd's Register of Shipping
Germanischer Lloyds
Nippon Kaiji Kyokai

10

SUBSIDIARY LEGISLATION

Regulations under section 85(6)

MERCHANT SHIPPING (DISCIPLINARY PROCEDURE)
(LNG SHIPS) REGULATIONS, 1986

S. 24/86

3

Commencement : 3rd December, 1986

1. These Regulations may be cited as the Merchant Shipping (Disciplinary Procedure) (LNG Ships) Regulations, 1986.

Citation.

2. Any master or seaman employed in a registered Brunei ship carrying or designed to carry liquefied natural gas who on board that ships so conducts himself as to infringe Section 85(1) or 85(2) of the Merchant Shipping Act shall be guilty of a disciplinary offence in respect whereof he shall be subject to the disciplinary and appeals procedures applicable (in the case of an officer) under the United Kingdom Maritime Board Code of Conduct for the Merchant Navy or (in the case of a seaman who is not an officer) under the Hong Kong Merchant Shipping (Recruitment of Seamen) Ordinance (Cap. 135) as applied by the Seaman's Recruiting Office in Hong Kong, and where such disciplinary and appeals procedures are invoked and implemented in respect of such conduct he shall be subject to no further disciplinary procedures in relation thereof in Brunei Darussalam.

Disciplinary
procedure on
LNG ships.

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Merchant Shipping

[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under section 102

S. 4/86

MERCHANT SHIPPING (HARBOUR AND PLEASURE CRAFT)
REGULATIONS, 1984

Commencement : 1st January, 1986

Citation

1. These regulations may be cited as the Merchant Shipping (Harbour and Pleasure Craft) Regulations 1986.

PART I

GENERAL

Definitions

2. (1) In these Regulations, unless the context otherwise requires —

“aquaplaner” means a person who is being conveyed on, in or above any part of the sea within any port by maintaining himself on flotation or aerial equipment which is attached to towing apparatus connected to a pleasure craft whether or not such person or equipment is at the time in contact with or directly over such part of the sea ;

“cargo harbour craft” means a harbour craft used for the carriage of cargo other than a tanker ;

“harbour craft” means any vessel used for any purpose within a port and the approaches thereto ;

“licence” means a licence issued under these Regulations ;

“Minister” means the Minister of Communications ;

“passenger” means every person other than —

(a) the master and the members of the crew or other person employed or engaged in any capacity on board a harbour or pleasure craft on the business thereof, and

(b) a child under one year of age ;

“passenger harbour craft” means a harbour craft used for the carriage of passengers for hire or reward ;

“pleasure craft” means any harbour craft —

(a) which is used exclusively for pleasure, social or domestic purposes other than for the carriage of passengers on sight seeing tours within a port ;

(b) for the use of which a passenger, if any, is not charged a separate and distinct fare ;

“register” means a register of licences kept by the Director pursuant to Regulation 7 ;

“tanker” means a harbour craft constructed and adapted for carriage in bulk of liquid cargo of an inflammable nature ;

“tug boat” means a harbour craft used for towing, pushing or pulling any other vessel ;

“water ski” means any water ski, surfboard, aquaplane or planing device and includes any pleasure craft used as flotation equipment by a water skier ;

“water skier” means a person who is engaged in maintaining himself in motion on, in, or above any part of the sea within a port by holding to, or attaching himself to a pleasure craft or to any towing apparatus connected to a pleasure craft, whether or not such person makes use of any flotation or aerial equipment and whether or not such person or equipment is at the relevant time in contact with or directly over such part of the sea.

(2) For the purposes of these Regulations —

(a) any person who —

(i) is the sole, joint or part owner of a harbour or pleasure craft ;

(ii) has possession or control of a harbour or pleasure craft which is subject to the terms of a hire-purchase agreement, bill of sale or other similar instrument ; or

(iii) has possession or control of a harbour or pleasure craft under the terms of a charter agreement ;

shall be deemed to be the owner of the harbour or pleasure craft ;
and

(b) any person who is the owner of a harbour or pleasure craft which is subject to the terms of a hire purchase agreement, bill of sale or other similar instrument but who is not entitled to possession of the harbour or pleasure craft shall be deemed not to be the owner of the harbour or pleasure craft.

Application

3. The provisions of these Regulations shall not apply to a ship's boat.

Harbour/
pleasure craft
to be
licensed

4. Except as hereinafter provided —

(a) no person shall use a harbour or pleasure craft, and

(b) no owner of a harbour or pleasure craft shall cause or permit the harbour or pleasure craft to be used within a port,

without a licence issued in respect thereof.

Fees

5. (1) Subject to the provisions of paragraph (4) of this Regulation, the fees for —

(a) a licence,

(b) a replacement of licence,

(c) a search or inspection of the particulars entered in the register,

(d) a certified copy of the particulars entered in the register, or of any other document,

(e) a change of particulars to be entered in the register, and

(f) a renewal of a licence after the date of its expiry.

shall be as set out in the First Schedule.

(2) A licence shall, unless previously cancelled be valid for a period of twelve months or such shorter period of time as the Director may determine.

(3) Where a licence is to be valid for less than twelve months the fee payable therefore shall be proportionate to the fee payable under Regulation 5(1).

(4) Harbour or pleasure craft belonging to the Government shall be exempted from payment of any fees set out in this Regulation. Provided also that the Minister may exempt any other vessels from payment of such fees.

PART II
LICENSING

6. (1) (a) A person desirous of having a harbour or pleasure craft licensed shall apply to the Director for a licence on the forms as prescribed by the Director.

Application
for licence

(b) A licence shall not be issued to an applicant unless he attains the age of eighteen years or above.

(2) A harbour or pleasure craft may be licensed in the name of one or more individuals or in the name of a body corporate.

(3) The applicant shall —

(a) state the type, dimensions and specifications of the harbour or pleasure craft and the purpose for which the harbour or pleasure craft is intended to be used ;

(b) unless the harbour or pleasure craft is owned by a body corporate, furnish two copies of a recent photograph of himself : one copy of the photograph of each applicant shall be affixed to the licence and the other in the register of licences referred to in Regulation 7(2) ;

(c) produce documentary or other evidence of ownership of the harbour or pleasure craft to the satisfaction of the Director ;

(d) produce the certificate of incorporation if the harbour or pleasure craft is owned by a body corporate ;

(e) furnish the names, addresses and such other particulars of the crew or person appointed by the owner to navigate the harbour or pleasure craft as the Director may require ;

(f) furnish particulars of every policy of insurance held by the applicant with respect to the use or navigation of the harbour or pleasure craft ; provided that the Director, subject to such terms and conditions he may impose, may exempt any pleasure or harbour craft from the requirement of this provision ;

(g) furnish such other documents and particulars in respect of the harbour or pleasure craft as the Director may require.

(4) The Director may require a harbour or pleasure craft for which a licence is required or in respect of which a licence is to be renewed to be brought to a place for inspection.

(5) The Director may inspect the harbour or pleasure craft and —

(a) if he thinks is seaworthy and proper to the intended use, may cause the harbour or pleasure craft to be licensed and issue a licence accordingly, subject to such conditions as he may think fit to impose ;
or

(b) refuse to issue a licence.

(6) The Director may at any time vary or licence or impose conditions or additional conditions thereto.

(7) Any imposition, variation or revocation of a condition of a revoke any existing condition of a licence under this regulation shall be endorsed thereon.

(8) Where a harbour craft is used or is to be used for the carriage of more than twelve passengers, no licence shall be issued in respect thereof unless there is in force in relation thereto a certificate issued under the provisions of The Merchant Shipping Enactment (Special Limit Passenger Ships) Safety Regulations 1984.

(9) No licence shall be granted in respect of a tanker unless there is in force in relation to such use a policy of insurance which insures the owner or master of or any other person using the tanker in respect of oil pollution within a port caused by or arising out of such use.

(10) No licence shall be granted in respect of a tanker unless the provisions of the Merchant Shipping (Non-Convention Ship) Safety Regulations 1984 have been complied with.

Cargo
harbour craft
and register
of licences

7. (1) The Director may, by endorsement on the licence of a cargo harbour craft, license the harbour craft to carry, when empty of cargo, such number of passengers, if any, as he thinks fit, and in that case it shall not be necessary for that cargo harbour craft to be licensed separately as a passenger harbour craft.

(2) The Director shall keep a register of licences.

(3) The following particulars of every harbour or pleasure craft licensed under these Regulations shall be recorded in the register kept under paragraph (2) :—

(a) the name and address of the owner and master of the harbour or pleasure craft ;

(b) the length, breadth, depth and gross licensed tonnage of the harbour or pleasure craft ;

(c) the method of propulsion of the harbour or pleasure craft including details of the engine, if any ;

(d) the specific purpose for which the harbour or pleasure craft shall be used ;

(e) the name, number and qualifications of the crew to be employed on board the harbour or pleasure craft ;

(f) In the case of a passenger harbour craft or pleasure craft the number of persons, in addition to the crew, which may be carried on board ;

(g) in the case of a cargo harbour craft, the number of persons, in addition to the crew, which may be carried when no cargo is on board ;

(h) the licence number of the harbour or pleasure craft ;

(i) the limits within which the harbour or pleasure craft may ply ;

(j) particulars of every life-saving and fire-fighting appliance and equipment carried thereon ;

(k) particulars of any other appliance and equipment carried thereon and ;

(l) such other particulars in respect of the harbour or pleasure craft as the Director may determine.

