

PART V SAFETY

Prevention of Collisions

250. Inspection as to lights and fog signals

(1) A Surveyor of Ships may inspect any vessel, British, Malaysian or foreign, within a port of the Federation for the purpose of seeing that the vessel is properly provided with lights and the means of making fog-signals, in conformity with the collision regulations *made under section 252 of this Ordinance, (No.15 of 1966)* or with the rules made under the next succeeding section.

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

(3) Every notice so given shall be communicated by the Surveyor to the Port Officer at any port at which the ship seeks to obtain a clearance, and the vessel shall be detained until a certificate under the hand of a Surveyor of Ships is produced to the effect that the vessel is properly provided with the means of making fog-signals, in conformity with the said collision regulations or with lights and signals in conformity with the said rules.

(4) For the purposes of an inspection under this Part a Surveyor shall have all the powers of an inspector under this Ordinance.

(5) Where the certificate as to lights and signals is refused, an owner may appeal to the Court of Survey for the port where the vessel for the time being is, in manner directed by the rules of that Court.

(6) On any such appeal the Judge of the Court of Survey shall report to the *Minister (LN 332/58)* on the question raised by the appeal, and the *Minister, (LN 332/58)* when satisfied that the requirements of the report and of the Merchant Shipping Act, 1894, or of this Ordinance as to lights and signals have been complied with, may grant, or direct a Surveyor of Ships or other persons appointed by him to grant, the certificate.

(7) Subject to any order made by the judge of a Court of Survey the costs of, and incidental to, an appeal shall follow the event.

(8) A surveyor in making an inspection under this section shall, if the owner of the vessel so requires, be accompanied on the inspection by some person appointed by the owner, and if in that case the Surveyor and the person so appointed agree, there shall be no appeal under this section to the Court of Survey.

(9) The fees specified in the Fifth Schedule shall be paid in respect of an inspection of lights and signals under this section.

251. Local rules for navigation in ports, etc.

(1) The *Minister (LN 332/58)* may make rules concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by vessels navigating the waters of any port, rivers, or other inland navigation, and those rules shall, as regards vessels navigating the said waters, be of the same force as if they were part of the collision regulations.

(2) Any master of any vessel who fails to comply with any of such rules shall for each offence be liable to a fine not exceeding *one thousand (A 792/91)* dollars.

252. Collision regulations

(1) The Minister may by order make regulations for the prevention of collisions at sea, and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used and the steering and sailing rules to be observed by ships, and those regulations (in this Ordinance referred to as the collision regulations), shall have effect as if enacted in this Ordinance.

(2) The collision regulations, together with the provisions of this Part relating thereto, or otherwise relating to collisions, shall be observed by all vessels upon the high seas and in all connected therewith and navigable by sea-going vessels.

(3) Any master of any vessel who fails to comply with any of the said regulations shall for each offence be liable to a fine not exceeding ten thousand (A792/91) dollars. (No.15 of 1966)

253. Collision to be entered in official log

(1) In every case of collision in which it is practicable so to do, the master of every ship shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log-book, and the entry shall be signed by the master and also by the mate or one of the crew.

(2) Any master who fails to comply with this section shall be liable for each offence to a fine not exceeding *five thousand (A792/91)* dollars.

254. Helm orders

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

(2) Any person who contravenes the provisions of this section shall for each offence be liable to a fine not exceeding *five thousand (A 792/91)* dollars.

Report of Accidents and Loss of Ship

255. Report to Port Officer of accidents to steamships

(1) When a ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of the accident or damage, or as soon thereafter as possible, transmit to the Port Officer, if she is in any port, or otherwise to the Director of Marine, by letter signed by the owner, or master, a report of the accident or damage and of the probable occasion thereof, stating the name of the ship, her official number, if any, the port to which she belongs, and the place where she is.

(2) Any owner or master of a steamship who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding *five thousand (A792/91)* dollars.

(3) This section shall apply to all British or Malayan ships registered in the Federation, and to all British ships within the Federation, and to all passenger steamers.

256. Notice of loss of ship registered in Federation, or passenger steamer to be given to the Director of Marine

(1) If the managing owner or the agent of any ship registered in the Federation or of any passenger steamer has reason, owing to the non-appearance of the ship or to any other circumstances, to apprehend that the ship has been wholly lost, he shall as soon as conveniently may be, send to the *Director of Marine (LN 332/58)* notice in writing of the loss and of the probable occasion thereof, stating the name of the ship, her official number, if any, and the port in which she belongs.

(2) Any managing owner or agent of a ship who fails without reasonable cause to comply with this section within a reasonable time shall be liable for each offence to a fine not exceeding *five thousand (A792/91)* dollars.

256A. Construction Rules as to Passenger Steamers

(1) The Minister may make rules (in this Ordinance called 'construction rules') prescribing the requirements that the hull, equipment and machinery of and the fuel used in (A792/91) *passenger steamers registered in the Federation shall comply with; and the rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of and the fuel used in (A792/91) passenger steamers shall comply with, except so far as those provisions are implemented by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations.*

(2) *Construction rules may require the provision in such ship -*

- (a) of plans exhibited as provided by or under the rules, and of other information, relating to the boundaries of watertight compartments, the opening therein, the means of closing such openings and the arrangements for correcting any list due to floodings; and*
- (b) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damages. (No.15 of 1966)*

256B. Cargo ship construction and survey rules (A792/91)

(1) *The Minister may make rules (in this Ordinance referred to as "cargo ship construction and survey rules") prescribing requirements for the hull, equipment and machinery of and the fuel used in ships to which this section applies and requiring any such ships which are registered in Malaysia to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the rules.*

(2) *The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the hull, equipment and machinery of and the fuel used in such ships, except so far as those provisions are implemented by any other rules or regulations made under this Ordinance.*

(3) *The said rules -*

- (a) may provide for any surveys under the rules to be undertaken by persons appointed by such organisations as may be specified in the rules;*
- (b) may make modifications to sections 209(2), 211 and 213 in their application by virtue of section 271(1) in relation to surveys under the rules undertaken by such persons;*
- (c) may prescribe the fees that shall be paid in respect of surveys carried out under the rules; and*

- (d) may, in the case of surveys carried out by persons appointed by organisations specified in the rules, provide for fees to be payable to those persons or organisations.*
- (4) This section applies to -*
- (a) sea-going ships of not less than five hundred tons gross tonnage; and*
 - (b) sea-going ships of not less than such lower tonnage and of such description as the Minister may by order specify,*
- other than passenger steamers, troopships, pleasure yachts, fishing vessels and ships not propelled by mechanical means; except that it applies to ships not registered in Malaysia only while they are within a port in Malaysia and are not exempted from the cargo ship construction and survey rules.*
- (5) In relation to surveys required by the cargo ship construction and survey rules which are carried out otherwise than by a Surveyor of Ships, the definition of "declaration of survey" in section 2 shall not apply.*
- (6) If the cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner or master of the ship shall be liable on conviction to a fine not exceeding ten thousand ringgit.*
- (7) A Surveyor of Ships may inspect any ship for the purpose of seeing that she complies with the provisions of the cargo ship construction and survey rules (other than those relating to survey) and for that purpose shall have all the powers of the Surveyor-General of Ships under this Ordinance; and if he finds that the ship fails to comply with those provisions he shall give to the owner or master notice in writing stating in what respect she fails to comply with them and what in his opinion is requisite to remedy the failure.*
- (8) A port clearance shall not be granted to the ship; and the ship shall be detained until a certificate under the hand of a Surveyor of Ships is produced to the effect that the failure has been remedied. (A792/91)*

Life-saving Appliances and Equipment

257. Rules as to life-saving appliances

- (1) The Minister (LN 332/58) may make rules, in this Ordinance called "rules for life-saving appliances", with respect to all or any of the following matters, namely -*
- (a) the arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;*
 - (b) the number, description, and the mode of construction of the boats, life rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;*

