

PART III MASTERS AND SEAMEN

69. Application of Part III

(1) *Except as specifically provided and in accordance with such conditions as the Minister may deem fit to impose, none of the provisions of this Part shall apply to Malaysian vessels exclusively employed in fishing industry.*(No. 15 of 1966)

(2) Subject to sub-section (1) and to the next succeeding section, so far as it relates to pleasure yachts, this Part shall, unless the context or subject matter requires a different application, apply to *Malaysian (A792/91)* ships and to the owners, masters and crews thereof as follows:

(a) the provisions relating to apprenticeship to the sea service, licences to supply seamen, engagement of seamen, (A 792/91) discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, power of Courts to rescind contracts and recovery of expenses of relief of distressed seamen shall apply to every sea-going ship.

(A792/91)

(b) the provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship. (A 792/91)

(c) the provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition, and to discipline, shall apply to *every sea-going ship*. (A 792/91)

(d) the provisions relating to official logs shall apply to sea-going ships registered in the Federation and to any sea-going ship employed in trading *exclusively within*. (A 792/91)

(3) The provision of this Part shall apply to an unregistered *Malaysian (A 792/91)* ship, which ought to have been registered (A 792/91) under this Ordinance, as if such ship has been so registered.

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

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

(a) The requirement of officers to hold certificates of competency and the production of those certificates;

(b) the exemption from stamp duty and record of indentures of apprenticeship and matters to be done for the purpose of such record;

(c) the entry in the agreement with the crew of the particulars respecting apprentices and matters to be done for the purpose of such entry;

(d) the engagement or supply of seamen or apprentices by or through unlicensed persons;

(e) agreements with the crew;

(f) the compulsory discharge and payment of seamen's wages before a Port Officer and the compulsory delivery of an account of wages;

- (g) the accommodation for seamen;
- (h) the deduction and payment of fines imposed under stipulations in the agreement;
- (i) the delivery of documents at ports abroad to consular or customs officer; or
- (j) official log-books.

Qualifications and Manning

71. Rules relating to qualifications of officers and seamen, the manning of ships, etc.

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

- (a) requiring officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships to be holders of certificates of competency, efficiency or authorisation or letters of proficiency or otherwise and to satisfy such other conditions as may be prescribed, and providing for the grant, revocation, extension, validation, suspension, endorsement, grading or variation of such certificates;*
- (b) the holding and conduct of examinations for such certificates, the qualifications of applicants for such examinations and the qualifications, appointment, removal, reappointment and remuneration of a board of examiners, and all such matters as the Minister considers necessary or expedient for the purpose of such examinations;*
- (c) the issue, form and recording of certificates of competency, efficiency or authorisation or letters of proficiency and other documents;*
- (d) the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for such certificates;*
- (e) the recognition, subject to such conditions as may be prescribed, of specified certificates of competency or proficiency issued by other countries, the declaration that such certificates shall have the same force and effect as if they had been granted in Malaysia, and the application to such certificates of all or any of the provisions and regulations relating to certificates of competency, efficiency or authorisation issued in Malaysia;*
- (f) the exemption of holders of certificates of competency or proficiency issued in other specified countries from all or such part or parts as may be prescribed of the examinations for corresponding Malaysian certificates of competency or proficiency;*
- (g) the manning requirements in relation to different classes and types of ships, including the minimum number and grades of certified or qualified officers and seamen, if necessary according to nationalities, to be carried on such classes and types of ships, and the exemption by the Director of Marine of any ship or class or type of ships from any of such requirement;*
- (h) the production and admissibility in evidence of certificates and such other documents as may be prescribed;*
- (i) the refusal of port clearance or the detention of any ship on failure to comply with the provisions of any rules made under this section;*

(j) the standards of health and vision for, and the issue of certificates of medical fitness to, officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships;

(k) the fees to be paid for anything to be done or permitted to be done under the rules;

(l) penalties for the contravention of the provision of any rules made under this section of a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or both. (A792/91)

72-87 ~~deleted~~ (A792/91)

Apprentice to the Sea Service

88. Special provisions as to apprenticeship to the sea service

(1) Every indenture of apprenticeship to the sea service made in the Federation shall be executed in duplicate and shall be exempt from stamp duty.

(2) Every such indenture of apprenticeship to the sea service and every assignment or cancellation thereof and, where the apprentice bound dies or deserts, the fact of the death or desertion, shall be recorded.

