

**H. MERCHANT SHIPPING.**

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**THE BURMA MERCHANT SHIPPING ACT. <sup>1</sup>**

[INDIA ACT XXI, 1923.] (1st May, 1923.)

PART I.

INTRODUCTORY.

1. \* \* \* \*

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) " effects " includes clothes and documents ;
- (2) " foreign-going ship " means a ship, not being a home-trade ship, employed in trading between any port in the Union of Burma and any other port or place ;
- (3) " home-trade ship " means a ship employed in trading between any ports in the Union of Burma or between any port in the Union of Burma and any port or place in India or Pakistan or in the Straits Settlements, or in the Island of Ceylon ;
- (4) " master " includes every person (except a pilot or harbour-master) having command or charge of a ship ;
- (5) " Merchant Shipping Acts " means the Merchant Shipping Acts, 1894—1932 ;
- (6) " passenger " includes any person carried in a ship other than the master and crew and the owner, his family and servants, but does not include any persons on board the ship either in pursuance of the obligation laid upon the master to carry ship-wrecked, distressed or other persons, or by reason of any circumstance which neither the master nor the owner could have prevented or forestalled ;
- (6A) " passenger steamer " means a steamship carrying more than twelve passengers ;
- (7) " prescribed " means prescribed by rules made under this Act ;
- (8) " seaman " means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship ;
- (9) " steam-ship " means every description of vessel used in navigation and propelled wholly or in part by the agency of steam ;
- (10) " wages " includes emoluments ; and

2 (11) \* \* \* \*

3. The provisions of this Act applying to steam-ships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the President of the Union may, by notification in the Gazette, direct for the purpose of adaptation.

Application of Act to ships propelled by electricity or mechanical power.

<sup>1</sup> For provisions relating to the registration of Government and other ships, see the Burma Registration of Ships Act (*post*).

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>1</sup> 4. This Act shall not, except where specially provided, apply to ships belonging to the Government or to ships belonging to any foreign Prince or State and employed otherwise than for profit in the public service of that foreign Prince or State. Exemption  
of public  
ships.

4A. \* \* \* \*

## PART II.

### MASTERS AND SEAMEN.

5. (1) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Burma Registration of Ships Act, and trading between ports in the Union of Burma and the coast of Arabia, when such ships are navigated and manned exclusively by [ \* \* \* ]<sup>2</sup> Asiatic masters and seamen. Application.

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows :—

- (a) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in the Union of Burma.
- (aa) The provisions relating to the employment of young persons shall apply to ships registered in the Union of Burma and to foreign ships in the manner prescribed in the said provisions.
- (b) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in the Union of Burma.
- (c) The provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in the Union of Burma, while such ships are in the Union of Burma.
- (d) The provisions relating to official logs shall apply to sea-going ships registered in the Union of Burma, and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in the Union of Burma and

<sup>1</sup> For provisions relating to the registration of Government and other ships, see the Burma Registration of Ships Act (*post*).

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

any port not situated in the part of His Britannic Majesty's dominions in which the ship is registered other than in the United Kingdom.

1 (3) \* \* \* \*

*Shipping Offices.*

Shipping  
offices.

6. (1) Shipping offices shall be maintained at every port in the Union of Burma where there is a shipping office on the 1st May, 1923<sup>2</sup>, and may be established and maintained at such other ports as the President of the Union may deem necessary.

(2) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the President of the Union may consider necessary.

(3) Shipping-masters and deputy shipping-masters shall be appointed by the President of the Union and shall be subject to his control or to the control of any intermediate authority which he may appoint.

(4) Every act done by or before a deputy shipping-master shall have the same effect as if done by or before a shipping-master.

Power to  
direct that  
business of  
shipping  
office be  
transacted  
at custom  
house, office  
or elsewhere.

7. (1) The President of the Union may direct that, at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other office as the President of the Union shall direct, and thereupon the same shall be conducted accordingly.

(2) In respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

Business of  
shipping-  
masters.

8. It shall be the general business of shipping-masters—

- (i) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided ;
- (ii) to provide means for securing the presence on board at the proper times of the seamen who are so engaged ;
- (iii) to give to all persons desirous of apprenticing boys to the sea service and duly authorized so to do by the Apprentices Act, and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships ;
- (iv) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act or the Merchant Shipping Acts

Fees to be  
paid.

9. (1) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the President of the Union shall be payable upon all engagements and discharges effected before shipping-masters.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>2</sup> Date of commencement of this Act.



(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping-master shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged and retain any sums not exceeding the sums specified in that behalf in Table B in Schedule I :

Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates ; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

10. If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorized under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office.

Prohibition on taking other remuneration at shipping office.

*Certificates of Competency.*

11. (1) Every [foreign-going ship]<sup>1</sup> and every [home-trade ship]<sup>1</sup> of three hundred tons or upwards when going to sea from any place in the Union of Burma shall be provided with officers duly certificated under this Act according to the following scale, namely :—

- (a) in any case, with a duly certificated master ;
- (b) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.

(2) Every [foreign-going steam-ship]<sup>1</sup> when going to sea from any place in the Union of Burma shall be provided with engineers duly certificated under this Act according to the following scale, namely :—

- (a) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated ;

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(b) if the ship is of less than one hundred nominal horse-power, with at least one engineer who is a first class or second class engineer duly certificated.

(3) Every [home-trade steam-ship]<sup>1</sup> when going to sea from any place in the Union of Burma, and every foreign steam-ship carrying passengers between places in the Union of Burma, shall be provided with engineers duly certificated according to the following scale, namely :—

(a) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated ;

(b) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second class engineer, or an engine driver duly certificated.

(4) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act apply.

**When officer deemed duly certificated.** 12. An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade.

(a) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby, or this Act or any Act repealed by the Indian Merchant Shipping Act, 1923 ; or

India  
XXI,  
1923.

(b) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the Merchant Shipping Act, 1894, to have the same force as if they were granted under that Act.

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Vict. c. 60

**Penalty for serving, etc., as a master, mate or engineer without a certificate.**

13. Any person who,—

(a) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

(b) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

**Grades of certificates of competency.**

14. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely :—

Master of foreign-going ship.

First mate of foreign-going ship.

Second mate of foreign-going ship.

Master of a home-trade ship.

Mate of a home-trade ship.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

First class engineer.  
 Second class engineer;  
 Engine driver.

(2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

15. The President of the Union or a person duly authorized by the President of the Union in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act. Examinations for certificates.

16. The President of the Union or such authorized person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires : Grant of certificates on passing examinations.

Provided that the President of the Union may, in any case in which he has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

17. (1) A person who has attained the rank of lieutenant in [the Burma Navy]<sup>1</sup> [\* \* \* \*]<sup>2</sup> shall be entitled to a certificate of service as the master of a foreign-going ship without examination. Certificates of service of naval officers.

(2) A person who has attained the rank of engineer or assistant engineer in [the Burma Navy]<sup>1</sup> [\* \* \* \*]<sup>2</sup> shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the President of the Union shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency.

18. Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the President of the Union and recorded in the prescribed manner. Form of certificates.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>2</sup> Omitted *ibid.*

Record  
of order  
affecting  
certificates.

19. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the President of the Union.

Loss of  
certificates.

20. Whenever a master, mate, engineer or engine driver proves to the satisfaction of the President of the Union that he has, without fault on his part, lost or been deprived of a certificate already granted to him under this Act the President of the Union shall cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

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

21. (1) The President of the Union may make rules<sup>1</sup> to regulate the granting of certificates of competency under this Act, and may, by such rules,—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers or engine drivers ;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, second mates, first class engineers, second class engineers or engine drivers ;
- (c) fix the fees to be paid by applicants for examination ; and
- (d) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the President of the Union is to be recorded.

Production of  
certificates of  
competency  
to shipping-  
master.

22. (1) The master of a foreign-going ship—

- (a) on signing the agreement with his crew shall produce to the shipping-master, before whom the same is signed, the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold ; and
- (b) in the case of a running agreement shall also, before the second and every subsequent voyage, produce to the shipping-master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2) The master or owner of every home-trade ship of more than three hundred tons burden shall produce to some shipping-master in the Union of Burma, within twenty-one days after the thirtieth of June and the thirty-first of December in every year, or (if the ship is not at any port in the Union of Burma within twenty-one days after either the thirtieth of June or the thirty-first day of December in any year) within forty-eight hours after her next

<sup>1</sup> For such rules see *Burma Gazette*, 1952, Part I, page 1092.

arrival at any port in the Union of Burma, the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold.

(3) Upon the production of the certificates of competency, the shipping-master shall, if the certificates are such as the master, mates, and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(4) The master shall, before proceeding to sea, produce the certificate given to him by the shipping-master to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(5) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced.

*Apprenticeships to the Sea Service.*

23. (1) Any boy not under fourteen years of age may be bound as an apprentice in the sea service to the owner of any ship registered in the Union of Burma to be employed in any such ship, being the property of such person, the master of which is a British subject, and while so employed to be taught the craft and duty of a seaman, and the provisions of the Apprentices Act shall, subject to the provisions of this Act, apply accordingly.

Application of Apprentices Act.

(2) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the agent of such party for the purposes of the said Act.

(3) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract, and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice, shall be performed by the shipping-master of the port where the apprentice is to begin his service.

*Licences to supply Seamen.*

24. (1) The President of the Union or any person duly authorized by the President of the Union in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in the Union of Burma.

Licences to supply seamen.

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions, as the President of the Union thinks proper.

25. (1) A person shall not engage or supply a seaman to be entered on board any ship in the Union of Burma unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employ of the owner, or is a shipping-master.

Penalties for engaging seamen without licence.

(2) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in the Union of Burma, any person unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employment of the owner, or is a shipping-master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

Penalty for receiving remuneration from seamen for shipping them.

26. (1) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorized by this Act.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

#### Engagement of Seamen.

Agreements with crew

27. (1) The master of every [\* \* \*]<sup>1</sup> ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port in the Union of Burma.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

Form and contents of the agreement.

28. (1) An agreement with the crew shall be in a form sanctioned by the President of the Union, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely :—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend ;
- (b) the number and description of the crew, specifying how many are engaged as sailors ;
- (c) the time at which each seaman is to be on board or to begin work ;
- (d) the capacity in which each seaman is to serve ;

<sup>1</sup> Omitted by the Union of Burma (Adaptation of L ws) Order, 1948.

- (e) the amount of wages which each seaman is to receive ;
- (f) a scale of the provisions which are to be furnished to each seaman such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the President of the Union and published in the Gazette ;
- (g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the President of the Union as regulations proper to be adopted, and which the parties agree to adopt ; and
- (h) where it is agreed that the services of any lascar or other native seaman shall end at any port not in the Union of Burma, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in the Union of Burma as may be agreed upon, or a passage to some port in the Union of Burma free of charge or on such other terms as may be agreed upon, and in this provision the word " seaman " shall include also any native of the Union of Burma carried to sea from any port in the Union of Burma as one of the crew :

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(3) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(4) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

29. If the master of a ship registered at a port outside the Union of Burma has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in the Union of Burma, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Engagement of single seaman where agreement is made out of the Union of Burma.

30. (1) The following provisions shall have effect with respect to the agreements with the crew made in the Union of Burma in the case of foreign-going ships registered either within or without the Union of Burma, namely :—

Special provisions with regard to agreements with crew of foreign-going ships.

- (a) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.

- (b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.
- (c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.
- (e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements.
- (f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in the Union of Burma after such date, or the discharge of cargo consequent upon that arrival.
- (g) On every return to a port in the Union of Burma before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharge or engagement have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.
- (h) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.



(2) In the case of a ship—

- (a) registered in the Union of Burma, or
- (b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in the Union of Burma after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest :

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of the Union of Burma to any other such port which is not on the direct road or a customary route to her port of destination in the Union of Burma :

Provided also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in the Union of Burma, and for other purposes on the termination of the agreement at a port out of the Union of Burma under the foregoing proviso, as the President of the Union may direct.

31. (1) When a running agreement has been made with the crew of a foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in the Union of Burma which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement, for the voyage from such port of destination to the port in the Union of Burma at which the crew have agreed to be discharged.

Renewal of running agreements in certain cases.

(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

32. The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act, namely :—

Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.

- (a) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner.

but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.

- (b) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.
- (c) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master; and the provisions of this Act with respect to the making of the agreement shall apply accordingly.
- (d) Agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in the Union of Burma after such date, or the discharge of cargo consequent on that arrival:

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the President of the Union with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.

Changes in crew of foreign-going ship to be reported.

33. (1) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving the Union of Burma, sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the President of the Union of every change which takes place in his crew before finally leaving the Union of Burma, and that statement shall be admissible in evidence.

(2) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

Certificate as to agreement with crew of foreign-going ship.

34. (1) In the case of a foreign-going ship, on the due execution of an agreement with the crew in accordance with this Act, and also when the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance-

(3) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the Union of Burma, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon give to the master a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(5) Any master who fails without reasonable cause so to deliver the agreement with the crew shall be liable for each offence to a fine which may extend to fifty rupees.

