

# Acts Supplement (Amendment Acts)



LAWS OF MALAYSIA

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## ACT A895

### Merchant Shipping (Amendment) Act 1994

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**Date of Royal Assent:** 24th June 1994  
**Date of Publication in the Gazette:** 7th July 1994  
**Date of coming into operation:** 1st September 1994 : ss. 5 - 8 [P.U.(B) 379/94];

## ARRANGEMENT OF SECTIONS

### [Long Title & Preamble](#)

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### **Long Title & Preamble**

An Act to amend the Merchant Shipping Ordinance 1952.

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:



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### **Section 1. Short title and commencement.**

(1) This Act may be cited as the **Merchant Shipping (Amendment) Act 1994**.

(2) This Act shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint, and the Minister may appoint different dates for the coming into force of different provisions of this Act.



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### **Section 2. Amendment of section 2.**

The Merchant Shipping Ordinance 1952, which in this Act is referred to as the "Ordinance", is amended, in section 2-

(a) by substituting for the word "Part" in the definition of "conditions of assignment" the word "Chapter"; and

(b) by substituting for the definition of "Load Line Convention" the following definition:

' "Load Lines Convention" means the International Convention of Load Lines signed in London on the 5th April 1966; and if any amendment of the Load Lines Convention comes into force with respect to Malaysia, references in this Ordinance to the Load Lines Convention shall, unless the context otherwise requires, be construed as references to the Load Lines Convention as amended;".

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### **Section 3. Amendment of section 3.**

Section 3 of the Ordinance is amended by inserting after the word "electricity" the words ", internal combustion engine".





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### Section 4. New sections 58A, 58B and 58C.

The Ordinance is amended by inserting after section 58 the following sections:

" 58A. Terminable certificate of registry for small ships.

(1) The Minister may make regulations , providing that, on an application for registry under this Ordinance of any ship which does not exceed one hundred and fifty gross tonnage or twenty-four metres in length, the registrar may grant, in lieu of a certificate of registry as required by this Ordinance, a terminable certificate of registry to be terminable at the end of a maximum period of five years from the granting thereof, and all certificates of registry granted under any such regulations shall be in such form and have effect subject to such conditions as the regulations may provide.

(2) Regulations made under this section-

(a) may provide for the renewal of the terminable certificate of registry;

(b) may prescribe the fees payable or chargeable for anything done for the purpose of this section; and

(c) may prescribe on any other matter which may appear to the Minister to be expedient or necessary for the better carrying out of this section.

(3) Any ship to which a terminable certificate of registry is granted under the regulations made under this section shall, during the validity of the certificate, be deemed to be a registered Malaysian ship for the purposes of this Ordinance and in relation to all things done or omitted to be done during that period.

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

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

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

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

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

58C. Security for loan.

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



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### **Section 5. Amendment of section 65B.**

Paragraph 65B(2)(c) of the Ordinance is amended by inserting after the words "Ministry of" the word "International".



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### **Section 6. Amendment of section 65K.**

Section 65K of the Ordinance is amended by inserting after the word "Board" the words "or of any person or body of persons delegated with the powers and duties of the Board under section 65T".



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### **Section 7. Amendment of section 65KA.**

Section 65KA of the Ordinance is amended by deleting subsection (4).





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### **Section 8. New section 65U.**

The Ordinance is amended by inserting after section 65T the following section:

" 65U. Exemption by Minister.

Without prejudice to any other powers conferred by this Part, the Minister may, by notification in the *Gazette*, exempt any ship from any of the provisions of this Part or any regulations made thereunder upon such terms and conditions as he may deem fit."



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### **Section 9. Amendment of section 226.**

Section 226 of the Ordinance is amended by substituting for the words "home-trade or local-trade" the words "near-coastal trade".



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### **Section 10. Amendment of section 233.**

Section 233 of the Ordinance is amended-

(a) by inserting after the words "on arriving at" in subsection (1) the words "or when departing from"; and

(b) by substituting for the word "brought" in subsection (2) the word "carried".



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### **Section 11. Amendment of section 309.**

Section 309 of the Ordinance is amended-

- (a) by deleting the words "of Articles 6 to 10" and "and Annex I and Annex II thereto" in subsection (1); and
- (b) by deleting the words "to Part II of Annex I" in subsection (3).





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### **Section 12. Amendment of section 318.**

Subsection 318 (2) of the Ordinance is amended by substituting for the words "home-trade limits" in the proviso thereto the words "near-coastal trade voyage".



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### **Section 13. Amendment of section 328.**

Subsection 328(2) of the Ordinance is amended by deleting the words "paragraph 2 of Article 6 of".



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### **Section 14. Amendment of section 474.**

Section 474 of the Ordinance is amended by substituting for subsection (1) the following subsection:

" (1) Every boat that plies at any port, river or place in the Federation for any of the following purposes:

- (a) trade or business;
- (b) the transportation of any person other than for trade or business; or
- (c) sports, leisure or recreational activity,

shall obtain a licence under this Part or under any written law relating to fisheries."



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### **Section 15. New section 483C.**

The Ordinance is amended by inserting after section 483B the following section:

" 483C. Manning of boats licensed under this Part.

