

PART IIA REGISTRY

[Whole of Part IIA & B were inserted vide A 393/77 and applicable throughout Malaysia][Sections 58A, 58B & 58C inserted vide A895/1994)

11. Qualification of Malaysian Ship

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

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

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

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

1B) The Minister may, if he thinks it fit, prescribe other requirements in addition to the requirements prescribed in subsection

- 1) (A 603/84)
- 2) The corporation shall produce documents relating to shareholding in the corporation as may be required by the Registrar (A603/84) of Ships.
- 3) For the purpose of this section -

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

- a) a share to which, under no circumstances there is attached, a right to vote;
- b) a share to which there is attached a right to vote only (A603/84) in any one or more of the following circumstances -
 - i) during a period in which a dividend (or part of a dividend) in respect of the share is in arrears;
 - ii) upon a proposal to reduce the share capital of the corporation;
 - iii) upon a proposal affecting the rights attached to the share;
 - iv) upon a proposal to wind up the corporation;
 - v) upon a proposal for the disposal of the whole of the property, business and undertakings of the corporation;
 - vi) during the winding up of the corporation.

12. Obligation to register Malaysian Ships

- 1) Every Malaysian ship unless so exempted shall be registered under this Ordinance.
- 2) If a ship required by this Ordinance to be registered is not so registered, she shall not be recognised as a Malaysian ship.
- 3) A ship required by this Ordinance to be registered may be detained until the master of the ship, if so required, produces the certificate of registry of the ship.
- 4) The Minister may prescribe the manner in which ships or classes of ships belonging to the Government of Malaysia or any State thereof or any statutory body therein may be registered under this Ordinance. (A 603/84)

13. Exemption from Registry

The following ships are exempted from registration under this Part -

- a) any ship not exceeding 15 tons nett used for navigation on the rivers and coastal waters of Malaysia;
- b) any vessel licensed under section 475 (A603/84) of this Ordinance; and (A 603/84)
- c) any local fishing vessel not exceeding five hundred tons gross where such vessel is licensed under any written law relating to fisheries. (A603/84)

14. Appointment of Registrar General and Registrars

- 1) For the purposes of this Part, the Minister may appoint a Registrar General of Ships and one or more registrar of Malaysian ships.
- 2) The registrars shall perform their duties under the direction of the Registrar General.
- 3) The Registrar General and every registrar shall be deemed to be public servants for the purpose of the Penal Code.
- 4) The Registrar General or a registrar shall not be liable to damages for any loss occurring to any person by reason of any act done or default by him in his capacity as Registrar General or registrar, as the case may be, unless the same occurred through his neglect or default. (A 603/84)

15. Register Book

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

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

16. Application for the registration of Malaysian Ship

- 1) An application for the registry of a ship shall be made -
 - a) in the case of natural persons, by the person applying to be registered as owner, or by some one or more persons so applying if more than one, or by his or their agent; and
 - b) in the case of corporations, by their agent, and the authority of the agent shall be testified by writing under the common seal of that corporation.
- 2) The application shall be made in the prescribed form and shall be supported by a statutory declaration containing the following particulars:

- a) the name of the ship and its existing tonnages (if known);
- b) a statement of the date when and the place where the ship was built, or if the date and place of building are not known, a statement that the declarant does not know the date and place of the building of the ship;
- c) a statement as to the owner of the ship and the citizenship of such owner, and if the ship is owned by more than one person, the number of shares each is entitled to;
- d) a statement of the name of the master of the ship and his citizenship;
- e) a statement that no other person (other than those declared) is entitled as owner to any legal or beneficial interest in the ship or any share thereof;
- f) except where the operator and the owner of the ship are the same person, the name and citizenship of the operator of the ship;
- g) a declaration that the particulars stated in the form are true to the best of his knowledge and belief; and
- h) such other particulars as may be prescribed.

3) The registrar may demand proof of ownership to his satisfaction before proceeding with the registry of a ship. (A 603/84)

17. Survey and Measurement

- 1) Before registration the owner of every Malaysian ship shall cause the ship to be surveyed and measured by a Surveyor of Ships and the tonnage ascertained in accordance with the provisions of any regulation made under this Part.
- 2) The Surveyor Ships shall grant a certificate specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may for the time being be required by the Registrar. (A603/84).
- 3) The certificate of measurement shall be delivered to the Registrar before registration.