35. (1) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in the Union of Burma within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in the Union of Burma, deliver or transmit to a shipping-master in the Union of Burma every agreement made within the six months next preceding such days respectively.

Certificate as to agreement with crew of home-trade ship.

(2) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorized to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(3) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

36. (1) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

Copy of agreement to be made accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

37. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation

Alteration in agreement with the crew.

[ \* \* \* ]<sup>1</sup> of some shipping-master, Justice, officer of Customs, or other public functionary, or [ \* \* \* ]<sup>1</sup> of a [British or Burma Consular officer],<sup>2</sup> or, where there is no such officer, of two respectable British merchants.

*Employment of Young Persons.*

Definitions of "coasting-ship", "young lascar" and "young person".

**37A.** For the purposes of the following provisions—

- (i) "coasting-ship" means a ship exclusively employed in trading between any ports or places in the Union of Burma [ \* \* \* ]<sup>1</sup>;
- (ii) "young lascar" means a lascar or other native seaman under eighteen years of age; and
- (iii) "young person" means a person under eighteen years of age, and includes a young lascar.

Employment of children.

**37B.** No young person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship registered in the Union of Burma, and no young lascar under fourteen years of age shall be engaged or carried to sea to work in any capacity in any foreign ship, except—

- (a) in a school-ship, or training-ship, in accordance with the prescribed conditions; or
- (b) in a ship in which all persons employed are members of one family; or
- (c) in a home-trade ship of a burden not exceeding three hundred tons; or
- (d) where such young person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

Engagement of young persons as trimmers or stokers.

**37C. (1)** Subject to the provisions of sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship registered in the Union of Burma, and no young lascar shall be engaged or carried to sea to work as a trimmer or stoker in any foreign ship.

(2) Sub-section (1) shall not apply—

- (a) to any work of trimming or stoking done by a young person in a school-ship or training-ship in accordance with the prescribed conditions; or
- (b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or
- (c) to the engagement or carrying to sea of a young person over sixteen years of age to work as a trimmer or stoker on a coasting-ship, provided he is employed in accordance with the prescribed conditions.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>2</sup> Substituted *ibid.*

(3) Where in any port a trimmer or stoker is required for any ship mentioned in sub-section (1), other than a coasting-ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(4) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

**37D.** (1) Subject to the provisions of sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in the Union of Burma, and no young lascar shall be engaged or carried to sea to work in any capacity in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity. Medical examination of young persons.

(2) Sub-section (1) shall not apply—

- (a) to the employment of a young person in a ship in which all persons employed are members of one family; or
- (b) where the shipping-master, on the ground of urgency, has authorized a young person to be engaged and carried to sea, without the certificate required by sub-section (1) being delivered to the master, and the young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (1).

(3) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

**37E.** There shall be included in every agreement with the crew of every ship registered in the Union of Burma and every foreign ship, which engages young persons in the Union of Burma, a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew. Maintenance of list or register of young persons in a ship.

**37F.** If any young person is carried to sea to work in contravention of section 37B, section 37C or section 37D, the master of the ship shall for each such offence be liable to a fine which may extend to fifty rupees. Penalty for contravention of sections 37B, 37C and 37D.

**37G.** If any young person is engaged to work in any capacity in a ship in contravention of section 37B, section 37C or section 37D on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections, such parent or guardian shall be liable to a fine which may extend to fifty rupees. Penalty for false representation by parent or guardian.

Penalty for failure to produce medical certificate for inspection.

**37H.** If the master of any ship refuses or neglects to produce for inspection any medical certificate delivered to him under section 37D when required so to do by a shipping-master, he shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for failure to keep or produce for inspection a register of young persons.

**37I.** If the master of a ship where there is no agreement with the crew fails to keep the register of young persons required to be kept by him under section 37E, or refuses or neglects to produce such register for inspection when required so to do by a shipping-master, he shall be liable to a fine which may extend to two hundred rupees.

Power to make rules.

**37J. (1)** The President of the Union may make rules prescribing—

- (a) the conditions of employment of young persons, in any capacity, in school-ships and training-ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;
- (b) the conditions of employment of young persons as trimmers or stokers in coasting-ships;
- (c) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 37D; and
- (d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(2) Rules under clause (b) shall be made after consultation with such organisations in the Union of Burma as the President of the Union may consider to be most representative of the employers of seamen and of seamen.

*Engagement of Lascars by Masters of Foreign Ships.*

Engagement between masters of foreign ships and lascars or native seamen.

**38. (1)** When the master of a foreign ship being at any port in the Union of Burma engages any lascar or other native seaman to proceed to any port out of the Union of Burma, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(2) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in the Union of Burma for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Government of all expenses which may be incurred by Government in respect of any such lascar or other native seaman who is discharged or left behind at any port out of the Union of Burma and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

(4) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

39. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

Penalty for master of foreign ship illegally engaging native seamen.

40. (1) The President of the Union or such officer as he may appoint in this behalf may, by order in writing, prohibit any person from engaging in the Union of Burma, or in any specified portion of the Union of Burma, any native of the Union of Burma to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing :

Power to prohibit engagement of native seamen.

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

41. (1) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in the Union of Burma contrary to the provisions of this Act, any shipping-master or deputy shipping-master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

Power to board ships and muster seamen.

(2) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (1), he shall be liable to a fine which may extend to one hundred rupees.

*Discharge of Seamen.*

42. (1) When a seaman serving in a British foreign-going ship is, on the termination of his engagement, discharged in the Union of Burma, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

Discharge before shipping-master.

(2) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(3) If the master or owner of a home-trade ship of more than three hundred tons burden so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

43. (1) The master shall sign and give to a seaman discharged from his ship in the Union of Burma, either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the President of the Union specifying the period of his service and the time and place of his discharge.

Certificate of discharge and return of certificate to officer on discharge.

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to a fine which may extend to two hundred rupees.

Certificate  
as to work  
of seaman.

43A. (1) The master of every ship, except home-trade ships of a burden not exceeding three hundred tons, shall sign and give to a seaman discharged from his ship in the Union of Burma, either on his discharge or on payment of his wages, a certificate in a form sanctioned by the President of the Union stating—

- (a) the quality of the work of the seaman ; or
- (b) whether the seaman has fulfilled his obligations under the agreement with the crew.

(2) If the master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

#### Payment of Wages.

Master to  
deliver  
account of  
wages.

44. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the President of the Union of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered—

- (a) where the seaman is not discharged before the shipping-master, to the seaman himself not less than twenty-four hours before his discharge or payment off ; and
- (b) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

Deductions  
from wages  
of seamen.

45. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon



the hearing before any competent authority of any complaint or question relating to that payment.

46. (1) Where a seaman is discharged before a shipping-master in the Union of Burma, he shall receive his wages through, or in the presence of, a shipping-master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in the Union of Burma in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Payment of wages before shipping-master.

(2) If the master or owner of a home-trade ship so desires the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

47. (1) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

Time of payment of wages.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond the respective times, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

48. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the President of the Union of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

Settlement of wages.

(2) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

Decision of questions by shipping-masters.

49. (1) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

(2) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

Power of shipping-master to require production of ship's papers.

50. (1) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

(2) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

Rate of exchange for payment of seamen in local currency.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency, the seaman or apprentice shall be entitled to demand and recover in local currency the amount due to him estimated according to the rate of exchange for the time being fixed for the adjustment of financial transactions between the [British]<sup>1</sup> and the Union of Burma Governments.

#### *Advance and Allotment of Wages.*

Advances and allotments.

52. (1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in the Union of Burma, shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

<sup>1</sup> Substituted for the word 'Imperial' by the Union of Burma (Adaptation of Laws) Order, 1948

53. (1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made. Regulations as to allotment notes.

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part ( not exceeding one-third ) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the President of the Union.

54. (1) The owner or any agent who has authorized the drawing of an allotment note shall pay to the shipping-master on demand the sums due under the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs : Payment of sums allotted.

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(2) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(3) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(4) The said book shall be at all reasonable times open to the inspection of the parties concerned.

*Rights of Seamen in respect of Wages.*

55. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens. Right to wages and provisions.

56. (1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship, or abandon any right that he may have or obtain in the nature of salvage. Right to recover wages and salvage not to be forfeited.

and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

Wages not to depend on freight.

57. (1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Wages on termination of service by wreck or illness.

58. Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of the Union of Burma under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Special provision for ship-wrecked lascars.

58A. (1) Where the service of a lascar or native seaman employed on a ship registered in the Union of Burma or engaged in the Union of Burma for employment on a foreign ship terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, the lascar shall, notwithstanding anything contained in section 58, but subject to the provisions of this section, be entitled to receive—

- (a) wages at the rate to which he was entitled at the date of the termination of service, until he is sent home or to a port near his home in accordance with section 75, or until he has been sent home or to a proper port of return in accordance with the Merchant Shipping Acts, or has in any other way reached his port of departure from the Union of Burma or a port near his home, as the case may be; and
- (b) compensation for the loss of his effects up to one month's wages at the said rate.

(2) A lascar shall not be entitled to receive wages under clause (a) of subsection (1) in respect of any period during which—

- (a) he was or could have been suitably employed; or
- (b) he negligently failed to apply to the proper authority for relief as a distressed or destitute lascar.

59. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his commencement of such work, nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

60. Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to reimbursing any cost properly incurred by the master in procuring the conviction and imprisonment.

Power to deduct from wages cost of procuring conviction.

61. If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying that discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Compensation to seamen.

62. (1) As respects wages due or accruing to a seaman or apprentice—

- (a) they shall not be subject to attachment by order of any Court ;
- (b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same ;
- (c) a power-of-attorney or authority for the receipt thereof shall not be irrevocable ;
- (d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

Restriction on sale of and charge upon wages.

(2) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

*Mode of recovering Wages.*

63. A seaman or apprentice or a person duly authorized on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Summary proceedings for wages.

64. A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice

Restriction on suits for wages.

[\* \* \* \* \*]<sup>1</sup> in any civil Court other than the Court of Small Causes where such a Court exists, except—

- (a) where the owner of the ship is adjudged bankrupt or declared insolvent ;
- (b) where the ship is under arrest or is sold by the authority of any Court ; or
- (c) where a Magistrate under the authority of this Act refers a claim to the Court.

Remedies of masters for wages.

65. (1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) If in any proceeding [\* \* \* \* \*]<sup>1</sup> touching the claim of a master in respect of wages any right of set-off or counter-claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

#### Property of Deceased Seamen.

Master to take charge of the effects of deceased seamen.

66. (1) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in the Union of Burma dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars, namely:—

- (a) a statement of the amount of money and a description of the effects ;
- (b) in the case of a sale, a description of each article sold and the sum received for each ; and
- (c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

Disposal of property of seamen who die during the voyage.

67. (1) The master shall, within forty-eight hours after his arrival at his port of destination in the Union of Burma, deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

(2) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

68. (1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly, and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

Penalty for non-compliance with provisions as to property of deceased seamen.

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may :—

Payment over of property of deceased seamen by shipping-master.

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered ; or

(b) if he thinks fit so to do, require probate or letters of administration or a succession certificate to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

70 (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

Disposal of unclaimed property of deceased seamen.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just :

Provided that, after the expiration of six years from the receipt of such property by the shipping-master, no claim to such property shall be entertained without the sanction of the President of the Union.

#### *Distressed Seamen.*

71. (1) A certificate of the President of the Union or of such officer as the President of the Union may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings [\* \* \* \*]

Relief of distressed seamen.

<sup>1</sup> The words "under the Merchant Shipping Acts" were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed [within the meaning of those Acts].<sup>1</sup>

(2) Any master of a [\* \*] <sup>2</sup> ship refusing to accept such seaman as a distressed seaman [\* \* \* \*] <sup>3</sup> shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

72. (1) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in the Union of Burma, the President of the Union may, from time to time by notification in the Gazette, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Acts provided, those wages or expenses.

(2) Every person so authorized shall be entitled to sue and recover, accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Evidence Act

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Government.

*Relief of Distressed Seamen to whom the Merchant Shipping Acts do not apply.*

2 73. \* \* \* \*

Relief of distressed seamen at Union of Burma ports.

74. (1) Where any seamen or apprentices—

(a) being [citizens of the Union]<sup>4</sup> are found at any place in the Union of Burma and have been shipwrecked, discharged or left behind, [\* \* \* \*]<sup>2</sup> and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and are in distress in the Union of Burma; and

(b) not being [citizens of the Union]<sup>3</sup> have been shipwrecked, discharged or left behind at any place in the Union of Burma from any [\* \*] <sup>2</sup> ship registered in the Union of Burma and are in distress in any such place,

the local authority may, in accordance with the prescribed conditions, provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

<sup>1</sup> The words in brackets should have been omitted in view of the above omission.

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>3</sup> Substituted *ibid.*



(2) "Local authority" in relation to the provisions of this Act as to distressed seamen, means such person as the President of the Union may appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

75. (1) Subject to the prescribed conditions, the local authority may cause distressed seamen to be put on board some ship belonging to any subject of [His Britannic Majesty or the Union of Burma]<sup>1</sup> which is in want of men to make up its complement and is bound—

Distressed seamen to be sent home on board British or Union of Burma ship wanting seamen to make up its crew.

