

° (၂) သို့ပင်ရုပ်သိမ်းစေကာမူ၊ ၁၉၄၃ ခုနှစ်၊ မြန်မာနိုင်ငံ မီးရထား (အရေးပေါ်ပြဋ္ဌာန်းချက်များ) အက်ဥပဒေ (၁၉၄၃ ခုနှစ်၊ မြန်မာနိုင်ငံ အက်ဥပဒေအမှတ် ၂) (Burma Railways Emergency Provisions Act, 1943) အရ ဖွဲ့စည်းထားသည့် မီးရထားအုပ်ချုပ်ရေးအဖွဲ့သည်၊ ဤအက်ဥပဒေပုဒ်မ ၃ အရ၊ နည်းလမ်းတကျဖွဲ့စည်းသည့် ပြည်ထောင်စုမြန်မာနိုင်ငံ မီးရထားအုပ်ချုပ်ရေးအဖွဲ့၏ ပဌမအကြိမ်အစည်းအဝေးတိုင်အောင် မိမိ၏အာဏာများနှင့် တာဝန်ဝတ်တရားများကို ဆက်လက်သုံးစွဲဆောင်ရွက်ရမည်။

F. RIVER TRANSPORT.

စ။ ။မြစ်ကြောင်းသယ်ယူပို့ဆောင်ရေး။

THE INLAND STEAM VESSELS ACT.

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THE INLAND STEAM VESSELS ACT.

[INDIA ACT I. 1917.] (1st June, 1917.)

CHAPTER I.

PRELIMINARY.

- 1. * * * *
- 2. In this Act, unless there is anything repugnant in the subject or Definitions context,—
 - (1) "inland steam-vessel" means a steam-vessel which ordinarily plies on any inland water ;

- 1(2) "inland water" means any canal, river, lake or other navigable water in the Union of Burma ;
- ²(2A) "inspector" means an inspector appointed under this Act ;
- (3) "passenger" includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants ;
- (4) "prescribed" means prescribed by any rule under this Act ;
- (5) "steam-vessel" means every description of vessel propelled wholly or in part by [machinery]³ ;
- (6) "survey" means the survey of a steam-vessel under this Act ;
- (7) "surveyor" means a surveyor appointed under this Act ; and
- (8) "voyage" includes the plying of a steam-vessel at or about any place.

CHAPTER II.⁴

SURVEY OF INLAND STEAM-VESSELS.

Inland steam-vessel not to proceed on voyage or to be used for service without certificate of survey.

3. (1) An inland steam-vessel shall not proceed on any voyage, or be used for any service, unless she has a certificate of survey in force and applicable to such voyage or service.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate of survey expires and the time at which it is first practicable to have the certificate renewed ; [provided that such interval shall not exceed sixty days.]²

Appointment of surveyors and places of survey.

4. (1) The President of the Union may, by notification in the Gazette,—

(a) declare such places in the Union of Burma as he thinks fit to be places of survey,

(b) appoint so many persons to be surveyors at the said places as he thinks fit, for the purposes of this Act,

²(c) appoint so many persons to be inspectors as he thinks fit, for the purposes of this Act, and

²(d) declare, for any district, a maximum number of steam-vessels of various classes in respect of which certificates of survey will be granted.

(2) Every surveyor [or inspector]² shall, for the purposes of any survey [or inspection]² made by him, be deemed to be a public servant within the meaning of the Penal Code.

Powers of surveyors.

5. (1) For the purposes of a survey, the surveyor may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel

¹ For power to define how much of any tidal-water shall be deemed to be an "inland water", see section 70.

² Inserted by Act LI, 1953.

³ Substituted *ibid.*

⁴ For power to modify application of Chapters II and III to certain class of steam-vessels, see section 68, and for exemption of Government vessels, see section 69.

and every part thereof, including the hull, boilers, engines and other machinery, and all equipments and articles on board :

Provided that he shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery or any part thereof, and all equipments and articles on board, as he may require for the purposes of a survey.

¹(3) For the purposes of an inspection an inspector may, at any time, go on board an inland steam-vessel and may inspect the certificate of survey, the certificates of competency of the master and the engineer, the equipments of the steam-vessel and its cargo.

6. Before a survey is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the President of the Union may, by notification in the Gazette, appoint in this behalf—

Fees in respect of surveys.

- (a) a fee calculated on the tonnage of the steam-vessel according to the rates mentioned in Schedule I, or according to any other prescribed rates ; and
- (b) when the survey is to be made in any place of survey other than Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the President of the Union may by such notification direct.

7. When the survey of a steam-vessel is completed, if the surveyor making it is satisfied that—

Declaration of surveyor.