- (c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;
 - (d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;
 - (e) the quantity, quality and description of buoyant apparatus to be carried on board ships [~~del.~~] (No.15 of 1966) either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys;
 - (f) the position and means of securing the boats, life-rafts, life-jackets, lifebuoys and buoyant apparatus;
 - (g) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried by them;
 - (h) the manning of the lifeboats and the qualifications and certificates of lifeboat men;
 - (j) the provisions to be made for mustering the persons on board, and for embarking them in the boats (including provisions for the lighting of, and the means of ingress to and egress from, different parts of the ship);
 - (k) the provisions of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;
 - (l) the assignment of specific duties to each member of the crew in the event of emergency;
 - m) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;
 - (mm) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire; (No.15 of 1966)*
 - (n) the practice in ships of boat-drills and fire-drills;
 - (o) the provision in ships of means of making effective distress-signals by day and by night;
 - (p) the provision, in ships engaged on voy-ages in which pilots are likely to be embarked, of suitable pilot-ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe, and
 - (q) the examination *and maintenance (No. 15 of 1966)* at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.
- (2) The rules for life-saving appliances shall include such requirements as appear to the *Minister (LN 332/58)* to implement the provisions of the Safety Convention relating to the matters mentioned in sub-section (1).
- (3) For the purpose of this section, and without prejudice to the generality of the powers therein contained, the rules for life-saving appliances made from time to time by the Minister of Transport under the Merchant Shipping Acts shall, unless varied by or repugnant to rules for life-saving appliance made under this section be deemed to be rules for life-saving appliances made under this section.
- (4) Rules made under this section shall not apply to any fishing boat exclusively employed in fishing or to native sailing ships, or to boats licensed under Part XIII.

(5) Subject to the provisions of sub-section (4) and of this sub-section, rules made under this section shall apply to -

(a) British and Malayan ships registered in the Federation; and

(b) other ships whilst within any port of the Federation;

Provided that the *Minister (LN 332/58)* may direct that such rules shall not apply to any ship, not being a passenger ship, if -

(i) being a British ship, she is proved to be equipped in compliance with the rules for life-saving appliances made from time to time by the Minister of Transport under the Merchant Shipping Acts; or

(ii) being a ship of a foreign country in which the provisions in force relating to life-saving appliances appear to him to be as effective as the rules made under this section, on proof that those provisions are complied with in the case of that ship.

258. Duties of owners and master as to carrying life-saving appliances

It shall be the duty of the owner and master of every ship, to which the rules for life-saving appliances apply to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the services on which the ship is employed, and the avoidance of undue endurance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

259. Entry in log-book of boat-drill etc.

(1) The master of every ship to which the rules for life-saving appliance apply shall cause to be entered in the official log-book a statement, or if there is no official log-book cause other record to be kept, of every occasion on which boat-drill or fire-drill is practised on board the ship or on which the appliances and equipment required by the rules for life-saving appliances to be carried are examined to see whether they are fit and ready for use and of the results of any such examination and if -

(a) in the case of a passenger steamer, boat-drill or fire-drill is not practised on board the ship in any week;

(b) in the case of a passenger steamer, boat-drill or fire-drill is not practised on board the ship in any month;

(c) in the case of any ship, the said appliances and equipment are not examined in any such period as is prescribed by the said rules;

the master shall cause a statement to be entered or other record to be kept as aforesaid of the reasons why the drill was not practised or the appliances and equipment were not examined in that week, month or period.

(2) The master shall, if and when required by any Port Officer, produce for inspection any record kept by him for the purpose of this section.

(3) If the master of a ship fails to comply with any requirements of this section he shall be liable for each offence to a fine not exceeding *one thousand (A792/91)* dollars.

260. Penalty for breach of rules

(1) In the case of any ship to which the rules for life-saving appliances apply -

- (a) if the ship is required by the said rules to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or
- (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master; or
- (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion; or
- (d) if such appliances are not kept so as to be at all times fit and ready for use; or
- (e) if any provision of the rules for life-saving appliances applicable to the ship is contravened or not complied with;

the owner of the ship, if in fault, shall be liable for each offence to a fine not exceeding *ten thousand (A792/91)* dollars, and the master of the ship, if in fault, shall be liable for each offence to a fine not exceeding *five thousand (A792/91)* dollars.

(2) Nothing in the foregoing provisions with respect to life-saving appliances shall prevent any person from being liable under any other section of this Ordinance, or otherwise, to any other or higher fine or punishment than is provided by those provisions, provided that a person shall not be punished twice for the same offence.

(3) If the Court before which a person is charged with an offence, punishable under those provisions thinks that proceedings ought to be taken against him for the offence under any other provision of this Ordinance, or otherwise, the Court may adjourn the case to enable such proceedings to be taken.

261. Inspections with respect to life-saving appliances

(1) A Surveyor of Ships may inspect any ship to which the rules for life-saving appliances for the purpose of seeing that the said rules have been complied with in her case, and for the purpose of any such inspection shall have all the powers of an Inspector under this Ordinance.

(2) If the Surveyor finds that the rules for life-saving appliances have not been complied with, he shall give written notice to the owner or master stating in what respect the said rules have not been complied with, and what, in his opinion, is required to rectify the matter.

(3) Every notice so given shall be communicated by the Surveyor to the Port Officer of any port at which the ship seeks to obtain a clearance, and a clearance shall not be granted to the ship and the ship shall be detained until the Port Officer is satisfied that the matter has been rectified.

(4) The fees specified in the Sixth Schedule shall be paid in respect of inspectors of life-saving appliances.

262. Radio Rules

(1) The *Minister (LN 332/58)* may make rules (in this Ordinance called "radio rules") requiring ships to which this section applies to be provided with a radio installation other than a radio navigational aid of such nature as may be prescribed by the rules and to maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed, and the rules may contain provisions for preventing so far as practicable electrical interference with the radio installation by other apparatus on board.

(2) This section applied to -

(a) sea-going British and Malayan ships registered in the Federation;

(b) other sea-going ships while they are within any port in the Federation.

(3) The said rules shall include such requirements as appear to the *Minister (LN 332/58)* to implement the provisions of the Safety Convention relating to radio-telegraphy and radio-telephony, *and may prescribe requirements for such portable radio apparatus as boats or life rafts may be required to carry by the rules for life-saving appliances;*

(4) *The radio installation required under the said rules to be provided-*

(a) for a passenger steamer of whatever tonnage, or for any ship of sixteen hundred tons gross tonnage or upwards which is neither a passenger steamer nor a fishing vessel, shall be a radio-telegraph installation; and

(b) for any other ship shall be either a radiotelephone installation or a radiotelegraph installation, at the option of the owner; (No. 15 of 1966)

(5) Without prejudice to the generality of the preceding provisions of this section, rules under this section may -

(a) prescribe the duties of radio officers and operators, including the duty of keeping a radio log-book;

(b) apply to any radio log-book required to be kept under the rules the provisions of section 201;

(c) require the master of a ship to cause to be entered in the official log-book such particulars relating to the operating of the radio installation, and the maintenance of the radio service, as may be specified in the rules.

(6) For the purpose of this section, and without prejudice to the generality of the powers therein contained, the radio rules made from time to time by the Minister of Transport under the Merchant Shipping Acts shall, unless varied by or repugnant to radio rules under this section, be deemed to be radio rules made under this section.

(7) If the master of a ship fails to cause an entry to be made in the log-book in contravention of rules made in pursuance of paragraph (c) of sub-section (5), or if any radio officer or operator contravenes any rules made in pursuance of paragraph (a) thereof, he shall be liable to a fine not exceeding *one thousand (A792/91)* dollars; and if the rules made under this section are contravened in any other respect in relation to any ship, the owner or master of the ship shall be liable in respect of each offence to a fine not exceeding *ten thousand (A792/91)* dollars [~~det.~~].
(A792/91)

(8) A Surveyor of Ships or a Radio Surveyor may inspect any ship for the purpose of seeing that she is properly provided with a radio installation *and portable radio apparatus required to be carried by the boats or life rafts on any ship (No. 15 of 1966)* and radio officers or operators in conformity with the said rules, and for that purpose shall have all the powers of an Inspector under this Ordinance; and if he finds that the ship is not provided with a radio installation or radio officers or operators in conformity with the said rules he shall give to the owner or master notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the deficiency.