- (a) in the case of distressed seamen who are [citizens of the Union]<sup>1</sup>, to their home or to a port in the Union of Burma near their home;
- (b) in the case of [distressed seamen who are subjects of His Britannic Majesty]<sup>1</sup>, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and
- (c) in the case of [other distressed seamen]<sup>1</sup>, to such place as the local authority, subject to the control of the President of the Union, may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship [\* \* \*]<sup>2</sup> bound as aforesaid.

76. The local authority shall endorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

Name and other particulars with regard to seamen to be endorsed on agreement of British ship.

77. (1) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.

Master of British ship compelled to convey and give subsistence to such seamen.

(2) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (1), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

78. (1) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the Government in

Conditions under which master may claim payment.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>2</sup> Omitted *ibid.*

respect of the subsistence and passage of such distressed seaman such sum *per diem* as the President of the Union may fix :

Provided that no such payment shall be made except on the production of the following documents (that is to say) :—

- (a) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board ; and
- (b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—
  - (i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship ;
  - (ii) the number of men and boys forming the complement of his crew ;
  - (iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board ; and
  - (iv) every variation (if any) of such number.

(2) The declaration required by this section shall, in the case of a ship conveying [citizens of the Union]<sup>1</sup> to a port in the Union of Burma, be made before a shipping-master or such other officer as the President of the Union may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906.

6 Edw. 7  
c. 48.

Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.

Mode of recovering such wages and expenses.

President may authorize persons to recover same.

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman, either for his subsistence, necessary clothing, conveyance home, or in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship [ \* \* \* ]<sup>2</sup> to which he belonged.

80. All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Government, or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him.

81. (1) The President of the Union may, by notification in the Gazette, authorize, either generally or specially, such persons as he thinks fit to sue for any such expenses and wages and recover the same.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.  
<sup>2</sup> Omitted *ibid.*

(2) Every person so authorized shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Evidence Act.

<sup>1</sup> 82: \* \* \* \*

83. In all proceedings under this Part [ \* \* \* ]<sup>1</sup> the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved or any expenses were incurred under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of the Union of Burma.

What shall be evidence of distress and expenses incurred.

84. The President of the Union may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

Power of President to make rules.

*Provisions, Health and Accommodation.*

85. (1) All [ \* \* \* ]<sup>1</sup> ships upon which seamen have been shipped in the Union of Burma shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.

Complaints as to provisions or water.

(2) If any person making an inspection under section 91 finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(4) The person making the inspection shall enter a statement of the result of the inspection in the official log-book, and shall, if he is not the shipping-master, send a report thereof to the shipping-master, and that report shall be admissible in evidence in any legal proceeding.

(5) If the inspection was made in pursuance of a request by members of the crew and the person making the inspection certifies in the statement of the result of the inspection that there was no reasonable ground for the request, every member of the crew who made the request shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

86. (1) In either of the following cases—

(i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced

Allowance for short or bad provisions.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

(except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore) ; or

- (ii) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use ;

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages :—

- (a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman ;
- (b) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman ;
- (c) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

Medicines to be provided and kept on board certain ships.

87. (1) All foreign-going British ships and all home-trade ships of more than three hundred tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the President of the Union and published in the Gazette.

(2) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in the Union of Burma and to which section 200 of the Merchant Shipping Act, 1894, applies.

57 & 58  
Vict. c.  
60.

**88.** The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Weights and measures on board.

**89. (1)** If the master of, or a seaman or apprentice belonging to, a ship registered in the Union of Burma receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

Expenses of medical attendance in case of illness.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of the Union of Burma, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Government.

**90. (1)** Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have for each seaman or apprentice a space of not less than twelve superficial feet and not less than seventy-two cubic feet.

Accommodation for seamen.

(2) In every case the place shall be below a well caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(5) If any such place is not so kept free, the master shall for each offence be liable to a fine which may extend to one hundred rupees.

**91.** A shipping-master, deputy shipping-master, or other officer duly appointed in this behalf by the President of the Union at any port—

Inspection of provisions, water, medicines and appliances, weights and measures and accommodation.

(a) in the case of any ship upon which seamen have been shipped at that port, may at any time, and

(b) in the case of any British ship, may at any time, and, if the master or three or more of the crew so request, shall, enter on board the ship and inspect---

- (i) the provisions and water,
- (ii) the medicines and appliances,
- (iii) the weights and measures,
- (iv) the accommodation for seamen,

with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.

*Facilities for making Complaints.*

Facilities  
for making  
complaints.

92. (1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

- (a) if the ship is then at a place where there is a Magistrate, after such statement, and
- (b) if the ship is not then at such place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

*Protection of Seamen from Imposition.*

Assignment  
or sale of  
salvage  
invalid.

93. Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

No debt  
exceeding  
three rupees  
recoverable  
till end of  
voyage.

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

Penalty for  
overcharges  
by lodging-  
house-  
keepers.

95. If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty for  
detaining  
seamen's  
effects.

96. (1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice, subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith,

he shall for each offence be liable to a fine which may extend to one hundred rupees.

(2) Any Magistrate imposing a fine under this section may direct the amount of such money or the value of the effects, subject to such deduction as foresaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

97. If within twenty-four hours after the arrival of a ship at a port in the Union of Burma a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Penalty for solicitations by lodging-house-keepers.

98. Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in [the Government service]<sup>1</sup> or not being duly authorized by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police-officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

Penalty for being on board ship without permission before seamen leave.

*Provisions as to Discipline.*

99. If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness —

Misconduct endangering life or ship.

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

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

100. If a seaman lawfully engaged or an apprentice commits any of the following offences, he shall, notwithstanding anything in the Code of Criminal Procedure, be liable to be tried in a summary manner and to be punished as follows:—

Desertion and absence without leave.

- (i) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in the Union of Burma, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to the Union of Burma, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks :

- (ii) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port, either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

Conveyance  
of deserter or  
imprisoned  
seaman on  
board ship.

101. (1) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police-officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an



end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

102. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

Power to Court to order offender to be taken on board ship.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the Code of Criminal Procedure, be liable to be tried in a summary way and to be punished as follows, namely:—

General offences against discipline.

- (i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;
- (iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her

stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks ;

- (vii) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

Penalty  
for false  
statement as  
to last ship  
or name.

**104. (1)** If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

(2) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid and shall, subject to re-imbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

Entry of  
offences in  
official log.

**105.** If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew ; and
- (ii) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit ; and
- (iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid ; and
- (iv) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

**106. (1)** Whenever any seaman or apprentice not shipped in the Union of Burma deserts or otherwise absents himself in the Union of Burma without leave from a British ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping-master or to such other officer as the President of the Union appoints in this behalf, unless in the meantime the deserter or absentee returns.

Report of  
desertions  
and absences  
without  
leave.

(2) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

**107. (1)** In every case of desertion from a ship registered in the Union of Burma whilst such ship is at any place out of the Union of Burma, the master shall produce the entry of the desertion in the official log-book to the person authorized by the Merchant Shipping Act, 1906, to grant certificates for leaving seamen behind abroad, and that person shall thereupon make and certify a copy of the entry.

Entries and  
certificates  
of desertion  
abroad.

6 Edw. 7,  
c. 48.

(2) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

**108. (1)** Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in the Union of Burma and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

Facilities for  
proving  
desertion in  
proceeding  
for forfeiture  
of wages.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

**109. (1)** Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards re-imbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursment, shall be paid into the public treasury and carried to the account of Government.

Application  
of forfeitures.

(2) For the purposes of such re-imbursment the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not

forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Decision of questions of forfeiture and deduction in suits for wages.

**110.** Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Ascertainment of amount of forfeiture out of wages.

**111.** (1) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Payment of fines imposed under agreement to shipping-master.

**112.** (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:—

- (i) if the offender is discharged at any port or place in the Union of Burma, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master; and
- (ii) if before the final discharge of the crew in the Union of Burma, any such offender as aforesaid enters into any of His Britannic Majesty's ships or is discharged at any place not in the Union of Burma, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person, and on the return of the

ship to the Union of Burma the master or owner shall pay over such fine, in the case of foreign-going ships, to the shipping-master before whom the crew is discharged, and in the case of home-trade ships, to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

Penalty for enticing to desert.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

Penalty for harbouring deserters.

115. (1) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship, or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.

(2) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

116. (1) If any seaman or apprentice who is not shipped in the Union of Burma is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

Procedure where seaman or apprentice not shipped in the Union of Burma is imprisoned on complaint of master or owner.

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the President of the Union or of such officer as he may appoint in this behalf, engage any native of the Union of Burma or India or Pakistan to serve as a seaman on board such ship; and

(b) the President of the Union or such officer as he may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the President of the Union or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

- (i) the wages due to such seaman or apprentice and his money and effects; and
- (ii) such sum as may, in the opinion of the President of the Union or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum, when so required by this section, shall be liable to a fine which may extend to five hundred rupees.

Power to send on board seaman or apprentice not shipped in the Union of Burma who is undergoing imprisonment.

117. If any seaman or apprentice who is not shipped in the Union of Burma is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

On change of master, documents to be handed over to successor.

118. (1) If during the progress of a voyage the master of any ship registered in the Union of Burma is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody, and shall in default be liable to a fine which may extend to one thousand rupees.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

*Leaving Seamen or Apprentices in the Union of Burma.*

Discharge or leaving behind in the Union of

119. (1) No seaman or apprentice who was not shipped in the Union of Burma shall be discharged at any port in the Union of Burma without the previous sanction in writing of such officer as the President of the Union

appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

Burma of seamen or apprentices not shipped in the Union of Burma.

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

#### Official Logs.

120. (1) An official log shall be kept in every ship registered in the Union of Burma, except home-trade ships not exceeding three hundred tons burden, in the form sanctioned by the President of the Union.

Official logs to be kept and to be dated.

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(3) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(4) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

- (a) if it is an entry of injury or death, shall be signed by the surgeon or medical practitioner on board, if any; and
- (b) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and
- (c) if it is an entry of wages due to a seaman who enters His Britannic Majesty's naval service, shall be signed by the seaman or by the officer authorized to receive the seaman into that service.

(5) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely :—

Entries required in official log-book.

- (i) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;
- (ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine, together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge, as is by this Act required;

- (iii) every offence for which punishment is inflicted on board and the punishment inflicted ;
- (iv) a statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars ;
- (v) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any) ;
- (vi) every case of death happening on board and the cause thereof ;
- (vii) every birth happening on board with the sex of the infant and the names of the parents ;
- (viii) every marriage taking place on board with the names and ages of the parties ;
- (ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof ;
- (x) the wages due to any seaman who enters His Britannic Majesty's naval service during the voyage ;
- (xi) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom ;
- (xii) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it ;
- (xiii) every collision with any other ship and the circumstances under which the same occurred ;
- (xiv) the times of closing and opening the hinged doors, portable plates, side scuttles, gangway cargo and coaling ports and other openings which are required by any rules made under this Act to be kept closed during navigation ;
- (xv) a record of all drills and inspections required by any rules made under this Act with an explicit record of any defects disclosed ; and, if boat-drill is not practised on board the ship in any week, the reasons why boat-drill was not practised in that week.

Offences in  
respect of  
official logs.

**122. (1)** If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

(2) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or



assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

123. (1) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the Union of Burma or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged. Delivery of official logs to shipping-masters.

(2) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in the Union of Burma the official log-book for the preceding half-year.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

124. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in the Union of Burma, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation. Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

### PART III.

#### PASSENGER SHIPS.

##### *Survey of Passenger Ship.*

125. (1) No steam-ship shall carry more than twelve passengers between places in the Union of Burma or to or from any place in the Union of Burma from or to any place out of the Union of Burma, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. No steam-ship to carry passengers without a certificate of survey.

(2) Nothing in sub-section (1) shall apply to—

(a) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Britannic Majesty's dominions where such certificate has been declared

under section 284 of the Merchant Shipping Act, 1894, to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient ; or

- (b) any steam-ship having a certificate of survey granted under the Inland Steam Vessels Act in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed ; or
- (c) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed.

Power for President to exempt certain steam-ships.

**126.** The President of the Union may, by notification in the Gazette, declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the President of the Union may direct.

No port-clearance until certificate of survey produced.

**127.** No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Power to detain steam-ship not having certificate of survey.

**128.** If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Appointment of surveyors and ports of survey.

**129.** The President of the Union may appoint so many persons as he thinks fit to be surveyors for the purposes of this Part at such ports in the Union of Burma as he may appoint to be ports of survey.

Powers of surveyor.

**130. (1)** For the purposes of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof :

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

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

**131.** Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the President of the Union may appoint in this behalf—

Fees in respect of surveys.

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

**132.** A survey under this Part 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-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Power for President to direct that two surveyors be employed.

**133.** When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the rules made thereunder to a surveyor making a survey.

Division of duties when two surveyors employed.

**134.** When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely :—

Declaration of surveyor

- (a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition ;
- (b) that the equipments (including life-saving appliances and wireless telegraphy installation) of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, and of the wireless telegraphy operators and watchers, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship ;
- (c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient ;
- (d) the voyages or class of voyages on which, as regards construction, machinery and equipments, the steam-ship is in the surveyor's judgment fit to ply ;
- (e) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between 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

(f) any other prescribed particulars.

