

D.R. 5/94

Naskhah Sahih—Bahasa Inggeris

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Ordinan Perkapalan
Saudagar 1952.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG
oleh Seri Paduka Baginda Yang di-Pertuan Agong
dengan nasihat dan persetujuan Dewan Negara dan
Dewan Rakyat yang bersidang dalam Parlimen, dan
dengan kuasa daripadanya, seperti berikut:

1. (1) Akta ini bolehlah dinamakan Akta Perkapalan
Saudagar (Pindaan) 1994.

Tajuk ringkas
dan mula
berkuatkuasa.

(2) Akta ini hendaklah mula berkuatkuasa pada tarikh
yang ditetapkan oleh Menteri melalui pemberitahuan
dalam *Warta*, dan Menteri boleh menetapkan tarikh-
tarikh yang berlainan bagi mula berkuatkuasanya
peruntukan-peruntukan yang berlainan dalam Akta ini.

2. Ordinan Perkapalan Saudagar 1952, yang disebut
"Ordinan" dalam Akta ini, adalah dipinda dalam
seksyen 2—

Pindaan
seksyen 2.
Ord. 70/52.

(a) dengan menggantikan perkataan "Part" dalam
takrif "conditions of assignment" dengan
perkataan "Chapter"; dan

- (b) dengan menggantikan takrif "Load Line Convention" dengan takrif yang berikut:

"Load Lines Convention" means the International Convention of Load Lines signed in London on the 5th April 1966; and if any amendments 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;'

Pindaan
seksyen 3.

3. Seksyen 3 Ordinan adalah dipinda dengan memasukkan selepas perkataan "electricity" perkataan ", internal combustion engine".

Seksyen
baru 58A,
58B dan 58C.

4. Ordinan adalah dipinda dengan memasukkan selepas seksyen 58 seksyen yang berikut:

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

Conditions on ownership of ship with terminable certificate of registry.

58B. 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.

Security for loan.

58c. 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."

- Pindaan seksyen 65B. 5. Perenggan 65B(2)(c) Ordinan adalah dipinda dengan memasukkan selepas perkataan "Ministry of" perkataan "International".
- Pindaan seksyen 65K. 6. Seksyen 65K Ordinan adalah dipinda dengan memasukkan selepas perkataan "Board" perkataan "or of any person or body of persons delegated with the powers and duties of the Board under section 65T".
- Pindaan seksyen 65KA. 7. Seksyen 65KA Ordinan adalah dipinda dengan memotong subseksyen (4).
- Seksyen baru 65U. 8. Ordinan adalah dipinda dengan memasukkan selepas seksyen 65T seksyen yang berikut:
 “Exemption by Minister. 65u. 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.”.
- Pindaan seksyen 226. 9. Seksyen 226 Ordinan adalah dipinda dengan menggantikan perkataan "home-trade or local-trade" dengan perkataan "near-coastal trade".
- Pindaan seksyen 233. 10. Seksyen 233 Ordinan adalah dipinda—
 (a) dengan memasukkan selepas perkataan "on arriving at" dalam subseksyen (1) perkataan "or when departing from"; dan
 (b) dengan menggantikan perkataan "brought" dalam subseksyen (2) dengan perkataan "carried".
- Pindaan seksyen 309. 11. Seksyen 309 Ordinan adalah dipinda—
 (a) dengan memotong perkataan "of Articles 6 to 10" dan "and Annex I and Annex II thereto" dalam subseksyen (1); dan

(b) dengan memotong perkataan "to Part II of Annex I" dalam subseksyen (3).

12. Subseksyen 318(2) Ordinan adalah dipinda dengan menggantikan perkataan "home-trade limits" dalam proviso kepadanya dengan perkataan "near-coastal trade voyage". Pindaan seksyen 318.

13. Subseksyen 328(2) Ordinan adalah dipinda dengan memotong perkataan "paragraph 2 of Article 6 of". Pindaan seksyen 328.

14. Seksyen 474 Ordinan adalah dipinda dengan menggantikan subseksyen (1) dengan subseksyen yang berikut: Pindaan seksyen 474.

"(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."

15. Ordinan adalah dipinda dengan memasukkan selepas seksyen 483B seksyen yang berikut: Seksyen baru 483c.

483c. Every boat that is licensed under this Part shall be manned in accordance with the rules and regulations made under this Ordinance:

"Manning of boats licensed under this Part

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."

Bahagian
baru XIII.A.

16. Ordinan adalah dipinda dengan memasukkan selepas Bahagian XIII, Bahagian yang berikut:

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PART XIII A

CONTROL OF SHIPPING

Inter-
pretation
and
application.