8. (1) The Director shall in issuing a licence deliver to the owner of every licensed harbour or pleasure craft a licence containing the particulars specified in Regulation 7(3) above.

Particulars
of licence

9. (1) On a change of ownership of a harbour or pleasure craft the new owner shall submit to the Director any licence issued in respect thereof to the previous owner and any documentary or other evidence of the change or ownership of the harbour or pleasure craft.

Change of
ownership

(2) Where the Director is satisfied that the ownership of the harbour or pleasure craft has been transferred to the new owner the licence issued to the previous owner shall be transferred to the new owner and shall remain valid for the remainder of the period for which it was issued.

10. The persons whose names appear in the register as —

Registered
owner and
master

(a) the owner and master ;

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(b) the owner ; or

(c) the master,

shall for all the purposes of these Regulations be deemed to be the owner and master or the owner or the master thereof respectively.

Licence to be kept on board vessel

11. The owner of every licensed harbour or pleasure craft shall cause the licence to be kept at all times on board his harbour or pleasure craft in the custody of the person in charge of the harbour or pleasure craft and such last mentioned person shall produce the same to the Director or any police officer who demands to see the same.

Duty to furnish name and address of person in charge of pleasure craft

12. The owner of every harbour or pleasure craft shall, at all reasonable times on demand by the Director or a police officer, furnish to the Director or the police officer the name and address of the person who was in charge of the harbour or pleasure craft at any particular time when an offence has been committed or alleged to have been committed under the provisions of the Merchant Shipping Act, the Ports Act or any rules or regulations made thereunder.

Notification of change of particulars of vessel

13. The owner of every licensed harbour or pleasure craft shall report to the Director any change of the particulars set out in Regulation 7(3) (a), (b), (c), (e) or (j) within seven days of any such change.

Change in particulars to be endorsed on licence and recorded in register

14. Every change in the particulars appearing in the register which has occurred after the Director has issued the licence to which such particulars relate shall be endorsed on or contained in that licence and shall be entered in the register.

Renewal of licence

15. (1) Every licence issued or transferred under these Regulations shall be renewed within fourteen days of the date of expiry of the licence and if such licence is not renewed within that period the owner of the harbour or pleasure craft in respect of which such licence was issued shall inform the Director in writing or in person the reason for not renewing the licence, and also what the owner intends to do with the harbour or pleasure craft ;

(2) The Director may in his discretion refuse to renew a licence.

Replacement of licence

16. (1) If any particulars on a licence become illegible, the owner of the harbour or pleasure craft in respect of which such licence was issued shall forthwith apply to the Director for the issue of a replacement thereof or for such particulars thereof as have become illegible to be re-entered or endorsed thereon.

(2) A person shall return to the Director any licence issued to such person which has expired or has been cancelled.

17. Upon the issue of a licence, the Director shall assign a licence number to the harbour or pleasure craft. The licence number of every harbour or pleasure craft licenced.

Licence
number

(a) as a cargo harbour craft shall be prefixed with the letters "BC" ;

(b) as a passenger harbour craft shall be prefixed with the letters "BP" ;

(c) as a tanker shall be prefixed with the letters "BM" ;

(d) as a tug boat shall be prefixed with the letters "BT" ;

(e) as a pleasure craft shall be prefixed with the letters "BZ" ;
and

(f) as being owned by the Government shall be prefixed with the letters "BG".

(g) for any other purpose shall be prefixed with the letters "BA".

18. (1) The owner of a harbour or pleasure craft shall cause the licence number to be painted on each bow against a contrasting background and carved on, cut in or centre punch into the main beam in the manner set out in the Second Schedule or as may be directed by the Director.

Painting and
carving of
licence
number

(2) The licence number of a harbour or pleasure craft shall be kept legible and visible at all times.

19. (1) The Director may cancel the licence if a person to whom a licence is granted :

Cancellation
of licence

(a) has made or produced in or in connection with any application by him for a licence or a renewal thereof any false or fraudulent declaration or representation ;

(b) has in the opinion of the Director, contravened or failed to comply with any provisions of the Enactment or any regulations made thereunder ;

(c) has committed an offence under the Enactment or any regulations made thereunder ;

(d) has contravened or failed to comply with any of the conditions of the licence ; or

(e) is for some other reason unfit to hold the licence.

(2) The Director may cancel the licence if for any other reason he is satisfied that the licence should be cancelled.

(3) The Director may cancel the licence if the harbour or pleasure craft at any time goes beyond the port limits as declared under the Enactment.

(4) Any person aggrieved by a decision of the Director under this regulation may within fourteen days of the cancellation of the licence, appeal in writing against such cancellation to the Minister whose decision thereon shall be final.

PART III

GENERAL CONDITIONS OF LICENCE

Number of passengers/ person to be carried

20. (1) The number of passengers which may be carried on board a harbour craft shall be displayed in a conspicuous position thereon.

(2) No owner or master of a harbour or pleasure craft shall cause or permit the harbour or pleasure craft to carry a greater number of persons than the number allowed by and shown on its licence.

No cargo and luggage to be carried on board harbour craft carrying passengers

21. Where passengers are carried on board a harbour craft no owner or master of the harbour craft shall cause or permit cargo or luggage other than the personal effects of the passengers to be carried on board.

Alteration of harbour/ pleasure craft prohibited

22. (1) No owner or master of a harbour or pleasure craft shall cause or permit the harbour or pleasure craft to be so altered as not to correspond with the particulars relating to her tonnage or description contained in the register without the prior written permission of the Director.

(2) The owner or master shall, immediately upon an alteration as is referred to in paragraph (1) being made, produce the harbour or pleasure craft and the licence for inspection by the Director.

Report of collision etc

23. (1) The owner or master of every harbour or pleasure craft shall, within twenty-four hours, report to the Director —

(a) any breaking-up, damage or loss of the harbour or pleasure craft ;

(b) any collision, accident or other incident, causing the breaking-up, damage or loss of the harbour or pleasure craft ;

(c) any accident, damage, injury or loss of life which the harbour or pleasure craft has caused or is alleged to have caused ; and

(d) any accident, damage, injury or loss of life which occurs on board the harbour or pleasure craft from any other cause.

(2) The owner or master or the person in charge of the harbour or pleasure craft shall, in making the report under sub regulation (1) of this Regulation, also surrender the licence to the Director who may cause an inspection to be made of the harbour or pleasure craft.

24. The owner or master of a harbour or pleasure craft shall, at all reasonable times on demand by the Director, produce to the Director the harbour or pleasure craft for inspection together with the licence, if any.

Harbour/
pleasure craft
to be
produced for
inspection

25. The owner or master of every harbour or pleasure craft shall keep the harbour or pleasure craft in a clean and sanitary condition at all times.

Harbour/
pleasure craft
to be kept in
a clean and
sanitary
condition

26. (1) No harbour or pleasure craft licenced under these Regulations shall be used for purpose other than that stated in the licence.

Usage of
harbour craft
for purpose
other than
that stated
on licence
prohibited

(2) No owner or master of a harbour or pleasure craft shall cause or permit the harbour or pleasure craft to ply or operate beyond the area specified in the licence without the prior permission of the Director.

27. No owner or master of a harbour craft which is plying for hire shall, without reasonable excuse, refuse to let out for hire the harbour craft when a prospective hirer offers to hire his craft at the rates specified by the Director from time to time by notification in the *Government Gazette*.

Prohibition
on refusal to
let for hire
harbour craft

28. (1) Where a licence is not renewed within the period referred to in Regulation (15)(1) and the Director is of the opinion that the harbour or pleasure craft in respect of which a licence was issued is or is likely to become an obstruction, impediment or danger to navigation within a port or to the safe and convenient use or operation of a port, the Director may require the owner thereof to remove such harbour or pleasure craft from the waters of the port and the owner shall comply with such requisition.

Removal of
unlicensed
harbour craft
which is
likely to
cause
obstruction

(2) Where the owner of a harbour or pleasure craft, in compliance with a requisition made under paragraph (1), removes such harbour or pleasure craft from the waters of the port and keeps, destroys or other-

wise disposes of the harbour or pleasure craft, the owner shall inform the Director of the place in which such harbour craft is kept or produce such evidence as the Director may reasonably require of such destruction or disposal, as the case may be.

Offence to represent unlicensed harbour pleasure craft as licensed harbour/pleasure craft

29. If any unlicensed harbour or pleasure craft is represented by the display of its licence number, the production of any document or otherwise to be a licensed harbour or pleasure craft, the person who makes such representation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars.

PART IV

NAVIGATION AND SAFETY

Prohibition on harbour craft being overloaded

30. No owner or master of a harbour craft shall cause or permit the harbour craft to be so loaded with cargo as to endanger the lives of persons on board.

Person under influence of intoxicating liquor or drug prohibited from navigating

31. (1) Any owner of a harbour or pleasure craft who permits a person to operate or navigate, and any person who operates or navigates a harbour or pleasure craft while such person is under the influence of intoxicating liquor or of any drug to such an extent as to be incapable of having proper control of the harbour or pleasure craft shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars.