Sending of  
declaration  
by owner or  
master to  
President.

135. (1) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the President of the Union may appoint in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

Grant of  
certificate  
of survey by  
President.

136. (1) Upon receipt of a declaration of survey, the President of the Union shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the President of the Union may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form ; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with ; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section 134 require the declaration by the surveyor to contain ; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the President of the Union shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(4) The President of the Union may delegate to any person—

(a) the function, assigned to the President of the Union by sub-section (1), of granting a certificate of survey under that sub-section ;

(b) the function, assigned to the President of the Union by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey.

137. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed 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 for the previous survey, as the President of the Union may require, direct two other surveyors appointed under this Part to survey the steam-ship.

Power for President to order a second survey.

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

138. A certificate of survey granted under this Part shall not be in force—

Duration 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 any of the equipments 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 the steam-ship to which the certificate relates that the President of the Union has cancelled or suspended it.

139. Any certificate of survey granted under this Part may be cancelled or suspended by the President of the Union if he has reason to believe—

Cancellation or suspension of certificate of survey by President.

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made ; or
- (b) that the certificate has otherwise been issued upon false or erroneous information.

139A. (1) The owner or master of a steam-ship in respect of which a certificate of survey has been granted under this Part, shall, as soon as possible after any alteration is made in the steam-ship's hull, equipments or machinery which affects the efficiency thereof or the sea-worthiness of the steam-ship, give written notice to such person as the President of the Union may direct containing full particulars of the alteration.

Alterations in steam-ships subsequent to grant of certificate of survey and additional surveys.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects to give the notice required by this section, he shall be liable to a fine which may extend to five hundred rupees.

(3) If the President of the Union has reason to believe that since the making of the last declaration of survey in respect of a steam-ship—

- (a) any such alteration as aforesaid has been made in the hull, equipments or machinery of the steam-ship, or
- (b) the hull, equipments or machinery of the steam-ship have sustained any injury or are otherwise insufficient.

the President of the Union may require the steam-ship to be again surveyed

to such extent as he may think fit, and, if such requirement is not complied with, may cancel any certificate of survey issued under this Part in respect of the said steam-ship.

Power to require delivery of expired or cancelled certificate of survey.

**140.** (1) The President of the Union may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such person as he directs.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees.

**141.** \* \* \* \*

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

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

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

Penalty for carrying passengers in contravention of the Act.

**143.** If a steam-ship on any voyage carries or attempts to carry passengers in contravention of section 125, or 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 steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board; and if the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 125 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.

Prohibition of carriage of dangerous cargo

**143A.** (1) No steam-ship for which a certificate of survey is required by this Part shall carry as ballast or as cargo any goods which by reason of their nature, quantity or mode of stowage are either singly or collectively liable to endanger the lives of the passengers or the safety of the ship.

(2) The President of the Union may, subject to the condition of previous publication, make rules determining what goods are to be considered dangerous goods and prescribing the precautions which must be taken in the package and stowage thereof.

(3) If goods are carried in any steam-ship in contravention of the provisions of this section or of the rules made thereunder, the owner or master shall for each offence be liable to a fine which may extend to three thousand rupees and the steam-ship shall be deemed for the purpose of section 232 to be unsafe by reason of improper loading.

144. (1) When a steam-ship requires to be furnished with a certificate of survey under this Part and the President of the Union is satisfied, by the production of a certificate of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the President of the Union may, if he thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part :

Steam-ships with foreign certificates of survey or certificates of partial survey.

Provided that this sub-section shall not apply in the case of a foreign steam-ship to an official survey at any foreign port with respect to which His Britannic Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894, shall not apply.

57 & 58  
Vict., c. 60.

(2) When the President of the Union has, by notification in the Gazette, declared that he is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the President of the Union in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the President of the Union by sub-section (1) in the case of any steam-ship furnished with a valid certificate of survey granted at such foreign port.

(3) The procedure prescribed in sub-section (1) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam-ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the President of the Union under the said sub-section may be exercised by any person appointed by the President of the Union in this behalf.

145. (1) The President of the Union may, subject to the condition of previous publication, make rules to regulate the making of surveys under this Part.

Power for President to make rules as to surveys.

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

- (a) declare the times and places at which, and the manner in which, surveys are to be made ;
- (aa) declare the requirements as to construction, machinery, equipments (including life-saving appliances and wireless telegraphy installation) and marking of sub-division load-lines, which are to be fulfilled before a declaration of survey may be granted ;

- (b) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed ;
- (c) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively ; and
- (d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey.

Power of President to make rules as to safety of life.

**145A.** (1) The President of the Union may, subject to the condition of previous publication, make rules in respect of steam-ships for which a certificate of survey is required by this Part, regulating the provisions to be made for the safety of life at sea.

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

- (a) the control of hinged doors, portable plates, side scuttles, gangway cargo and coaling ports and other openings ;
- (b) the methods to be adopted and the appliances to be carried for the prevention, detection and extinction of fire ;
- (c) the provision of means of making signals of distress and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (d) the provision of boats, life-boats, life-rafts and buoyant apparatus, their equipment, and the specifications with which they shall comply, and the marking of these so as to show the dimensions thereof and the number of persons that may be carried thereon ;
- (e) the manning of boats and life-boats and the qualifications and certificates of life-boat men ;
- (f) the provision to be made for mustering the passengers and crew and for embarking them in the boats and life-boats (including provision as to the lighting of, and as to the means of ingress to, and egress from, different parts of the ship) ;
- (g) the practising of boat-drills ; and
- (h) the assignment of specific duties to each member of the crew in the event of an emergency.

(3) In making a rule under this section the President of the Union may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.



## Provisions in case of Wreck of Ship carrying Steerage Passengers.

1 146. \* \* \* \*

## PART IV.

## UNBERTHED PASSENGER SHIPS AND PILGRIM SHIPS.

147. <sup>2</sup>(1) This Part applies to all citizens of the Union wherever they may be. Application of Part.

(2) But the provisions of this Part relating to unberthed passenger ships do not apply—

(a) to any steam-ship not carrying more than sixty unberthed passengers ;

(b) to any ship not intended to carry unberthed passengers to or from any port in the Union of Burma ; or

(c) to any ships to which the provisions of the Inland Steam Vessels Act are applicable.

(3) Notwithstanding anything in sub-sections (1) and (2), the President of the Union may declare all or any of the provisions of this Part relating to unberthed passenger ships to apply to sailing-ships, or any class of sailing ships, carrying more than fifteen unberthed passengers and to steam-ships, or any class of steam-ships, carrying more than thirty such passengers.

148. (1) The President of the Union may, subject to such condition as he thinks fit, exempt any ship or class of ships from any provision of this Part relating to unberthed passenger ships. Power to exempt ship from provisions of Part IV.

(2) In imposing a condition under this section the President of the Union may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

149. In this Part, unless there is anything repugnant in the subject or context,— Definitions.

(1) “ unberthed passenger ” means a passenger of the age of twelve years or upwards for whom no separate accommodation in any cabin, state-room or saloon is reserved ; but it does not include either a passenger in attendance on a person who is not an unberthed passenger or a child under one year of age ; and, in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one unberthed passenger ;

(2) “ unberthed passenger ship ” means, save as otherwise provided in this Part, a ship carrying more than thirty unberthed passengers ;

(3) “ pilgrim ” means a Muhammadan passenger going to, or returning from, the Hedjaz ; but it does not include a child under one year of age, and,

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>2</sup> Substituted *ibid.*

in the computation of pilgrims for all or any of the purposes of this Act, the President of the Union may, by notification in the Gazette, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim ;

*Explanation I.*—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act ;

*Explanation II.*—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part ;

(4) " pilgrim ship " means a ship conveying or about to convey pilgrims from or to any port in the Union of Burma to or from any port in the Red Sea other than Suez :

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act ;

*Explanation.*—" A pilgrim of the lowest class " is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved ;

(5) " voyage " means the whole distance between the ship's port or place of departure and her final port or place of arrival ;

(6) " Chief Customs-officer " means the chief executive officer of sea-customs in any port or place to which this Part applies.

*General provisions as to Unberthed Passenger and Pilgrim Ships.*

Places  
appointed  
by the  
President.

**150.** (1) An unberthed passenger ship shall not, nor shall a pilgrim ship, depart or proceed from, or discharge unberthed passengers or pilgrims, as the case may be, at any port or place within the Union of Burma other than a port or place appointed in this behalf by the President of the Union for unberthed passenger ships or pilgrim ships, as the case may be.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as an unberthed passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be  
given of day  
of sailing.

**151.** (1) The master, owner or agent of an unberthed passenger or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the President of the Union that the ship is to carry unberthed passengers or pilgrims and of her destination and of the proposed time of sailing.

(2) The notice shall be given—

(a) in the case of an unberthed passenger ship not less than twenty-four hours before that time ;

(b) in the case of a pilgrim ship at the original port of departure if in the Union of Burma, and in other cases at the first port at which she touches in the Union of Burma, not less than three days, and at all other ports not less than twenty-four hours before that time.

152. After receiving the notice, the officer or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board. Power to enter on and inspect ship.

153. (1) A ship intended to carry unberthed passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections. Ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

154. The first of the certificates ( hereinafter called " certificate A " ) shall state that the ship is sea-worthy and properly equipped, fitted and ventilated, and— Contents of certificate A.

- (a) in the case of an unberthed passenger ship, the number of passengers which she is capable of carrying ;
- (b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

155. The second of the certificates ( hereinafter called " certificate B " ) shall state— Contents of certificate B.

- (a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch ;
- (b) that she has the proper complement of officers and seamen ;
- (c) that the master holds certificate A ;
- (d) in the case of an unberthed passenger ship, if the ship is to make a short voyage, as hereinafter defined, in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather ;
- (e) in the case of an unberthed passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by machinery and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner ;
- (f) in the case of an unberthed passenger ship, that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for unberthed passenger ships, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the unberthed passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale :

Provided that, if the officer appointed in this behalf by the President of the Union is satisfied that an unberthed passenger has brought on board for his own use food of the quality and in the quantity prescribed, such unberthed passenger shall not

be included among the number of unberthed passengers for the purpose of the supply of food under this clause ;

- (g) in the case of a pilgrim ship, that she is propelled principally by machinery and that she is of the tonnage and power (if any) prescribed ;
- (h) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants ; and
- (i) in the case of a pilgrim ship, that food and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale ;
- (j) such other particulars, if any, as may be prescribed for unberthed passenger or pilgrim ships, as the case may be.

156. \* \* \* \*

Grant of  
certificates.

157. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 151 who is hereinafter referred to as the certifying officer.

Substitute for  
certificate A.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service to which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

Survey of  
ship.

159. (1) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed :

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would

be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by Government.

160. (1) The certifying officer shall not grant a certificate if he has reason to believe that the ship has on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the unberthed passengers or pilgrims. Discretion as to grant of certificate.

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the President of the Union and of any intermediate authority which he may appoint in this behalf.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage. Copy of certificates to be exhibited

162. (1) If an unberthed passenger or pilgrim ship departs or proceeds on a voyage from, or discharges unberthed passengers or pilgrims at, any port or place within the Union of Burma in contravention of the provisions of this Part, or if a person is received as an unberthed passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every unberthed passenger or pilgrim carried in the ship, or for every unberthed passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both : Penalty for ship unlawfully departing or receiving passengers on board.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(2) The ship, if found within two years in any port or place within the Union of Burma, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part with all costs has been enforced, under the provisions of this Part.

163. If a person impedes or refuses to allow any entry or inspection authorized by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both. Penalty for opposing entry on or inspection of ships.

164. If the master or owner of an unberthed passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both. Penalty for not exhibiting copy of certificates.

Penalty for fraudulent alteration in ship after certificate obtained.

**165.** If the master of an unberthed passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her unberthed passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for failing to supply unberthed passengers or pilgrims with prescribed provisions.

**166.** If the master of an unberthed passenger ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any unberthed passenger the prescribed allowances of food, fuel and water, or if the master of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowances of cooked and uncooked food and of water, as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every unberthed passenger or pilgrim who has sustained detriment by the omission.

Penalty for having excessive number of passengers on board.

**167. (1)** If an unberthed passenger or pilgrim ship has on board a number of unberthed passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to fifty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the President of the Union may cause all unberthed passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for landing unberthed passenger or pilgrim at a place other than that at which he has contracted to land.

**168.** If the master of an unberthed passenger or pilgrim ship lands any unberthed passenger or pilgrim at any port or place other than the port or place at which the unberthed passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for making voyage in contravention of contract.

**169.** If an unberthed passenger or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the unberthed passengers or pilgrims with respect to the voyage which the ship

was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

170. (1) The Chief Customs-officer, or other officer, if any, appointed by the President of the Union in this behalf, at any port or place within the Union of Burma at which an unberthed passenger or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the unberthed passenger or pilgrim ship, and the unberthed passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within the Union of Burma where the unberthed passengers or pilgrims or any of them embarked or are to be discharged.