(3) For the purpose of the record -

(a) a person to whom an apprentice to the sea service is bound shall within seven days of the execution of the indenture, take or transmit to the Port Officer of the port the indenture executed in duplicate, and the Port Officer shall keep and record the one indenture and endorse on the other the fact that it has been recorded and re-deliver it to the master of the apprentice;

(b) the master shall notify any assignment or cancellation of the indenture or the death or desertion of the apprentice to the Port Officer, within seven days of the occurrence, if it occurs within the Federation, or, as soon as circumstances permit, if it occurs elsewhere.

(4) Any person who fails to comply with any requirement of this section shall be liable for each offence to a fine not exceeding one hundred dollars.

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

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

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

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

90. Minimum age of employment of children in ships

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

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

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

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

Provided that -

(a) the foregoing provision shall not apply -

(i) to the employment of a young person on such work as aforesaid in a school-ship or training-ship if the work is of a kind approved by the *Minister (LN 332/58)* and is carried on subject to supervision by officers of the Government; or

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

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

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

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

92. Medical examination of young persons employed in ships

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

Provided that -

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

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

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

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

93. Penalties

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

(2) If the master of a ship fails to keep such a register as is required to be kept by him under section 91 or, on being so required by a Port Officer or any other person having power to enforce compliance with the provisions of this Ordinance, refuses or neglects to produce for inspection

by that Officer or person any such register as aforesaid or any certificate delivered to him under section 92, he shall be liable to a fine not exceeding two hundred dollars.

94. Interpretation

In sections 90, 91, 92 and 93:

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

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

Licences to supply Seamen

95. Licence to supply seamen

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

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

96. Penalty for engaging seamen without a licence

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

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

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

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

97. Penalty for receiving remuneration from seamen for engagement

(1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service, or from a person seeking employment as a seaman or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than such fees as are authorised by the *Minister*. (LN 332/58)

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

Engagement of Seamen

98. Agreement with crew

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

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Ordinance, the master in the case of a foreign-going ship, and the master or owner in the case of a *near-coastal trade* (A792/91) ship, shall be liable for each offence to a fine not exceeding not exceeding fifty dollars.

99. Form, period and conditions of agreement with crew

(1) An agreement with the crew shall be in a form approved by the *Director of Marine* (LN332/58), and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs the same.

- (2) The agreement with the crew shall contain as terms thereof the following particulars:
- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement is not to extend;
 - (b) the number and description of the crew specifying how many are engaged as sailors;
 - (c) the time at which each seaman is to be on board or to begin work;
 - (d) the capacity in which each seaman is to serve;
 - (e) the amount of wages which each seaman is to receive;
 - (f) a scale of the provisions which are to be furnished to each seaman;
 - (g) any regulations as to conduct on board and as to fines, short allowance of provisions which have been approved by the Minister as regulations proper to be adopted and which the parties agree to adopt.
- (3) The agreement with the crew shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages, the supply of warm clothing or otherwise, as are not contrary to law.
- (4) If the master of a ship registered at a port out of the Federation has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, and engages single seamen in the Federation, those seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the form approved by the *Director of Marine*. (LN 332/58)
- (5) The *Minister* (LN 332/58) may, by notification in the *Gazette* and subject to such conditions as he thinks fit, exempt any steamer or class of steamer from any of the provisions of this section.

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

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

- (a) the agreement shall, subject to the provision of this Ordinance as to substitutes, be signed by each seaman in the presence of a Port Officer;
- (b) the Port Officer shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman, understands the same before he signs it, and shall attest each signature;
- (c) when the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Port Officer and the other shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;
- (d) where a substitute is engaged in the place of a seaman who duly signed the agreement and whose services are, within twenty-four hours of the ship's putting to sea, lost by

death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before a Port Officer, and, when not practicable, the master before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature;

(e) the agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Ordinance referred to as running agreements;

(f) running agreements shall not be for a longer period than six months, or the first arrival of the ship at her port of destination in the Federation after the expiration of that period, or the discharge of cargo consequent on that arrival;

(g) on every return to a port in the Federation before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if a master wilfully makes a false statement in any such endorsement he shall for each offence be liable to a fine not exceeding two hundred dollars;

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

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

The following provisions shall have effect with respect to the agreements with the crew of *near-coastal trade (A792/91)* ships for which an agreement with the crew is required under this Ordinance;

(a) agreements may be made either for the service in a particular ship or for service in two or more ships belonging to the same owner, but in the latter case the names of the ships and the nature of the service shall be specified in the agreement;

(b) crews or single seamen shall be engaged before a Port Officer in the same manner as they are required to be engaged for foreign-going ships, and the provisions contained in section 100(d) with regard to substitutes shall apply;

(c) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master; and the provisions of this Ordinance with respect to the making of the agreement shall apply accordingly;

(d) agreements shall not be for a longer period than six months, or the first arrival of the ship at her final port of destination in the Federation after the expiration of the period, or the discharge of cargo consequent on that arrival; provided that the owner or his agent may enter into time agreements in forms sanctioned by the *Director of Marine (LN 332/58)* with individual seaman to serve in any one or more ships belonging to such owner, and those agreements need not expire at the time of the ship's agreement with the crew.