(2) No person shall use a pleasure craft to tow more than three water-skiers or aquaplaners at the same time without the prior permission of the Director.

(3) Any person who contravenes the provisions of sub regulation (2) of this Regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars.

(4) In this regulation “drug” means a controlled drug as defined in the (Misuse of Drugs Act).

Navigating harbour/pleasure craft at recklessly or negligently

32. Any person who navigates a harbour or pleasure craft in the waters of Brunei recklessly or negligently or at such a speed or otherwise in any way that it is dangerous to or likely to cause injury or damage to the person or property of, or cause annoyance or nuisance to, any member of the public shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars.

33. No person shall operate a pleasure craft within the waters of Brunei for towing a person or persons on water skis, surfboard, or any other similar device unless in addition to the operator there is in such pleasure craft another person of at least fifteen years of age who is in a position to observe the progress of the person or persons being towed.

Pleasure craft towing water skis to have observer

PART V

EQUIPMENT AND MANNING

34. The owner or master of every harbour or pleasure craft shall cause the harbour or pleasure craft to carry, or to be fitted or provided with, the life-saving and other appliances and equipment specified in the Third Schedule.

Life saving appliance, etc

35. The owner or master of every harbour or pleasure craft shall cause the harbour or pleasure craft to carry, or be fitted or provided with, the fire fighting and other appliances and equipment specified in the Fourth Schedule.

Fire fighting appliances etc

36. Every owner of a harbour or pleasure craft shall cause it to be equipped with an audible warning device, approved by the Director and capable of emitting short and prolonged blasts.

Warning device

37. Where these Regulations require that particular fitting, material, appliance, equipment or apparatus, or type thereof shall be fitted or carried in a harbour or pleasure craft, or that a particular provision shall be made, the Director may allow any other fitting, material, appliance, equipment or apparatus or type thereof, to be fitted or carried or any other provision to be made in that harbour or pleasure craft, if he is satisfied that such fitting, material, appliance, equipment or apparatus or type thereof, or provision, is at least as effective as that required by these Regulations.

Other fitting, material, etc., may be fitted with approval of Director

38. (1) The owner or master of every harbour craft shall cause the harbour craft to be provided with officers duly certificated under the provisions of the Merchant Shipping Act and the Regulations made under that Enactment and in accordance with the table set out in the Fifth Schedule.

Manning requirements

(2) The Director may require any officer, referred to in paragraph (1) to produce his certificate of competency at such reasonable time and place as the Director may determine and the officer shall comply with such requisition.

PART VI

AREAS DESIGNATED FOR SPECIFIC ACTIVITIES

Designated areas

39. (1) The Director may from time to time prohibit or restrict the use of any part of the waters of Brunei for any purpose which he may specify.

(2) Any person who uses that part of the sea, referred to in paragraph (1) contrary to any prohibition or restriction imposed by the Director under paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and in the case of a continuing offence to a further fine not exceeding fifty dollars for every day or part thereof during which the offence is continued after conviction.

PART VII

ORGANISED RACES, DISPLAYS, REGATTAS, EXHIBITIONS AND SIMILAR ACTIVITIES

Permit for races, displays, regattas, etc

40. (1) No person shall organise, promote or conduct a race, display or regatta for pleasure craft of any description or an exhibition of water skiing, aquaplaning or any similar activity, within any part of any port, or any other operation or activity involving the use of any pleasure craft within such part of any port and affecting the availability of such part of any port for normal use by the public, unless he is the holder of a permit from the Director authorising him to do so and he complies with the conditions to which the permit is subject.

(2) An application for a permit referred to in paragraph (1) —

(a) shall be made to the Director in such form as he may require ; and

(b) shall be accompanied by particulars of the area in respect of which the permit is sought.

(3) A permit issued under this regulation may be granted on such conditions as to time, place and other circumstances as the Director may impose.

Permission of Director to act otherwise than in accordance with these Regulations

41. (1) The Director may permit —

(a) any person or class of persons to use one or more harbour or pleasure craft within any port ; or

(b) any harbour or pleasure craft or type or description of harbour or pleasure craft to be used within any port ; otherwise than in accordance with any of the provisions of these Regulations.

(2) The Director may, in granting his permission under paragraph (1), impose such terms and conditions as he may think fit.

42. Any person who contravenes or fails to comply with the provisions of Regulations 4, 12, 15(1), 19(2), 20, 22, 23(1), 26, 28, 30, 34, 35, or 38, or 40(1) or any of the conditions and restrictions subject to which any licence is issued under these Regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and in the case of a continuing offence to a further fine not exceeding fifty dollars for every day or part thereof during which the offence is continued after conviction.

Penalties

FIRST SCHEDULE
(Regulation 5(1))

FEES

- | | | |
|--|------------|-----------|
| 1. (a) Fees for licensing harbour craft not exceeding 15 tons gross registered tonnage shall be | ...\$10.00 | per annum |
| (b) Fees for licensing pleasure craft not exceeding 15 tons gross registered tonnage shall be | ...\$10.00 | per annum |
| (c) For every additional ton or part thereof in excess of 15 tons gross registered tonnage shall be | ...\$10.00 | per annum |
| 2. Fees for other service :— | | |
| (a) for a search or inspection of the particulars entered in the register | ...\$ 5.00 | |
| (b) for a certified copy of the particulars entered in the register | ...\$ 5.00 | |
| (c) for a change of particulars entered in the register | ...\$ 5.00 | |
| (d) for every certified copy of a document | ...\$ 5.00 | |
| (e) for inspection of a vessel on first licensing, on renewal of a licence or following alteration to a vessel | ...\$10.00 | |
| (f) for late renewal of a licence after more than two weeks from the date of its expiry | ...\$10.00 | |

SECOND SCHEDULE

(Regulation 18(1))

LICENCE NUMBER

The letters and numbers comprising the licence number shall be painted on each bow and carved on, cut in or centre-punched into the main beam or other conspicuous part of the harbour or pleasure craft. Each letter and number comprising the licence number on the bow shall be of the following minimum height and of proportionate breadth and thickness :—

| Length of Vessel | Minimum Height of Licence Number |
|-----------------------------|---|
| (a) Under 5 metres | — 10 centimeters |
| (b) Between 5 and 20 metres | — 20 centimeters |
| (c) Above 20 metres | — 30 centimeters |

Each letter and number on the main beam shall be at least 10 centimeters in height and 5 centimeters in width.

THIRD SCHEDULE

(Regulation 34)

Life-saving and other appliances and equipment to be carried by a harbour or pleasure craft other than a tanker plying within a port and a mechanically propelled harbour or pleasure craft which carries more than twelve passengers.

1. Every open harbour or pleasure craft mechanically propelled, including those with outboard engines, shall have or be provided with —

(a) a lifebuoy for every four persons on board with a minimum of one lifebuoy ;

(b) a life jacket for every person on board ;

(c) a suitable anchor and mooring chain or rope, the length of which shall be determined by the Director ;

(d) suitable means for the discharge of bilge-water ;

(e) where practicable, a pair of oars and rowlocks, or a pair of paddles in lieu thereof.

2. Every open harbour or pleasure craft not mechanically propelled shall have or be provided with —

(a) a lifebuoy for every four persons on board with a minimum of one lifebuoy, or a lifejacket for every person on board in lieu thereof ;

(b) a suitable anchor and mooring chain or rope, the length of which shall be determined by the Director ;

(c) one or more pairs of oars and rowlocks or a pair of paddles in lieu thereof ; and

(d) suitable means for the discharge of bilge-water.

3. Every partially or fully decked harbour or pleasure craft shall have or be provided with —

(a) where the vessel is not less than 20 metres in length, such number of lifeboats, inflatable liferafts or buoyant apparatus as is sufficient and adequate to accommodate the total number of persons on board ;

(b) at least four lifebuoys, one of which on each side of the vessel shall be fitted with a line at least 30 metres in length ;

(c) a lifejacket for every person on board ;

(d) six red handflares which are to be stored in a suitable watertight container ;

(e) a suitable anchor and mooring chain or rope. the length of which shall be determined by the Director ; and

(f) suitable means for the discharge of bilge-water.

4. (1) Every appliance and equipment prescribed in this Schedule and the arrangement thereof shall be approved by the Director.

(2) These appliances and equipments may only be purchased/obtained from those distributors/retailers authorised by the Director.

FOURTH SCHEDULE (Regulation 35)

Fire-fighting and other appliances and equipment to be carried by a harbour or pleasure craft other than a tanker plying within a port and a mechanically propelled harbour or pleasure craft which carries more than twelve passengers.

