

MERCHANT SHIPPING (AMENDMENT AND EXTENSION) BILL 1984

Unannotated Statutes of Malaysia - Bills

Unannotated Statutes of Malaysia - Bills

MERCHANT SHIPPING (AMENDMENT AND EXTENSION) BILL 1984

(Presented and read a first time in the Dewan Rakyat on 20th March 1984.)

This Bill is enacted as Act A603

A BILL

intituled

An Act to amend the Merchant Shipping Ordinance 1952, to extend specified provisions thereof to the States of Sabah and Sarawak, and to provide for matters connected therewith.

[]

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

EXPLANATORY STATEMENT

This Bill seeks to amend the [Merchant Shipping Ordinance 1952](#) and to extend certain provisions of the Ordinance to the States of Sabah and Sarawak.

Clause 2 seeks to introduce the definitions of “continental shelf”, “exclusive economic zone”, “registrar”, “Registrar General”, “Surveyor of Ships” and “Surveyor-General of Ships”. It is to be noted that in the case of Sabah and Sarawak, the term “Surveyor of Ships” includes not only the Surveyor-General of Ships but also any surveyor of ships appointed under any written law relating to merchant shipping in force in these States.

Clause 4 seeks to amend [section 11](#). As amended, this section stipulates that a ship will be deemed to be a Malaysian ship only if it is wholly owned by Malaysian citizens, or by corporations which satisfy the following requirements:

- (i) the corporation is incorporated in Malaysia;
- (ii) the head office of the corporation is in Malaysia;
- (iii) the management of the corporation is carried out mainly in Malaysia;
- (iv) the majority or the percentage of its shareholding as determined by the Minister is held by Malaysian citizens free from any trust or obligation in favour of a non-Malaysian; and
- (v) the majority of the percentage of its directors as determined by the Minister are Malaysian citizens.

The Minister may, if he thinks it fit, prescribe other requirements in addition to the above requirements.

Clause 5 seeks to amend [section 12](#) to authorise the detention of any ship required to be registered under the Ordinance if the master fails to produce a certificate of registry of the ship. The amendment also empowers the Minister to prescribe the procedure for the registration of ships belonging to the Government (Federal or State) or a statutory body.

Clause 6(c) seeks to amend [section 13](#) to exempt local fishing vessels not exceeding five hundred tons gross licensed under any written law relating to fisheries from being required to be registered.

Clause 8 seeks to amend [section 16](#). The purpose of the amendment is mainly to improve on the drafting of this,

MERCHANT SHIPPING (AMENDMENT AND EXTENSION) BILL 1984

section. But opportunity is also taken to introduce a new subsection, that is subsection (3). This subsection gives a registrar the power to demand proof of ownership to his satisfaction before proceeding to register a ship.

Clause 9 seeks to amend [section 18](#). This amendment is intended merely to change the references to measurement in this section from the British system to the metric system.

Clause 10 seeks to delete [section 20](#) and to substitute a new provision. This new [section 20](#) prescribe the particulars that must be recorded in the Register Book.

Clause 11 seeks to amend [section 22](#). This section requires certain particulars (such as the name of the owner of the ship, the name of the master, etc.) to be stated in the certificate of registry. Presently, the particulars required do not include particulars of the certificate of competency of the master. With the amendment such particulars will now have to be included in the certificate of registry.

Clause 12 seeks to delete [section 25](#). This deletion is necessary in view of the proposed new [section 26](#) (see *Clause 13*) which deals with the issue of provisional certificates of registry.

Clause 13 seeks to introduce a new [section 26](#). Presently, the issue of provisional certificate is dealt with by [sections 25](#). (which *Clause 12* seeks to delete) and 26. The procedure and conditions governing the issue of these certificates are spelt out in these sections. It is now proposed that, instead of having two separate sections dealing with the issue of provisional certificates, there should be only one provision dealing with such matter. The new [section 26](#) is general in nature providing for matters of detail concerning the procedure, conditions and restrictions as to the issue of provisional certificates to be spelt out in the regulations.

Clause 14 seeks to introduce a new section, namely [section 26A](#) so as to empower the Registrar General to cancel a Malaysian ship's certificate of registry or to impose conditions on such certificate on grounds of failure to comply with the Ordinance or any rules or regulations under the Ordinance, or on grounds of failure to comply with the requirements of any international convention applicable to Malaysia.

Clause 15 seeks to amend [section 27](#) so as to increase the maximum penalty from two thousand ringgit to five thousand ringgit.

Clause 16 seeks to amend [section 31](#). With the amendment, whenever there is a change of master of a Malaysian registered ship at a Malaysian port which has no registrar, a memorandum of the change may be endorsed on the certificate of registry by a Port Officer.

Clause 17 seeks to amend [section 33](#). Paragraph (a)(i) of this clause seeks to make it clear that this section is intended to cover not only ships which are *actually* lost but also ships which are *constructively* lost. An example of a ship considered as being constructively lost is where the ship is damaged to such an extent that the cost of repairing the damage exceeds the value of the ship when repaired.

With the amendment by paragraph (b) of this clause, the owner (or shareholder) of a ship which is lost, taken by enemy, burnt, broken up, etc., is required to inform the registrar of the ship's port of registry within fourteen days (instead of "immediately" as is presently provided) on learning the fact.