18. Marking of Ships

- 1) Every Malaysian ship shall before registration be marked permanently and conspicuously with
 - a) the name of the ship on each of the bows of the ship, and the names of the ship and the port of registry on her stern, on a dark ground in white or yellow Roman capital (A 792/91) letters, or on a light ground in black Roman capital (A 792/91) letters, such letters shall be of a length not less than one hundred millimeters (A603/84), and of a proportionate breadth: Provided that the use of any script in addition to the Roman

Capital letters or the name of the ship may be approved by the Registrar-General upon such terms and conditions as he may deem fit to impose; (A792/91)

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

c) a scale in metric (A603/84) denoting the draught of water on each side of the stem and of the stern post in Roman capital letters or in figures, not less than one hundred millimeters (A603/84) in length ; the lower line of such letters or figures shall coincide with the draught line as denoted, and the letters or figures shall be engraved in and painted white or yellow on a dark ground or in such other form as the Registrar General may approve.

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

2A) The Registrar General may require that the proposed name of a ship intended to be registered under this Part be submitted to him for his approval and he may for this purpose prescribe such form as he thinks fit. (A792/91)

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

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

5) If an owner or master of a Malaysian ship neglects to cause the ship to be marked, or to keep her marked, or if any person conceals, removes, alters, defaces, or obliterates or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except to escape, capture by an enemy, that owner, master, or person shall on conviction be liable to a fine not exceeding five thousand ringgit for each offence.

19. Rules as to name of Malaysian Ships

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

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

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

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

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

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

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

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

20. Entry of particulars in Register Book

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

- a) the name of the ship and the name of the port to which the ship belongs;
- b) the details comprised in the Surveyor of Ships' certificate;
- c) the particulars respecting the origin of the ship stated in the declaration of ownership;
- d) the name and description of the registered owner or owners of the ship, and if there are more than one owner, the proportions in which they are interested in the ship; and
- e) such other particulars as may be prescribed. (A603/84)

21. Evidence on first registry

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

- a) a builder's certificate signed by the builder of the ship, containing a true account of the proper denomination and of the tonnage of the ship, the time when and the place where she was built; and of the name of the person (if any) on whose account the ship was built, and if there has been any sale, the bill of sale under which the ship or a share therein, has become vested in the applicant, and such other particulars as may be descriptive of the

identify of the ship.

b) the instrument of sale, under which the ship or share therein has become vested in the applicant for registry if the declarant does not have the builder's certificate.

22. Certificate of Registry

1) The certificate of registry shall be in such form as may be prescribed by the Minister.

2) The certificate of registry shall state -

a) the name of the owner of the ship, his occupation and address, and if there are more owners than one, the proportions in which they are interested in the ship;

b) the name of the master and particulars of his certificate of competency; (A603/84).

c) the date and place where the ship was built;

d) the particulars given in the certificate of measurement; and (A 603/84)

e) such other particulars as may be prescribed. (A603/84)

2A) Every registered owner of a registered Malaysian ship shall as soon as possible and in any case not later than fourteen days inform the registrar in writing of any changes affecting the particulars required to be stated in the certificate of registry under subsection (2).

2B) Any person who contravenes subsection (2A) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit. (A603/84)

3) The Minister may by regulation prescribe the form of endorsements that may be made on the certificate of registry to record the changes in the particulars specified in subsection (2) without issuing a new certificate.

23. Document to be retained by Register

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

a) the Surveyor's certificate;

b) the builder's certificate;

c) any bill of sale by which the ship was previously sold;

d) a copy of the condemnation certificate (if any); and

e) any declaration of ownership.

24. Port of Registry

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

25. (Deleted) (A603/84).

26. Provision Certificate of Registry

1) A registrar or a Malaysian diplomatic or consular officer may, upon application made to him and subject to the procedure, conditions and restriction as may be prescribed, issue in respect of any ship a provisional certificate of registry. (A603/84)

2) The provisional certificate of registry of a ship shall be valid for a maximum period of one year from the date of its issue. (A895/1994)

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

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

in the same manner as they apply to a Malaysian ship, its owner and its certificate of registry. (A895/1994)

26A. Cancellation of Certificate

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

2) Any person aggrieved by any action of the Registrar General under subsection (1) may appeal to the Minister whose decision shall be final. (A 603/84)

27. Custody of certificate

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

2) If any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar, port officer, or other person entitled by law to require such delivery, any Magistrate may summon the

person so refusing to appear before him, and to be summarily examined before him unless it is proved to the satisfaction of the court that there was reasonable ground for such refusal, he shall be guilty of an offence and on conviction be liable to a fine not exceeding five (A603/84) thousand ringgit.

