

A BILL

intituled

An Ordinance to amend the Merchant Shipping Ordinance, 1952.

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IT IS HEREBY ENACTED by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of the Malay States, with the advice and consent of the Legislative Council, as follows:

Short title.

1. This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance, 1955.

Amendment of section 2. No. 70 of 1952.

2. Section 2 of the Merchant Shipping Ordinance, 1952 (in this Ordinance referred to as "the principal Ordinance") is amended—

(a) by substituting the following definition for the definition of "country to which the Load Line Convention applies" therein appearing—

"country to which the Load Line Convention applies" means—

(a) a country the government of which has been declared by Her Majesty in Council to have ratified or acceded to the Load Line Convention, and has not been so declared to have denounced that Convention;

(b) a territory to which it has been so declared that the Load Line Convention has been applied under the provisions of Article twenty-one thereof, not being a territory to which it has been so declared that that Convention has ceased to apply;"; and

(b) by deleting therefrom the definition of "load line rules" which appears immediately after the definition of "lighthouse".

Amendment of section 69.

3. Sub-section (1) of section 69 of the principal Ordinance is amended by substituting for the word "None" the words "Except as specifically provided none".

Amendment of section 72.

4. Paragraph (a) of sub-section (1) of section 72 of the principal Ordinance is amended by deleting therefrom the words "certificated for that port".

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5. Sub-section (1) of section 76 of the principal Ordinance is amended— Amendment of section 76.

(a) by inserting in paragraph (a) thereof immediately below the word and punctuation "helmsman;" the words and punctuation "helmsman of a fishing boat;"; and

(b) by substituting a full stop for the semi-colon at the end of paragraph (b) thereof and deleting therefrom paragraph (c).

6. The following section is hereby inserted in the principal Ordinance immediately after section 76 thereof: New section 76A.

76A. Certificates of efficiency shall be granted in accordance with this Ordinance for the grade of lifeboat man."

7. Section 79 of the principal Ordinance is amended— Amendment of section 79.

(a) by inserting in the marginal note immediately after the word "competency" the words "and efficiency";

(b) by substituting the following sub-section for sub-section (1) thereof:

"(1) For the purpose of granting certificates of competency as masters, mates, helmsmen and steersmen or of efficiency as lifeboat men to persons desirous of obtaining the same, examinations shall be held at such times and places as the High Commissioner directs."; and

(c) by inserting in the proviso to sub-section (3) the words "or certificate of efficiency as lifeboat man" immediately after the word "steersman".

8. Section 81 of the principal Ordinance is amended by inserting therein the words and punctuation "helmsman of a fishing boat," immediately after the word and punctuation "helmsman," Amendment of section 81.

9. In sub-section (1) of section 82, sub-sections (1) and (2) of section 83, sub-section (1) of section 85 and in section 87 of the principal Ordinance there shall be inserted immediately after the word "competency", wherever appearing, the words "or efficiency". Amendment of sections 82 (1), 85 (1) and 87.

10. Sub-section (2) of section 209 of the principal Ordinance is amended by deleting therefrom the words "in Council". Amendment of section 209.

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Amendment
to
section 231.

11. Section 231 of the principal Ordinance is hereby amended—

(a) by substituting in sub-section (1) thereof the words "Every foreign-going ship" for the words "Every foreign passenger steamer"; and

(b) by substituting for the marginal note thereto the following—

"Foreign-going ships to carry medical practitioners."

Amendment
of section
297.

12. In section 297 of the principal Ordinance a new sub-section shall be inserted as follows:

"(6) In this section the expression 'grain' includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and a ship shall be deemed to be laden with a grain cargo if it is carrying a quantity of grain exceeding one-third of the ship's registered tonnage, reckoning one hundred cubic feet, or two tons weight, of grain as equivalent to one ton of registered tonnage."

Amendment
of section
333.

13. Section 333 of the principal Ordinance is hereby amended—

(a) by inserting immediately below the word and punctuation "helmsman;" the words and punctuation "helmsman of a fishing boat;";

(b) by substituting a semi-colon for the full stop at the end of the definition of "the holder of a local certificate" and adding thereto the following—

"or of a certificate the holder of which is deemed by virtue of the proviso to section 75 of this Ordinance to be duly certificated for the purposes of this Ordinance."; and

(c) by adding the following new definition:

"Malayan ship" shall be deemed to include any native sailing ship and any vessel of such class or classes as the High Commissioner in Council may by notification in the *Gazette* prescribe."

Amendment
of section
335.

14. Sub-section (2) of section 335 of the principal Ordinance is amended by substituting the words "President of a Sessions Court" for "Magistrate".

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15. Sub-section (5) of section 336 of the principal Ordinance is hereby amended by inserting immediately after the words "the High Commissioner" the words "or other authority by which the same was granted".

Amendment
of section
336.

16. The following section is hereby substituted for section 367 of the principal Ordinance—

New section
367.