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Merchant Shipping

1. Every harbour or pleasure craft propelled by outboard engines shall have or be provided with —

(a) fire buckets as set out below —

| Length of Vessel in metres | Minimum number of fire buckets |
|-----------------------------------|--|
| (i) Less than 9 | 1, which shall be fitted with a lanyard. |
| (ii) 9 or more but less than 15 | 2, one of which shall be fitted with a lanyard. |
| (iii) 15 more but less than 20 | 3, two of which shall be fitted with lanyards. |
| (iv) 20 or more | 4, two of which shall be fitted with lanyards, and |

(b) portable fire extinguishers capable of discharging froth or other substance suitable for extinguishing oil fires as set out below —

| Total kilowatt shaft power of propelling machinery | Number of Extinguishers |
|---|--|
| (i) Less than 7.5 | 1 of at least 4.5 litres capacity ; |
| (ii) 7.5 or more but less than 75 | 1 of at least 9 litres capacity ; |
| (iii) 75 or more but less than 375 | 2 each of at least 9 litres capacity ; |
| (iv) 375 or more but less than 750 | 3 each of at least 9 litres capacity ; |
| (v) 750 or more | 4 each of at least 9 litres capacity. |

2. Every mechanically propelled harbour or pleasure craft, other than one propelled by outboard engines, shall have or be provided with —

(a) Where the vessel is 20 metres or more in length, one pump operated by power and one fire hose whereby a powerful jet of water can rapidly be directed into any part of the vessel ; where the vessel is 15 metres or more but less than 20 metres in length a hand pump may be substituted for a power pump ; and

(b) fire buckets as set out below —

| Length of vessel in metres | Minimum number of fire buckets |
|-----------------------------------|--|
| (i) less than 15 | 2, both of which shall be fitted with lanyards ; |
| (ii) 15 or more but less than 20 | 3, two of which shall be fitted with lanyards ; |
| (iii) 20 or more | 4, two of which shall be fitted with lanyards. |

3. Where the harbour or pleasure craft is fitted with one or more main or auxiliary oil-fired boilers, the boiler room shall have —

(a) a receptacle containing an adequate quantity of sand, or other dry material suitable for extinguishing oil fires ;

(b) a scoop for distributing the contents of the receptacle ;

(c) at least two portable fire extinguishers : each of at least 9 litres capacity, capable of discharging froth or other substance suitable for extinguishing oil fires ;

(d) a forth fire extinguishing or fire smothering gas or steam installation, or pressure water spraying system ; and

(e) a nozzle suitable for spraying water by means of a fire hose referred to in sub-paragraph (a) of paragraph 2 of this Schedule.

4. Every harbour or pleasure craft fitted with one or more internal combustion engines shall have or be provided with —

(a) portable fire extinguishers in or near the machinery space capable of discharging froth or other substance suitable for extinguishing oil fires. The number of those extinguishers shall be as set out below —

| Total kilowatt shaft power of propelling machinery | Number of extinguisher |
|---|--|
| (i) less than 75 | 1 of at least 9 litres capacity ; |
| (ii) 75 or more but less than 375 | 2 each of at least 9 litres capacity ; |
| (iii) 375 or more but less than 750 | 3 each of at least 9 litres capacity ; |
| (iv) 750 or more | 4 each of at least 9 litres capacity ; and |

(b) remote controls connected to fuel oil storage tanks, setting tanks and daily service tanks, ventilating fans, machinery induced draught fans, oil fuel pumps, lubricating oil pumps and other such equipment. The remote controls shall be situated where it may be controlled, managed or regulated from a readily accessible position outside the engine room if the vessel has an enclosed engine room.

5. Every decked harbour or pleasure craft shall be provided with a nozzle suitable for spraying water by means of a fire hose referred to in subparagraph (a) of paragraph 2 of this Schedule.

6. (1) The Director may require a vessel licensed for towing or pushing purposes to be fitted with appliances or equipment which prevent, reduce or stop discharges of oil and mixtures containing oil into the sea, or with other appliances or equipment as may be approved by him which prevent, reduce or stop oil pollution.

(2) The Director may require a vessel licensed for towing or pushing purposes to be fitted with VHF radio equipment.

7. Every appliance, equipment and machinery prescribed in this Schedule and the arrangement thereof shall be approved by the Director.

FIFTH SCHEDULE
(Regulation 38)

MANNING REQUIREMENTS FOR HARBOUR CRAFT

PART A : Minimum number of certificated deck officers to be carried

1. In the case of non-mechanically propelled harbour craft — As prescribed by the Director.
2. In the case of mechanically propelled harbour craft :
 - (i) If the gross tonnage is less than 25 tons — A Class 8 officer.
 - (ii) If the gross tonnage is 25 tons or more but less than 100 tons — A Class 8 officer.
 - (iii) If the gross tonnage is 100 tons or more but less than 500 tons — A Class 7 officer.
 - (iv) If the gross tonnage is 500 tons or more — As prescribed by the Director.

PART B : Minimum number of certificated engineer officers to be carried

1. In the case of non-mechanically propelled harbour craft — None.
2. In the case of mechanically propelled harbour craft :
 - (i) If the engine shaft power is less than 400 kilowatts — None if full engine and rudder control is provided at the steering position. Otherwise a Class 6 engineer officer.
 - (ii) If the engine shaft power is 400 kilowatts or more but less than 750 kilowatts — A Class 5 engineer officer.
 - (iii) If the engine shaft power is 750 kilowatts or more but less than 1500 kilowatts — A Class 4 and a Class 6 engineer officer.
 - (iv) If the engine shaft power is 1500 kilowatts or more. — As prescribed by the Director.

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CAP. 145

Merchant Shipping

[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under section 103

S. 26/84

MERCHANT SHIPPING (PREVENTION OF COLLISION AT SEA) REGULATIONS, 1984

Commencement : 1st September, 1984

Citation.

1. These Regulations may be cited as the Merchant Shipping (Prevention of Collision at Sea) Regulations, 1984.

Adoption of Regulations.

2. The Regulations specified in the Schedule to these Regulations shall subject to the provisions of paragraph 3 hereof be in force as written law in Brunei Darussalam as if the same had been expressly made by the Minister with the approval of His Majesty The Sultan and Yang Di-Pertuan pursuant to the powers conferred by the provisions of Section 103 of the Merchant Shipping Enactment, 1982.

Publication of Regulations with amendments and additions.

3. (1) The Minister shall with the approval of His Majesty The Sultan and Yang Di-Pertuan cause the said Regulations to be printed and published in the *Government Gazette* with such short title, date of commencement, amendments and additions as in his opinion are expedient to make such Regulations applicable to Brunei Darussalam.

(2) Until the said Regulations are printed and published in the *Government Gazette* references therein to —

(a) “Director” shall be construed as reference to the Director of Marine of Brunei Darussalam as defined under the Merchant Shipping Enactment, 1982 ;

(b) “The Merchant Shipping Act (Cap. 172)” shall be construed as reference to the Merchant Shipping Enactment, 1982 of Brunei Darussalam ;

(c) “Republic of Singapore” or “Singapore” shall be construed as reference to Brunei Darussalam.

SCHEDULE

The Merchant Shipping (Prevention of Collision at Sea) Regulations, 1983 (No. S 96 of 1983) of the Republic of Singapore made on 24th day of March, 1983, as amended and in force on 1st September, 1984.

SUBSIDIARY LEGISLATION

Regulation under section 113

S. 27/84

MERCHANT SHIPPING (SAFETY CONVENTION)
REGULATIONS, 1984

Commencement : 1st September, 1984

Citation.

1. These Regulations may be cited as the Merchant Shipping (Safety Convention) Regulations, 1984.

Adoption of
Regulations.

2. The Regulations specified in the Schedule to these Regulations shall subject to the provisions of paragraph 3 hereof be in force as written law in Brunei Darussalam as if the same had been expressly made by the Minister with the approval of His Majesty The Sultan and Yang Di-Pertuan pursuant to the powers conferred by the provisions of Section 113 of the Merchant Shipping Enactment, 1982.

Publication
of
Regulations
with
amendments
and
additions.

3. (1) The Minister shall with the approval of His Majesty The Sultan and Yang Di-Pertuan cause the said Regulations to be printed and published in the *Government Gazette* with such short title, date of commencement, amendments and additions as in his opinion are expedient to make such Regulations applicable to Brunei Darussalam.

(2) Until the said Regulations are printed and published in the *Government Gazette* references therein to —

(a) “Director” shall be construed as reference to the Director of Marine of Brunei Darussalam as defined under the Merchant Shipping Enactment, 1982 ;

(b) “The Merchant Shipping Act (Cap. 172)” shall be construed as reference to the Merchant Shipping Enactment, 1982 of Brunei Darussalam ;

(c) “Republic of Singapore” or “Singapore” shall be construed as reference to Brunei Darussalam.



SCHEDULE

The Merchant Shipping (Safety Convention) Regulations, 1981 (No. S 174 of 1981) of the Republic of Singapore made on 27th day of May, 1981, as amended and in force on 1st September, 1984.

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CAP. 145

Merchant Shipping

[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under section 114

S. 25/84

MERCHANT SHIPPING (LOAD LINE) REGULATIONS, 1984

Commencement : 1st September, 1984

Citation.

1. These Regulations may be cited as the Merchant Shipping (Load Line) Regulations, 1984.

Adoption of Regulations.

2. The Regulations specified in the Schedule to these Regulations shall subject to the provisions of paragraph 3 hereof be in force as written law in Brunei Darussalam as if the same had been expressly made by the Minister with the approval of His Majesty The Sultan and Yang Di-Pertuan pursuant to the powers conferred by the provisions of Section 114 of the Merchant Shipping Enactment, 1982.

Publication of Regulations with amendments and additions.