- (a) the hull, boilers, engines and other machinery of the steam-vessel are sufficient for the voyage or service intended and in good condition, and
- (b) the equipments of the steam-vessel and the certificates of the master and engineer are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel,

the surveyor shall forthwith give to the owner or master a declaration in the prescribed form containing the particulars mentioned in clauses (a) and (b), and the following further particulars, namely :—

- (i) the time (if less than one year) for which the hull, boilers, engines and other machinery and equipments of the steam-vessel will be sufficient ;
- (ii) the limit (if any) beyond which, as regards the hull, boilers, engines and other machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply ;

¹ Inserted by Act LI, 1953.

- (iii) the number of passengers (if any) which the steam-vessel is, in the judgment of the surveyor, fit to carry, specifying, if necessary, the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires ; and
- (iv) any other prescribed particulars.

Sending of declaration by owner or master to President.

8. (1) The owner or master of a steam-vessel to whom a declaration is given under section 7 shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the President of the Union may, by notification in the Gazette, appoint in this behalf.

(2) If any owner or master fails to send a declaration as required by sub-section (1), he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

Power for President to grant or authorize the grant of certificates of survey.

9. (1) The President of the Union shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration sent under section 8, cause—

- (a) a certificate of survey, in duplicate, to be prepared, and
- (b) notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

(2) On application made by the owner or master to such officer at the place of survey as the President of the Union may, by notification in the Gazette, appoint in this behalf, and on payment to such officer by the owner or master of the sum (if any) forfeited by him under section 8, sub-section (2) (the actual amount of which within the limit thereby fixed shall be determined by the President of the Union), the certificate, in duplicate, so prepared shall be granted to the owner or master by the President of the Union and issued to him through such officer.

(3) A certificate granted under this section shall be in the prescribed form, shall contain a statement to the effect that all the provisions of this Act with respect to the survey of the steam-vessel and the declaration of survey have been complied with, and shall set forth—

- (a) the particulars concerning the steam-vessel mentioned in the declaration of survey as required by clauses (i), (ii) and (iii) of section 7, and
- (b) any other prescribed particulars.

(4) The President of the Union may, by notification in the Gazette, delegate to any person all or any of the functions assigned to the President of the Union under this section :

Provided that no delegation shall be made under sub-section (2) so as to authorize the grant of a certificate of survey by the surveyor who made the declaration of survey under section 7.

10. The owner or master of every steam-vessel for which a certificate of survey has been granted shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed and kept affixed, so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board.

Certificate of survey to be affixed in conspicuous part of steam-vessel.

11. A certificate of survey shall not be in force—

Term of certificates of survey.

- (a) after the expiration of one year from the date thereof ; or
- (b) after the expiration of the period (if less than one year) for which the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel to which the certificate relates, have been stated in the certificate to be sufficient ; or
- (c) after notice has been given by the President of the Union, to the owner or master of such steam-vessel, that the President of the Union has cancelled or suspended it.

12. After a certificate of survey has ceased to be in force the same shall only be renewed after a fresh survey of the steam-vessel to which the certificate relates has been held in accordance with the provisions of this Chapter, save so far as any relaxation thereof may be prescribed.

Renewal of certificates of survey.

13. A certificate of survey may be suspended or cancelled by the President of the Union if he has reason to believe—

Power for President to suspend or cancel certificate of survey.

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines, or other machinery or of any of the equipments of the steam-vessel has been fraudulently or erroneously made ; or
- (b) that the certificate has otherwise been granted upon false or erroneous information ; or
- (c) that since the making of the declaration the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel, have sustained any material injury, or have otherwise become insufficient.

¹ 13A. If the owner of an inland steam-vessel is found wilfully to have contravened any provision of this Act, the President of the Union may, in addition to any other penalty imposed upon him under this Act, suspend or cancel, for any period as he may think fit, the certificate of survey of the steam-vessel in respect of which the contravention took place.

Suspension or cancellation of certificate in addition to other penalty for wilful contravention of Act.

14. The President of the Union may require any certificate of survey, which has expired or has been suspended or cancelled, to be delivered up to such officer as the President of the Union may, by notification in the Gazette, appoint in this behalf.

Power for President to require delivery of expired or cancelled certificate.

15. * * * *

¹ Inserted by Act LI, 1953.

Power for President to direct survey by two surveyors.

16. A survey shall ordinarily be made by one surveyor, but two surveyors may be employed if the President of the Union, by order in writing, so directs, either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Power for President to order a second survey.

17. (1) If the surveyor making a survey of a steam-vessel refuses to give a declaration under section 7 with regard to the steam-vessel, or gives a declaration with which the owner or master of the steam-vessel is dissatisfied, the President of the Union may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee payable for the previous survey, as the President of the Union may require, direct two other surveyors to survey the steam-vessel.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as, under the circumstances, seems to them proper.