Every boat that is licensed under this Part shall be manned in accordance with the rules and regulations made under this Ordinance:

Provided that the Director of Marine may determine the manning requirements for a boat that is licensed for a purpose other than for the purpose of trade or business, which requirements shall be included as a condition of the licence."





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### Section 16. New Part XIII.A.

The Ordinance is amended by inserting after Part XIII, the following Part:

#### " PART XIII CONTROL OF SHIPPING

491A. Interpretation and application.

(1) For the purposes of this Part and the rules made thereunder, unless the context otherwise requires-

"dumping" means any disposal at sea of any material from a ship but does not include the disposal of any material incidental to, or derived from, the normal operation of ships;

"Malaysian waters" means the territorial waters of Malaysia determined in accordance with the Emergency (Essential Powers) Ordinance, No. 7 1969;

"owner" includes a charterer or operator of a ship;

"ship" means a vessel of any type whatsoever operating in the maritime environment and includes any hydrofoil boat, air-cushioned vehicle, submersible or floating craft and any fixed or floating platform.

(2) This Part shall apply throughout Malaysia.

491B. Notification to the Director of Marine of activity engaged by a ship.

(1) Any ship which is engaged or intends to engage in any of the following activities:

- (a) dredging;
- (b) mining, including exploration and exploitation;
- (c) cable and pipe laying;
- (d) marine construction, including the construction of jetties and wharves;
- (e) dumping of any material;
- (f) sports, leisure or recreational activity;
- (g) survey;
- (h) cleaning, including cleaning of cargo tanks;
- (i) transportation, discharging or loading of wastes; or
- (j) pilotage,

in Malaysian waters shall be required to notify the Director of Marine, in such form as may be prescribed by him, of such activity.

(2) Subsection (1) shall not apply to-

(a) any boat that is licensed under section 475; or

(b) any ship that is registered under this Ordinance and is solely engaged or intended to be engaged in sports, leisure or recreational activity.

(3) The Director of Marine, upon receiving the notification, may impose such terms and conditions as he thinks fit, including prescribing the fees for anything to be done or permitted to be done under this Ordinance, on the activity.

(4) The owner, master or agent of the ship or any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

#### 491C. Powers of the Director of Marine.

(1) The Director of Marine may, where he has reason to believe that an offence has been committed under this Part, with a warrant-

(a) stop and board any ship in Malaysian waters and make any enquiry, examination and physical inspection of such ship, its crew, equipment, gear, appurtenance, store and cargo;

(b) inspect any permit, licence, record, certificate or any other document required under this Ordinance or under any generally accepted international rules and standards, and make copies of the same;

(c) detain such ship including any equipment, gear, appurtenance, cargo or thing belonging to or on board that ship; and

(d) arrest any person whom he has reason to believe has committed an offence under this Part.

(2) Any person who resists or obstructs the Director of Marine or fails to comply with any requirement of the Director of Marine in the exercise of his powers and duties under this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(3) The ship or any equipment, gear, appurtenance, cargo or thing detained under subsection (1) may be released to the owner, master or agent of the ship subject to such terms and conditions as the Director of Marine may impose and subject, in any case, to sufficient security being furnished to the satisfaction of the Director of Marine.

(4) The Director of Marine may, at his discretion, by order in writing, direct the owner, master or agent of the ship to take appropriate measures to ensure the safety of any life or property, or for the security of the ship, including the removal of the ship to any place or port.

(5) Where any order given by the Director of Marine under subsection (4) is not forthwith complied with, the Director of Marine may himself proceed to carry it into effect.

(6) Any expenses reasonably incurred by the Director of Marine in the exercise of his powers under subsection (5) shall be fully recoverable from the owner, master or agent of the ship.

#### 491D. Cost of holding ship, etc. in custody.

Where any ship or thing is held in the custody of the Government of Malaysia pending completion of any proceedings in respect of any offence under this Part, the cost of holding the ship or thing in custody shall, in the event of any person being found guilty of the offence, be a debt due to the Government and shall be recoverable accordingly as a civil debt.

#### 491E. Power to make rules.

The Minister may make such rules as may be expedient or necessary for the better carrying out of the provisions of this Part."



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### **Section 17. Amendment of section 504.**

Section 504 of the Ordinance is amended-

- (a) by substituting for the words "one thousand dollars" in subsection (2) the words "fifty thousand ringgit";
- (b) by substituting for the words "one hundred dollars" in subsection (4) the words "five thousand ringgit"; and
- (c) by substituting for the words "five hundred dollars" in subsection (6) the words "twenty five thousand ringgit".



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### Section 18. New section 512A.

The Ordinance is amended by inserting after section 512 under the subheading "*Application of Penalties and Costs of Prosecutions*" the following section:

" 512A. Compounding of offences.

(1) The Director of Marine may, in a case where he deems it fit and proper to do so, compound any offence committed by any person which is punishable under any provision of this Ordinance, by making a written offer to such person to compound the offence by paying to the Director of Marine within such time as may be specified in the offer such sum of money as may be determined in the offer which shall not exceed fifty per centum of the amount of the maximum fine (including the daily fine, if any, in the case of a continuing offence) to which that person would have been liable if he had been convicted.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Director of Marine may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made.

(4) The power to compound any offence under this Ordinance shall be exercised by the Director of Marine personally."