3. (1) The Minister shall with the approval of His Majesty The Sultan and Yang Di-Pertuan cause the said Regulations to be printed and published in the *Government Gazette* with such short title, date of commencement, amendments and additions as in his opinion are expedient to make such Regulations applicable to Brunei Darussalam.

(2) Until the said Regulations are printed and published in the *Government Gazette* references therein to —

(a) "Director" shall be construed as reference to the Director of Marine of Brunei Darussalam as defined under the Merchant Shipping Enactment, 1982 ;

(b) "The Merchant Shipping Act (Cap. 172)" shall be construed as reference to the Merchant Shipping Enactment, 1982 of Brunei Darussalam ;

(c) "Republic of Singapore" or "Singapore" shall be construed as reference to Brunei Darussalam.

SCHEDULE

The Merchant Shipping (Load Line) Regulations, 1971 (No. S 294 of 1971) of the Republic of Singapore made on 10th day of November, 1971, as amended and in force on 1st September, 1984.

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CAP. 145

Merchant Shipping

[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under section 124



S. 24/84 MERCHANT SHIPPING (SPECIAL LIMITS PASSENGER SHIPS)
SAFETY REGULATIONS, 1984

Commencement : 1st September, 1984

Citation. 1. These Regulations may be cited as the Merchant Shipping (Special
Limits Passenger Ships) Safety Regulations, 1984.

Adoption of 2. The Regulations specified in the Schedule to these Regulations shall
Regulations. subject to the provisions of paragraph 3 hereof be in force as written law
in Brunei Darussalam as if the same had been expressly made by the
Minister with the approval of His Majesty The Sultan and Yang Di-Pertuan
pursuant to the powers conferred by the provisions of Section 124 of the
Merchant Shipping Enactment, 1982.

Publication 3. (1) The Minister shall with the approval of His Majesty The Sultan
of and Yang Di-Pertuan cause the said Regulations to be printed and pub-
Regulations lished in the *Government Gazette* with such short title, date of commence-
with ment, amendments and additions as in his opinion are expedient to make
amendments such Regulations applicable to Brunei Darussalam.

(2) Until the said Regulations are printed and published in the *Govern-
ment Gazette* references therein to —

(a) “Director” shall be construed as reference to the Director of
Marine of Brunei Darussalam as defined under the Merchant Ship-
ping Enactment, 1982 ;

(b) “The Merchant Shipping Act (Cap. 172)” shall be construed
as reference to the Merchant Shipping Enactment, 1982 of Brunei
Darussalam ;

(c) “Republic of Singapore” or “Singapore” shall be construed
as reference to Brunei Darussalam.



SCHEDULE

The Merchant Shipping (Special Limits Passenger Ships) (Safety Regulations), 1981 (No. S 355 of 1981) of the Republic of Singapore made on 5th day of November, 1981, as amended and in force on 1st September, 1984.

SUBSIDIARY LEGISLATION

Regulations under section 217



S. 28/84

MERCHANT SHIPPING (NON-CONVENTION SHIPS)
SAFETY REGULATIONS, 1984

Commencement : 1st September, 1984

Citation. 1. These Regulations may be cited as the Merchant Shipping (Non-Convention Ships) Safety Regulations, 1984.

Adoption of Regulations. 2. The Regulations specified in the Schedule to these Regulations shall subject to the provisions of paragraph 3 hereof be in force as written law in Brunei Darussalam as if the same had been expressly made by the Minister with the approval of His Majesty The Sultan and Yang Di-Pertuan pursuant to the powers conferred by the provisions of Section 217 of the Merchant Shipping Enactment, 1982.

Publication of Regulations with amendments and additions. 3. (1) The Minister shall with the approval of His Majesty The Sultan and Yang Di-Pertuan cause the said Regulations to be printed and published in the *Government Gazette* with such short title, date of commencement, amendments and additions as in his opinion are expedient to make such Regulations applicable to Brunei Darussalam.

(2) Until the said Regulations are printed and published in the *Government Gazette* references therein to —

(a) "Director" shall be construed as reference to the Director of Marine of Brunei Darussalam as defined under the Merchant Shipping Enactment, 1982 ;

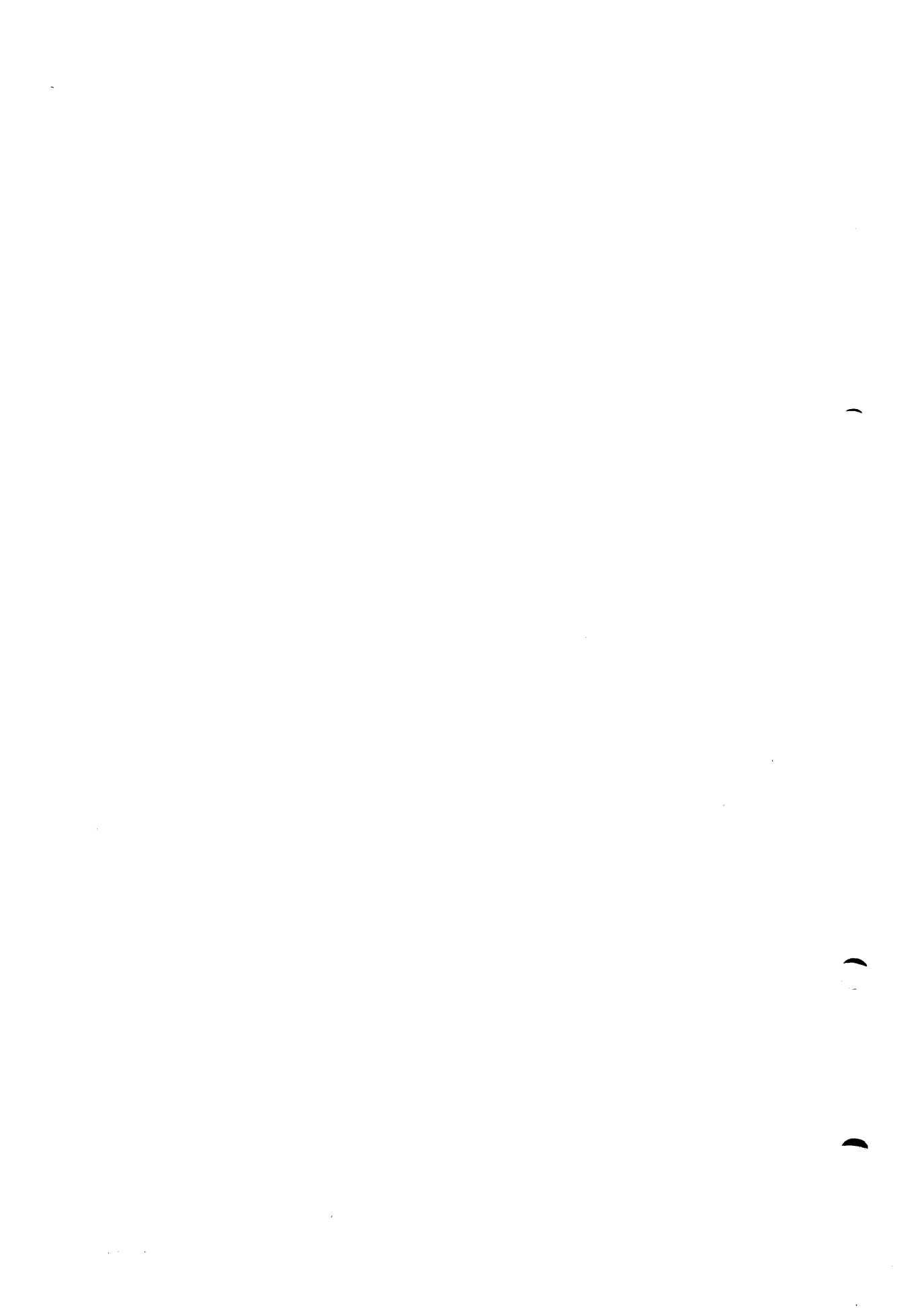
(b) "The Merchant Shipping Act (Cap. 172)" shall be construed as reference to the Merchant Shipping Enactment, 1982 of Brunei Darussalam ;

(c) "Republic of Singapore" or "Singapore" shall be construed as reference to Brunei Darussalam.



SCHEDULE

The Merchant Shipping (Non-Convention Ships) Safety Regulations, 1981 (No. S 356 of 1981) of the Republic of Singapore made on 5th day of November, 1981, as amended and in force on 1st September, 1984.



SUBSIDIARY LEGISLATION

MERCHANT SHIPPING (SAFETY ZONES) ORDER

ARRANGEMENT OF ORDER



Order

1. Citation.
2. Safety Zones.
3. Safety Zones around Oilfield Installations and Structures.
4. Exemption.
5. Penalty.

SCHEDULE

- | | | |
|----------------------|---|---------------------------|
| 1. Safety Zone No. 1 | — | Champion Shoal Oilfield. |
| 2. Safety Zone No. 2 | — | Magpie Oilfield. |
| 3. Safety Zone No. 3 | — | Fairley Oilfield. |
| 4. Safety Zone No. 4 | — | South West Ampa Oilfield. |
| 5. Safety Zone No. 5 | — | Fairley — Baram Oilfield. |

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CAP. 145

Merchant Shipping

[Subsidiary]

SUBSIDIARY LEGISLATION

**Regulations under Section 218(2) and pursuant to Articles 60, 80, and 208
of the United Nations, Convention on the Law of the Sea, 1982**

S. 11/88.

MERCHANT SHIPPING (SAFETY ZONES) ORDER

Commencement : 1st March, 1988

Citation.