(9) A port clearance shall not be granted to the ship and the ship shall be detained until the Port Officer is satisfied that the deficiency has been remedied.

263. Rules for direction finders

(1) The *Minister (LN 332/58)* may make rules (in this Ordinance called "rules for direction-finders") requiring ships to which this section applied to be provided with a direction-finder of such a nature as may be prescribed by the rules.

(2) This section applied to -

- (a) British and Malayan ships registered in the Federation;
 - (b) other ships while they are within any port in the Federation;
- being ships of sixteen hundred tons gross tonnage or upwards.

(3) The said rules shall include such requirements as appear to the *Minister (LN 332/58)* to implement the provisions of the Safety Convention relating to direction-finders.

(4) Without prejudice to the generality of the preceding provisions of this section, rules under this section may provide for the position of the direction-finder in the ship, for the communication between the direction-finder and the bridge, for testing the direction-finder at intervals and as occasion may require and for recording the results of the tests.

(5) For the purpose of this section, and without prejudice to the generality of the powers therein contained, the rules for direction-finders made by the Minister of Transport from time to time under the Merchant Shipping Acts shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(6) If any of the said rules is not complied with in relation to any ship, the owner or master of the ship shall be liable to a fine not exceeding one thousand dollars.

264. Further provisions as to radio navigational aids

(1) The *Minister (LN 332/58)* may make rules prescribing

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(a) the requirements that radio navigational aids, other than direction-finders, shall comply with if they are carried on board British or Malaysian ships registered in the Federation including requirements relating to their position and method of fitting;

(b) the requirements that apparatus designed for the purpose of transmitting or reflecting signals to or from radio navigational aids shall comply with, being apparatus in the Federation, or off the shores of the Federation and maintained from the Federation.

(2) For the purpose of this section, and without prejudice to the generality of the powers therein contained, the rules made by the Minister of Transport from time to time under the Merchant Shipping Acts to prescribe the requirements for radio navigational aids shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(3) If any British or Malayan ship registered in the Federation proceeds, or attempts to proceed, to sea carrying radio navigational aids not complying with the rules made under this section the owner or master of the ship shall be liable to a fine not exceeding *ten thousand (A792/91)* dollars.

(4) If any person establishes or operates any such apparatus as is mentioned in paragraph (b) of sub-section (1) of this section, being apparatus that does not comply with the said rules he shall be liable to a fine not exceeding *ten thousand (A792/91)* dollars.

Certificates

265. Issue for passenger steamers of safety certificates and exemption certificates

(1) If the *Surveyor-General of Ships*, (LN 332/58) on receipt of declarations of survey in respect of a British or Malaysian passenger steamer registered in the Federation, is satisfied that the steamer complies with the construction rules, rules for life-saving appliances, radio rules and rules for direction-finders applicable to the steamer and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the steamer a certificate showing that the steamer complies with the requirements of the Safety Convention applicable as aforesaid, and any certificate issued under this sub-section is hereafter in this Ordinance referred to as a "general safety certificate":

Provided that if the voyages on which the steamer is to be engaged are short international voyages and she complies only with such of those rules as are applicable to those voyages, the certificate shall show that the steamer complies with the requirements of the Safety Convention applicable to her as a steamer plying on short international voyages; and any such certificate is hereafter in this Ordinance referred to as a "short-voyage safety certificate".

(2) If the *Surveyor-General of Ships*, (LN 332/58) on receipt of declaration of survey in respect of any such passenger steamer as aforesaid is satisfied that the steamer is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the rules in question, from any of the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the steamer and to such international voyages as she is to be engaged on, whether short voyages or otherwise, that she complies with the rest of those requirements and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the steamer -

(a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the steamer is exempt from and that the exemption is conditional on the steamer's plying only on the voyages and being engaged only in the trades and complying with the other conditions (if any) specified in the certificate, and
(b) a certificate showing that the ship complies with the rest of those requirements; and any certificate issued under paragraph (b) of this sub-section is hereafter in this Ordinance referred to as a "qualified safety-equipment certificate" or a "qualified short-voyage safety certificate" as the case may be.

266. issues for cargo ships of safety equipment certificates and exemption certificates

(1) If the *Surveyor-General of Ships*, (LN 332/58) on receipt of declarations of survey in respect of a British or Malayan ship registered in the Federation not being a passenger steamer, is satisfied that the ship complies with the rules for life-saving appliances applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are

applicable as aforesaid; and any certificate issued under this sub-section is hereafter in this Ordinance referred to as a "safety-equipment certificate".

(2) If the *Surveyor-General of Ships, (LN 332/58)* on receipt of declaration of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the rules for life-saving appliances, from any of the requirements of those rules applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements and is properly provided with the lights shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship -

(a) an exemption certificate stating which of the requirements of the Safety Convention being the requirements the subject of the rules for life-saving appliances and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of these requirements; and any certificate issued under paragraph (b) of this sub-section is hereafter in this Ordinance referred to as a "qualified safety-equipment certificate".

267. Issue for cargo ships of radio certificates and exemption certificates

(1) If the *Surveyor-General of Ships, (LN 332/58)* on receipt of declaration of survey in respect of a British or Malayan ship registered in the Federation not being a passenger steamer, is satisfied that the ship complies with the radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders as are applicable as aforesaid; and any certificate issued under this sub-section is hereafter in this Ordinance referred to as a "radio certificate".

(2) If the *Surveyor-General of Ships, (LN 332/58)* on receipt of declaration of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the rules in question, from any of the requirements of the radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of the requirements of the radio rules and rules for direction-finders, he shall, on the application of the owner, issue in respect of the ship -

(a) an exemption certificate stating which of the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, being requirements applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of these requirements; and any certificate issued under paragraph (b) of the sub-section is hereafter in this Ordinance referred to as a "qualified radio certificate".

(3) Where any British or Malayan ship registered in the Federation is wholly exempt from the requirements of the radio rules and the rules for direction-finders, the Surveyor-General of Ships shall on the application of the owner issue an exemption certificate stating that the ship is wholly exempt from the requirements on the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders and specifying the voyage on which, and condition (if any) on which, the ship is so exempt.

(4) Where a radio certificate or qualified radio certificate is in force in respect of a ship of less than five hundred tons gross tonnage, other than a passenger steamer, and the ship is surveyed by a radio surveyor at a time not less than two months before the end of the period for which the certificate is in force then, if on receipt of the declaration of survey a new certificate is issued before the end of that period -

(a) the current certificate may be cancelled; and

(b) the new certificate may, notwithstanding anything in section 271(2) of this Ordinance be issued for a period ending not later than twelve months after the end of the first mentioned period. (No. 15 of 1966)

268. Issue of general certificates, etc. on partial compliance with rules

Where a ship complies with all the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the ship and to the voyage on which she is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the *Surveyor-General of Ships (LN 332/58)* may issue in receipt of the ship a general safety certificate, short-voyage safety certificate, safety-equipment certificate or radio certificate, as the case may be, notwithstanding that she is exempt from, or for some other reason does not comply with, any requirements of those rules that are not applicable requirements of the Safety Convention.

268A. Cargo ship safety construction certificates and exemption certificates

268A.(1) If the Surveyor-General of Ships or such person as he may authorise for the purpose is satisfied, on receipt of declarations of survey in respect of a ship to which section 256B applies and which is registered in Malaysia, that the ship complies with the cargo ship construction and

survey rules applicable to the ship and such voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship -

(a) if the ship is of not less than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Safety Convention;
(b) in any other case, a certificate showing that she complies with the said rules, and any such certificate is in this Ordinance referred to as a "cargo ship safety construction certificate".

(2) If the Surveyor-General of Ships, on receipt of declarations of survey in respect of such a ship, is satisfied that the ship is exempt, by virtue of any exercise by him of a power conferred on him by section 282 or the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship -

(a) if she is of not less five hundred tons gross tonnage and is to be engaged on international voyages -
(i) an exemption certificate stating which of the requirements of the Safety Convention, being requirements implemented by the rules and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying on the voyages and complying with the other conditions (if any) specified in the certificate; and
(ii) a certificate showing that the ship complies with the rest of those requirements;
(b) in any other case, a certificate showing that the ship complies with such of the requirements of the cargo ship construction and survey rules applicable to the ship and to the voyages she is to be engaged on as she is not exempt from, and any certificate issued under paragraph (a)(ii) or paragraph (b) of this subsection is in this Ordinance referred to as a "qualified cargo ship safety construction certificate".