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

(1) The master of every foreign-going ship whose crew has been engaged before a Port Officer shall, before finally leaving the Federation, sign and send to the nearest Port Officer a full and accurate statement, in a form approved by the *Director of Marine (LN 332/58)* of every change which takes place in his crew before finally leaving the Federation, and that statement shall be admissible in evidence in manner provided by this Ordinance.

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

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

(1) In the case of a foreign-going ship, on the due execution of an agreement with the crew in accordance with this Ordinance, and also, where the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provision of this Ordinance respecting that agreement, the Port Officer will grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going ship shall, before proceeding to sea, produce to the Port Officer that certificate and any such ship may be detained until the certificate is produced.

(3) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the Federation or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the Port Officer, and the Port Officer shall give the master a certificate of that delivery.

(4) Any master who fails without reasonable cause so to deliver the agreement with the crew shall be liable for each offence to a fine not exceeding fifty dollars.

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

(1) The master or owner of a *near-coastal trade (A792/91)* ship shall, within twenty-one days after the expiration of any agreement with the crew or within forty-eight hours of her next arrival, deliver or transmit to a Port Officer in the Federation such agreement.

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

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

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

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

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

106. Forgery, etc. of agreement with crew

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

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

107. Alterations in agreement with crew

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

108. Seamen not to be bound to produce agreement

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

Agreements with Asian Seamen

109. Engagement of Asian seamen

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

- (a) for providing for such seamen fit employment on board some other vessel bound to the port at which he was shipped; or
- (b) for providing for him a passage to such port free of charge or on such other terms as may be agreed on; and
- (c) in any case for the repayment to the Government of all expenses which it may incur in respect of any such Asian seaman who is discharged or left behind at any port out of the Federation and becomes distressed.

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

(3) The agreement shall be in a form approved by the *Director of Marine (LN 332/58)* and shall contain such stipulation as he prescribes.

110. Engagements between masters of foreign ships and Asian Seamen

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

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

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

111. Fees payable in respect of such engagement

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

112. Penalty for breach of sections 109 and 110

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

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

Discharge of Seamen

113. Discharge before Port Officer

(1) When a seaman serving in a British or Malayan foreign-going or *near-coastal trade* (A792/91) ship is on the termination of his engagement discharged in the Federation, he shall, whether the agreement with the crew is an agreement for the voyage or a running agreement, be discharged in manner provided by this Ordinance in the presence of the Port Officer.

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

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

(1) The master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the *Director of Marine*, (LN 332/58) specifying the period of his service and the time and place of his discharge, and if the master fails so to do he shall be liable for each offence to a fine not exceeding one hundred dollars.

Return of officer's certificate

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

115. Report of seaman's character

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

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

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

Any person who -

- (a) makes a false report of character under this Ordinance, knowing the same to be false; or
- (b) forges or fraudulently alters any certificate of discharge or report of character or copy of a report of character; or
- (c) assists in committing or procures to be committed any such offence as aforesaid; or
- (d) fraudulently uses any certificate of discharge or report of character or copy of a report of character which is forged or altered or does not belong to him;

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

117. Sanction required for discharge of seaman in the Federation

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

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

Certificate required where seaman is left behind in the Federation

(3) The master of a ship shall not leave a seaman behind at any place within the Federation, except where the seaman is discharged in accordance with this Ordinance, unless he previously obtains, endorsed on the agreement with the crew, the certificate of the Port Officer, stating the cause of the seaman being left behind, whether the cause is unfitness or inability to proceed to sea, desertion or disappearance or otherwise.

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

Forcing seaman on shore

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

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

Seaman remaining behind

(7) No seaman shall either wilfully or negligently remain at any place within the Federation after the departure of the ship in which he has arrived or shipped unless a sanction or certificate has

been given by the Port Officer under sub-section (1) or (3), and if he does so he shall be liable to a fine not exceeding one hundred dollars, or to a term of imprisonment not exceeding one month, or both.