491 A. (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;

P U. (A)
307A/69

"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 marine environment and includes any hydrofoil boat, air-cushioned vehicle, submersible, floating craft and any fixed or floating platform.

(2) This Part shall apply throughout Malaysia.

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

491B. (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.

Power to
the Director
of Marine.

491c. (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,

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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.

Cost of holding ship, etc. in custody.

491D. 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.

Power to make rules.

491E. The Minister may make such rules as may be expedient or necessary for the better carrying out of the provisions of this Part."

17. Seksyen 504 Ordinan adalah dipinda—

Pindaan seksyen 504

- (a) dengan menggantikan perkataan "one thousand dollars" dalam subseksyen (2) dengan perkataan "fifty thousand ringgit";
- (b) dengan menggantikan perkataan "one hundred dollars" dalam subseksyen (4) dengan perkataan "five thousand ringgit"; dan
- (c) dengan menggantikan perkataan "five hundred dollars" dalam subseksyen (6) dengan perkataan "twenty-five thousand ringgit".

18. Ordinan adalah dipinda dengan memasukkan selepas seksyen 512 di bawah subtajuk "*Application of Penalties and Costs of Prosecutions*" seksyen yang berikut:

Seksyen baru 512A.

"Compound-
ing of
offences. 512A. (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'

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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."

HURAIAN

Rang Undang-Undang ini bertujuan meminda Ordinan Perkapalan Saudagar 1952 ("Ordinan").

2. *Fasal 2* bertujuan meminda takrif tertentu dalam seksyen 2 Ordinan.

PERKAPALAN SAUDAGAR (PINDAAN)

3. *Fasal 4* bertujuan memasukkan seksyen baru 58A, 58B dan 58c. Suatu bentuk baru pendaftaran diperkatakan dalam seksyen baru 58A, iaitu, sijil pendaftaran boleh tamat bagi kapal kecil. Seksyen baru 58B dan 58c mengadakan perkara-perkara yang berkaitan dengan pemunyaan kapal-kapal dan penggunaan kapal-kapal yang diberikan sijil pendaftaran boleh tamat sebagai cagar bagi sesuatu pinjaman atau balasan-balasan berharga yang lain.

4. *Fasal 6* bertujuan meminda seksyen 65K Ordinan untuk membenarkan rayuan dibuat terhadap keputusan oleh mana-mana orang atau kumpulan orang yang diwakilkan dengan kuasa-kuasa dan tugas-tugas Lembaga Pelesenan Perkapalan Dalam Negeri.

5. *Fasal 7* bertujuan memotong subseksyen 65KA(4) memandangkan ianya tidak lagi dianggap perlu dengan kemasukan seksyen baru 65u.

6. *Fasal 8* bertujuan memasukkan seksyen baru 65u untuk memberi Menteri kuasa untuk mengecualikan mana-mana kapal daripada peruntukan-peruntukan Bahagian 11B Ordinan.

7. *Fasal 14* bertujuan meminda seksyen 474 Ordinan untuk memperluaskan kehendak-kehendak pelesenan bot.

8. *Fasal 15* bertujuan memasukkan seksyen baru 483c untuk memperluaskan peruntukan-peruntukan keanggotaan dalam Ordinan kepada bot yang dilesenkan di bawah Bahagian XIII.

9. *Fasal 16* bertujuan memasukkan Bahagian baru XIII A. Seksyen baru 491B dalam Bahagian baru menghendaki mana-mana kapal yang terlibat atau berniat untuk terlibat dalam apa-apa aktiviti yang dinyatakan di dalamnya dalam perairan Malaysia untuk memberitahu Pengarah Marin tentang aktiviti tersebut. Pengarah Marin boleh mengenakan fee atau terma-terma dan syarat-syarat yang difikirkannya patut kepada aktiviti tersebut. Seksyen baru 491c memperkatakan tentang kuasa-kuasa Pengarah Marin untuk menjalankan penyiasatan mengenai sesuatu kesalahan di bawah Bahagian baru ini. Seksyen baru 491D bertujuan membenarkan Kerajaan mendapatkan balik sebagai suatu hutang sivil, kos memegang mana-mana kapal atau barang dalam jagaannya dalam hal mana-mana orang didapati bersalah melakukan apa-apa kesalahan di bawah Bahagian baru ini.

10. *Fasal 18* bertujuan memasukkan seksyen baru 512A untuk memberi Pengarah Marin kuasa mengkompaun mana-mana kesalahan di bawah Ordinan.

11. *Fasal 5, 9, 10, 11, 12, 13 dan 17* bertujuan membuat pindaan kepada Ordinan yang adalah berbangkit atau kecil sahaja.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 1432.]