(3) A certificate issued under this section, other than an exemption certificate issued under subsection (2)(a)(i), shall remain in force for five years or such shorter period as may be specified therein, but without prejudice to the power of the Surveyor-General of Ships to cancel it; and an exemption certificate issued under subsection (2)(a)(i) shall remain in force for the same period as the corresponding qualified cargo ship safety convention certificate.

(4) Where a certificate under this section is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under the foregoing provisions of this section, the Surveyor-General of Ships or any person authorised by him for the purpose may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year, and not exceeding, together with the period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under this section.

(5) *In relation to a certificate issued or an extension granted under this section by a person authorised by the Surveyor-General of Ships -*

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

(b) section 271(10) (which relates to fees),

shall apply as they apply in relation to certificates issued by the Surveyor-General of Ships, but in making rules under section 271(10), the Minister may provide for fees to be payable to the authorised person. (A 792/91)

269. Notice of alteration and additional surveys

(1) The owner or master of a passenger steamer in respect of which any passenger steamer's certificate issued under this Ordinance is in force shall, as soon as possible after any alteration is made in the steamer's hull, equipment or machinery affecting the efficiency thereof on the seaworthiness of the steamer, give written notice to the Surveyor-General of Ships containing full particulars of the alteration.

(2) The owner or master of a ship in respect of which any certificate issued under this Ordinance is in force, other than a passenger steamer, shall, as soon as possible after any alteration is made in the appliances or equipment required by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations to be carried by the ship, being an alteration affecting the efficiency or completeness of those appliances or equipment, give written notice to the Surveyor-General of Ships containing full particulars of the alteration.

(3) If notice of any alteration is not given as required by this section, the owner or master of the ship shall be liable to a fine not exceeding *five thousand (A792/91)* dollars.

(4) If the *Surveyor-General of Ships (A792/91)* has reason to believe that since the making of the last declaration of survey in respect of any such ship as aforesaid -

(a) any such alteration has been made as is mentioned in sub-section (1), or, as the case may be, in sub-section (2) of this section; or

(b) the hull, equipment or machinery of the ship (being a passenger steamer) have sustained any injury or are otherwise insufficient; or

(c) the appliances or equipments of the ship (not being a passenger steamer) mentioned in sub-section (2) of this section have sustained any injury or are otherwise insufficient;

he may, without prejudice to his powers under section 217, require the ship to be again surveyed to such extent as he thinks fit and, if such requirement is not complied with, may cancel any passenger steamer's certificate issued in respect of the ship under section 212 or any certificate issued in respect of the ship under this Part.

(5) For the purpose of this section the expression "alteration" in relation to anything includes the renewal of any Part of it.

269A. Notice of alterations and additional surveys in relation to cargo ships

(1) The duty of the owner or master of a ship under sub-section (2) of section 269 to notify alterations shall extend, in relation to any ship in respect of which any certificate under section 268A is in force, to the hull, machinery and any equipment other than that mentioned in that subsection, but may, if the certificate was issued by a person authorised under that section, be discharged by notifying him instead of the Surveyor-General of Ships.

(2) *Sub-section (4) of section 269 shall have effect, in relation to any such ship, as if -*

(a) paragraph (a) thereof extended to any alteration or renewal which is notifiable by virtue of this section; and

(b) paragraph (b) and not paragraph (c) thereof were applicable, notwithstanding that the ship is not a passenger steamer, and the power of the Surveyor-General of Ships under that sub-section to cancel such a certificate shall be exercisable also where the ship has not been submitted for survey as required by the cargo ship construction and survey rules. (A792/91)

270. Prohibition on proceeding to sea without appropriate certificates

(1) No British or Malayan ship registered in the Federation shall proceed to sea on an international voyage from a port in the Federation unless there is in force in respect of the ship -

(a) if she is a passenger, a general safety certificate, a short-voyage safety certificate, a qualified safety certificate or a qualified short voyage safety certificate which (subject to the provisions of this section relating to short-voyage safety certificates) is applicable to the voyage on which the ship is about to proceed to the trade in which she is for the time being engaged;

(b) if she is a passenger steamer, both

(i) a safety-equipment certificate or a qualified safety-equipment certificate, and

(ii) a radio certificate or a qualified radio certificate, or an exemption certificate stating that she is wholly exempt from the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders;

Provided that this sub-section shall not prohibit a ship, not being a passenger steamer, from proceeding to sea as aforesaid if there is in force in respect of the ship such certificate or certificates as would be required if she were a passenger steamer.

(2) For the purpose of this section, a qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate; and an exemption certificate shall be of no effect unless it is by its terms applicable to the voyage on which the ship is about to proceed.

(3) If any ship proceeds, or attempts to proceed, to sea in contravention of this section -

(a) in the case of a passenger steamer, the owner or master of the steamer shall, without prejudice to any other remedy or penalty under the Merchant Shipping Acts or under this Ordinance be liable for each offence to a fine not exceeding *one thousand (A 792/91)* dollars for every passenger carried on board the steamer, and the owner or master of any tender by means of which passengers have been taken on board the steamer shall be liable for each offence to a like fine for every passenger so taken on board; and

(b) in the case of a ship not being a passenger steamer, the owner or master of the ship shall be liable to a fine not exceeding *ten thousand (A 792/91)* dollars.

(4) The master of every British or Malayan ship registered in the Federation shall produce to the Port Officer at the port from which a clearance for the ship is sought for an international voyage the certificate or certificates required by the foregoing provision of this section to be in force when the ship proceeds to sea; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(5) Where the *Surveyor-General of Ships (LN 332/58)* permits any passenger steamer in respect of which there is in force a short-voyage safety certificate, whether qualified or not, to proceed to sea on an international voyage from a port in the Federation not exceeding twelve hundred nautical miles in length between the last port of call in the Federation and the final port of destination, the certificate shall for the purposes of this section be deemed to be applicable to the voyage on which the steamer is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between the said ports.

(6) Where an exemption certificate issued in respect of any British or Malayan ship registered in the Federation specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship shall be liable to a fine not exceeding *ten thousand (A792/91)* dollars.

270A. Prohibition on proceeding to sea without appropriate certificates in the case of cargo ships

(1) No ship to which section 256B applies and which is registered in Malaysia shall proceed to sea unless there is in force in respect of the ship either -

(a) a cargo ship safety construction certificate; or

(b) a qualified cargo ship safety construction certificate and, if the ship is about to proceed on an international voyage, a corresponding exemption certificate; or

(c) such certificate or certificates as would be required if she were a passenger steamer, applicable to the ship and to the voyage on which she is about to proceed.

(2) If any ship proceeds, or attempts to proceed, to sea in contravention of this section the owner or master of the ship shall be liable to a fine not exceeding ten thousand ringgit.

(3) *The master of every ship to which section 256B applies and which is registered in Malaysia shall produce to the Port Officer at the time a clearance for the ship is demanded the certificate or certificates required by sub-section (1); and the clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced. (A792/91)*

271. Miscellaneous provisions as to surveys and certificates

(1) Sections 209 (2), 211 and 213 shall apply, *subject to any modification made by virtue of paragraph (b) of section 256B(3), (A792/91)* to surveys for the purpose of the issue of any certificate in respect of a ship under this Part as they apply to surveys for the purpose of the issue of passenger steamer's certificates.

(2) A safety certificate or radio certificate or an exemption certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders shall be in force for one year, and a safety-equipment certificate shall be in force for twenty-four months, from the date of its issue, or for such shorter period as may be specified in the certificate:

Provided that no such certificate shall remain in force after notice is given by the Surveyor-General of Ships to the owner or master of the ship in respect of which it has been issued that the Surveyor-General of Ships has cancelled the certificate.

(3) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, shall be in force for the same period as the corresponding qualified certificate.