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

Payment of Wages

118. Payment of wages before Port Officer

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

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

119. Master to deliver account of wages

(1) The master of every ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Ordinance a full and true account, in a form approved by the *Director of Marine, (LN 332/58)* of the seaman's wages, and of all deductions to be made therefrom on any account whatever.

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

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

120. Deductions from wages

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

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

121. Notice of disrating of seaman

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

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

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

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

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

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

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

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

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

(1) The master or owner of every *near-coastal trade* (A792/91) ship shall pay to every seaman his wages within two days after the termination of the agreement with the crew, or at the time when the seaman is discharged, whichever first happens.

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

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

124. Settlement of wages

(1) Where a seaman is discharged, and the settlement of his wages completed, before a Port Officer, he shall sign in the presence of the Port Officer a release, in a form approved by the *Director of Marine*, (LN 332/58) of all claims in respect of the past voyage or engagement; and the release shall also be signed by the master or owner of the ship and attested by the Port Officer.

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

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

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

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

Power to except claim from release on settlement of wages

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

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

125. Decision of questions by Port Officer

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

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

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

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

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

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

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

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

Advance and Allotment of Wages

128. Advances restricted

(1)

(a) Where an agreement with the crew is required to be made in a form approved by the *Director of Marine*, (LN 332/58) the agreement may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement; and

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

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

129. Regulations as to allotment notes

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

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

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

(3) Allotment notes shall be in a form approved by the *Director of Marine*. (LN 332/58)

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

(a) "near relative" means one of the following persons, namely, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman;

(b) "savings bank" means a Government Savings Bank.

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

130. Allotment through savings bank

(1) An allotment in favour of a savings bank shall be made in favour of the persons and carried into effect in the manner prescribed by regulations of the *Minister*. (LN 332/58)

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

131. Master to give facilities to seamen for remitting wages

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

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

132. Right of suing on allotment notes

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

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

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

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

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

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

133. Time for payment of an allotment note

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

Rights of Seamen in Respect of Wages

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

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

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

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

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

136. Wages not to depend on freight

(1) The right to wages shall not depend on the earning of freight.

(2) Every seaman and apprentice who would be entitled to demand and recover any wages, if the ship in which he has served had earned freight, shall, subject to all other rules of law and condition applicable to the case, be entitled to demand and recover the same, notwithstanding that freight has not been earned.

(3) In all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo, and stores, shall bar his claim to wages.

(4) Where a seaman or apprentice who would, but for death, be entitled by virtue of this section to demand and recover any wages, dies before the wages are paid, they shall be paid and applied in manner provided by this Ordinance with respect to the wages of a seaman who dies during a voyage.

137. Wages on termination of service by wreck or illness

(1) Where by reason of the wreck or loss of a ship on which a seaman is employed his service terminates before the date contemplated in the agreement, he shall be entitled, in respect of each day on which he is in fact unemployed during a period of two months from the date of termination of the service, to receive wages, at the rate to which he was entitled at that date.

(2) A seaman shall not be entitled to receive wages under this section if the owner shows that the unemployment was not due to the wreck or loss of the ship and shall not be entitled to receive wages under this section in respect of any ship if the owner shows that the seaman was able to obtain suitable employment on that day.

(3) Where the services of a seaman terminates before the date contemplated in this agreement by reason of his being left on shore at any place under a certificate, granted as provided in the Merchant Shipping Acts, of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

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

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

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

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

140. Costs of procuring punishment may be deducted from wages

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

141. Compensation to seaman improperly discharged

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

142. Restriction on sale of and charge upon wages

(1) As respects wages due or accruing to a seaman or apprentice to the sea service -

- (a) they shall not be subject to attachment or arrestment from any Court;
- (b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;
- (c) a power of attorney or authority for the receipt thereof shall not be irrevocable; and
- (d) a payment of wages to the seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of those wages, or any attachment, encumbrance or arrestment thereof.

(2) Nothing in this section shall affect the provision of this Ordinance with respect to allotment notes.

Mode of Recovering Wages

143. Summary proceedings for wages

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

144. Restrictions on suits for wages

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

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

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

(1) The master of a ship shall, so far as the case permits have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Ordinance or by any law or custom.

(2) The master of a ship, and every person lawfully acting as master of a ship by reason of the decease or incapacity from illness of the master of the ship, shall so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3) If in any proceeding in the High Court exercising Admiralty jurisdiction touching the claim of a master in respect of wages, or of such disbursements or liabilities as aforesaid, any right of set-off or counter-claim is set up, the Court may enter into and adjudicate upon all questions, and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and any direct payment of any balance found to be done.