28. Penalty for use of forged certificate

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

29. Power to grant new certificate

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

30. Provisions for loss of certificates

- 1) Where the certificate of registry of a Malaysian ship is mislaid, lost or destroyed, the registrar of the port of registry shall grant a new certificate of registry in lieu of the original certificate.
- 2) If the certificate of registry of a Malaysian ship is mislaid, lost or destroyed at any foreign port, the master of the ship or any other person with knowledge of the contents of the certificate or registry, shall make a declaration stating the names and description of the registered shipowner of the ship to the best of his knowledge and belief to the nearest Malaysian diplomatic and consular officer as the case may be who shall thereupon grant a provisional certificate.
- 3) The provisional certificate shall within ten days after the arrival of the ship at a Malaysian port be delivered up to the registrar of the port of registry, and the registrar shall grant a new certificate of registry; if the master without reasonable cause fails to deliver up the provisional certificate within the 14 days, he shall be guilty of an offence and on conviction be liable to a fine not exceeding five thousand ringgit.

31. Endorsement of change of Master on certificate

- 1) Where the master of a registered Malaysian ship is changed, the following person, that is to say -
 - a) if the change is made at a Malaysian port, the registrar or, if none, the Port Officer; or
 - b) if the change is made at a port outside Malaysia, a Malaysian diplomatic or consular officer,

shall endorse and sign on the certificate of registry a memorandum of the change, and shall (except in the case where the endorsement is done by the registrar of the ship's port of registry himself) notify the registrar of the ship's port of registry of the change. (A603/84)

2) (Deleted) (A603/84).

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

32. Endorsement of change of ownership on certificate

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

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

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

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

1) If a registered ship is either actually or constructively (A603/84) lost, taken by the enemy, burnt, broken up, or ceases to be a registered Malaysian ship by reason of a transfer to persons not qualified to be owners of Malaysian ships, every owner of the ship or any shareholder in the ship shall, within fourteen days (A603/84) on learning of the fact give notice to the registrar of the port of registry. The registrar shall make an entry in the registry book, and such entry shall be considered as closed except in relation to any unsatisfied mortgages or existing certificate or mortgage entered therein.

2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, if the event occurs in port immediately, but if it occurs elsewhere then within fourteen days after his arrival in port, deliver the certificate to the registrar, or, if there is none, to the Port Officer or to the Malaysian diplomatic or consular officer there, and the registrar, if he is not himself the registrar of her port of registry, or the Port Officer, or the Malaysian diplomatic or consular officer, shall forthwith forward the certificate delivered to him to the registrar of her port of registry. (A603/84)

3) The shipowner or master who fails, without reasonable cause, to comply with this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding five (A603/84) thousand ringgit.

34. Transfer of ship or share

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

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

35. Declaration of transfer

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

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

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

36. Registry of transfer

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

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

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

a) that person shall authenticate the transmission by making and signing a declaration (hereinafter called a "declaration of transmission" identifying the ship, containing the statements required in a declaration of transfer, and a statement of the manner in which and the person to whom the property has been transmitted.

b) if the transmission is by virtue of marriage, the declaration shall be accompanied by a copy of the entry of the register of marriage and state the identity of the owner.

c) if the transmission is due to bankruptcy, the declaration of transmission shall be accompanied by such admissible and relevant evidence of the title of persons claiming under a bankruptcy.

d) if the transmission is due to death, the declaration of transmission shall be accompanied by the letter of probate or administration or authentic copy thereof.

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

38. Order of sale on transmission to unqualified person

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

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

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

39. Transfer of ship or sale by order of court

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

40. Power of court to prohibit dealings

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

41. Mortgages of Ship or share

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

2) On production of the instrument to the registrar of the ship's port of registry he shall record

such instrument in the register book; and when there are more mortgages than one, record them in the order in which they are produced to him and by memorandum notifying each mortgagor of the mortgage recorded by him.