(4) The *Surveyor-General of Ships (LN 332/58)* or any person authorised by him for the purpose may grant an extension of any certificate issued under this Part in respect of a British or Malayan ship registered in the Federation, *except a certificate issued under section 268A, (A792/91)* for a period not exceeding one month from the date when the certificate would, but for the extension, have expired, or, if the ship is absent from the Federation on that date, for a period not exceeding five months from that date.

(5) Any general safety certificate or short-voyage safety certificate, whether qualified or not, may be combined in one document with a passenger steamer's certificate.

(6) Any certificate issued by the *Surveyor-General of Ships (LN 332/58)* under this Part, and any passenger steamer's certificate, whether or not combined in one document with a safety certificate under the last preceding sub-section, may be signed on behalf of the *Surveyor-General of Ships (LN 332/58)* by any *public officer (A792/91)* authorised by the *Surveyor-General of Ships (LN 332/58)* for the purposes, and a certificate or a certified copy thereof purporting to be so signed shall be admissible in evidence in any Court or before any person having by law or

consent of parties authority to receive evidence and, subject to all just exceptions, shall be evidence of the matters stated therein.

(7) The provisions of sections 214, 217, 219 and 220 shall apply to and in relation to certificates issued by the *Surveyor-General of Ships (LN 332/58)* under this Part as they apply to and in relation to passenger steamer's certificate and passenger steamers.

(8) The *Surveyor-General of Ships (LN 332/58)* may request the government of a country to which the Safety Convention applies to issue in respect of a British or Malayan ship registered in the Federation any certificate the issue of which is authorised under this Part; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the *Surveyor-General of Ships (LN 332/58)* and not by the government of that country.

(9) *Where the Surveyor-General of Ships, under section 271(8) of this Ordinance, requests the government of a country to which the convention applies to issue in respect of a ship such certificate as he is authorised to issue under sub-section (2) of section 265, 266 or 267 or paragraph (a) of section 268A(2) (A792/91) of this Ordinance, and that government is willing to issue, in pursuance of that request, a qualified certificate thereunder but is not willing to issue the corresponding exemption certificate, the Surveyor-General of Ships may issue that exemption certificate of the ship. (No.15 of 1966)*

(10) *The Minister may make rules to prescribe the fees to be paid in respect of any certificate issued, or any extension of any certificate granted, under this Part. (A792/91)*

Safety Convention Ships not registered in the Federation

272. Certificates of Convention ships not registered in Federation

(1) The *Surveyor-General of Ships (LN 332/58)* may, at the request of the government of a country to which the Safety Convention applies, issue in respect of a ship registered in that country any certificate the issue of which in respect of British or Malayan ships registered in the Federation is authorised under [~~det~~.] (*No.15 of 1966*) this part if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Part as if he had been issued by the said government and not by the *Surveyor-General of Ships. (LN 332/58)*

(2) For the purposes of the provisions hereafter contained in this Part relating to Safety Convention ships not registered in the Federation, the expression "an accepted Safety Convention certificate" means a certificate complying with such as are applicable of the regulations made by the Ministry of Transport under the Merchant Shipping Acts with respect to the validity of certificates issued in accordance with the Safety Convention by the government of any country other than the United Kingdom in respect of Safety Convention ships not registered in the United Kingdom.

(3) A Surveyor of Ships, for the purpose of verifying -

- (a) that there is in force in respect of a Safety Convention ship not registered in the Federation an accepted Safety Convention certificate; or
- (b) that the condition of the hull, equipments and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate; or
- (c) except where such a certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy and radio-telephony, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate; or
- (d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with,

shall have all the powers of an Inspector under this Ordinance.

(4) Where there is attached to an accepted Safety Convention certificate in respect of a Safety Convention passenger steamer not registered in the Federation a memorandum which -

- (a) has been issued by or under the authority of the government of the country in which the steamer is registered; and
- (b) modifies for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

273. Modified survey of passenger steamers holding Convention certificates

(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger steamer not registered in the Federation -

- (a) the steamer shall not be required to be surveyed under this Ordinance by a Surveyor of Ships except for the purpose of determining the number of passengers that she is fit to carry;
- (b) on receipt of any declaration of survey for the purpose aforesaid, the Surveyor-General of Ships shall issue a certificate under section 212 containing only a statement of the particulars set out in paragraph (b) of that section; and a certificate so issued shall have effect as a passenger steamer's certificate.

(2) Where there is produced in respect of any such passenger steamer as aforesaid an accepted Safety Convention certificate, and also a certificate issued by or under the authority of the Government of the country in which the steamer is registered showing the number of passengers that the steamer is fit to carry, and the *Surveyor-General of Ships (LN 332/58)* is satisfied that number has been determined substantially in the same manner as in the case of a British or Malayan passenger steamer registered in the Federation, he may if he thinks fit dispense with any survey of the steamer for the purpose of determining the number of passengers that she is fit to

carry and direct that the last-mentioned certificate shall have effect as a passenger steamer's certificate.

274. Miscellaneous privileges of ships holding Convention certificates

(1) Where the appropriate accepted Safety Convention certificate is produced in respect of any Safety Convention ships not registered in the Federation, the ship shall be exempt from the provisions of section 250 and from the rules for life-saving appliance.

(2) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention ship not registered in the Federation, and the certificate shows that the ship complies with the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, or that she is exempt from some of those requirements and complies with the rest, or that she is wholly exempt from those requirements, the ship shall be exempt from the provisions of the radio rules and the rules for direction-finders.

274A. Exemption of ships holding appropriate Convention certificates from cargo ship construction and survey rules

Where there is produced in respect of a ship not registered in Malaysia-

(a) an accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate; or

(b) accepted Safety Convention certificate equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate, the ship shall be exempt from the cargo ship construction and survey rules. (A792/91)

275. Further provisions as to the production of Convention certificates

(1) The master of every Safety Convention ship not registered in the Federation shall produce to the Port Officer at the port from which a clearance for the ship is demanded in respect of an international voyage accepted Safety Convention certificates that are the equivalent of the certificates issued by the *Minister (LN 332/58)* under this Part that would be required to be in force in respect of the ship if she were a British or Malayan ship so registered; and a clearance shall not be granted, and the ship may be detained, until such certificates are so produced.

(2) The production of an accepted Safety Convention certificate being the equivalent of -

(a) a qualified certificate; or

(b) an exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction-finders, shall not avail for the purposes of either of the last two preceding sections unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

Miscellaneous Provisions for furthering Safety of Life at Sea

276. Information about ship's stability

(1) There shall be carried on board every British or Malayan ship registered in the Federation whose keel is laid after the commencement of this Ordinance such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2)(a) The said information shall be in such form as may be approved by the Surveyor-General of Ships (who may approve the provisions of the information in the form of a diagram or drawing only) and except as provided by the following paragraph the information shall, when first applied, be based on the determination of the ship's stability by means of an inclining test, and shall be replaced by fresh information whenever its accuracy is materially affected by alterations made to the ship, and in any such case the Surveyor-General of Ships may require a fresh inclining test;

(b) The Surveyor-General of ships may -

(i) in the case of any ship, allow the information to be based on the determination, by means of an inclining test, of the stability of a sister ship;

(ii) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with an inclining test if satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions. (No.15 of 1966)

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Surveyor-General of Ships:

Provided that the owner shall not be required to send a copy of any information to the Surveyor-General of Ships if a previous copy of the same information has been sent to him.

(4) If any such ship proceeds, or attempts to proceed, to sea without such information as aforesaid on board, the owner or master of the ship shall be liable to a fine not exceeding *ten thousand (A792/91)* dollars and if the owner of any ship contravenes the last preceding subsection, he shall be liable to a like fine.

(5) It is hereby declared that for the purpose of section 194, information under this section shall be deemed to be a document relating to the navigation of the ship.