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

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

Power of Courts to Rescind Contracts

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

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

Property of Deceased Seamen

148. Property of seaman who dies during voyage

- (1) If any seaman or apprentice to the sea service belonging to a British ship dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.
- (2) The master may, if he thinks fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.
- (3) The master shall enter in the official log-book the following particulars:
 - (a) a statement of the amount of the money and a description of the effects;
 - (b) in case of a sale, a description of each article sold, and the sum received for each;
 - (c) a statement of the sum due to the deceased for wages and of the amount of deductions, if any, to be made from the wages.
- (4) The entry shall be signed by the master and attested by a mate and some other member of the crew.
- (5) The said money, effects, proceeds of sale of effects and balance of wages, are in this Part referred to as the property of the seaman or apprentice.

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

- (1) Where a seaman or apprentice dies as aforesaid the master shall, within forty-eight hours after his arrival at his port of destination in the Federation, deliver and pay the property to the Port Officer at that port.
- (2) In all cases where a seaman or apprentice dies during the progress of a voyage or engagement, the master shall give to a Port Officer such account as, and in such form as, he requires of the property of the deceased.
- (3) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book made and attested as required by this Ordinance, and also by such other vouchers, if any, as are reasonably required by the Port Officer.
- (4) A Port Officer may, if he thinks fit, sell any of the property of a deceased seaman or apprentice delivered to him or of which he takes charge under this Ordinance, and the proceeds of such sale shall be deemed to form part of the said property.
- (5) The Port Officer shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect.

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

- (1) Any master of the ship who fails to comply with the provisions of this Ordinance with respect to -
 - (a) taking charge of the property of a deceased seaman or apprentice; or
 - (b) making in the official log-book the proper entries relating thereto; or
 - (c) procuring the proper attestation of those entries as required by this Ordinance;or
 - (d) the payment or delivery of the property;shall, in addition to paying and delivering the same accordingly, be liable for each offence to a fine not exceeding treble the value of the property not accounted for, or, if such value is not ascertained, not exceeding five hundred dollars.
- (2) If any such property is not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such property shall be recoverable from him accordingly, and if he fails to account for and deliver or pay the same, he shall, in addition to his liability for the same, be liable to a fine not exceeding

treble the value of the property not accounted for, delivered, or paid over, or if such value is not ascertained, not exceeding five hundred dollars.

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

151. Recovery of wages of seamen lost with their ship

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

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

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

152. Property of seamen dying in the Federation

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

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

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

- (a) if the property exceeds in value one thousand dollars, he shall pay and deliver the residue to the legal personal representative of the deceased;
- (b) if the property does not exceed in value one thousand dollars, he may, as he thinks fit either -
 - (i) pay or deliver the residue to any claimant who is proved to his satisfaction to be the widow or a child or the deceased, or to be entitled to the personality of the deceased either under his will, if any, or any statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or
 - (ii) require representation to be taken out, and pay and deliver the residue to the legal personal representative of the deceased; or
 - (iii) if it appears to him that any person to whom the residue may be paid or delivered under the provisions of this paragraph is resident in a foreign State, pay or deliver the residue to a consular officer of that State on behalf of such person.

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

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

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

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

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

155. Claims by creditors

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

(2) A creditor shall not be entitled by any means whatever to obtain payment of his debt of the property, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after the death.

(3) The demand shall be made by the creditor delivering to the Port Officer an account in writing, stating the particulars of his demand and the place of his above, and signed by him and verified by a statutory declaration.

(4) If before the demand is made, any claim to the property of the deceased made by any person has been allowed, the Port Officer shall give notice to the creditor of the allowance of the

(5) If no claim has been allowed, the Port Officer shall investigate the creditor's account, and may for that purpose require him to prove the same and to produce all books, accounts, vouchers and papers relating thereto; and if by means of them the creditor satisfies the Port Officer of the justice of the demand, either in whole or in part, the same shall be allowed and paid accordingly, so far as the property then in the hands of the Port Officer will extend for that purpose, and the Port Officer shall thereby be discharged from all further liability in respect of money so paid.

(6) If the Port Officer is not satisfied as to the claim, or if such books, accounts, vouchers or papers as aforesaid are not produced, and sufficient reason is not given for their non-production, the demand shall be disallowed.

(7) In any case whatever the Port Officer may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand.

(8) If in the course of such time a claim to the property of the deceased is made by any person as widow, next-of-kin or legatee, and allowed by the Port Officer under this Ordinance, the Port Officer may pay and deliver the same to that person.