367. (1) The Director of Marine shall be the Principal Receiver of Wreck and shall have all the powers of a receiver throughout the Federation.

(2) The Principal Receiver of Wreck shall exercise general direction and supervision over all matters relating to wreck and salvage.

(3) The High Commissioner may appoint any person to be a receiver of wreck in any district and to perform the duties of receiver under this Part and shall give notice of the appointment in the *Gazette*."

17. In section 420 of the principal Ordinance for the words "twenty" and "ten" respectively there shall be substituted the words "one hundred" and "twenty-five".

Amendment
of section
420.

18. Section 449 of the principal Ordinance is amended by substituting the following paragraph for paragraph (a) thereof—

Amendment
of section
449.

"(a) forthwith give or cause to be given at the Port Office a written report of the arrival of his vessel, which report shall be in such form as shall from time to time be prescribed by the Director of Marine and shall contain such particulars as the Director of Marine may require;"

19. Sub-section (1) of section 460 of the principal Ordinance is amended by inserting immediately after the word "Federation" the words "or of the approaches thereto".

Amendment
of section
460.

20. Section 472 of the principal Ordinance is amended by adding thereto the following sub-section:

Amendment
of section
472.

"(3) Any expenses properly incurred by the Port Officer in exercise of the powers conferred upon him by sub-section (1) hereof shall be recoverable from the owner, agent or master of the vessel concerned as a civil debt or in the manner provided by section 490 of this Ordinance."

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Amendment
of section
473.

21. In section 473 of the principal Ordinance there shall be inserted a new sub-section as follows:

“(14) If any native sailing ship required to be licensed under sub-section (1) of this section plies at any port or place in the Federation without a licence, or contrary to the conditions (if any) of a licence granted under that sub-section, the owner and master and any person who causes or permits such vessel so to ply shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months.”.

Amendment
of section
483.

22. Section 483 of the principal Ordinance is amended by substituting for paragraph (a) thereof the following new paragraph—

“(a) providing for the collection of fees for licences issued under this Part;”.

New section
483A.

23. Immediately after section 483 of the principal Ordinance there shall be inserted the following new section:

“Rules as
to fares.

483A. The Ruler in Council in a State and the High Commissioner in Nominated Council in a Settlement may make rules for the fares to be paid for the use of cargo boats or passenger boats or both or of steam vessels not exceeding forty tons gross tonnage at any port in the State or Settlement or elsewhere within Federation waters adjacent to such State or Settlement:

Provided that any rules made by the High Commissioner in Council prior to the date of the coming into force of this section and in force at such date shall be deemed for all purposes to have been made under this section, and shall continue in force until revoked or replaced by rules made under this section.”.

Amendment
of section
509.

24. Sub-section (2) of section 509 of the principal Ordinance is amended by substituting for the words “Twelfth Schedule” the words “Eleventh, Twelfth and Thirteenth Schedules”.

Amendment
of the First
Schedule.

25. The First Schedule to the principal Ordinance is hereby amended—

(a) by inserting after the word “Competency” the words “or Efficiency”; and

(b) by inserting in its appropriate place the following—

“Helmsman of a fishing boat ... 6.00”.

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26. The Tenth Schedule to the principal Ordinance amended— Amendment of the Tenth Schedule.

(a) by substituting the words "*Sunday labour*" for the words "*Sunday Permits*" therein appearing; and

(b) by substituting the following proviso for the proviso therein appearing—

"Provided that no charge shall be made if not more than 20 tons weight of cargo is worked."

27. The Eleventh Schedule to the principal Ordinance amended by inserting at the end thereof the following fees: Amendment of the Eleventh Schedule.

"Miscellaneous.

For every bill of sale (if made in the Port Office) 10.00

For every certified copy of documents or extract 2.00

For every inspection of any record ... 1.00

Fees for Licence Book.

For every licence book 1.00."

28. The Twelfth Schedule to the principal Ordinance amended— Amendment of the Twelfth Schedule.

(a) by inserting, under the heading "*Fee for Licence Book*" the word "*fishing*," between the word "*cargo*" and the word "*or*"; and

(b) by adding the following fees at the end thereof—

"Fees for Transfers, etc.

For each transfer, transmission, mortgage and transfer of mortgage, according to the gross tonnage of the boat, as follows:

Under 10 tons	\$ 1.00
10 tons and under 20 tons	2.00
20 " " 30 " ...	"	"	4.00
30 " " 40 " ...	"	"	5.00
40 " " 50 " ...	"	"	6.00
50 " " 75 " ...	"	"	7.00
75 " " 100 " ...	"	"	9.00
100 " " 125 " ...	"	"	10.00

and a further fee of \$1.00 for every additional 50 tons or part of 50 tons.

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For every bill of sale (if made in the Port Office) ...	\$10.00
For every certified copy of documents or extract ...	2.00
For every inspection of any record	1.00
<i>Fee for Boat Number Plates</i>	
Per pair	1.00."