1. This Order may be cited as the Merchant Shipping (Safety Zones) Order.

Safety
Zones.

2. The areas defined in the Schedule to this Order are hereby declared to be Safety Zones for the purposes of Article 60 (4) of the United Nations Convention on the Law of the Sea, 1982.

Safety Zones
around
Oilfield
Installations
and
Structures.

3. It is further declared that Safety Zones are hereby established around all other oilfield installations and structures extending to a distance of 500 metres measured from each point on the edge of the installations and structures situated within the area of the territorial waters and continental shelf of Brunei Darussalam, that do not lie within the areas defined in the Schedule to this Order.

Exemption.

4. Unauthorised entry by any person or vessel into the Safety Zones so defined is prohibited except in the following circumstances :—

- i) to save life or property ;
- ii) on account of stress of weather or
- iii) when in distress.

Penalty.

5. The master or owner of any vessel or any person found to be in contravention of the provisions of this Order shall on conviction be liable to a fine not exceeding \$100,000 and the vessel shall be liable to be detained in accordance with the procedures laid down in Section 29 of the Ports Act (Cap. 144).

SCHEDULE

1. Safety Zone No. 1 — Champion Shoal Oilfield

The area contained within the following geographical limits :—

SCHEDULE (Continued)

- a) from a position in latitude $05^{\circ} 16.00'$ North, longitude $114^{\circ} 43.20'$ East, thence to :—
 - b) a position in latitude $05^{\circ} 16.00'$ North, longitude $114^{\circ} 46.60'$ East, thence to :—
 - c) a position in latitude $05^{\circ} 10.00'$ North, longitude $114^{\circ} 46.60'$ East, thence to :—
 - d) a position in latitude $05^{\circ} 09.50'$ North, longitude $114^{\circ} 45.20'$ East, thence to :—
 - e) a position in latitude $05^{\circ} 10.60'$ North, longitude $114^{\circ} 43.20'$ East, thence to position 1 (a) above.
2. Safety Zone No. 2 — Magpie Oilfield
- The area contained within the following geographical limits :—
- a) from a position in latitude $05^{\circ} 07.60'$ North, longitude $114^{\circ} 26.40'$ East, thence to :—
 - b) a position in latitude $05^{\circ} 06.00'$ North, longitude $114^{\circ} 28.60'$ East, thence to :—
 - c) a position in latitude $05^{\circ} 04.30'$ North, longitude $114^{\circ} 27.35'$ East, thence to :—
 - d) a position in latitude $05^{\circ} 05.95'$ North, longitude $114^{\circ} 25.10'$ East, thence to position 2 (a) above.
3. Safety Zone No. 3 — Fairley Oilfield
- The area contained within the following geographical limits :—
- a) from a position in latitude $04^{\circ} 59.00'$ North, longitude $114^{\circ} 07.55'$ East, thence to :—
 - b) a position in latitude $04^{\circ} 55.40'$ North, longitude $114^{\circ} 09.60'$ East, thence to :—
 - c) a position in latitude $04^{\circ} 55.00'$ North, longitude $114^{\circ} 08.10'$ East, thence to :—
 - d) a position in latitude $04^{\circ} 56.60'$ North, longitude $114^{\circ} 07.20'$ East, thence to :—
 - e) a position in latitude $04^{\circ} 55.70'$ North, longitude $114^{\circ} 04.10'$ East, thence to :—

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SCHEDULE (Continued)

f) a position in latitude 04° 57.60' North, longitude 114° 03.00' East, thence to position 3 (a) above.

4. Safety Zone No. 4 — South West Ampa Oilfield

The area contained within the following geographical limits :—

a) from position in latitude 04° 48.50' North, longitude 114° 10.20' East, thence to :—

b) a position in latitude 04° 45.60' North, longitude 114° 13.60' East, thence to :—

c) a position in latitude 04° 41.40' North, longitude 114° 09.80' East, thence to :—

d) a position in latitude 04° 40.90' North, longitude 114° 10.40' East, thence to :—

e) a position in latitude 04° 37.80' North, longitude 114° 07.60' East, thence to :—

f) a position in latitude 04° 40.00' North, longitude 114° 05.00' East, thence to :—

g) a position in latitude 04° 43.20' North, longitude 114° 07.90' East, thence to :—

h) a position in latitude 04° 44.40' North, longitude 114° 06.50' East, thence to position 4 (a) above.

5. Safety Zone No. 5 — Fairley — Baram Oilfield

The area of the continental shelf of Brunei Darussalam which lies within the following geographical limits :—

a) from a position in latitude 04° 49.70' North, longitude 113° 58.20' East, thence to :—

b) a position in latitude 04° 48.10' North, longitude 113° 59.50' East, thence to :—

THE SCHEDULE (Continued)

- c) a position in latitude $04^{\circ} 47.00'$ North, longitude $113^{\circ} 58.95'$ East, thence to :—
- d) a position in latitude $04^{\circ} 48.60'$ North, longitude $113^{\circ} 56.75'$ East, thence to position 5 (a) above.



SUBSIDIARY LEGISLATION

MERCHANT SHIPPING (MANNING SCALES AND PLYING LIMITS)
REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement.

PART I

GENERAL — PLYING LIMITS

2. Definitions.
3. Exemption.

PART II

CERTIFICATES OF COMPETENCY — MANNING SCALES

4. Certificates of Competency to be held by officers of foreign-going, home-trade and local trade ships.
5. Penalties.
6. When officer deemed duly certificated.
7. Grades of Certificates of Competency.
8. Eye-sight tests.
9. Certificates granted by competent authorities recognised.
10. Production of certificates of competency to Director.
11. Examinations for certificates of competency.
12. Forgery, etc., of certificate of competency.
13. Power to suspend or cancel certificates of competency.

First Schedule — Plying Limits.

Second Schedule — Minimum number of certificated deck and engineer officers to be carried.

Third Schedule — Minimum number of certificated deck and engineer officers to be carried.

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Merchant Shipping

[Subsidiary]

SUBSIDIARY LEGISLATION

Regulations under Section 68

S. 22/88. MERCHANT SHIPPING (MANNING SCALES AND PLYING LIMITS) REGULATIONS

Commencement : 1st March, 1988

Citation and commencement.

1. These Regulations may be cited as the Merchant Shipping (Manning Scales and Plying Limits) Regulations.

PART I

GENERAL — PLYING LIMITS

Definitions.

2. In these Regulations unless the context otherwise requires :—

“duly certificated or authorised” means duly certificated, qualified or authorised within the meaning of Part III of the Act ;

“Act” means the Merchant Shipping Act, Cap. 145 ;

“Director” means Director of Marine ;

“foreign-going ship” includes every ship employed in trading or going between some place or places in Brunei Darussalam and some place or places situated beyond the limits prescribed for a home-trade ship ;

“home-trade ship” means a ship plying solely upon a home-trade voyage ;

“home-trade voyage” means a voyage, not being a local trade voyage, within the limits specified in Part A of the First Schedule ;

“local-trade ship” means a ship plying solely upon a local trade voyage ;

“local-trade voyage” means a voyage within the limits specified in Part B of the First Schedule ;

“Minister” means the Minister of Communications ;

“native sailing ship” means any wooden ship of primitive build of less than two hundred tons gross register tonnage and not fitted with any mechanical means of propulsion.

[Subsidiary]

3. The Minister may, subject to such terms and conditions he may impose, exempt any vessel, owner master or crew thereof, from the requirements of any provision of these Regulations.

Exemption.

PART II

CERTIFICATES OF COMPETENCY — MANNING SCALES

4. (1) Every foreign-going ship, every home-trade ship and every local-trade ship when going to sea from any place in Brunei Darussalam shall be provided with duly certificated or authorised officers according to the appropriate scale specified in the Second Schedule.

Certificates of Competency to be held by officers of foreign-going, home-trade and local trade ships.

(2) Notwithstanding the provisions of paragraph (1) of this Regulation, ship plying solely within thirty miles of any port in Brunei Darussalam may, in lieu of the officers mentioned therein, be provided with officers duly certificated or authorised under these Regulations according to the scale specified in the Third Schedule.

5. The owner and master of every ship required by these Regulations to have duly certificated or authorised officers, leaving or attempting to leave any port in Brunei Darussalam without having on board, and entered on the registers or articles of agreement, officers possessing the prescribed certificates or authorisations shall be guilty of an offence : Penalty, a fine of \$2,000 and the Director may refuse port clearance in case of non-compliance with the provisions of this Regulation.

Penalties.

6. (1) An officer shall not be deemed to be duly certificated under these Regulations unless he is the holder for the time being of a valid certificate of competency granted under the Act of a grade appropriate to his station in the ship or of a higher grade.

When officer deemed duly certificated.

Provided that officers in home-trade and local trade ships holding an equivalent certificate of competency issued by the Government of Malaysia or Singapore shall be deemed to be duly certificated for the purpose of these Regulations.