Information to be sent to ports of embarkation and discharge.

(2) The Chief Customs-officer, or other officer, if any, appointed by the President of the Union in this behalf, at any port or place in the Union of Burma at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of unberthed passengers or pilgrims and other matters have been complied with.

171. In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of [the Government]<sup>1</sup> in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Report of Consul.

172. The penalties to which masters and owners of unberthed passenger and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Authority to institute proceedings for penalties.

173. The President of the Union shall appoint such persons as he thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Appointment of officers.

*Special provisions relating to Unberthed Passenger Ships.*

174. (1) "Long voyage" means, subject to the provisions of this Part relating to unberthed passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

Definitions.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) "Short voyage" means, subject to the provisions of this Part relating to unberthed passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

Power to declare what shall be deemed "seasons of fair weather", "seasons of foul weather" and "long voyages" and "short voyages".

175. The President of the Union may declare, by notification in the Gazette, what shall be deemed to be, for the purposes of this Part relating to unberthed passenger ships, "seasons of fair weather" and "seasons of foul weather" and, for sailing-ships and steam-ships, respectively, a "long voyage" and a "short voyage".

Space to be available for passengers.

176. (1) For seasons of fair weather, an unberthed passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, an unberthed passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather an unberthed passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) In seasons of foul weather an unberthed passenger ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

177. If an unberthed passenger ship performing a short voyage takes additional unberthed passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

- (a) the number of unberthed passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the unberthed



passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed :

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of unberthed passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate but shall obtain from the certifying officer an endorsement on the certificate B showing the number of passengers taken on board, and the number of passengers discharged, at that port or place.

**178.** When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the President of the Union appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage. Deaths on voyage.

**179. (1)** An unberthed passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger. Space to be available for passengers.

(2) An unberthed passenger ship propelled by machinery, or partly by machinery and partly by sails, and performing a long voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

**180.** The master of an unberthed passenger ship departing or proceeding on a long voyage from any port or place in the Union of Burma shall sign two statements, specifying the number and the respective sexes of all the unberthed passengers, and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements. Statements concerning passengers.

**181.** The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any unberthed passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land unberthed passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of [ the Government ]<sup>1</sup> at the port or place or to the Chief Customs-officer thereat or the certifying officer, if any, appointed there. Deaths on voyage.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Ship taking additional passengers at intermediate place.

**182.** (1) In either of the following cases, namely,—

- (a) if after the ship has departed or proceeded on a long voyage any additional unberthed passengers are taken on board at a port or place within the Union of Burma appointed under this Part for the embarkation of unberthed passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional unberthed passengers at any place beyond the Union of Burma,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Part with respect to certificate B and statements concerning unberthed passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

**183.** (1) A ship carrying unberthed passengers from or to any port in the Union of Burma to or from any port in the Red Sea shall be propelled principally by machinery.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Certain ships to carry medical officer.

**184.** (1) A ship carrying more than one hundred unberthed passengers shall have on board a medical officer licensed in the prescribed manner.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

**185—188.**

\* \* \* \*

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

**189.** If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning unberthed passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177 or to report deaths as required by section 178, or to obtain any such fresh certificate or to make any such statement of the number of additional unberthed passengers as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty for bringing passengers from foreign port in excess of authorized number.

**190.** If a ship carrying unberthed passengers from any port or place beyond the Union of Burma to any port or place in the Union of Burma has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every unberthed passenger in excess of that number, be each liable to a fine which may extend to twenty rupees.

191. (1) The President of the Union may make rules consistent with this Part to regulate, in the case of any unberthed passenger ship or class of such ships, all or any of the following matters, namely:—

Power for President to make rules.

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Part to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper-deck ;
- (j) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf ;
- (k) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board, and
- (l) generally, to carry out the purposes of this Part.

(2) In making a rule under this section, the President of the Union may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

192. The President of the Union may by order prescribe, in the case of any unberthed passenger ship or class of such ships and for all or any voyages, the number of superficial or of cubic feet of space to be available for unberthed passengers ; and the order shall be alternative to, or override as the President of the Union may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

Power to prescribe space to be available for passengers.

#### *Special provisions regarding Pilgrim Ships.*

193. (1) The President of the Union may by order determine the number of superficial and cubic feet of space (not being less than sixteen and ninety-

Space to be provided for pilgrims.

six respectively) to be available in the between-decks for pilgrims of each class, respectively, on board pilgrim ships.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper-deck as is not required for the airing space of the crew or for permanent structures :

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit :

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

Disposal of pilgrims' baggage.

**194.** The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Hospital accommodation.

**195.** There shall be a regularly appointed hospital on board every pilgrim ship, offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent. of the pilgrims embarked, as may be prescribed.

Statement concerning pilgrims to be delivered before ship departs.

**196.** The master of every pilgrim ship departing or proceeding from any port or place in the Union of Burma shall sign a statement in duplicate in the prescribed form, specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Deaths on voyage.

**197.** The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of [the Government]<sup>1</sup> at the port or place or to the Chief Customs-officer thereat or the certifying officer (if any) appointed there.

Pilgrim ship taking additional pilgrims at intermediate place.

**198. (1)** In either of the following cases, namely :—

- (a) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within the Union of Burma appointed under this Act for the embarkation of pilgrims, or

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond the Union of Burma,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(2) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

199. The master of every pilgrim ship arriving at any port or place in the Union of Burma at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat.

Statement concerning pilgrims to be delivered before pilgrims disembark in the Union of Burma.

200. (1) Every pilgrim ship shall be propelled principally by machinery, and shall be of the tonnage and power (if any) prescribed.  
(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

201. (1) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed, and such medical officers and attendants shall give their services free to all sick pilgrims on board.

Certain pilgrim ships to carry medical officers and attendants.

(2) If medical officers and attendants are not carried on a pilgrim ship in accordance with the provisions of sub-section (1), the master shall be liable to a fine which may extend to three thousand rupees, or to imprisonment which may extend to three months, or to both.

(3) Any medical officer or attendant on a pilgrim ship who charges any pilgrim on such ship for his services shall be liable to a fine which may extend to two hundred rupees.

202. The medical officer or officers of every pilgrim ship shall keep such diaries, and shall submit such reports or other returns, as may be prescribed.

Medical officers' diaries and reports.

Pilgrim ships to touch at Aden on the outward voyage.

203. (1) Any officer empowered by the President of the Union in this behalf may, by order in writing, require any pilgrim ship proceeding from any port in the Union of Burma to any port in the Red Sea to touch at Aden and not to leave that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

(2) If the master of any such ship, in respect of which an order has been made under this section, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained the certificate required under this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

204. \* \* \* \*

Bond where pilgrim ship proceeds on outward voyage.

205. (1) Port-clearance shall not be granted from any port in the Union of Burma to any pilgrim ship unless the master, owner or agent and two sureties resident in the Union of Burma have executed, in favour of the Government, a joint and several bond for the sum of ten thousand rupees covering all voyages which may be made by the ship in the current pilgrim season, conditioned that—

- (a) the ship shall, if so required by an order under section 203, touch at Aden on the outward voyage and there obtain the certificate required under that section,
- (b) the master and medical officer or officers, if any, shall comply with the provisions of this Part and the rules made thereunder, and
- (c) the master, owner or agent (as the case may be) shall pay any sum claimed by the President of the Union under section 209A.

(2) A bond may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such cases the amount of the bond shall be ten thousand rupees for each ship covered.

Medical inspection and permission required before embarkation of pilgrims.

206. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in the Union of Burma unless and until he has been medically inspected, at such time and place, and in such manner, as the President of the Union may fix in this behalf, nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(1A) No pilgrim shall be received on board any pilgrim ship unless he produces medical certificates signed by persons who, in the opinion of the officer making an inspection under this section, are duly qualified to grant such certificates, showing that such pilgrim—

- (a) has been inoculated against cholera within six months before the inspection, and
- (b) has been vaccinated against small-pox within five years before the inspection :

Provided that the officer making the inspection may dispense with the certificate of vaccination, if in his opinion the pilgrim has marks showing that he has had small-pox.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the President of the Union for the purpose, in such manner as may be prescribed.

(4) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

207. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the President of the Union may direct.

Medical inspection after embarkation in certain cases.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each article so kept on board, or to imprisonment which may extend to three months, or to both.

208. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Medical inspection of women.

208A. No pilgrim shall be received on board any pilgrim ship at any port or place in the Union of Burma for conveyance in the lowest class available on the ship, unless he—

Conditions for securing return passages for pilgrims.

(a) is in possession of a return ticket, or

(b) has deposited with the prescribed person such sum for the purpose of defraying the cost of a return ticket as the President of the Union may specify by notification in the Gazette :

Provided that the prescribed person may exempt any pilgrim from any or all of the above requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them.

Issue or  
production  
of tickets.

**208B.** (1) Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage-money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner :

Provided that no pilgrim, who has not been exempted under the proviso to section 208A, shall be given a ticket other than a return ticket unless he has made the deposit required by that section.

(2) Any ticket issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food and water, on the scale and of the quality prescribed, free of further charge, throughout the voyage.

Refund of  
deposits  
and passage-  
money.

**208C.** (1) Every pilgrim prevented from embarking under section 206, or removed from the ship under section 207, or otherwise prevented from proceeding, shall be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made under section 208A.

(2) Any pilgrim who, within eighteen months of his sailing from the Union of Burma, satisfies His Britannic Majesty's Representative at Jeddah that he intends to remain in the Hedjaz or to return to the Union of Burma by a route other than the route by which he came from the Union of Burma, shall be entitled to a refund of any deposit made by him under section 208A, or, if he is in possession of a return ticket, to a refund of half the passage-money paid by him.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in the prescribed manner, or, if no person has been so nominated, his legal representative, shall be entitled to a refund of any deposit made by such pilgrim under section 208A, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage-money paid by such pilgrim.

(4) Where any pilgrim fails to return to the Union of Burma from the Hedjaz within eighteen months of his sailing from the Union of Burma, or returns to the Union of Burma by a route other than the route by which he came from the Union of Burma, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made by such pilgrim under section 208A, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage-money paid by such pilgrim, except where such deposit or passage-money has already been refunded under this section.

(5) Refunds under sub-sections (1), (2), (3) and (4) of deposits shall be subject to such conditions and of passage-money to such deductions and conditions as may be prescribed.

Unclaimed  
deposits and  
passage-  
money to  
lapse to the  
State.

**209.** (1) All deposits made under section 208A which have been unclaimed for the prescribed period shall become the property of the [State].<sup>1</sup>

(2) If any pilgrim entitled to a refund of passage-money under sub-section (1) of section 208C does not claim such refund within the prescribed period,

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.



or if any pilgrim who has purchased a return ticket does not on the basis of such ticket obtain a return passage from the Hedjaz within the prescribed period and the value of the return half of such ticket has not been refunded under sub-section (2) or sub-section (3) or sub-section (4) of section 208C, such passage-money or value shall, subject to the exercise of the rights conferred by sub-section (4) of section 208C, become the property of the [State]<sup>1</sup> and shall be paid to the [State]<sup>1</sup> by the master, owner or agent to whom it was paid.

**209A.** (1) Where any pilgrim who has been carried to the Hedjaz by a pilgrim ship with a return ticket issued in the Union of Burma within the previous eighteen months is, owing to his inability to obtain accommodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to His Britannic Majesty's Representative at Jeddah, notifying his desire to embark for the return passage, the master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz shall pay to the President of the Union in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the President of the Union claims as the cost of repatriating the pilgrim, together with a sum of one rupee for each day after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah :

Cost of return journey of pilgrims on ships other than those for which return ticket is available.

Provided that, for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master, owner or agent :

Provided further that in the case of any pilgrim whose ticket has been deposited with His Britannic Majesty's Representative at Jeddah the said period of twenty-five days shall, during the period of six weeks following the Haj day, be reduced to fifteen days beginning on the day on which such pilgrim notifies to His Britannic Majesty's Representative at Jeddah his desire to embark for the return passage.

(2) A certificate of such detention purporting to be made and signed by His Britannic Majesty's Representative at Jeddah shall be received in evidence in any Court in the Union of Burma without proof of the signature or of the official character of the person who has signed the same.

**209B.** (1) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in the Union of Burma shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer (hereinafter referred to as the Pilgrim Officer) at the port or place from which the ship is to commence the voyage, and at each port or place in the Union of Burma at which it is to touch for the purpose of embarking pilgrims,

Notice of sailing of pilgrim ship.

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

full particulars as to the class, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the date on which the ship is to sail from that port or place, the ports, if any, at which it is to touch, the place of its destination, and the probable date of its arrival thereat.

(2) The master, owner or agent shall supply to the Pilgrim Officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (1) as that officer may in writing demand from him.

(3) Before such reasonable and sufficient interval as may be prescribed before the date of the sailing of any such ship from any port or place in the Union of Burma, the master, owner or agent of the ship shall advertise at such port or place in such manner as may be prescribed—

- (a) the place of destination of the ship,
- (b) the proposed date of sailing from that port or place which shall be the date communicated to the Pilgrim Officer under sub-section (1), and
- (c) the price of each class of passage tickets, which shall not be in excess of the price communicated to the Pilgrim Officer under sub-section (1).