(9) Where the property has been paid and delivered by the Port Officer to any person as widow, next-of-kin or legatee of the deceased, whether before or after the demand made by the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

156. Dealing with unclaimed property of deceased seaman

(1) Where no claim to the property of a deceased seaman or apprentice received by the Port Officer is substantiated within one month after the receipt thereof, the Port officer shall pay the same, or the proceeds thereof, into the Treasury.

(2) If any subsequent claim is made to such property, or the proceeds thereof, and is established to the satisfaction of the Port Officer, the amount, or so much as appears to be due to the claimant, shall be paid out of the Treasury.

(3) If any claim is not established to the satisfaction of the Port Officer, the claimant may apply by summons to the High Court, and that Court, after taking evidence either orally or on affidavit, shall make such order on the summons as seems just.

(4) After the expiration of six years from the receipt of such property or proceeds by the Port Officer no such claim shall be entertained without the sanction of the *Minister* (LN 332/58).

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

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

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

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

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

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

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

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

158. Provisions for return of distressed seaman

(1) When either -

- (a) any seaman or apprentice, whether subjects of Her Majesty or not, are found in any place in the Federation, and have been shipwrecked from any British ship or any of Her Majesty's ships, or by reason of having been discharged or left behind from any such ship in any place in the Federation are in distress in that place; or
- (b) any seaman or apprentice being subjects of Her Majesty, who have been engaged by any person acting either as principal or agent to serve in a ship belonging to the Government or to a subject or citizen of a foreign country, are in distress in any place in the Federation,

the *Director of Marine (LN 332/58)* or any person acting under his authority may, in accordance with and on the conditions prescribed by the distressed seamen regulations made under the Merchant Shipping Act, 1906, provide in accordance with that Act for the return of those seamen or apprentices, who are in this Ordinance included in the term "distressed seamen", to a proper return port within the meaning of Part IV of the Merchant Shipping Act, 1906, and also provided for their necessary clothing and their maintenance until their departure for such a port, and, in addition, in the case of shipwrecked seamen or apprentices, for the repayment of any expenses incurred in their conveyance to port after their ship-wreck, and their maintenance while being so conveyed.

(2) The master of every British or Malayan ship shall receive on board his ship, and afford a passage and maintenance to all distressed seamen and apprentice whom he is required by the *Director of Marine (LN 332/58)* or any person acting under his authority to take on board his ship, not exceeding one for every fifty tons, and shall during the passage provide every such distressed seaman and apprentice with a proper berth or sleeping place, effectually protected against sea and weather.

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

159. Recovery of expenses of relief of distressed seamen

(1) When any expenses, other than excepted expenses as defined by this section, are incurred by or on behalf of the Government, or are incurred by the Government of a foreign country and repaid to that Government by or on behalf of the Government, on account of a distressed seaman or apprentice either for his maintenance, necessary clothing, conveyance to a proper return port, within the meaning of Part IV of the Merchant Shipping Act, 1906, or in case of death for his burial, or otherwise in

accordance with that Act, such expenses, together with the wages, if any, due to the seaman or apprentice, shall be charged upon the ship, whether British, Malayan or foreign, to which the distressed seaman or apprentice belonged, and shall be a debt due to the Government from the master of the ship, or from the owner of the ship for the time being, or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject or (*LN 332/58*) citizen, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, and also, if the ship is a foreign ship, from the person, whether principal or agent, who engaged the seaman or apprentice for service in the ship.

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

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

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

Provisions, Health and Accommodation

160. Complaints as to provisions or water

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

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

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

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

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

161. Allowance for short or bad provisions

(1) In either of the following cases -

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

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

- (a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement, a sum not exceeding twenty cents a day in the case of a European seaman or other person shipped on the footing of a European seaman, or ten cents a day in the case of an Asian seaman;
- (b) if his allowance is reduced by more than one-third of that quantity, forty cents a day in the case of a European seaman or other person shipped on the footing of a European seaman, or twenty cents a day in the case of an Asian seaman;
- (c) in respect of bad quality as aforesaid, a sum not exceeding fifty cents a day in the case of a European seaman or other person shipped on the footing of a European seaman, or twenty cents a day in the case of an Asian seaman.

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

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

(1) All British or Malayan ships of a tonnage exceeding twenty-five tons, whether registered within or without Federation, whose voyage commences from any port in the Federation, shall have on board a sufficient supply of medicine and appliance suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the *Minister (LN 332/58)* and published in such manner as the *Minister (LN 332/58)* notifies.

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

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

163. Weights and measures on board

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

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

164. Inspection of medicines and medical appliance

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

(2) If the Port Health Officer is of opinion that the articles inspected are deficient in quantity or quality, or are placed in improper vessels, he shall give notice in writing to the

Port Officer of the Port where the ship is lying, and also to the master, owner or consignee thereof.