(2) The Minister or a person designated by him in that behalf, may declare any officer to be a duly certificated or authorised officer for the purposes of these regulations :—

- (a) such authorisation shall, subject to such conditions as may be endorsed thereon, be valid for a period of one year only, but may from time to time be renewed in like manner and for a like maximum period,
- (b) before making any such declaration as aforesaid, the Minister or other person designated by him shall satisfy himself that the officer is competent to act as an authorised officer, and
- (c) no person shall be issued with such authorisations for a total period of more than three years.

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Grades of
Certificates
of
Competency.

7. (1) Certificates of competency shall be granted by or on behalf of the Minister in accordance with these Regulations for each of the following —

(a) in the case of deck officers :—

- (i) Class 1 Marine Officer
- (ii) Class 2 Marine Officer
- (iii) Class 3 Marine Officer
- (iv) Class 4 Marine Officer
- (v) Class 5 Marine Officer
- (vi) Class 6 Marine Officer
- (vii) Class 7 Marine Officer
- (viii) Class 8 Marine Officer
- (ix) Class 9 Marine Officer

(b) in the case of engineer officers :—

- (i) Class 1 Marine Engineer Officer
- (ii) Class 2 Marine Engineer Officer
- (iii) Class 3 Marine Engineer Officer
- (iv) Class 4 Marine Engineer Officer
- (v) Class 5 Marine Engineer Officer
- (vi) Class 6 Marine Engineer Officer

(2) For the purposes of Regulation 6(1) the certificates referred to in subparagraphs (a) and (b) of paragraph (1) of this Regulation shall be deemed to rank among themselves in the order in which they are mentioned.

Eye-sight
test.

8. No certificate of competency shall be delivered to any person under these Regulations unless and until he has undergone and passed the sight tests from time to time approved in the United Kingdom for the examination of masters and mates in the mercantile marine or such other sight test as may be approved by the Minister.

Certificates
granted by
competent
authorities
recognised.

9. Every foreign officer who has received a certificate of competency granted by a competent authority of his country, which the Minister is satisfied is of corresponding value to any certificate of competency granted under the Act, shall be deemed to be duly certificated in accordance with these Regulations provided that his certificate is of a grade appropriate to his station or of a higher grade.

Production
of certificates
of
competency
to Director.

10. (1) The master of every ship :—

- (a) on signing the agreement with the crew before the Director, shall produce to him the certificates of competency which the officers of the ship are by these Regulations required to hold ; and

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- (b) in the case of a running agreement, shall also, before the second and every subsequent voyage, produce to the Director the certificate of competency of any officer then first engaged by him who is required by these Regulations to hold a certificate.

(2) In case the master of any ship fails to comply with the requirements of this Regulation, the ship may be detained until the certificates are produced.

11. (1) For the purpose of granting certificates of competency under these Regulations to persons desirous of obtaining such certificates, examinations shall be held at such places and times as the Director may direct.

Examinations for certificates of competency.

(2) The Minister may appoint, remove and reappoint examiners to conduct the examinations and may regulate the conduct of all the examinations and the qualification of the applicants, and may do all such acts and things as he thinks expedient for the purpose of the examinations.

12. Any person who —

- (a) makes, assists in making or procures to be made any false representation for the purpose of procuring, either for himself or for any other persons, a certificate of competency ;
- (b) fraudulently uses a certificate or copy of a certificate of competency which has been forged, altered, cancelled or suspended, or to which he is not entitled ; or
- (c) fraudulently lends his certificate of competency, or allows it to be used by any other person,

Forgery, etc., of certificate of competency.

shall be guilty of an offence : Penalty, an imprisonment for a term which may extend to two years or to a fine not exceeding \$2,000.

13. (1) The Minister in his discretion, may suspend or cancel the certificate of any officer if such certificate was issued in Brunei Darussalam and if the Minister is satisfied that such officer has been convicted of any offence or if it is reported to him that the Director is satisfied, after such inquiry as the Director deems to be necessary, that such officer has been guilty of any incompetency or negligence in the performance of his duties.

Power to suspend or cancel certificates of competency.

(2) The Minister may in his discretion, at any time direct the reissue and return of any certificate suspended or cancelled under sub-paragraph (1), or may direct the grant, in place thereof, of a certificate of the same or a lower grade.

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First Schedule (Regulation 2) Plying Limits

In this Schedule "coast" includes all waters connected therewith navigable by sea-going vessels.

Part A Home Trades Limits

The limits bound by a line drawn from a position in the Gulf of Martaban in latitude $16^{\circ} 15'$ North, longitude $96^{\circ} 00'$ East in a south-easterly direction to a position in latitude $15^{\circ} 00'$ North, longitude $97^{\circ} 00'$ East, thence due South to a position in latitude $09^{\circ} 00'$ North, longitude $97^{\circ} 00'$ East, thence in a south-westerly direction to a position in latitude $06^{\circ} 00'$ North, longitude $94^{\circ} 00'$ East, thence due South to a position in $04^{\circ} 00'$ North, longitude $94^{\circ} 00'$ East, thence in a south-easterly direction to a position in $08^{\circ} 00'$ South, longitude $104^{\circ} 00'$ East, thence in a easterly direction to a position in latitude $10^{\circ} 00'$ South, longitude $120^{\circ} 00'$ East, thence due East to a position in latitude $10^{\circ} 00'$ South, longitude $125^{\circ} 00'$ East, thence due North to a position in latitude $08^{\circ} 00'$ North, longitude $125^{\circ} 00'$ East, thence due West to a position in latitude $08^{\circ} 00'$ North, longitude $110^{\circ} 00'$ East, thence in a 315° direction (N.W. true) to the coast of Vietnam, thence initially westward following the coasts of Vietnam, Cambodia, Thailand, the Malaysian Peninsula and Burma to the starting point.

Provided that those waters which included the West and South-West coasts of Sumatra, the South coast of Java and South coasts of the islands lying due East of Java (namely Bali, Lombok, Sumbawa, Flores and other islands) shall be excluded from these limits between the 15th day of April and the 15th day of October in each year.

Part B Local Trade Limits

The limits bound by a line drawn from the North Point of Junk Ceylon Island to the North-West point of a Pulo Weh, thence to the North point of Pulo Bras, thence following the East coasts of Pulo Bras and Pulo Nasi Besar to Acheen Head on the North coast of Sumatra, thence along the North and East coasts of Sumatra to the southern entrance of Banka Strait, thence in an easterly direction to Capè Sambar off the South-West corner of Indonesia Borneo (Kalimantan Barat) thence following the coast of Indonesian Borneo, Sarawak, Brunei Darussalam and Sabah in an approximately northerly, north-easterly and south-easterly direction to the territorial boundary stone on the eastern end of Sibatik Island in a position latitude $04^{\circ} 10'$ North, longitude $117^{\circ} 54' 14''$ East, thence

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in a south-easterly direction for a distance of thirty miles to a position in latitude 03° 45' North, longitude 118° 20' East and returning in the reverse direction with the line forming an imaginary thirty mile-wide corridor along the coast to a position in latitude 03° 13' North, longitude 111° 16' East, thence in a west-north-westerly direction to Cape Datu (Great Natuna Island) in position latitude 04° 13' North, longitude 108° 15' East, thence in a north-westerly direction to a position on the east coast of Thailand where it is intersected by the eighth parallel of North latitude, thence, initially, in southerly direction following the coast of the Malaysian Peninsula and the west coast of Thailand back to the starting point.

**Second Schedule
(Regulation 4(1))**

PART A : Minimum number of certificated deck officers to be carried

- | | | | |
|----|--|---|--|
| 1. | In the case of foreign going ships of less than 1600 gross tons. | — | A Class 1, a Class 2 and a Class 5 marine officers. |
| 2. | In the case of foreign going ships of 1600 gross tons or more. | — | A Class 1, a Class 2, a Class 3 and a Class 4 marine officers. |
| 3. | In the case of home trade ships of less than 1600 gross tons. | — | A Class 4 and two Class 7 marine officers. |
| 4. | In the case of home trade ships of 1600 gross tons or more. | — | A Class 4, a Class 5 and a Class 7 marine officers. |
| 5. | In the case of local trade ships of less than 1600 gross tons. | — | A Class 6 and two Class 7 marine officers. |
| 6. | In the case of local trade ships of 1600 gross tons or more. | — | A Class 4, a Class 6 and Class 7 marine officers. |

PART B : Minimum number of certificated engineer officers to be carried

- | | | | |
|----|--|---|---|
| 1. | In the case of ships of less than 750 kilowatts registered power. | — | A Class 4 and a Class 5 engineer officers. |
| 2. | In the case of ships of 750 or more but under 1500 kilowatts registered power. | — | A Class 3, Class 4 and a Class 5 engineer officers. |

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3. In the case of ships of 1500 or more but under 3000 kilowatts registered power. — A Class 2, a Class 4 and a Class 5 engineer officers.
4. In the case of ships of 3000 kilowatts or more registered power. — A Class 1, a Class 2, a Class 5 and a Class 6 engineer officers.