(3) Any declaration given, or any refusal to give a declaration, under subsection (2) shall be final.

Division of duties when two surveyors employed. Power for President to make rules as to surveys.

18. When a survey is made by two surveyors, under either section 16 or section 17, each of the surveyors shall perform the prescribed portion of the duties assigned to a surveyor under this Act or the rules made thereunder.

19. (1) The President of the Union may make rules to regulate the making of surveys.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the times and places at which, and the manner in which, surveys are to be made ;
- (b) the duties of the surveyor making a survey and, where two surveyors are employed, the respective duties of each such surveyor ;
- (c) the form in which declarations of survey and certificates of survey are to be framed, and the nature of the particulars to be stated therein under sections 7 and 9 ;
- (d) the rates other than those mentioned in Schedule I according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places of survey ; and
- (e) the cases in, and the extent to, which a survey may be dispensed with before the grant of a new certificate.

Power of President to make rules as to inspectors.

¹**19A.** (1) The President of the Union may make rules to regulate the inspection of inland steam-vessels by duly appointed inspectors.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the times and places at which, and the manner in which, an inspection may be made ; and
- (b) the duties of an inspector making the inspection.

¹ Inserted by Act LI, 1953.

CHAPTER III.¹

MASTERS INCLUDING SERANGS AND ENGINEERS INCLUDING ENGINE-DRIVERS OF INLAND STEAM-VESSELS.

20. The President of the Union may appoint examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates (hereinafter called certificates of competency), to the effect that they are competent to act as masters or serangs, or as engineers or engine-drivers, as the case may be, on board inland steam-vessels. Appointment of examiners.

21. (1) The President of the Union or such officer as he may, by notification in the Gazette, appoint in this behalf, shall grant to every person who is reported by the examiners to possess the prescribed qualifications, a certificate of competency to the effect that he is competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland steam-vessel : Grant of masters', serangs', engineers' and engine-drivers' certificates of competency.

Provided nevertheless that, before granting a certificate of competency under this Act, the authority empowered to grant such certificate may, if it considers the report of the examiners regarding any applicant for such certificate to be defective, or has reason to believe that such report has been unduly made, require a further examination or a re-examination of the applicant.

(2) Every certificate granted under this section shall be in the prescribed form.

22. (1) The President of the Union may grant, without examination, to any person who has served as a master or as an engineer of an inland steam-vessel before the first day of April, 1890, a certificate (hereinafter called a certificate of service) to the effect that he is, by reason of his having so served, competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland steam-vessel. Grant of masters', serangs', engineers' and engine-drivers' certificates of service.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

22A. (1) The President of the Union may also grant— Licences.

(a) to a person who is in possession of a second-class master's certificate granted under section 21 or section 22, and has, by virtue of such certificate, acted as master of an inland steam-vessel having engines of forty or more nominal horse-power for a period of not less than five years, or

(b) to a person who is in possession of a first-class engine-driver's certificate granted under section 21 or section 22, or an engine-driver's certificate granted under the Indian Steamships Act, 1884² and has,

India VII,
1884.

¹ See the footnote to Chapter II.

² Repealed by the Indian Merchant Shipping Act, 1923 (India Act XXI, 1923).

by virtue of such certificate, served as an engine-driver of an inland steam-vessel having engines of not less than seventy nominal horse-power for five years, for not less than two and a half years of which period he has been the engine-driver of such vessel within the meaning of section 26,

a licence authorizing such person to act as master or engineer, as the case may be, of any inland steam-vessel having engines of one hundred and seventy nominal horse-power or of such less nominal horse-power as the President of the Union may deem fit.

(2) Any such licence shall remain in force only for such time as the person holding the same is in possession of and entitled to a master's or an engine-driver's certificate, as the case may be, of the nature referred to in sub-section (1):

Provided that the President of the Union may suspend, cancel, or vary the conditions of any such licence.

23. Every certificate of competency or service and every licence granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate or licence and the other shall be kept and recorded in the prescribed manner.

24. Whenever a master or serang, or an engineer or engine-driver, proves to the satisfaction of the authority which granted his certificate or licence, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate or licence to which, according to the record kept under section 23, he appears to be entitled shall be granted to him, and shall have the same effect as the original.