(3) The master of the ship before proceeding to sea shall produce to the Port Officer a certificate under the hand of the Port Health Officer that the default found by the Port Health Officer has been remedied.

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

165. Medical inspection of seamen

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

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

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

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

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

(2) If the master or a seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expenses of the

removal and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in like manner.

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

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

167. Recovery of expenses from owner

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

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

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

168. Accommodation

(1) Every place in a British or Malayan ship, being a *near-coastal trade* (A792/91) ship registered within the Federation, occupied by or appropriated to the use of an Asian

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

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

(2) Every place in a British or Malayan ship, not being a *near-coastal trade* (A 792/91) ship registered within the Federation, occupied by or appropriated to the use of a seaman or apprentice in any of the following cases:-

(a) in the case of a seaman or apprentice being either a European or an Asian and of the ship -

(i) having been registered before the twenty-first day of December, 1906;

(ii) having been in course of construction on the first day of January, 1907;

or

(iii) being not more than three hundred tons;

(b) in the case of the seaman or apprentice being a lascar; or

(c) in the case of the seaman or apprentice being an Asian and of the ship being registered in the Federation and employed only in trading or going within the tropics between the fortieth degree of East longitude and the one hundred and sixtieth degree of East longitude;

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

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

(4) To give effect to the foregoing provisions of this section the provisions of sections 78 and 210 of the Merchant Shipping Act, 1894, and of section 64 of the Merchant Shipping Act, 1906, so far as they require a larger amount of space to be appropriated to the use of an Asian seaman, are, in so far as they apply to any ship registered in the Federation, by virtue of section 735 of the Merchant Shipping Act, 1894, hereby repealed.

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

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

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

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

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

(10) The *Minister* (LN 332/58) may by regulations not inconsistent with the provisions of this section make further provision with regard to any of the matters mentioned.

169. Power of inspection of ship and crew

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

(2) A Port Health Officer may -

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

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

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

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

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

Facilities for Making Complaint

170. Facilities for making complaint

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

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

(b) if the ship is not then at such a place, after her first arrival at such a place; allow the complainant to go ashore or send him ashore in proper custody, so that he may be enabled to make his complaint

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

Protection of Seamen from Imposition

171. Assignment or sale of salvage invalid

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

172. No debt exceeding two dollars recoverable till end of voyage

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

173. Penalty for overcharging by lodging house keepers

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

174. Penalty for detaining seamen's effects

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

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

175. Penalty for solicitations by lodging house keepers

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

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

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

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

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

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

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

Provisions as to Discipline

177. Misconduct endangering life or ship

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

- (a) does any act of tending to the immediate loss, destruction or serious damage of the ship, or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from immediate danger to life or limb;

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

178. Desertion and absence without leave

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

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

incurred in hiring a substitute; and also he shall be liable to imprisonment for a term not exceeding ten weeks.

179. Provisions as to failure to join ship and desertion

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

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

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

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

180. Conveyance of deserter on board ship

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

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

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

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

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

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

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

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

183. General offences against discipline

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

- (a) if he quits the ship without leave after her arrival at her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

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

184. Summary remedies not to affect other remedies

(1) Nothing in the last preceding section or in the sections relating to the offence of desertion or absence without leave shall take away or limit any remedy by action or otherwise which an owner or master would but for those provisions have for any breach of contract in respect of the matters constituting an offence under those sections.

(2) An owner or master shall not be compensated more than once in respect of the same damage.

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

(1) Any seaman who on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, shall be liable for each offence to a fine not exceeding fifty dollars.

(2) The fine may be deducted from any wages which the seaman earns by virtue of his engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Ordinance.

186. Entry of offences in official log

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

- (a) an entry of the offences or act shall be made in the official log-book, and signed by the master and also by the mate or one of the crew;
- (b) the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit;
- (c) a statement of a copy of the entry having been furnished, or of the entry having been so read over, and, if either case, the reply, if any, made by the offender, shall likewise be entered and signed in manner aforesaid; and
- (d) in any subsequent legal proceeding the entries by this section required shall, if practicable, be produced or proved, and in default of that production or proof the Court bearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

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

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

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

188. Application of forfeitures

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

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

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

189. Decision of questions of forfeiture and deduction

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

190. Ascertainment of the amount of forfeiture out of wages

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

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

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

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

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

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

192. Penalty for enticing to desert and harbouring deserters

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

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

193. Penalty on stowaways

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

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

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

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

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

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

195. Desertion from foreign ship

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

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

196. Attesting witness need not be called

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

Copies to be evidence

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

Certificate of consular officer

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

197. Expenses with regard to foreign seamen

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

Official Logs

198. Official logs to be kept and to be evidence

(1) Subject to the provisions of sections 69 and 70, an official log shall be kept in every ship, in the appropriate form for that ship approved by the *Director of Marine*. (LN 332/58) In the case of a *near-coastal trade* (A 792/91) ship commanded by a Malay master this may be kept in the Malay language.