(4) Any master, owner or agent, who—

- (a) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars or information which he is by or under this section required to supply or supplies false particulars or information, or
- (b) advertises any ship for the conveyance of pilgrims, or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (1) and in accordance with the provisions of that sub-section, or
- (c) advertises a date of sailing from any port or place other than the date communicated to the Pilgrim Officer at that port or place under sub-section (1), or advertises a price for passage tickets at that port or place in excess of the price so communicated, or
- (d) offers to convey pilgrims by any ship from any port or place in the Union of Burma or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having made advertisement, as required by sub-section (3), of the matters specified in that sub-section, or
- (e) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Pilgrim Officer under sub-section (1),

shall be punishable with fine which may extend to two thousand rupees.

**209C. (1)** If the pilgrim ship fails to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of one rupee for each completed day during which the sailing of the ship is delayed after that date :

Compensation for delay in sailing.

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent :

Provided further that, where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the Pilgrim Officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised date of sailing.

(3) Any sum payable as compensation under sub-section (1) shall be paid on behalf of the pilgrims entitled thereto to the Pilgrim Officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention :

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided :

Provided further that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the President of the Union may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Pilgrim Officer notice of his objection, together with a statement of the grounds thereof, and the Pilgrim Officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in

deposit under sub-section (3), or refer the objection for decision to a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed ; the decision of the Magistrate on such reference shall be final, and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the Pilgrim Officer at that port or place shall forthwith give notice of such failure to the officer authorized to grant port-clearance to ships thereat, and such officer shall refuse port-clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the Pilgrim Officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

(6) Nothing in this section or in section 209B shall apply to any advertisement made before the interval prescribed under sub-section (3) of section 209B, and intended to give the public information of the approximate date of the sailing of a pilgrim ship, provided that such advertisement clearly states that the date so advertised is approximate only and that the correct proposed date will be advertised later.

Substitution  
of ships.

**209D.** Notwithstanding anything contained in section 209B or section 209C, where any ship which has been advertised under sub-section (3) of section 209B for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of sailing, the owner or agent may, with the permission in writing of the Pilgrim Officer, substitute for it any other ship which is of the same class and is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.

Sanitary  
taxes payable  
by master of  
pilgrim ship.

**210.** The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Penalty on  
master for  
not comply-  
ing with  
requirements  
as to state-  
ments con-  
cerning  
pilgrims and  
certain other  
matters.

**211.** If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty on  
master or  
medical  
officer of

**212.** If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey any rule under this Part, he shall be liable to a

fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

pilgrim ship  
disobeying  
rules under  
this Act.

213. (1) The President of the Union may make rules to regulate all or any of the following matters, namely :—

Power for  
President to  
make rules.

- (a) the boats, anchors and cables to be provided on board pilgrim ships ;
- (b) the instruments for purposes of navigation to be supplied ;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;
- (f) the scale on which, and the manner in which, cooked and uncooked food and water are to be supplied to pilgrims, and the quality of such food and water ;
- (ff) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with the rules made under clause (f), and the charges which may be made for the same ;
- (g) the quality, quantity and storage of the cargo to be carried ;
- (h) the allotment of the upper-deck space between the various classes of pilgrims ;
- (i) the amount and distribution of the baggage of pilgrims ;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board free of charge to pilgrims for maintaining health, cleanliness and decency ;
- (k) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein ;
- (l) the tonnage and power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply ;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;
- (o) the manner in which, and the persons by whom, the medical inspection of women shall be carried out ;

- (p) the manner in which deposits shall be made for the purposes of section 208A, and any matter in respect of which provision is, in the opinion of the President of the Union, necessary or expedient for the purpose of giving effect to the provisions of that section ;
- (q) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;
- (r) the refund of deposits and passage-money under section 208C, and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund ;
- (s) the period after which unclaimed passage-money and deposits liable to be refunded shall lapse to the Government, and the purposes to which sums so lapsing shall be applied ;
- (t) the manner in which the proposed date of sailing shall be advertised under section 209B ; the appointment of Pilgrim Officers for the purposes of that section and sections 209C and 209D ; the manner in which payment shall be made under section 209C to pilgrims and to the Pilgrim Officer ; and the procedure to be followed by masters, owners or agents and by Pilgrim Officers and Magistrates in proceedings under that section ;
- (u) the functions of the master, medical officer or officers (if any) and other officers during the voyage ;
- (v) the local limits within which and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf ;
- (w) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board ;
- (ww) providing that a pilgrim shall not be received on board any pilgrim ship, unless he is in possession of a passport or a pilgrim's pass, regulating the issue of pilgrims' passes, and prescribing the form of and fees which may be charged for such passes ; and
- (x) generally, to carry out the provisions of this Part relating to pilgrim ships.

(2) In making a rule under this section, the President of the Union may direct that a breach of it shall be punishable with fine which may extend to three hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

PART V.

SAFETY.

**213A.** In this Part the expressions "Country to which the International Convention respecting Load-Lines, 1930, applies" and "Country to which the International Convention for the Safety of Life at Sea, 1929, applies," mean— **Definition.**

- (i) a country which has been declared by Order in Council made by His Britannic Majesty under section 65 or section 37 of the Merchant Shipping (Safety and Load-Line Conventions) Act, 1932, to have ratified or acceded to the Convention specified in the expression and has not been so declared to have denounced the Convention ;
- (ii) any colony or overseas territory of, or any protectorate or territory under suzerainty or mandate of a country so declared, in respect of which a declaration under the said section of the said Act has been made that the Convention specified in the expression has been applied to such colony, territory or protectorate, and no declaration has been made that the said Convention has ceased to apply.

*Prevention of Collisions.*

**214.** (1) The President of the Union may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law. **Appointment of inspectors of lights and fog-signals.**

(2) Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the following powers—

- (a) he may go on board any ship and may inspect the same or any part thereof or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;
- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make ;
- (c) he may require and enforce the production of all books, papers, or documents which he considers important ; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a

declaration of the truth of the statements made by him in his examination.

Notice of deficiency to be given to master or owner by such inspectors.

**215.** If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

**216.** Every notice so given shall be communicated in such manner as the President of the Union may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

*Life-saving Appliances.*

Power of President to make rules as to life-saving appliances.

**216A.** (1) The President of the Union may, subject to the condition of previous publication, make rules prescribing the life-saving appliances to be carried by every British ship going to sea from any port in the Union of Burma.

(2) In making a rule under this section, the President of the Union may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Inspection of provision of life-saving appliances.

**216B.** (1) A surveyor appointed under section 129 of this Act may, at any reasonable time, inspect any ship for the purpose of seeing that she is properly provided with life-saving appliances in conformity with the rules made under this Act.

(2) If the said surveyor finds that the ship is not so provided he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3) Every notice so given shall be communicated in the manner directed by the President of the Union to the Chief Officer of Customs of any port at which the ship may seek to obtain a clearance and the ship shall be detained until a certificate signed by such surveyor is produced to the effect that the ship is properly provided with life-saving appliances in conformity with the said rules.

(4) Such fees may be charged for the grant of the certificate referred to in sub-section (3) as the President of the Union may prescribe.



Load-Lines.

217. \* \* \* \*

218. (1) The provisions of this Part relating to load-lines shall not apply to—

Ships exempt from provisions relating to load-lines.

- (i) any sailing ship of less than 150 tons gross tonnage employed in plying coastwise between ports situated in the Union of Burma, India or Pakistan and Ceylon ;
- (ii) any ship solely engaged in fishing ;
- (iii) any pleasure yacht.

(2) The President of the Union may, on such conditions as he may think fit, exempt from the provisions of this Part relating to load-lines—

- (i) any ship plying between the near neighbouring ports of two or more countries if the President of the Union and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load-lines ;
- (ii) any ship plying between near neighbouring ports of the same country if the President of the Union is satisfied as aforesaid ;
- (iii) wooden ships of primitive build if the President of the Union considers that it would be unreasonable or impracticable to apply the said provisions to them ;
- (iv) any class of steam-ships of less than 150 tons gross tonnage which are employed in plying coastwise between ports situated in the Union of Burma and Ceylon and do not carry cargo.

219. The President of the Union may, subject to the condition of previous publication, make rules (hereafter in this Act referred to as " the load-line rules ") regulating the survey of ships for the purpose of assignment and marking of load-lines and prescribing the conditions (hereafter in this Act referred to as " the conditions of assignment ") on which load-lines may be assigned.

Power of President to make rules as to load-lines.

220. (1) No [ \* \* ]<sup>1</sup> ship registered in the Union of Burma, being a ship of which the keel was laid after the 30th day of June, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

Marking of deck line and load-lines.

- (i) the ship has been surveyed in accordance with the load-line rules ;
- (ii) the ship complies with the conditions of assignment ;
- (iii) the ship is marked on each side with a mark (hereafter in this Act referred to as a " deck line ") indicating the position of the uppermost complete deck as defined by the load-line rules, and with marks (hereafter in this Act referred to as " load-lines ") indicating the several maximum depths to which the ship can be

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

safely loaded in various circumstances prescribed by the load-line rules ;

- (iv) the deck line and load-lines are of the description required by the load-line rules, the deck line is in the position required by those rules, and the load-lines are of the number required by such of those rules as are applicable to the ship ; and
- (v) the load-lines are in the position required by such of the load-line rules as are applicable to the ship.

(2) No [ \* \* ]<sup>1</sup> ship registered in the Union of Burma, being a ship of which the keel was laid before the first day of July, 1932, and not being exempt from the provisions of this Part relating to load-lines, shall proceed to sea unless—

- (i) the ship has been surveyed and marked in accordance with clauses (i), (iii) and (iv) of sub-section (1) ;
- (ii) the ship complies with the conditions of assignment in principle and also in detail so far as, in the opinion of the President of the Union, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing on the ship at the time when she is first surveyed under this section ; and
- (iii) the load-lines are either in the position required by clause (v) of sub-section (1) or in the position required by the tables used by the Board of Trade on the 31st day of December, 1906, for fixing the position of load-lines, subject to such modifications of those tables and of the application thereof as were in force immediately before the 5th day of July, 1930.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master or owner thereof shall for each offence be liable to a fine which may extend to one thousand rupees.

(4) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been so surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 232.

Submersion  
of load-lines.

221. (1) A [ \* \* ]<sup>1</sup> ship registered in the Union of Burma (not being exempt from the provisions of this Part relating to load-lines) shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load-line on each side of the ship, that is to say, the load-line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load-line rules to be loaded.

(2) If any such ship is loaded in contravention of this section, the owner or master of the ship shall for each offence be liable to a fine which may extend to one thousand rupees and to such additional fine, not exceeding the

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

amount hereinafter specified, as the Court thinks fit to impose having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(3) The said additional fine shall not exceed one thousand rupees for every inch or fraction of an inch by which the appropriate load-line on each side of the ship was submerged, or would have been submerged if the ship had been in salt water and had had no list.

(4) In any proceedings against an owner or master for a contravention of this section, it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(5) Without prejudice to any proceedings under the foregoing provisions of this section, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

**222. If—**

- (i) the owner or master of a [ \* \* ]<sup>1</sup> ship registered in the Union of Burma, which has been marked in accordance with the foregoing provisions of this Part, fails without reasonable cause to keep the ship so marked, or
- (ii) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control, to conceal, remove, alter, deface or obliterate, any mark placed on any such ship in accordance with the foregoing provisions of this Part, except with the authority of a person entitled under the load-line rules to authorize the alteration of the mark or except for the purpose of escaping capture by an enemy,

Offences in relation to marks.

he shall for each offence be liable to a fine which may extend to one thousand rupees.

**223.** A surveyor authorized in this behalf by the President of the Union may inspect any [ \* \* ]<sup>1</sup> ship registered in the Union of Burma for the purpose of seeing that the provisions of this Part relating to load-lines have been complied with and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship.

Inspection of ships with respect to load-lines.

*Certificates.*

**224. (1)** Where a [\* \*]<sup>1</sup> ship registered in the Union of Burma has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in

Issue of load-line certificates and effect thereof.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee—

- (i) in the case of a ship of 150 tons gross tonnage or upwards which carries cargo or passengers, a certificate to be called “an international load-line certificate” ; and
- (ii) in the case of any other ship, a certificate to be called “a Union of Burma load-line certificate.”

(2) Every such certificate shall be issued either by the President of the Union or by such other person as may be authorized in that behalf by the President of the Union and shall be issued in such form and manner as may be prescribed by the load-line rules.

(3) The President of the Union may request the Government of a country to which the International Convention respecting Load-Lines, 1930, applies to issue a load-line certificate in the form of an international load-line certificate under that Convention in respect of a [\* \*]<sup>1</sup> ship registered in the Union of Burma, and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the President of the Union.

(4) Where a load-line certificate, issued in pursuance of this section and for the time being in force, is produced in respect of a ship, the ship shall, for the purposes of the foregoing provisions of this Part, be deemed to have been surveyed as required by those provisions, and, if the deck line and load-lines on the ship are of the number and description required by the load-line rules and the position of the deck line and load-lines corresponds with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

Duration,  
renewal and  
cancellation  
of certifi-  
cates.