25. An inland steam-vessel having engines of one hundred or more nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class master's certificate granted under this Act, or a master's certificate granted under the Indian Merchant Shipping Act, 1859,¹ or granted under, or continued in force by, the Merchant Shipping Act, 1894, or a master's licence granted under section 22A and applicable to such vessel and voyage, and

(b) as her engineer a person possessing an engineer's certificate granted under this Act, or the Indian Steamships Act, 1884,¹ or granted under, or continued in force by, the Merchant Shipping Act, 1894, or an engine-driver's licence granted under section 22A and applicable to such vessel and voyage.

26. An inland steam-vessel having engines of forty or more nominal horse-power, but of less than one hundred nominal horse-power, shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate granted under this Act, or any certificate referred to in clause (a) of section 25, and

Certificates to be made in duplicate.

Copy of certificate or licence to be granted in certain cases.

Certificates to be held by master and engineer of vessel of one hundred or more horse-power.

Certificates to be held by master and engineer of vessel of between forty and one hundred horse-power.

India I,
1859.
57 & 58
Vict. c.
60.

India VII,
1884.
57 & 58
Vict. c.
60.

¹ Repealed by the Indian Merchant Shipping Act, 1923 (India Act XXI, 1923).

India VII,
1884.

- (b) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act, or an engine-driver's certificate granted under the Indian Steamships Act, 1884,¹ or any certificate referred to in clause (b) of section 25 :

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (a) and a certificate referred to in clause (b) of this section.

27. An inland steam-vessel having engines of less than forty nominal horse-power shall not proceed on any voyage unless she has—

Certificates to be held by master and engineer of vessel of less than forty horse-power.

- (a) as her master a person possessing a serang's certificate granted under this Act, or any certificate referred to in clause (a) of section 26, and
(b) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act, or any certificate referred to in clause (b) of section 26 :

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (a) and a certificate referred to in clause (b) of this section.

India I,
1859.
57 & 58
Vict., c.
60.
India VII,
1884.
57 & 58
Vict., c.
60.

28. Notwithstanding anything in this Chapter, the President of the Union may, by general or special order, direct that a person possessing—

Power for President to require master or engineer to hold certificate granted under Act in addition to other certificate.

- (a) a master's certificate granted under the Indian Merchant Shipping Act, 1859,¹ or granted under, or continued in force by, the Merchant Shipping Act, 1894, or
(b) an engineer's or engine-driver's certificate granted under the Indian Steamships Act, 1884,¹ or an engineer's certificate granted under, or continued in force by, the Merchant Shipping Act, 1894.

shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses—

- (i) in case (a), such a master's or serang's certificate granted under this Act as qualifies him under this Chapter to act as master of the steam-vessel, or
(ii) in case (b), such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this Chapter to act as engineer of the steam-vessel :

Provided that, for the purposes of this section, the President of the Union may grant to any person, without examination, a master's or serang's or an engineer's or engine-driver's certificate of competency under this Act, and such certificate shall have the same effect as a certificate of competency granted under this Act after examination.

¹ Repealed by the Indian Merchant Shipping Act, 1923 (India Act XXI, 1923).

Power for President to make rules as to grant of certificates of competency.

29. (1) The President of the Union may make rules to regulate the granting of certificates of competency under this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the times and places of holding and the mode of conducting the examination of persons desirous of obtaining certificates of competency ;
- (b) the qualifications to be required of persons desirous of obtaining such certificates ;
- (c) the examination fees to be paid by such persons ; and
- (d) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

Power for President to make rules as to grant of certificates of service.

30. The President of the Union may also make rules to regulate the granting of certificates of service under section 22, and may by such rules prescribe in particular—

- (a) the fees to be paid for such certificates, and
- (b) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

Power for President to make rules as to grant of licences.

30A. The President of the Union may also make rules to regulate the granting of licences under section 22A, and may by such rules prescribe in particular —

- (a) the fees (if any) to be paid for such licences, and
- (b) the forms in which such licences are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

31. * * * *

CHAPTER IV.

INVESTIGATION INTO CASUALTIES.

Report of casualties to be made to nearest police-station.

32. Whenever—

- (a) any inland steam-vessel has been wrecked, abandoned or materially damaged ; or
- (b) by reason of any casualty happening to, or on board of, any inland steam-vessel, loss of life has ensued ; or
- (c) any inland steam-vessel has caused loss or material damage to any other vessel,

the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty, or loss to the officer in charge of the nearest police-station [who shall take such action as may be prescribed.]¹

¹ Inserted by Act LI, 1953.

33. (1) If a formal investigation into the facts of any case reported under section 32 appears to the President of the Union to be expedient, the President of the Union may— Power for President to appoint Court of investigation.

(a) appoint a special Court and direct the Court to make the investigation at such place as the President of the Union may fix in this behalf ; or

(b) direct any principal Court of ordinary criminal jurisdiction or the Court of any District Magistrate to make the investigation.