(2) The *Director of Marine* (LN 332/58) shall approve forms of official log-books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Ordinance.

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

(4) An entry required by this Ordinance in an official log-book shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as that occurrence Entries required in official log-book shall be made and dated so as to show

the date of the occurrences and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge shall not be made more than twenty-four hours after that arrival.

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

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

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

(c) if it is entry of wages due to a seaman serving in the *Royal Malayan Navy*, (LN 332/58) shall be signed by the seaman, or by the officer authorised to receive the seaman into that service.

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

199. Entries required in official log-book.

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

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

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

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

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

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

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

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

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

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

(j) the wages due to any seaman *serving in the Royal Malayan Navy* (LN 332/58) during the voyage;

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

- (l) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and the sum received for it;
 - (m) every collision with any other ship, and the circumstances under which the same occurred;
 - (n) any casualty or accident of which a report is required to be made under this Ordinance;
 - (o) any other matter directed by this Ordinance to be entered.
- (2) Entries of births and deaths shall give the particulars specified in the Second Schedule.

200. Offences in respect of official logs

- (1) If an official log-book is not kept in the manner required by this Ordinance, or if an entry directed by this Ordinance to be made therein is not made at the time and in the manner directed by this Ordinance, the master shall be liable for each offence to the specific fine in this Ordinance mentioned in respect thereof, or where there is no such specific fine, to a fine not exceeding fifty dollars.
- (2) Any person who makes, or procures to be made, or assists in making, any entry in an official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after that arrival, shall be liable for each offence to a fine not exceeding three hundred dollars.
- (3) Any person who wilfully destroys or mutilates or renders illegible any entry in an official log-book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, shall be liable for each offence to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years.

201. Delivery of official logs to Port Officer

- (1) The master of every ship for which an official log is required by this Ordinance shall, within forty-eight hours after the ship's arrival at her final port of destination in the Federation or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the Port Officer before whom the crew is discharged.
- (2) Any master of a ship who fails without reasonable cause to comply with the provisions of this section shall be liable for each offence to a fine not exceeding one hundred dollars.

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

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

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

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

Business of Port Officers

203. Business of Port Officers

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

- (a) afford facilities for engaging seamen by keeping registers of their names and characters;
- (b) superintend and facilitate the engagement and discharge of seamen in the manner in this Ordinance provided;
- (c) facilitate the making of apprenticeships to the sea service;
- (d) perform such other duties relating to seamen, apprentices and merchant ships as are by or in pursuance of this Ordinance, or any Ordinance relating to merchant shipping, committed to them.

(2) The *Minister* (LN 332/58) may appoint any Port Officer to perform the duties of a Superintendent, Officer of Customs and Chief Officer of Customs under the Merchant Shipping Acts.

204. Fees to be paid upon engagement, etc.

(1) The fees specified in Table 1 in the Third Schedule shall be payable upon all engagements and discharges effected before Port Officers.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the Port Offices, and all Port Officers, their deputies, clerks and servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements, the crew shall be considered to be engaged when the agreement is first signed and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

205. Fees by whom to be paid

(1) Every owner, master or agent of a ship, engaging or discharging any seamen in a Port Office or before a Port Officer, shall pay to the Port Officer the whole of the fees hereby made payable in respect of such engagement or discharge and may, for the purpose of in part reimbursing himself, deduct, in respect of each such engagement or discharge from the wages of all persons, except apprentices, so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table 2 in the Third Schedule.205

(2) If in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the Port Officer in addition to such fee.205

206. Fees for business transacted outside prescribed hours

(1) The *Minister* (LN 332/58) may prescribe hours of the transaction of business by owners, masters or agents of ships at a Port Office at any port or ports in the Federation.

(2) There shall be paid for the transaction of any such business outside the prescribed hours such fees as the *Minister* (LN 332/58) may specify in respect of the services of Port Officers and other persons whose services may be required for the purposes aforesaid, and such fees shall be in addition to any other fees which may be prescribed under this Ordinance.

207. Penalty on Port Officer taking other remuneration

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