The new subsection (2) introduced by paragraph (c) of this clause requires the master of a Malaysian registered ship which is lost, taken by enemy, burnt, broken up, etc., (except where the ship's certificate of registry of the ship within fourteen days of his arrival in a port (or immediately if the event occurs in port), to the registrar, or, if none, to the Port Officer or to the Malaysian diplomatic or consular there; and the registrar, Port Officer or the diplomatic or consular, as the case may be, shall then forward the certificate to the registrar of the ship's port of registry.

Paragraph (d) of this clause seeks to increase the maximum penalty that may be imposed under this section from two thousand ringgit to five thousand ringgit.

Clause 18 seeks to amend [section 51\(1\)](#) so that approval for the transfer of a Malaysian ship to a foreign registry may now be granted by the Registrar General instead of by the Minister.

Clause 19 seeks to amend [section 57](#) so as to increase the power of the Minister as regards the making of rules. With the amendment the Minister now may also make rules—

MERCHANT SHIPPING (AMENDMENT AND EXTENSION) BILL 1984

- (a) requiring the periodic submission by registered owners of Malaysian registered ships of particulars of the operators of such ships and, where the owners are corporations, of particulars of the corporations; and
- (b) giving effect to the recommendations of international governmental organizations on the treatment of the shelter deck and other open space.

Clause 22 seeks to amend [section 65A](#) so as to substitute a new definition for “domestic shipping”. The proposed new definition of “domestic shipping” is wider than the existing definition for the new definition covers the shipment of goods or passengers from any port or place within Malaysia to another port or place within Malaysia or from any port or place within Malaysian to any place within the exclusive economic zone (or vice versa); and under this new definition the towing or pushing by a ship of another ship engaged in domestic shipping is considered as domestic shipping.

Clause 23 seeks to amend [section 65](#) which deals with the membership of the Board. With the amendment, the Minister may appoint *any* person to be the Chairman of the Board. Under the present provisions the Minister can appoint no other person to be the Chairman except the Secretary General of the Ministry of Transport. Also, with the amendment, the Minister may appoint an alternate member for each regular member of the Board (other than the Chairman).

Clause 24 seeks to amend [section 65](#) which provides the Board with the power to make regulations. As amended the Board now has wider powers including the power to prescribe the rates which may be charged for the carriage of passengers or cargo by any ship engaged in domestic shipping and the power to prescribe penalties for offences under the regulations.

Clause 28 seeks to introduce a new section, namely [section 65KA](#). This new section prohibits non-Malaysian ships from engaging in domestic shipping. This new section also imposes certain restrictions on the engagement of Malaysian ships by foreigners for the purpose of domestic shipping.

Clause 29 seeks to amend [section 65L](#). With this amendment, certain classes of vessels are exempted from being required to be licensed for the purpose of domestic shipping.

Clause 31 seeks to introduce three new sections, namely [sections 65R](#), [65s](#) and [65T](#). [Section 65R](#) empowers Port Officers and officers of customs to board ships at a port or within territorial waters or within the exclusive economic zone for the purpose of ascertaining whether or not the provisions of the law relating to domestic shipping are complied with. [Section 65s](#) empowers such officers to detain any ship found contravening the provisions of [section 65KA](#) or [section 65L](#). [Section 65T](#) empowers the Board to delegate its powers and duties (other than the power to make regulations) to any person or body of persons.

Clause 32 seeks to introduce two new sections, namely [sections 473A](#) and [473B](#). [Section 473A](#) defines “boat” for the purposes of [section 474](#) to [485](#). As defined, “boat” means any vessel below five hundred gross tons plying within the rivers and coastal waters of a State extending up to the outer limits of the territorial sea for the purpose of trade or business. Subsection (2) of [section 473A](#) defines what is meant by the expression “trade of business”. [Section 473B](#) exempts certain classes of vessels from the provision of [section 474](#) to [485](#).

Clause 33 seeks to amend [section 474](#) to enable fishing vessels licensed under any written law relating to fisheries to ply at any port or place within Malaysia without having to apply for a boat licence under [section 475](#). It also seeks to increase the maximum fine that may be imposed under [section 474 \(2\)](#) from one hundred ringgit to one thousand ringgit.

Clause 35 seeks to amend [section 483](#). With the amendment the Minister would be able to make elaborate rules with respect to fishing vessels. He would be able to make rules on matters such as the seaworthiness, survey, inspection, construction, equipment, and the accommodation, article of agreement and discipline of the crews, of fishing vessels.

Clause 36 seeks to introduce a new section—[section 483B](#). This section prohibits licensed boats from proceeding beyond the territorial limits imposed on such boats.

Clause 37 seeks to amend [section 484](#) to increase the penalty that may be imposed under this section from one hundred ringgit to five hundred ringgit.

MERCHANT SHIPPING (AMENDMENT AND EXTENSION) BILL 1984

Clause 38 seeks to introduce a new section—[section 485A](#). This new section gives the Minister the power to make regulations to register oil rigs and other similar type of off-shore marine structures. The regulations may also regulate the construction, manning and operation of such structures.

Clause 40 seeks to extend [sections 473A](#) to [485A](#) to the States of Sabah and Sarawak.

The rest of the clauses deal with amendments which are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PR (U²) 1093.]

End of Document