277. Opening in passenger steamers' hulls and watertight bulkheads

(1) The *Minister (LN 332/58)* may in relation to British or Malayan steamers registered in the Federation make rules for any of the following matters -

- (a) for closing and keeping closed the open-ings in steamer's hulls and in watertight bulkheads;
- (b) for securing, keeping in place and in-specting contrivances for closing any such openings as aforesaid;
- (c) for operating the mechanism of contrivances for closing any such openings as aforesaid and for drills in connection with the operation thereof;
- (d) for requiring entry to be made in the official log-book or other record to be kept of any of the matters aforesaid.

(2) For the purposes of this section and without prejudice to the generality of the powers therein contained, the rules made from time to time by the Minister of Transport under the Merchant Shipping Acts, with respect to watertight doors and other similar contrivances shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(3) If any of the said rules is not complied with in relation to any such steamer as aforesaid, the master of the steamer shall be liable to a fine not exceeding *ten thousand (A792/91)* dollars.

278. Report of dangers to navigation

(1) The master of any British or Malayan ship registered in the Federation, on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal and in accordance with the rules made by the Minister of Transport under the Merchant Shipping Acts with respect to navigational warnings to ships in the vicinity and to such authorisations on shore as may be prescribed by those rules, *and the matters of which information is to be sent by the master of a ship shall include -*

- (a) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships; and*
- (b) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received. (No. 15 of 1966)*

(2) If the master of a ship fails to comply with the provisions of this section, he shall for each offence be liable to a fine not exceeding *five thousand (A792/91)* dollars.

(3) Every person in charge of a wireless telegraph station which is under the control of the Director-General of Telecommunications or which is established or installed under licence of the *Minister charged with responsibility for telecommunications (LN 332/58)*, or of any officer to whom *such Minister (LN 332/58)* has delegated his power of issuing licences under the Telecommunications Ordinance, 1950, shall, on receiving the signal prescribed by the said rules for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by *such Minister, (LN 332/58)* shall transmit the message in such manner as may be required by *such Minister (LN 332/58)* and compliance with this sub-section shall be deemed to be a condition of every licence granted as aforesaid:

Provided that nothing in this sub-section shall interfere with the transmission by wireless telegraphy of any signal of distress in accordance with the provisions of the next succeeding section.

(4) For the purposes of this section, the expression "tropical storm" means a hurricane, typhoon, cyclone, or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

279. Signals of distress

(1) The *Minister (LN 332/58)* may make rules prescribing the circumstances in which and the purposes for which any signal of distress is to be used and the circumstances in which it is to be revoked.

(2) If the master of a ship uses or causes or permits any person under his authority to use or display -

- (a) any signal of distress, except in accordance with rules made under this section; or
- (b) any private signal that is liable to be mistaken for a signal of distress,

he shall be liable to a fine not exceeding *five thousand (A792/91)* dollars and shall further be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signals having been supposed to be a signal of distress; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(3) For the purposes of this section, and without prejudice to the generality of the powers, therein contained, the rules made from time to time by the Minister of Transport with respect to signals of distress shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

(4) In this section "signal of distress" means any signal from time to time prescribed by Her Majesty in Council under the Merchant Shipping Act for use by ships as a signal of distress.

280. Obligation to assist vessels etc., in distress

(1) The Master of a British or Malayan ship registered in the Federation, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of sub-section (3) or sub-section (4) of this section.

(2) Where the master of any ship in distress has requisitioned any British or Malayan ship registered in the Federation that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by sub-section (1) of this section as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by sub-section (1) of this section, and, if his ship has been requisitioned, from the obligation imposed by sub-section (2) of this section, if he is informed by the person in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If a master fails to comply with the preceding provisions of this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding *ten thousand (A792/91)* dollars.

(6) If the master of a British or Malayan ship registered in the Federation, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log-book, or if there is no official log-book cause other record to be kept, of his reasons for not going to the assistance of those persons, and if he fails to do so he shall be liable to a fine not exceeding *five thousand (A792/91)* dollars.

(7) The master of every British or Malayan ship registered in the Federation for which an official log is required shall enter or cause to be entered in the official log-book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(8) Nothing in this section shall affect the provisions of section 387; and compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

281. Removing persons in case of danger

Where the *Director of Marine (LN 332/58)* for the purpose of enabling persons to be removed from any place in consequence of a threat to their lives has permitted more persons to be carried on board a ship than are permitted under the Merchant Shipping Acts or under the Ordinance apart from this section, the carriage of that excess of persons shall not be an offence other than those Acts, or under the Ordinance.

282. Power of Surveyor-General of Ships to exempt from safety requirements.

(1) The *Surveyor-General of Ships (LN 332/58)* may exempt any ship or classes of ships from any requirements of the rules of life-saving appliance or any rules or regulations made under this Ordinance, either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to the preceding provisions of this section, where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Surveyor-General of Ships may, if he is of opinion that the ship complies with safety requirements that are adequate for that voyage, exempt the ship from any of the safety requirements imposed by or under the Merchant Shipping Acts or by or under this Ordinance.

283. Modification of safety certificate as respects life-saving appliances

(1) Without prejudice to the provisions of the last preceding section, if on any international voyage a British or Malayan passenger steamer registered in the Federation in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the life-saving appliances on the steamer provide, the *Surveyor-General of Ships (LN 332/58)* or any person authorised by him for the purpose, may, at the request of the master of the steamer, issue a memorandum stating the total number of persons carried on the steamer on that voyage, and the consequent modifications which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the certificate, and that memorandum shall be annexed to the certificate.

(2) Every such memorandum shall be returned to the *Surveyor-General of Ships (LN 332/58)* at the end of the voyage to which it relates, and, if it is not so returned, the master of the steamer shall be liable to a fine not exceeding *two thousand (A792/91)* dollars.

284. Exemption of certain ships from certain provisions of this Act

(1) Nothing in this Ordinance -

- (a) prohibiting or preventing a ship from proceeding to sea unless there are in force in relation to the ship, or are produced, the appropriate certificates issued by the *Surveyor-General of Ships (LN 332/58)* under this Part or the appropriate accepted Safety Convention certificates;
- (b) conferring powers on a Surveyor of Ships for the purpose of verifying the existence, validity or correctness of any Safety Convention certificate or that the conditions on which any such certificate was issued are complied with;
- (c) requiring information about a ship's stability to be carried on board;
- (d) imposing a penalty for the contravention of any rules relating to openings in ship's hulls and water-tight bulkheads;

shall, unless in the case of information about a ship's stability the *Surveyor-General of Ships (LN 332/58)* otherwise orders, apply to any troopship, pleasure yacht or fishing vessel, or to any ship of less than five hundred tons gross tonnage other than a passenger steamer or to any ship not propelled by mechanical means.

(2) Nothing in the preceding sub-section shall affect the exemption conferred by section 4 on ships belonging to Her Majesty or to His Highness the Ruler *or His Excellency the Governor (LN 332/58)* of any State.

(3) Notwithstanding that any provision of this Ordinance is expressed to apply to ships not registered in the Federation while they are within any port in the Federation, that provision shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstance that neither of master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

(4) *Sub-section (1) shall not prevent the application -*

(a) to any ship of three hundred tons gross tonnage or upwards, of so much of the provisions mentioned in paragraphs (a) and (b) of that sub-section as relates to certificates issued under section 267 of this Ordinance or equivalent accepted Safety Convention certificates;

(b) to any ship to which section 256B of this Ordinance (A792/91) applies and which is registered in Malaysia, of so much of the provisions mentioned in paragraph (a) of that sub-section as relates to certificates issued under section 268A of this Ordinance (A792/91);

by reason only that she is of less than five hundred tons gross tonnage. (No. 15 of 1966)

285. (~~deleted~~) (A792/91)

General Equipment

286. Adjustment of compasses and provision of hose

(1) Every British or Malayan sea-going steamship, if employed to carry passengers, and every British or Malayan *near-coastal trade* (A792/91) steamship shall have her compasses properly adjusted from time to time, and every steamship as aforesaid not used wholly as a tug shall be provided with a hose capable of being connected with the engines of the ship, and adapted for extinguishing fire in any part of the ship.

(2) If any such steamship as aforesaid plies or goes to sea from any port in the Federation and any requirement of this section is not complied with, then for each matter in which default is made, the owner, if in fault, shall be liable to a fine not exceeding *five thousand* (A792/91) dollars, and the master, if in fault, shall be liable to a fine not exceeding *five thousand* (A792/91) dollars.