**224A.** (1) Every load-line certificate issued by or under the authority of the President of the Union shall, unless it is renewed in accordance with the provisions of sub-section (2), expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein.

(2) Any such load-line certificate may, after a survey not less effective than the survey required by the load-line rules before the issue of the certificate, be renewed from time to time by the President of the Union or by any person authorized by the President of the Union to issue a load-line certificate for such period (not exceeding five years on any occasion) as the President of the Union or the person renewing the certificate thinks fit.

(3) The President of the Union shall cancel any such load-line certificate in force in respect of a ship if he has reason to believe that—

- (i) material alterations have taken place in the hull or superstructures of the ship which affect the position of the load-lines ; or
- (ii) the fittings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the crew's quarters

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

have not been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be surveyed in the prescribed manner once at least in each year after the issue of the certificate for the purpose of seeing whether the certificate should, having regard to sub-section (3), remain in force, and if the ship is not so surveyed, the President of the Union shall cancel the certificate :

Provided that the President of the Union, if he thinks fit in any particular case, may extend the said period of one year.

(5) Where any such load-line certificate has expired or been cancelled, the President of the Union may require the owner or master of the ship to which the certificate relates to deliver up the certificate as he directs, and the ship may be detained until such requirement has been complied with, and if the owner or master fails without reasonable cause to comply with such requirement he shall for each offence be liable to a fine which may extend to one hundred rupees.

(6) On the survey of any ship in pursuance of this section there shall be paid by the owner of the ship such fee as may be prescribed.

**224B.** (1) No [\* \*]<sup>1</sup> ship registered in the Union of Burma shall proceed to sea unless there is in force in respect of the ship a load-line certificate issued under the provisions of section 224.

Ships not to proceed to sea without certificate.

(2) The master of every [\* \*]<sup>1</sup> ship registered in the Union of Burma shall produce to the officer of customs, from whom a port-clearance for the ship is demanded, the certificate which is required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port-clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

(3) The master of any ship which proceeds or attempts to proceed to sea in contravention of this section shall for each offence be liable to a fine which may extend to one thousand rupees.

**224C.** (1) When a load-line certificate has been issued in pursuance of the foregoing provisions of this Part in respect of a [\* \*]<sup>1</sup> ship registered in the Union of Burma other than a home-trade ship not exceeding 300 tons burden—

Publication of load-line certificate and particulars relating to depth of loading.

- (i) the owner of the ship shall forthwith on the receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use ; and
- (ii) the master of the ship, before making any other entry in any official log-book, shall enter or cause to be entered therein the particulars

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

as to the position of the deck line and load-lines specified in the certificate.

(2) Before any such ship leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall—

- (i) enter or cause to be entered in the official log-book such particulars relating to the depth to which the ship is for the time being loaded as the President of the Union may by rules made in this behalf prescribe ; and
- (ii) cause a notice, in such form and containing such of the said particulars as may be required by the said rules, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place :

Provided that the President of the Union may by the said rules exempt home-trade ships or any class of home-trade ships from the requirements of clause (ii) of this sub-section.

(3) If the master or owner of any [\* \*]<sup>1</sup> ship registered in the Union of Burma fails to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to two hundred rupees.

Insertion of particulars as to load-lines in agreements with crews.

**224D.** (1) Before an agreement with the crew of any [\* \*]<sup>1</sup> ship registered in the Union of Burma, in respect of which a load-line certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck line and load-lines specified in the certificate, and if he fails to do so he shall for each offence be liable to a fine which may extend to two hundred rupees.

(2) In the case of a [\* \*]<sup>1</sup> ship registered in the Union of Burma, being a foreign-going ship, the shipping-master shall not proceed with the engagement of the crew until—

- (i) there is produced to him a load-line certificate for the time being in force in respect of the ship ; and
- (ii) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

*Special provisions as to ships not registered in the Union of Burma.*

Load-line certificates of ships not registered in the Union of Burma.

**224E.** (1) The President of the Union may, at the request of a country to which the International Convention respecting Load-Lines, 1930, applies, issue an international load-line certificate in respect of a ship of that country if he is satisfied in like manner as in the case of a [\* \*]<sup>1</sup> ship registered in the Union of Burma that he can properly issue the certificate, and where a certificate is issued at such a request it shall contain a statement that it has been so issued.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Law), Order 1948.

(2) With a view to determining the validity in the Union of Burma of certificates purporting to have been issued in accordance with the International Convention respecting Load-Lines, 1930, in respect of ships not registered in the Union of Burma, the President of the Union shall make such rules as appear to him to be necessary, and for the purpose of the provisions hereafter contained in this Part relating to ships not registered in the Union of Burma, the expression "a valid international load-line certificate" means a certificate complying with such of those rules as are applicable in the circumstances.

224F. (1) A surveyor authorized in this behalf by the President of the Union may, at any reasonable time, go on board any ship not registered in the Union of Burma, being a ship of 150 tons gross tonnage or upwards carrying cargo or passengers and belonging to a country to which the International Convention respecting Load-Lines, 1930, applies, when such ship is within any port in the Union of Burma, for the purpose of demanding the production of any load-line certificate for the time being in force in respect of the ship.

Inspection  
and control  
of ships not  
registered  
in the Union  
of Burma.

(2) If a valid international load-line certificate is produced to the surveyor on any such demand, the surveyor's powers of inspecting the ship with respect to load-line shall be limited to seeing—

- (i) that the ship is not loaded beyond the limits allowed by the certificate ;
- (ii) that the position of the load-lines on the ship corresponds with the position specified in the certificate ;
- (iii) that no material alterations have taken place in the hull or super-structures of the ship which affect the position of the load-lines ;
- (iv) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(3) If it is found on any such inspection that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and the provisions of section 238 shall apply.

(4) If it is found on any such inspection that the load-lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(5) If it is found on any such inspection that the ship has been so materially altered in respect of the matters referred to in clauses (iii) and (iv) of sub-section (2) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 232 (in the case of a [\* \*]<sup>1</sup> ship) or for the purpose of section 238 (in the case of a foreign ship) :

Provided that where the ship has been detained under either of the last-mentioned sections, the President of the Union shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

(6) If a valid international load-line certificate is not produced to the surveyor on such demand as aforesaid, the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part relating to load-lines have been complied with, as if the ship were a [\* \*]<sup>1</sup> ship registered in the Union of Burma.

(7) For the purposes of this section a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load-line on each side of the ship, that is to say, the load-line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the International Convention respecting Load-Lines, 1930, to be loaded.

Certificate of ship not registered in the Union of Burma to be produced to customs.

**224G.** The master of every ship not registered in the Union of Burma, being a ship of 150 tons gross tonnage or upwards carrying cargo or passengers and belonging to a country to which the International Convention respecting Load-Lines, 1930, applies, shall produce to the officer of customs from whom a port-clearance for the ship from any port in the Union of Burma is demanded—

(i) in a case where port-clearance is demanded in respect of a voyage to a port or place outside the Union of Burma, a valid international load-line certificate ;

(ii) in a case where port-clearance is demanded in respect of any other voyage, either a valid international load-line certificate or a valid Union of Burma load-line certificate ;

and the port-clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

Marking of deck line and load-lines of ships not registered in the Union of Burma.

**224H.** The provisions of section 220 shall apply to ships not registered in the Union of Burma proceeding or attempting to proceed to sea from ports in the Union of Burma as they apply to [\* \*]<sup>1</sup> ships registered in the Union of Burma, subject to the following modifications, namely :—

(i) the said section shall not apply to a ship not registered in the Union of Burma if a valid international load-line certificate is produced in respect of the ship ; and

(ii) subject to the provisions of clause (i) of this section a foreign ship which does not comply with the conditions of assignment to the extent required in her case by the said section 220 shall be deemed to be unsafe for the purpose of section 238.

Submersion of load-line of ships not registered in the Union of Burma.

**224I.** The provisions of section 221 shall apply to ships not registered in the Union of Burma, while they are within any port in the Union of Burma, as they apply to ships registered in the Union of Burma, subject to the following modifications, namely :—

(i) no ship of 150 tons gross tonnage or upwards carrying cargo or passengers, and belonging to a country to which the International

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.



Convention respecting Load-Lines, 1930, applies, shall be detained and no proceedings shall be taken against the owner or master thereof by virtue of the said section except after an inspection by a surveyor as provided by section 224F; and

- (ii) the expression "the appropriate load-line" in relation to any ship not registered in the Union of Burma shall mean—
- (a) in the case of a ship in respect of which there is produced on such an inspection as aforesaid a valid international load-line certificate, the load-line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the International Convention respecting Load-Lines, 1930, to be loaded;
- (b) in any other case, the load-line which corresponds with the load-line indicating the maximum depth to which the ship is for the time being entitled under the load-line rules to be loaded, or, if no load-line on the ship corresponds as aforesaid, the lowest load-line thereon.

**224J.** The provisions of section 223 shall apply, in the same manner as they apply to [ \* \* ]<sup>1</sup> ships registered in the Union of Burma, to all other ships while they are within any port in the Union of Burma, except ships to which the provisions of section 224F apply.

Inspection of ships not registered in the Union of Burma.

**224K.** (1) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of the Union of Burma load-line certificates shall apply to ships not registered in the Union of Burma as they apply to [ \* \* ]<sup>1</sup> ships registered in the Union of Burma, subject to the following modifications, namely:—

Load-line certificates of ships not registered in the Union of Burma.

- (i) any such certificate may be issued in respect of any such ship as in respect of a ship registered in the Union of Burma, provided that any such certificate issued in respect of a ship of 150 tons gross tonnage and upwards carrying cargo or passengers, and belonging to a country to which the International Convention respecting Load-Lines, 1930, applies, shall only be valid so long as the ship is not plying on voyages from or to any place in the Union of Burma to or from any place outside the Union of Burma and shall be endorsed with a statement to that effect and shall be cancelled by the President of the Union if he has reason to believe that the ship is so plying; and
- (ii) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the President of the Union.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) If the President of the Union is satisfied—

(i) either—

- (a) that by the law in force in any part of His Britannic Majesty's dominions [ \* \* \* ]<sup>1</sup> provision has been made for the fixing, marking and certifying of load-lines on [ \* \* \* ]<sup>1</sup> ships (or any class or description of [ \* \* \* ]<sup>1</sup> ships) registered in that part of His Britannic Majesty's dominions, or
- (b) that provision has been made as aforesaid by the law in force in any foreign country with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognising the Union of Burma load-line certificates as having the same effect in ports of that country as certificates issued under the said provision, and
- (ii) that the said provision for the fixing, marking and certifying of load-lines is based on the same principles as the corresponding provisions of this Part relating to load-lines and is equally effective.

he may, by notification in the Gazette, direct that load-line certificates issued in pursuance of the said provision in respect of [ \* \* \* ]<sup>1</sup> ships (or that class or description of [ \* \* \* ]<sup>1</sup> ships) registered in that part of His Britannic Majesty's dominions, or in respect of ships (or that class or description of ships) of that foreign country, as the case may be, shall have the same effect for the purpose of this Part as the Union of Burma load-line certificates :

Provided that such direction shall not apply to ships of 150 tons gross tonnage and upwards carrying cargo or passengers, and belonging to countries to which the International Convention respecting Load-Lines, 1930, applies, if such ships are engaged in plying on voyages from or to any place in the Union of Burma to or from any place outside the Union of Burma.

Certificates to be produced to customs by ships not registered in the Union of Burma.

**224L.** The master of every ship not registered in the Union of Burma, other than ships to which the provisions of section 224G apply, shall produce to the officer of customs from whom a port-clearance for the ship from any port in the Union of Burma is demanded either a Union of Burma load-line certificate or a certificate having effect under this Act as such a certificate, being a certificate for the time being in force in respect of the ship, and the port-clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

#### Loading of Timber.

Power of President to make rules as to timber cargo.

**224M.** (1) The President of the Union shall, subject to the condition of previous publication, make rules (hereafter in this section referred to as the "timber cargo rules") as to the conditions on which timber may be carried as cargo in any uncovered space on the deck of any ship.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) The timber cargo rules may prescribe a special load-line to be used only when the ship is carrying timber as cargo on deck and the conditions on which such special load-line may be assigned, and may further prescribe either generally or with reference to particular voyages and seasons the manner and position in which such timber is to be stowed and the provisions which are to be made for the safety of the crew.

(3) If any provision of the timber cargo rules is contravened in the case of any [ \* \* ]<sup>1</sup> ship registered in the Union of Burma, the master of the ship shall be liable to a fine which may extend to five thousand rupees :

Provided that in any proceedings against a master in respect of a contravention of the timber cargo rules it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(4) Any surveyor authorized in this behalf by the President of the Union may, at any reasonable time, inspect any ship carrying timber as cargo in any uncovered space on her deck for the purpose of seeing whether the timber cargo rules have been complied with.

(5) The foregoing provisions of this section and the timber cargo rules shall apply to ships not registered in the Union of Burma while they are within any port in the Union of Burma as they apply to [ \* \* ]<sup>1</sup> ships registered in the Union of Burma.