**Third Schedule
(Regulation 4(2))**

PART A : Minimum number of certificated deck officers to be carried

1. In the case of ship of less than 25 gross tons. — A Class 8 marine officer.
2. In the case of ships of 25 or more but less than 100 gross tons. — A Class 7 marine officer.
3. In the case of ships of 100 or more but less than 1600 gross tons. — A Class 6 and a Class 8 marine officers.
4. In the case of ships of 1600 gross tons or more. — As prescribed by the Director.

PART B : Minimum number of certificated engineer officers to be carried

1. In the case of ships of less than 750 kilowatts registered power. — A Class 5 engineer officer.
2. In the case of ships of 750 or more but less than 1500 kilowatts registered power. — A Class 4 and a Class 5 engineer officers.
3. In the case of ships of 1500 kilowatts or more registered power. — As prescribed by the Director.

SUBSIDIARY LEGISLATION

**MERCHANT SHIPPING (LICENSING OF SHIPBUILDERS)
REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement.

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10. Form and conditions of licence.
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Regulations under Section 102

S. 23/88.

MERCHANT SHIPPING (LICENSING OF SHIPBUILDERS)
REGULATIONS

Commencement : 1st March, 1988

Citation and
commence-
ment.

1. These Regulations may be cited as the Merchant Shipping (Licensing of Shipbuilders) Regulations.

PART I

GENERAL

Definitions.

2. In these Regulations, unless the context otherwise requires —

“Act” means Merchant Shipping Act, Cap. 145 ;

“authorised officer” means an officer appointed under Section 4(1) of the Ports Act, Cap. 144 authorised by the Director to issue a licence ;

“Director” means Director of Marine ;

“licence” means a licence issued under these Regulations ;

“licensee” means —

(a) the holder of a licence

(b) in relation to any licenced shipyard, the holder of such a licence relating to such licenced shipyard ;

“Minister” means Minister of Communications ;

“register” means a register of licences kept by the Director pursuant to these Regulations ;

“ship” has its meaning assigned to it in the Act ;

“shipbuilder” means any person who conducts the trade, business or occupation of shipbuilding ;

“shipyard” includes any premises, building, erection, vessel, room or defined or enclosed area where the trade, business or occupation of shipbuilding is carried on ;

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3. (1) No person shall become a shipbuilder or open or keep open a shipyard except under and in accordance with a licence under these Regulations, provided that shipbuilders working for and shipyards belonging to the Government shall be exempted from the requirement of this paragraph of this Regulation.

Grant of licence, revocation and appeals.

(2) No person shall sell, provided or import any ship for use in the waters of Brunei Darussalam except under and in accordance with a licence under these Regulations.

(3) The Director may revoke a licence granted to any person on proof of his satisfaction of an offence against these Regulations or other misconduct by such person.

(4) An appeal shall lie to the Minister from the decision of the Director under this Regulation.

4. If it is made to appear to a magistrate by information upon oath that there is reason to believe that an offence against these Regulations is being committed in any place, the magistrate may issue a warrant authorising any police officer to enter and search such place and to arrest such persons and to seize such documents and things as may be found therein.

Search warrants.

5. Every person who contravenes any provision of these Regulations or who fails to observe any condition or restriction imposed by or under these Regulations shall be deemed to commit an offence against these Regulations.

Offences.

6. (1) Every person who commits or attempts to commit any offence against these Regulations shall be guilty of an offence : Penalty, a fine not exceeding \$5,000.

Penalty.

(2) Notwithstanding the provisions of any written law to the contrary the Court of a Magistrate shall have jurisdiction to try any offence under these Regulations and to award the full penalty for such offence.

7. Where an agent or servant, in the course of his employment, does or omits to do an act the doing of which or omission to do which by his principal or employer would be an offence against these Regulations he shall be guilty of that offence, and, where it is proved that such act or omission was committed with the consent or connivance of, or is attributable to any neglect on the part of, his principal or employer, such principal or employer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Servants and agents.

[Subsidiary]

PART II

LICENCES

Application for a licence.

8. (1) An application for a licence under the provisions of Regulation 3(1) shall be made in writing in the form as may be prescribed by the Director and shall be accompanied by such particulars as may be required by the Director including a sketch plan showing the complete layout and boundaries of any place sought by the applicant to be a licensed shipyard.

(2) An application for a licence under the provisions of Regulation 3(2) shall be made in writing in the form as may be prescribed by the Director and shall be accompanied by such particulars as may be required by the Director to determine the suitability of the ship for the purpose it is intended for.

(3) Such application forms as mentioned in paragraph (1) and (2) of this Regulation shall, when completed, be signed —

- (a) where the applicant is an individual, by the applicant or his duly constituted attorney ;
- (b) where the applicant is a corporation, by a director or the secretary thereof ;
- (c) where the applicant is a firm —
 - (i) by all the individuals who are partners or their duly constituted attorneys and by a director or the secretary of all corporations which are partners ; or
 - (ii) by some individual who is a partner or his attorney or a director or the secretary of some corporation which is a partner.

Requirement for further information.

9. At any time prior to the determination of the application under Regulation 8, the Director or an authorised officer may require the applicant to furnish such further information in writing as the Director or such officer may consider material to the application.

Form and conditions of licence.

10. A licence shall be signed by an authorised officer in the form set out in the First Schedule and, subject to these Regulations, shall be subject to such conditions as may be imposed by the Director. Such conditions shall be endorsed on the back of the licence.

Fees and duration of licence.

11. (1) Subject to the provisions of paragraph (3) of this Regulation, the fees for —

- (a) a licence,
- (b) a replacement of a licence,
- (c) a search or inspection of the particulars entered in the register,

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(d) a certified copy of the particulars entered in the register or any other document, and

(e) a change of particulars to be entered in the register, shall be set out in the Second Schedule.

(2) A licence shall, unless previously cancelled, be valid for a period of 12 months or such shorter period of time as the Director may determine.

(3) Shipyards belonging to the Government shall be exempted from payment of any fees set out in this Regulation.

12. No licensee shall transfer his licence to any other person.

Licence not to be transferred.

13. The Director shall keep a register of all licences issued by him or by an authorised officer, and shall enter in such register the number of the licence, the name and address of the licensee, the purpose for which any licence is granted, the location of any licensed shipyard, the date of issue and expiry of the licence, and such other particulars as may be determined by the Director.

Register.

14. (1) Every shipbuilder and every licensee of a licensed shipyard shall cause his licence to be exhibited in a conspicuous and accessible position on his licensed shipyard.

Licence to be displayed, produced or surrendered.

(2) Every licensee shall at all reasonable times produce his licence if required to do so by the Director or an authorised officer.

(3) Every licensee shall surrender his licence to the Director or an authorised officer upon the expiration of the period for which the licence is granted or on the cancellation of the licence.

PART III

SUPPLEMENTAL

15. The Director or any authorised officer may at any time enter and inspect a licensed shipyard and question the licensee and his employees as is deemed necessary.

Inspection.

16. The provisions of these Regulations shall be in addition to and not in derogation of the provisions of any other written law relating to or affecting any place, trade, business, occupation or act with respect to which these Regulations apply.

Other regulations.

17. Notwithstanding anything contained in these Regulations a person who immediately before the date of commencement of these Regulations was a shipbuilder or was keeping open a shipyard or was selling, providing or importing a ship shall be entitled to be or do the same without a licence —

Transitional provisions.

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- (a) for a period of 6 months beginning from the date of commencement of these Regulations ; and
- (b) if before the expiration of that period he applies for a licence in respect of the same, until the licence is granted or finally refused or the application is withdrawn.

FIRST SCHEDULE
(Regulation 10)
FORM OF LICENCE

THE MARINE DEPARTMENT
MINISTRY OF COMMUNICATIONS
BRUNEI DARUSSALAM

The Merchant Shipping (Licensing of Shipbuilder)
Regulations, 1988
(Regulations 10)

LICENCE NO.

Subject to the provisions of the above-mentioned Regulations, the Director of Marine hereby licences the Licensee named in the Schedule below for the purpose, at the location (if any), from the date of issue until the date of expiry and subject to the conditions (if any) specified in the Schedule below.

SCHEDULE

- 1. Name and address/registered office/Identity Card Number of Licence :
.....
.....
.....
- 2. Purpose for which Licence is issued:
.....
.....
- 3. Location of Licensed shipyard (if any) :
.....
.....
.....
- 4. Date of Issue :.....
- 5. Date of Expiry :.....
- 6. Conditions (if any) : Endorsed on back of this Licence.

.....
(Authorised officer)

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SECOND SCHEDULE
(Regulation 11(1))

FEES

1. Fee for each application of a licence..... \$ 5.00
2. Fees for a licence as a shipbuilder or a shipyard :—
 - (a) If the shipbuilder or shipyard is capable of building a ship of up to 25 gross tons \$ 25.00 per annum
 - (b) If the shipbuilder or shipyard is capable of building a ship of up to 100 gross tons \$ 50.00 per annum
 - (c) If the shipbuilder or shipyard is capable of building a ship of over 100 gross tons \$ 100.00 per annum
3. Fees for other services :—
 - (a) for a search or inspection of the particulars entered in the register \$ 5.00
 - (b) for a certified copy of the particulars entered in the register \$ 5.00
 - (c) for a change of particulars entered in the register \$ 5.00
 - (d) for every certified copy of a document \$ 5.00