(2) A special Court appointed under clause (a) of sub-section (1) shall consist of not less than two nor more than four persons, of whom one shall be a Magistrate, one shall be a person conversant with maritime affairs or with the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

34. (1) Any Court making an investigation under section 33 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty, or loss referred to in section 32. Power of Court of investigation to inquire into charges of incompetency or misconduct.

(2) In every case in which any such charge arises against any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or of any statement of the case upon which the investigation has been directed.

35. (1) If the President of the Union has reason to believe that there are grounds for charging any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, with incompetency or misconduct, otherwise than in the course of an investigation under section 33, he may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge. Power for President to direct investigation otherwise than under section 33.

(2) Before commencing an investigation under sub-section (1), the Court shall cause the person charged to be furnished with a copy of the statement of the case sent by the President of the Union.

36. For the purpose of an investigation under this Chapter into any charge against a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise. Person charged to be heard.

Assessors.

37. (1) When, in the opinion of the Court making an investigation under this Chapter, the investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, the Court shall appoint as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels.

(2) In every other investigation the Court may, if it thinks fit, appoint as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(3) Every person appointed as an assessor under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings.

Powers of Court as to evidence and regulation of proceedings.

38. For the purpose of any investigation under this Chapter, the Court making the investigation shall, so far as relates to compelling the attendance and examination of witnesses, and the production of documents and the regulation of the proceedings, have—

(a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made; or

(b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

Power of Court to effect arrest of witnesses by entry and detention of vessels.

39. (1) If any Court making an investigation under this Chapter issues a warrant of arrest to compel the attendance of any person whose evidence is in its opinion necessary, it may, for the purpose of effecting the arrest, but subject to any general or special instruction issued by the President of the Union in this behalf, authorize any officer to enter any vessel.

(2) An officer so authorized to enter any vessel may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Penal Code.

(3) No person shall be detained under this section for more than forty-eight hours.

Power of Court to commit for trial and to bind over witnesses.

40. Whenever, in the course of an investigation under this Chapter, it appears to the Court making the investigation that any person has committed, within the Union of Burma, an offence punishable under any law in force in the Union of Burma, the Court making the investigation may (subject to such rules

consistent with this Act as the High Court may, from time to time, make in this behalf)—

- (a) cause such person to be arrested ;
- (b) commit him or hold him to bail to take his trial before the proper Court ;
- (c) bind over any other person to give evidence at such trial ; and
- (d) exercise, for the purposes of this section, all the powers of a Magistrate of the first class.

41. (1) Whenever, in the course of a trial referred to in section 40, the evidence of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this Chapter shall, if authenticated by the signature of the Magistrate or presiding Judge of such Court, be admissible in evidence on proof—

Depositions of absent witnesses.

- (a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held ; and
- (b) that the deposition was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate signed by such Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had an opportunity of cross-examining the witness, shall, unless the contrary be proved, be sufficient evidence that it was so made and that the accused had such opportunity.

42. The Court shall, in the case of every investigation under this Chapter, transmit to the President of the Union a full report of the conclusions at which it has arrived, together with the evidence recorded and the written opinion of any assessor.

Report by Court to President.

43. Notwithstanding the appointment under section 37 of an assessor or assessors by a Court making an investigation under this Chapter, the exercise of all powers conferred on such Court by this Act shall rest with the Court alone.

Court to exercise its powers independently of the assessors.

44. (1) Whenever any explosion occurs on board any inland steam-vessel, the President of the Union may direct that an investigation into the cause of the explosion be made by such person or persons as he may appoint in this behalf.

Power for President to direct investigations into causes of explosions on steam-vessels.

(2) The person or persons so appointed may, for the purpose of the investigation, enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel or of the machinery thereof, and shall report to the President of the Union what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Penal Code.

CHAPTER V.

SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED UNDER THE ACT.

Power for President to suspend or cancel certificates in certain cases.

45. Any certificate granted under Chapter III may be suspended or cancelled by the President of the Union in the following cases, namely:—

- (a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any vessel, or loss of life, has been caused by the wrongful act or default of the holder of such certificate, or that the holder of such certificate is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or
- (b) if the holder of such certificate is proved to have been convicted of any non-bailable offence; or
- (c) if, in the case of a person holding a certificate of competency or service as second-class master or serang, or as engine-driver, such person is or has become, in the opinion of the President of the Union, unfit to act as a second-class master or serang, or as an engine-driver, as the case may be; [or]¹
- ¹(d) if the holder of such certificate is found wilfully to have contravened any provision of this Act:

Provided that a certificate shall not be suspended or cancelled under clause (a) unless the President of the Union is satisfied that the holder of the certificate has, before the commencement of the investigation, been furnished with a copy of the report or statement of the case as required by section 34 or section 35, as the case may be.