42. Entry of discharge of mortgages

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

43. Priority of Mortgages

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

44. Mortgages not deemed to be owner

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

45. Mortgages to have power of sale

- 1) Every registered mortgagee may on the fore-closure of the mortgage dispose of the ship or the share in respect of which he is registered, and to give effectual receipts for the purchase money.
- 2) Where there are more persons than one registered as the mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

46. Mortgages not affected by bankruptcy

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

47. Assignment

- 1) A registered mortgage of a ship or share may be assigned to any person and the deed affecting the assignment shall be in the form as may be prescribed by the Minister.
- 2) On production to the registrar the deed of assignment, he shall record it in the register book the name of the assignee of the mortgagee and certify the entry on the deed of assignment.

3) The assignee shall have the same right of preference as the assignor.

48. Transmission of interest in mortgage on bankruptcy, etc.

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

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

49. Alteration of ship

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

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

50. Regulation for registry of alterations

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

51. Transfer of ship to another flag

1) The owner of a Malaysian ship may with the approval of the Registrar General (A603/84) transfer the ship to a foreign registry if there are no outstanding claims against the ship in Malaysia.

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

52. Restriction on re-registration of ships

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

53. Provision for cases of incapacity

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

54. Power to dispense with declaration

If it is shown to the satisfaction of the registrar the person is unable to make any declaration or produce any documentary evidence, the registrar may, with the approval of the Registrar General and on the production of such other evidence, and subject to such terms as he may think fit, dispense with the declaration or documentary evidence.

55. No notice of trust be registered

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

56. Evidence of register Book, certificate of registry and other documents

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

57. Regulation

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

- a) for ascertaining the tonnage of any ship for the purpose of registration or otherwise and including the mode of measurement;
- b) for establishing standard of seaworthiness required for registration of ship;
- c) the manner in which surveys of ship shall be conducted and the form of certificate to be issued;
- d) the fees that may be levied under this Part and the manner in which such fees shall be collected; (A603/84)
- e) for requiring the periodic submission by registered owners of registered Malaysian ships to the registrar of the ship's port of registry -
 - i) in the case where the ship is operated by a person other than the registered owner, of such particulars as may be prescribed concerning such person; and

ii) in the case where the registered owner is a corporation, of such particulars as may be prescribed concerning the corporation;

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

g) for prescribing anything which is required to be or may be prescribed under this Part.
(A603/84)

58. Exemption

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

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

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

a) in the case where the ship is owned by an individual, the individual shall be Malaysian citizen;

b) in the case where the ship is jointly owned, at least one of the owners shall be a Malaysian citizen; or

c) in the case where the ship is owned by a corporation, the corporation shall be a corporation registered in Malaysia and the principal place of business shall be in Malaysia.

58C. Security for loan

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

59. National colours for Malaysian Ships

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

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

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

4) The Minister may prescribe special colours for any ship owned by the Government of

Malaysia or any other state thereof or any statutory body therein. (A603/84).

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

60. Showing of national ensign

1) A registered Malaysian ship shall hoist the Malaysian national ensign -

- a) on an instruction transmitted by a signal from a ship of the Royal Malaysian Navy or by a ship in the service of the Government;
- b) on entering or leaving any Malaysian or foreign port;
- c) when passing a warship of the Royal Malaysian Navy or any foreign navy; and
- d) while in a Malaysian port from sunrise to sunset.

2) Default in complying with this section, shall render the master of the ship guilty of an offence and be liable on conviction to a fine of one thousand ringgit.

3) The section shall apply to fishing vessels of not less than ten tons.

61. Penalty for unduly assuming Malaysian character

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

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

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

63. Liability of ship not recognised as Malaysian

Where it is provided by this Ordinance that a Malaysian ship shall not be recognised as a Malaysian ship that (A603/84) ship shall not be entitled to any benefits, privileges, advantage or

protection, enjoyed by a Malaysian ship, or to use the Malaysian flag or assume the Malaysian national character. Such ship, any person on board or the owner thereof shall be dealt with the same manner in every respect as if she were Malaysian ship, for the purpose of the payment of dues, the liability to fines and forfeiture and punishment for offences committed on board.

64. National character of ships to be declared for clearance

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

65. Proceedings on forfeiture of ship

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