Amendment
of the
Thirteenth
Schedule.

29. The Thirteenth Schedule to the principal Ordinance is hereby amended—

(a) by substituting the following reference for that appearing immediately below the heading thereof—

“(Sections 67, 509 (2) and 528)”, and

(b) by substituting the following item for item 3, of Part I thereof—

“3. For every bill of sale (if made in the Port Office) ...	10.00
For every certified copy of documents or extract ...	2.00
For every inspection of any record	1.00”

Amendment
of the
Fourteenth
Schedule.

30. (1) The Fourteenth Schedule to the principal Ordinance is hereby amended by adding thereto the following—

“Federation of Malaya Ordinance No. 23 of 1950	Pilots Enactment (Application to Trengganu) Or- dinance, 1950	The whole ”
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(2) The amendment effected by this section shall be deemed to have come into force with the principal Ordinance.

OBJECTS AND REASONS

The purpose of this Bill is to make certain amendments, principally of detail, in the Merchant Shipping Ordinance, 1952, which experience of the working of the Ordinance since it came into force has shewn to be desirable.

Clause 2 (a) effects certain improvements in phraseology which do not alter the original substance and intention of the Ordinance.

Clauses 2 (b) and 3 make minor corrections in the Ordinance.

It is no longer intended that helmsman should be certificated for a particular port, and *clause 4* proposes to amend section 72 accordingly.

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It is desired to make provision for a new grade of "helmsman a fishing boat", to rank immediately below the grade of "helmsman": and clauses 5 (a), 8, 13 (a) and 25 contain amendments for this purpose.

Clauses 5 (b), 6, 7 and 9 make provision for certificates of efficiency for lifeboat men. The Ordinance at present makes provision for the issue to lifeboat men of certificates of competency. Such certificates are reserved for particular grades whereas certificates of efficiency as lifeboat men may be held by any mariner, irrespective of grade.

Clause 10 amends section 209 in order to provide that the High Commissioner may approve the form of declaration of Survey to be given by the Surveyor of Ships to ship owners, etc., without reference to Federal Executive Council. It is considered unnecessary to take up the time of that Council with an administrative matter of this kind.

Clause 11. Section 231 of the Ordinance at present provides that at every foreign-going passenger steamer having 100 or more persons on board shall carry a doctor. This provision is to be extended to all ships carrying 100 or more persons, whether passenger-carrying or not, in order to comply with international practice.

Clause 12 provides a definition of the expression "grain" used in section 297.

The amendments to be effected by *clauses 13 (b) and 15* will empower a Court of Investigation held in the Federation to cancel or suspend local certificates issued in Singapore. This has been agreed by the Government of Singapore who have agreed to insert a reciprocal provision of the same kind in the Singapore Ordinance.

Clause 13 (c). The expression "Malayan ship" in this Part does not at present cover many classes of local craft. Such craft are from time to time involved in serious shipping casualties of the kind envisaged by section 332 and it is desired to confer power to investigate such casualties.

Clause 14 provides that a Court of Investigation shall be presided over by a President of a Sessions Court instead of a Magistrate as at present.

Clause 16. Section 367 permits the appointment of receivers of wreck; this clause proposes to appoint the Director of Marine as Principal Receiver of Wreck with powers to supervise local receivers of wreck.

Clause 17. It is proposed that the maximum fees chargeable for pilots' permanent licences be increased from \$20 to \$100 and for temporary licences from \$10 to \$25.

Clause 18. On arrival in port a Ship's master must report at the Port Office. It is proposed for the efficient working of the port that he should in future make his report in writing and in a prescribed form.

Clause 19 proposes to amend section 460, so as to empower a Port Officer to remove obstructions not only within port limits but also in the approaches to a port.

Clause 20. Section 472 allows a Port Officer to put out fires on ships. This amendment proposes that he should have power to recover the costs of his services.

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Clause 21 provides a penalty for a native sailing ship which plies without a licence. Section 473 has been found difficult to enforce for lack of a penalty and revenue from licences for native sailing ships has suffered.

Clauses 22 and 23 propose to transfer to State and Settlement Governments the power at present vested in the High Commissioner in Council to fix boat fares since this is clearly a matter of local concern. *Clause 22* also gives the High Commissioner in Council the power to provide for the collection of licence fees under Part XIII.

Clause 24 corrects an error.

Clause 26. The expression "Sunday labour" is substituted for "Sunday Permits" as being more appropriate to the provisions of section 467. A consequential amendment is also proposed.

Clauses 27 and 28 provide fees for various services rendered by Port Officers in respect of native sailing ships and of boats.

Clause 29 contains a consequential amendment and provides an inspection fee for examining any record in the Port Office.

Clause 30 makes an addition to the Schedule of Enactments repealed by the principal Ordinance.

KUALA LUMPUR,
31st August, 1955

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Attorney-General,
Federation of Malaya