Obligation to deliver up suspended or cancelled certificate.

46. Every person whose certificate is suspended or cancelled under this Chapter shall deliver it up to such person as the President of the Union may direct.

47. * * * *

Power for President to revoke suspension or cancellation and to grant new certificate.

48. (1) The President of the Union may, at any time, revoke any order of suspension or cancellation which he may have made under this Chapter, or grant, without examination, to any person whose certificate he has so cancelled a new certificate.

(2) A certificate so granted shall have the same effect as a certificate of competency granted under this Act after examination.

¹ Inserted by Act LI, 1953.

CHAPTER VI.

PROTECTION OF, AND CARRIAGE OF PASSENGERS IN, INLAND STEAM-VESSELS.

49. The President of the Union may, by notification in the Gazette, declare what shall, for the purposes of this Act, be deemed to be dangerous goods.

Power for President to declare dangerous goods.

50. (1) No person shall—

Carriage of dangerous goods.

(a) take with him on board an inland steam-vessel any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel; or

(b) deliver or tender for carriage on such steam-vessel any dangerous goods without giving such notice, and without distinctly marking their nature on the outside of the package containing the goods.

(2) If the owner or master of an inland steam-vessel suspects, or has reason to believe, that any luggage or parcel taken, delivered, or tendered for carriage on the steam-vessel contains dangerous goods, he may—

(i) refuse to carry it upon the steam-vessel; or

(ii) require it to be opened to ascertain the nature of its contents; or

(iii) if it has been received for carriage, stop its transit until he is satisfied as to the nature of its contents.

51. Where any dangerous goods have been taken or delivered on board any inland steam-vessel in contravention of section 50, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so caused the goods to be thrown overboard, be subject to any liability, civil or criminal, in any Court.

Power of owner or master of steam-vessel to throw overboard dangerous goods.

52. (1) The President of the Union may make rules for the protection of inland steam-vessels against explosion, fire, collision and other accidents.

Power for President to make rules for protection of inland steam-vessels from accidents.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels;

(b) prescribe precautions to be taken to prevent explosions or fires on board inland steam-vessels;

(c) prescribe the apparatus which is to be kept on board inland steam-vessels for the purpose of extinguishing fires;

(d) regulate the making of sound signals;

(e) regulate the carriage and exhibition of lights by inland steam-vessels;

(f) regulate the carriage and exhibition of lights by other vessels on specified inland waters on which steam-vessels ply;

- (g) prescribe the steering rules to be observed ;
- (h) regulate the towing of vessels astern or alongside ;
- (i) prescribe the speed at which inland steam-vessels may be navigated in specified areas ;
- (j) regulate the navigation of inland steam-vessels to prevent danger to other vessels, or to the banks, channels, navigation marks, or any property, moveable or immoveable, in or abutting on navigable channels ;
- ¹(k) prescribe the form and scale of life-saving appliances to be carried ; and
- ¹(l) prescribe the parts of the inland steam-vessel on which the carriage of passengers and cargo is prohibited.

(3) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power for President to make rules as to carriage of passengers in inland steam-vessels.

53. (1) The President of the Union may make rules to regulate the carriage of passengers in inland steam-vessels.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels ;
- (b) provide for the payment of fares, and the exhibition of tickets or receipts (if any) showing the payment of their fares, by passengers in inland steam-vessels ; and
- (c) regulate generally the conduct of passengers in inland steam-vessels.

(3) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section if the name and address of such person are unknown to the master or such other officer.

(5) The procedure prescribed by section 59 of the Code of Criminal Procedure in the case of arrest by private persons shall apply to every arrest made under this section.

Power for President to make rules for protection of passengers.

54. (1) The President of the Union may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require—

- (a) the prices of passenger tickets to be printed or otherwise denoted on such tickets ; and

¹ Inserted by Act LI, 1953.

(b) the supply, free of charge, of a sufficient quantity of fresh water for the use of such passengers.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to fifty rupees.

54A. (1) The President of the Union may, by notification in the Gazette, after such inquiry as he may consider necessary, in respect of any system of inland waterways, or of any stretch of inland waterway, or of the run between any two stations on an inland waterway,—

Power of President to fix maximum and minimum rates for passenger fares and freight for goods.

- (a) fix the maximum or minimum rate per mile which may be charged for passenger fares for passengers of any class travelling on inland steam-vessels ;
- (b) fix the maximum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels ;
- (c) fix the minimum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels ; and
- (d) declare what shall be deemed to be the distance between any two stations on an inland waterway for the purpose of calculating passengers' fares or freight on goods where maximum or minimum rates have been fixed under this section.