287. Placing undue weight on safety-valve

A person shall not place an undue weight on the safety-valve of any steamship, and, if he does so, he shall in addition to any other liability which he incurs by so doing, be liable for each offence to a fine not exceeding *ten thousand* (A792/91) dollars.

288. Signalling lamps

No British or Malayan ship registered in the Federation, being a ship of over one hundred and fifty tons gross tonnage, shall proceed to sea on an international voyage, unless the ship is provided with an efficient signalling lamp and if any ship proceeds or attempt to proceed to sea in contravention of this section, the owner or master thereof shall for each offence be liable to a fine not exceeding *one thousand* (A792/91) dollars.

Dangerous Goods

289. Restrictions on carriage of dangerous goods

(1) A person shall not send or attempt to send by any vessel, and a person not being the master or owner of the vessel shall not carry or attempt to carry in any such vessel any dangerous goods, without distinctly marking their nature on the outside of the package containing the same and giving written notice of the nature of those goods and of the name and address of the sender or

carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.

(2) Any person who fails without reasonable cause to comply with this section shall be liable for each offence to a fine not exceeding *ten thousand (A792/91)* dollars, but if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, then not exceeding *one thousand (A792/91)* dollars.

(3) *For the purpose of this Part "dangerous goods" means -*

(a) aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine and petroleum;

(b) any explosives within the meaning of any written law in force in the Federation relating to explosives;

(c) any goods which by reason of their nature, quantity or mode of stowage are liable, either singly or collectively, to endanger the lives of persons on or near any ship, or to imperil any ship; and

(d) any other goods which may be declared to be dangerous goods by rules made or, as the case may be, having application under section 293. (A 792/91)

290. Penalty for misdescription of dangerous goods

Any person who knowingly sends or attempts to send by or carries or attempts to carry in any vessel, [~~det~~.] (A792/91) any dangerous goods under a false description, or false describes the sender or carrier thereof, shall be liable for each offence to a fine not exceeding *twenty thousand (A792/91)* dollars or to imprisonment for a term not exceeding *two years, (A792/91)* or to both.

291. Power to deal with goods suspected of being dangerous

(1) The master or owner of any vessel, [~~det~~.] (A792/91) may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

(2) Where any dangerous goods, or any goods which in the judgement of the master or owner of the vessel are dangerous goods, have been sent or brought aboard any vessel, British, Malayan or foreign, without being marked as aforesaid or without such notice have given as aforesaid, the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained.

(3) Neither the master nor the owner of the vessel shall be subject to any liability, civil or criminal, in any Court for so throwing the goods overboard.

292. Forfeiture of dangerous goods improperly sent or carried

(1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel [~~del.~~] (A792/91) without being marked as aforesaid or without such notice having been given as aforesaid, or under a false description or with a false description of the sender or carrier thereof, the High Court may declare those goods and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the Court directs.

(2) The Court shall have and may exercise the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Ordinance relating to dangerous goods, and is not before the Court and has no notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the Court may, in its discretion, require such notice as it directs to be given to the owner or shipper of the goods before they are forfeited.

293. Carriage of dangerous goods

(1) The Minister may make rules for regulating in the interests of safety the carriage of dangerous goods in the ships to which this section applies.

(2) This section applies to -

- (a) all Malaysian ships whether such ships ply on an international voyage or not;*
- (b) all other ships while they are within any port in Malaysia, or are embarking or disembarking passengers within the territorial waters of Malaysia, or are loading or discharging cargo or fuel within those waters.*

(3) Rules made under subsection (1) may prescribe such certificates as may be necessary for the purposes of the rules and may prescribe the fees payable in respect of such certificates.

(4) Until rules are made under subsection (1), the rules made from time to time under the Merchant Shipping Acts with respect to the carriage of dangerous goods shall apply to ships to which this section applies.

(5) If any of the rules made under subsection (1) or, as the case may be, having application under subsection (4), is not complied with in relation to any ship to which the rule applies, the person specified in the rules as being guilty of an offence for the non-compliance or, if no person is so specified, the owner or master of the ship shall be liable in respect of each offence to a fine not exceeding fifteen thousand ringgit or such lesser amount as may be prescribed in the rules

for the offence, and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading. (A792/91)

294. Saving for other enactments relating to dangerous goods

(1) The provisions of this Part relating to the carriage of dangerous goods shall be in addition to and not in substitution for or in restraint of any other enactment for the like object.

(2) Nothing in the said provisions shall be deemed to authorise any person to be sued or prosecuted twice in the same matters.

Carriage of Cattle and other Livestock by Sea

295. Rules as to carriage of cattle, etc. by sea

(1) The *Minister (LN 332/58)* may make rules for all or any of the following purposes:

- (a) securing for cattle and other livestock carried by sea a proper supply of food and water;
- (b) protecting them from unnecessary suffering when being shipped, during the passage, and on landing;
- (c) their destruction when injured at sea;
- (d) the provision of a sufficient number of attendants on cattle and other livestock at sea, and for the control of such attendants;
- (e) any other matters relating to cattle or other livestock as to which it is expedient to make rules for carrying into effect the objects of this Part.

(2) Rules under this section shall be applicable to all vessels, British, Malayan or foreign.

(3) Any person who without lawful authority or excuse, proof whereof shall lie on him, does or omits to do anything in contravention of any rule in force under this section shall be liable to a fine not exceeding *three thousand (A792/91)* dollars.

(4) A Port Officer, a Port Health Officer or a Surveyor of Ships may at any time board any vessel or enter any pen or board such vessel for the purposes of inspection.

296. Power to exempt certain steamers

The *Minister (LN 332/58)* may, by order to be published in the *Gazette*, exempt any particular steamer or class of steamers when trading under the conditions specified in the exemption from the operation of any portion of the rules in force under the last preceding section which may relate to the fittings and arrangements for the accommodation, safety and comfort of cattle and other livestock.

Carriage of Grain and Deck Cargo

297. Obligations to take precautions to prevent grain cargo from shifting

(1) No ship [~~det.~~] (A792/91) laden with a grain cargo shall proceed from or arrive at any port or place in the Federation *and no Malaysian ship so laden shall proceed from or arrive at any port of place in any country (A792/91)* unless all necessary and reasonable precautions, whether mentioned in any regulations made under this section or not, have been taken in order to prevent the grain cargo from shifting.

(2) If those precautions have not been taken, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea shall each be liable to a fine not exceeding *fifteen thousand (A792/91)* dollars, and the owner of the ship shall also be liable to the same fine unless he shows that he took all reasonable means to enforce the observations of this section and was not privy to the breach thereof.

(3) The *Minister (LN 332/58)* may make regulations prescribing the precautions to be taken to prevent a grain cargo from shifting, and such precautions shall be adopted unless the ship is loaded in accordance *in all respects with any provisions approved by the Minister as respects the loading in question other than regulations made under this subsection. (A792/91)*

(4) If any of the said regulations is not complied with in the case of any ship, reasonable precautions to prevent the grain cargo of that ship from shifting shall be deemed not to have been taken, and the owner and master of the ship and any agent charged with loading her or sending her to sea shall be liable accordingly to a fine under this section.

(5) Nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions which, although not mentioned in the said regulations, are reasonably required to prevent grain cargo from shifting.

(6) *In this section the expression "grain" includes wheat, maize or corn, oats, rye, barley, rice, pulses and seeds, and (No.49 of 1955) processed forms thereof whose behaviour is similar to that of grain in its natural state. (A792/91)*

298. Obligations to take precautions in loading deck cargo

(1) The *Minister (LN 332/58)* may make regulations prescribing the precautions to be taken in the loading of goods as deck cargo in any uncovered space upon deck or in any covered space not included in the cubical contents forming the ship's tonnage, and no ship, British, Malayan or foreign, shall proceed from or arrive at any port or place in the Federation unless those precautions have been taken.

(2) If those precautions have not been taken, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea shall each be liable to a fine not exceeding three thousand dollars, and the owner of the ship shall also be liable to the same fine unless he shows that he took all reasonable means to enforce the observance of this section and was not privy to the breach thereof.