(2) The President of the Union shall not fix any minimum rate under clause (a) or clause (c) of sub-section (1) in respect of any class of passengers or description of goods carried on any system of waterways, or stretch of waterway, or on the run between any two stations on an inland waterway, unless he is satisfied that the rates charged on any inland steam-vessel or group of such vessels in respect of such passengers or goods have been reduced to such an extent as to disclose an intention to force any other inland steam-vessel or group of such vessels to cease from carrying such passengers or goods.

54B. The President of the Union may make rules providing for the appointment, constitution, procedure and functions of committees to advise the owners, agents and charterers of inland steam-vessels on questions affecting the interests of passengers and shippers of goods.

Appointment of Advisory Committees.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

55. (1) If any inland steam-vessel proceeds on a voyage in contravention of section 3, the owner and the master of the steam-vessel shall each be punishable with fine, which may extend to [two thousand kyats, or with imprisonment which may extend to three months, or with both.]¹

Penalty for making voyage without certificate of survey.

¹ Substituted by Act LI, 1953.

(2) If the master or any other officer on board an inland steam-vessel which proceeds on voyage in contravention of section 3 is a licensed pilot he shall be liable to have his licence as a pilot suspended or cancelled, for any period, by the President of the Union.

¹ (3) If the master or any other officer on board an inland steam-vessel which proceeds on a voyage in contravention of section 3 holds a certificate of competency as master, serang, engineer or engine-driver he shall be liable to have his certificate suspended or cancelled by the President of the Union, for any period, as he thinks fit.

Penalty for neglect to affix certificate of survey in inland steam-vessel.

56. If the certificate of survey is not kept affixed in an inland steam-vessel as required by section 10, the owner and the master of the steam-vessel shall each be punishable with fine which may extend to one hundred rupees.

Penalty for neglect or refusal to deliver up certificate of survey.

57. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under section 14 so to do, he shall be punishable with fine which may extend to one hundred rupees.

Penalty for carrying excessive number of passengers on board.

58. If an inland steam-vessel has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and the master shall each be punishable with fine which may extend to ten rupees for every passenger over and above that number.

Penalty for serving or engaging a person to serve as master or engineer without certificate.

59. If any person—

- (a) proceeds on any voyage in an inland steam-vessel as the master or engineer of such vessel without being at the time entitled to, and possessed of, a master's or serang's or an engineer's or engine-driver's certificate or a master's or engine-driver's licence, as the case may be, as required under this Act ; or
- (b) employs as the master or engineer of an inland steam-vessel any person without ascertaining that he is at the time entitled to, and possessed of, such certificate or licence.

he shall be punishable with fine which may extend to five hundred rupees.

Penalty for master failing to give notice of wreck or casualty.

60. If any master wilfully fails to give notice, as required by section 32, of any wreck, abandonment, damage, casualty, or loss, he shall be punishable with fine which may extend to five hundred rupees, and, in default of payment of such fine, with simple imprisonment for a term which may extend to three months.

¹ Inserted by Act LI, 1953.

61. If any person, whose certificate is suspended or cancelled under this Act, fails to deliver up the certificate as required by section 46, he shall be punishable with fine which may extend to five hundred rupees.

Penalty for failing to deliver up suspended or cancelled certificate.

62. If any person, in contravention of section 50, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for carriage on any inland steam-vessel, he shall be punishable with fine which may extend to two hundred rupees, and the goods shall be forfeited to Government.

Penalty for taking or delivering or tendering for carriage dangerous goods on board inland steam-vessel without notice.

63. If any person employed or engaged in any capacity on board an inland steam-vessel, by wilful breach or by neglect of duty, or by reason of drunkenness,—

Penalty for misconduct or neglect endangering inland steam-vessel or life or limb.

- (a) does any act tending immediately to wreck, destroy or materially damage the vessel, or to endanger the life or limb of any person on board, or belonging to the vessel ; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any such person from immediate danger to life or limb,

he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

¹ **63A.** If any person—

- (a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration of survey or certificate of survey ; or
- (b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to, any such declaration or certificate,

Penalty for forging of surveyor's declaration or certificate of survey.

he shall, in respect of each offence, be punishable with fine which may extend to one thousand kyats and the declaration or certificate shall be cancelled.

¹ **63B.** If any person—

- (a) forges or fraudulently alters or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any certificate of competency or an official copy of such certificate ;
or

Penalty for forging or altering a certificate of competency.

¹ Inserted by Act LI, 1953.

- (b) makes, assists in making, or procures to be made any false representation for the purpose of procuring either for himself or any other person a certificate of competency ; or
- (c) fraudulently uses a certificate of competency or a copy of a certificate of competency which has been forged, altered, cancelled or suspended, or to which he is not entitled ; or
- (d) fraudulently lends his certificate of competency or allows it to be used by any other person,

he shall be punishable for each offence with fine which may extend to five hundred kyats and shall, if he is the holder of a certificate of competency, be liable to have his certificate cancelled, if the President of the Union so directs.

Penalty for carriage of passengers or cargo on awnings.

¹ 63C. (1) If an inland steam-vessel carries passengers on a permanent or removeable awning or on any other part of the steam-vessel not authorized for the carriage of passengers, the owner and the master shall each be punishable with fine which may extend to one thousand kyats, or with imprisonment which may extend to three months, or with both.

(2) If an inland steam-vessel carries cargo on a permanent or removeable awning, the owner and the master shall each be punishable with fine which may extend to one thousand kyats, or with imprisonment which may extend to three months, or with both.

Levy of fine by distress of inland steam-vessel.

64. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or any rule made thereunder committed on board, or in relation to, that steam-vessel, and is sentenced to pay a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the steam-vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Jurisdiction of Magistrates.

65. Except in the case of an offence against any rule made under section 53, no Magistrate shall try an offence under this Act, or any rule made thereunder, unless he is a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial.

66. If any person commits an offence against this Act or any rule made thereunder, he shall be triable for the offence in any place in which he may be found or which the President of the Union, by notification in the Gazette, appoints in this behalf, or in any other place in which he might be tried under any other enactment for the time being in force.

CHAPTER VIII.

SUPPLEMENTAL.

Power for President to make general rules.

67. (1) The President of the Union may make rules to carry out the purposes of this Act not otherwise specially provided for.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a

¹ Inserted by Act LI, 1953.

term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

68. The President of the Union may, by notification in the Gazette, declare that all or any of the provisions of Chapters II and III shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as may be specified in the notification.

Power for President to modify application of Act to certain inland steam-vessels.

69. Save in so far as the President of the Union may, by notification in the Gazette, otherwise direct, nothing in this Act, or any rule made thereunder, shall apply to any inland steam-vessel belonging to or in the service of the Government.

Exemption of vessels belonging to the Government.

70. The President of the Union may, by notification in the Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act.

Power for President to define tidal water.

71. All fees payable under this Act may be recovered as fines under this Act.

Fees recoverable as fines.

72 (1) Every master of an inland steam-vessel who possesses a master's certificate granted under this Act and in force shall, in ports to which section 31 of the Ports Act has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge.

Certificated masters of inland steam-vessels to be deemed pilots under section 31 of Ports Act.

(2) * * * *

73. The provisions of this Act shall also apply to all vessels which ordinarily ply on inland waters and are propelled by electricity or other mechanical power (except steam):

Application of Act to vessels propelled by electricity or other mechanical means.

Provided that the President of the Union may, by notification in the Gazette, declare that any provision of this Act shall, in its application under this section to such vessels, be subject to such modifications, for the purpose of adaptation, as may be specified in the notification.

74. (1) The power to make rules conferred on the President of the Union by this Act is subject to the condition of the rules being made after previous publication.

Publication of rules.

(2) All such rules shall, when made, be published in the Gazette, and shall thereupon have effect as if enacted in this Act.

SCHEDULE I.

RATES OF FEES.

[See sections 6 (a) and 19 (d).]

	T. ns.	Rs.
For steam-vessels of less than	100	25
" " 100 tons and up to	200	40
" " 200 " " "	350	50
" " 350 " " "	700	60
" " 700 " " "	1,000	80
" " 1,000 " " "	1,500	100
" " 1,500 and upwards	120

THE OBSTRUCTIONS IN FAIRWAYS ACT.

[INDIA ACT XVI, 1881.] (15th March, 1881.)

Saving. 1. Nothing herein contained shall apply to vessels belonging to [* *]¹ or hired [* * * *]¹ by the Government.

President empowered to remove or destroy obstruction in fairway. 2. Whenever, in any fairway leading to any port in the Union of Burma, any vessel is sunk, stranded or abandoned, or any fishing-stake, timber or other thing is placed or left, the President of the Union may, if in his opinion such thing is, or is likely to become, an obstruction or danger to navigation,—
 (a) cause such thing or any part thereof to be removed; or
 (b) if such thing is of such a description or so situate that, in the opinion of the President of the Union, it is not worth removing cause the same or any part thereof to be destroyed.

Government entitled to expenses incurred in removing obstruction. 3. Whenever anything is removed under section 2, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Dispute concerning such expenses. Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be decided by the District Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties; and such decision shall be final.

Notice of removal to be given by President. 4. The President of the Union shall, whenever anything is removed under section 2, publish in the Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.