(3) Nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject from failing to adopt reasonable precautions which, although not mentioned in the said regulations, are reasonably required in the loading of goods as deck cargo.

299. Saving for ship coming in under stress of weather, etc.

Nothing in the last two preceding sections shall affect any ship not bound to a port or place in the Federation which comes into any port or place in the Federation for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunkers.

Nuclear Ships

299A. Nuclear ship regulations

The Minister may make regulations with respect to ships provided with nuclear power plants for the purpose of enabling effects to be given to the provisions of Chapter VIII of the Annex to the Safety Convention. (A792/91)

Transitional Regulations

299B. Power to make transitional regulations

The Minister may make regulations to provide that for such purposes, for such a period and subject to such conditions as may be specified by or under the regulations -

(a) any country which, immediately before the commencement of this section, was a country to which the International Convention for the Safety of Life at Sea 1960 applied shall be treated for the purposes of this Ordinance as if it were a country to which the Safety Convention applies; and

(b) any certificate which, immediately before the commencement of the section, was an accepted Safety Convention certificate within the meaning then of this Ordinance may be treated as if it were an accepted Safety Convention certificate within the meaning presently of this Ordinance. (A792/91)

Unseaworthy Ships

300. Sending unseaworthy ship to sea an offence

(1) Any person who sends or attempts to send, or is party to sending or attempting to send, a British, Malayan or foreign ship to sea from any port in the Federation in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves either that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was under the circumstances reasonable and justifiable.

(2) Any master of a British, Malayan or foreign ship who knowingly takes the same to sea from any port in the Federation in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves that her going to sea in such an unseaworthy state was under the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted otherwise than with the consent of the *Minister. (LN 332/58)*

(4) An offence under this section shall be punishable with a fine not exceeding five thousand dollars or with imprisonment for a term not exceeding two years.

(5) This section shall not apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in the Federation.

301. Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness

(1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship and the master and every agent charged with the loading of the ship or the preparing of the ship for sea or the sending of the ship to sea shall use all reasonable means to ensure the seaworthiness of the ship

for the voyage at the time when the voyage commences and to keep her in such seaworthy condition during the voyage.

(2) Nothing in this section -

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

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

302. Power to detain unsafe ships and procedure for detention

(1) Where a British or Malayan ship, being in any port in the Federation, is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of under-manning, or by reason of over-loading or improper loading, unfit to proceed to sea or to proceed within the limits of any port without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released as follows:-

(a) the *Minister*, (LN 332/58) if he has reason to believe, on complaint or otherwise, that a British or Malayan ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed or for ascertaining the sufficiency of the crew;

(b) when a ship has been provisionally de-tained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the *Minister* (LN 332/58) may, if he thinks fit, appoint some competent person or persons to survey the ship and report thereon to him;

(c) the *Minister* (LN 332/58) on receiving the report may either order the ship to be released or, if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship as he thinks necessary for the protection of human life, and the *Minister* (LN332/58) may vary or add to any such order.

(d) before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after that service the owner or master of the ship may appeal to the Court of Survey for the port where the ship is detained, in manner directed by the rules of that Court;

(e) where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the Court of Survey, and in that case, if the surveyor and assessor agree, the *Minister* (LN 332/58) shall cause the ship to be detained or released accordingly, but if they differ the *Minister* (LN 332/58) may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section;

- (f) where a ship has been provisionally detained, the *Minister (LN 332/58)* may at any time, if he thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained;
- (g) the *Minister (LN 332/58)* may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions
- (2) Each Port Officer and the Surveyor-General of Ships, in this Ordinance, referred to as "a detaining officer", shall have the same power as the *Minister (LN 332/58)* has under this section of ordering the provisional detention of a ship for the purpose of being surveyed or for ascertaining the sufficiency of her crew and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.
- (3) A detaining officer shall forthwith report to the *Minister (LN 332/58)* any order made by him for the detention or release of a ship.
- (4) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.
- (5) A ship detained under this section shall not be released by reason of her British or Malayan registry being subsequently closed.
- (6) A detaining officer and a person authorised to survey a ship under this section shall for that purpose have the same power as a person appointed by a Court of Survey to survey a ship, and the provisions of this Ordinance with respect to the person so appointed shall apply accordingly, and the powers exercisable by him under this section shall include power to muster the crew.

303. Liability for costs and damages

- (1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship under this Part as an unsafe ship, the Government shall be liable to pay to the owner of the ship out of the public revenue his costs of an incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.
- (2) If a ship is finally detained under this Ordinance, or if it appears that a ship provisionally detained was, at the time of that detention, an unsafe ship within the meaning of this Part, the owner of the ship shall be liable to pay to the Government its costs of an incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.
- (3) For the purpose of this section the costs of and incidental to any proceeding before a Court of Survey and surveyor, or officer of the Government, shall be part of the costs of the detention and survey of the ship; and any dispute as to the amount of those costs may be referred to a Registrar

of the Supreme Court, who shall, on request by the *Minister*, (LN 332/58) ascertain and certify the proper amount of those costs.

(4) An action for any costs or compensation payable by the Government under this section may be brought against the Port Officer of the port where the ship was detained by his official title as if he were a corporation sole, and the Public Authorities Protection Ordinance shall not apply to such action.

304. Power to require complainant to give security for costs

(1) Where a complaint is made to the *Minister* (LN 332/58) or a detaining officer that a British or Malayan ship is unsafe, the *Minister* (LN 332/58) or officer may require the complainant to give security to the satisfaction of the *Minister* (LN 332/58) for the costs and compensation which he may become liable to pay as hereinafter mentioned.

(2) Such security shall not be required where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the *Minister* (LN 332/58) or officer frivolous or vexatious, and the *Minister* (LN 332/58) or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Ordinance to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

305. Application to foreign ships of provisions as to detention

(1) Where a foreign ship, whilst within any port in the Federation, whether she has taken any cargo on board at that port or not, unsafe by reason of over-loading or improper loading, or by reason of the defective condition of her hull, equipments or machinery, or under-manning, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British or Malayan ship, with the following modifications:

(a) a copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the said port;

(b) where a ship has been provisionally detained, the consular officer on the request of the owner or master of the ship may require that the person appointed by the *Minister* (LN

332/58) to survey the ship shall be accompanied by such person as the consular officer selects, and in that case, if the surveyor and that person agree, the *Minister (LN 332/58)* shall cause the ship to be detained or released accordingly, but if they differ, the *Minister (LN 332/58)* may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British or Malayan ship; and

(c) where the owner or master of the ship appeals to the Court of Survey, the consular officer, on his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British or Malayan ship, would be appointed otherwise than by the *Minister. (LN 332/58)*

(2) ~~deleted (A792/91)~~

306. Survey of ship alleged by seamen to be unseaworthy

(1) Whenever in any proceeding against any seaman or apprentice belonging to any ship for the offences of desertion, or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship, that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the Court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence it thinks it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.

(2) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.

(3) For the purposes of this section the Court shall require any Surveyor of Ships, or, if such a Surveyor cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the Court and having no interest in the ship, her freight or cargo, to survey the ship, and to answer any question concerning her which the Court thinks fit to put.

(4) Such Surveyor or other person shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court, and the Court shall cause the report to be communicated to the parties, and unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, shall determine the questions before it in accordance with those opinions.

(5) Any person making a survey under this section shall for the purposes thereof have all the powers of the Inspector under this Ordinance.

(6) The costs, if any, of the survey shall be determined by the *Surveyor-General of Ships (LN 332/58)* according to the prescribed scale of fees.

(7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid into the Treasury.

(8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Accountant-General and shall be liable to pay to the seaman or apprentice, who has been detained in consequence of the said proceeding before the Court under this section, such compensation for his detention as the Court awards.

Supplemental

306A. Countries to which Safety Convention applies

The Minister, if satisfied -

(a) that the government of a country has accepted, or denounced, the Safety Convention;
or

(b) that the Safety Convention extends, or has ceased to extend, to any territory,
may by order make a declaration to that effect. (A792/91)