#### Grain-Cargoes.

225. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nutkernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulk-heads or otherwise.

Stowage of cargo of grain, etc.

226. If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

Penalty for improper stowage of such cargo.

#### Subdivision Load-Lines.

227. (1) Where—

(a) a [ \* \* ]<sup>1</sup> passenger steamer registered in the Union of Burma has been marked with subdivision load-lines, that is to say, load-lines indicating the depth to which the steamer may be loaded having regard to the extent to which she is subdivided and to the space for the time being allotted to passengers, and

Submersion of subdivision load-lines in case of passenger steamer registered in the Union of Burma.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (b) the appropriate subdivision load-line, that is to say, the subdivision load-line appropriate to the space for the time being allotted to passengers on the steamer, is lower than the load-line indicating the maximum depth to which the steamer is for the time being entitled under the provisions of this Part to be loaded.

the steamer shall not be so loaded as to submerge the appropriate subdivision load-line on each side of the steamer when the steamer has no list.

(2) If any such steamer is loaded in contravention of this section, the owner or master of the steamer shall for each offence be liable to a fine which may extend to one thousand rupees and to such additional fine, not exceeding the amount hereinafter specified, as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(3) The said additional fine shall not exceed one thousand rupees for every inch or fraction of an inch by which the appropriate subdivision load-line on each side of the ship was submerged, or would have been submerged if the ship had had no list.

(4) Without prejudice to any proceedings under the foregoing provisions of this section, any such steamer which is loaded in contravention of this section may be detained until she ceases to be so loaded.

Application of section 227 to steamers not registered in the Union of Burma.

228. The provisions of section 227 shall apply to passenger steamers not registered in the Union of Burma while they are within any port in the Union of Burma as they apply to British passenger steamers registered in the Union of Burma.

#### Unseaworthy Ships.

Every person sending unseaworthy ship to sea liable to penalty.

229. (1) Every person who sends or attempts to send a [ \* \* ]<sup>1</sup> ship to sea from any port in the Union of Burma in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(2) Every master of a [ \* \* ]<sup>1</sup> ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the President of the Union.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

230. A ship is "unseaworthy" within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo, the tackle, sails, rigging, stores, ballast, and other equipment are not such as to render her in every respect fit for the proposed voyage or service.

Unseaworthy ships.

231. (1) In every contract of service, express or implied, between the owner of a [ \* \* ]<sup>1</sup> ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

Obligation of owner to crew with respect to seaworthiness.

(2) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

*Detention of Unsafe Ships by the President of the Union.*

232. (1) Where a [ \* \* ]<sup>1</sup> ship in any port to which the President of the Union may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

Power to detain unsafe ship and procedure for detention.

- (a) The President of the Union, if he has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.
- (c) When the President of the Union provisionally orders the detention of a ship, he shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving the report, may either order the ship to be released or, if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the President of the Union thinks necessary for the protection of human life.

- (d) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.
- (e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the President of the Union shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the President of the Union may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.
- (f) Where a ship has been provisionally detained, the President of the Union may at any time, if he thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.
- (g) The President of the Union may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the President of the Union for the purpose (in this Act referred to as a "detaining-officer") shall have the same power as the President of the Union has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining-officer shall forthwith report to the President of the Union any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her British or [Burman or Indian or Pakistan]<sup>1</sup> register being subsequently closed.

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<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(5) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely :—

- (a) he may go on board any [ \* \* ]<sup>1</sup> ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;
- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make ;
- (c) he may require and enforce the production of all books, papers or documents which he considers important ; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

*Costs of Detention and Damages incidental thereto.*

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Government for costs and damages when ship wrongly detained.

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, or if a ship is detained in pursuance of any provision of this Part which provides for the detention of a ship until a certain event occurs, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship ; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Liability of ship owner for costs when ship rightly detained.

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the President of the Union before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

What included in costs of detention and survey.

236. When a complaint is made to the President of the Union or a detaining-officer that a British ship is unsafe, it shall be in the discretion of the President of the Union or the detaining-officer (as the case may be) to require the complainant to give security to the satisfaction of the President of

Power to require from complainant security for costs, etc..

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

the Union or the detaining-officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned :

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the President of the Union or the detaining-officer frivolous or vexatious, such security shall not be required ; and the President of the Union or the detaining-officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

Costs, etc., payable by Government recoverable from complainant.

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Part to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Application to foreign ships of provisions as to detention.

238. When a foreign ship is in a port in the Union of Burma and is, whilst at that port, unsafe by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications, namely :—

- (i) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained ;
- (ii) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the President of the Union to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the President of the Union shall cause the ship to be detained or released accordingly ; but if they differ the President of the Union may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship ; and
- (iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the President of the Union.

Delegation of powers to Port Commissioners, etc.

239. (1) The President of the Union may, from time to time, by notification in the Gazette, delegate, either absolutely or subject to such conditions or restrictions as he thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers,



and require the said body to discharge all or any of the functions, of the President of the Union under the foregoing sections of this Part, except the power of making rules.

(2) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or from such body ; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any costs or damages so recovered to or from the funds held by them in trust as such body.

*Installation of Wireless Telegraphy.*

240. The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in the Union of Burma shall come into force on such date as the President of the Union may, by notification <sup>1</sup> in the Gazette, direct.

Commence-  
ment.

241. \* \* \* \*

242. (1) Every sea-going [\* \*]<sup>2</sup> ship registered in the Union of Burma, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature, and shall be provided with such certificated operators and watchers as may be prescribed :

Wireless  
telegraphy  
require-  
ments.

Provided that the President of the Union may, by notification in the Gazette, exempt from the obligations imposed by this section any ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

242A. (1) On and after such date as the President of the Union may, by notification in the Gazette, appoint in this behalf every [\* \*]<sup>2</sup> ship registered in the Union of Burma, being a passenger steamer of 5,000 tons gross tonnage or upwards, shall be provided with a wireless direction-finding apparatus of the prescribed description.

Wireless  
direction-  
finding  
apparatus.

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to two hundred rupees.

<sup>1</sup> Sections 241 to 245 were brought into force from 5th May, 1923, see Gazette of India, 1923, Part I, page 402a.

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Wireless  
telegraph  
log.

**242B.** (1) Every ship compulsorily equipped under the provisions of section 242 with a wireless telegraph installation shall maintain in the wireless telegraph room a wireless telegraph log in which shall be entered such particulars relating to the operation of the wireless telegraph installation and as to the maintenance of the wireless telegraph service as may be prescribed.

(2) The provisions of section 122 shall apply to the wireless telegraph log kept under this section as if it were an official log-book.

Appointment  
and powers  
of wireless  
telegraphy  
inspectors.

**243.** (1) The President of the Union may appoint officers (hereinafter referred to in this Act as "wireless telegraphy inspectors") for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship.

(2) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship :

Provided that if a valid Safety Convention Certificate is produced in respect of any ship not registered in the Union of Burma, the inspection shall be limited to seeing that the ship is provided with a wireless telegraph installation and that the number of certified operators and watchers corresponds substantially with the particulars stated in the certificate.

(3) If a wireless telegraphy inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port-clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

Application  
to ships other  
than ships  
registered in  
the Union of  
Burma.

**244.** The provisions of this Part relating to wireless telegraphy shall, as from a date three months after the coming into force<sup>1</sup> of those provisions, apply to ships other than [ \* \* ]<sup>2</sup> ships registered in the Union of Burma while they are within any port in the Union of Burma in like manner as they apply to [ \* \* ]<sup>2</sup> ships registered in the Union of Burma.

<sup>1</sup> 5th May, 1923, see the footnote to section 240. 1

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

245. (1) The President of the Union may make rules<sup>1</sup> to carry out the purposes of the provisions of this Part relating to wireless telegraphy. Power to make rules.

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

- (a) the nature of the wireless telegraph installation and wireless direction-finding apparatus to be provided and of the service to be maintained, the form of the wireless log and the particulars to be entered therein, and the number, grades and qualifications of certified operators and watchers to be carried ;
- (b) the manner in which a notice given under sub-section (3) of section 243 shall be communicated to the Chief Officer of Customs ;
- (c) the charging of fees for the grant of the certificate referred to in sub-section (4) of section 243, the amount of such fees and the manner in which they shall be recoverable.

*Signalling Lamps.*

245A. (1) Every [ \* \* ]<sup>2</sup> ship registered in the Union of Burma being a ship of over 150 tons gross tonnage shall, when proceeding to sea from any port or place in the Union of Burma to any port or place outside the Union of Burma, be provided with a signalling lamp of the type approved by the President of the Union. Signalling lamps.

(2) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master thereof shall for each offence be liable to a fine which may extend to two hundred rupees.

*Safety Certificates, Radio-telegraphy Certificates and Exemption Certificates.*

245B. The provisions of this Part relating to Safety Certificates, Qualified Safety Certificates, Safety Radio-telegraphy Certificates and Exemption Certificates, that is to say, the provisions of section 245C to section 245M inclusive, shall have effect only from such date<sup>3</sup> as the President of the Union may, by notification in the Gazette, appoint in this behalf. Operation of provisions relating to Safety Certificates and Exemption Certificates.

245C. (1) Upon receipt of a declaration of survey granted under Part III in respect of a steam-ship for which a certificate of survey is required by that Part, the President of the Union shall, if satisfied that the steam-ship complies with all the provisions as to construction, machinery and equipments (including life-saving appliances, and wireless telegraphy installation) applicable to such steam-ship under this Act, cause a certificate, to be called a Safety Certificate or a Qualified Safety Certificate, as the case may be, to be prepared and delivered through such officer as the President of the Union may appoint in this behalf to the owner or master of the steam-ship. Safety Certificates and Qualified Safety Certificates.

<sup>1</sup> For the Burma Merchant Shipping (Wireless Telegraphy) Rules, see *Burma Gazette*, 1937, Part I, page 1347.

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

<sup>3</sup> Sections 245C to 245M came into force on the 1st January, 1935 ; see *Gazette of India*, 1934, Part I, page 1538.

(2) The Safety Certificate shall be in the prescribed form and shall state that the steam-ship complies with the requirements of the International Convention for the Safety of Life at Sea, signed in London on the 31st day of May, 1929.

(3) The Qualified Safety Certificate shall be in the prescribed form and shall state in what respects the steam-ship complies with the requirements of the International Convention for the Safety of Life at Sea, signed in London on the 31st day of May, 1929.

Safety Radio-  
telegraphy  
Certificate.

**245D.** (1) The owner or master of any [\* \*]<sup>1</sup> ship registered in the Union of Burma which is not a passenger steamer but which is required by the provisions of section 242 to be provided with a wireless telegraphy installation and which is intended to ply on voyages from or to any place in the Union of Burma to or from any place outside the Union of Burma shall, if the President of the Union is satisfied that the ship complies with all the provisions as to wireless telegraphy applicable to such ship under this Part, receive a certificate to be called a Safety Radio-telegraphy Certificate, to be prepared and delivered through such officer as the President of the Union may appoint in this behalf.

(2) The Safety Radio-telegraphy Certificate shall be in the prescribed form and shall state that the ship complies in respect of wireless telegraphy installation with the requirements of the International Convention for the Safety of Life at Sea, signed in London on the 31st day of May, 1929.

Exemption  
certificate.

**245E.** The owner or master of any [\* \*]<sup>1</sup> ship registered in the Union of Burma, which is intended to ply on voyages from or to any place in the Union of Burma to or from any place outside the Union of Burma and in regard to which the President of the Union has made a declaration under section 126 or an order of exemption under the proviso to sub-section (1) of section 242, shall, on application to the officer appointed in this behalf by the President of the Union, receive from such officer a certificate in the prescribed form to be called an Exemption Certificate.

Duration of  
certificates.

**245F.** (1) A Safety Certificate, Qualified Safety Certificate, Safety Radio-telegraphy Certificate or Exemption Certificate issued under the provisions of section 245C, 245D or 245E, shall not remain in force for more than one year from the date of its issue, nor after notice is given by the authority issuing it to the owner or master of the ship in respect of which it has been issued that that authority has cancelled the certificate.

(2) If the ship in respect of which any such certificate has been issued is absent from the Union of Burma at the date when the certificate expires, the authority issuing the certificate, or any person authorized by that authority for the purpose, may, if it appears proper and reasonable so to do, grant such extension of the certificate as will allow the ship to return to the Union

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

of Burma, but no such extension shall have effect for more than five months from the said date.

(3) If the ship in respect of which a Safety Certificate issued under section 245C is in force has on board in the course of a particular voyage a total number of persons less than the number stated in the certificate to be the number for which the life-saving appliances on the ship provide, the owner or master of the ship may obtain from the authority issuing the certificate, or any person authorized by that authority for the purpose, a memorandum to be attached to the certificate stating the total number of persons carried on the ship on that voyage and the modifications which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the certificate.

**245G.** (1) The President of the Union may, at the request of the Government of a country to which the International Convention for the Safety of Life at Sea, 1929, applies, cause a Safety Certificate or Safety Radio-telegraphy Certificate to be issued in respect of a ship of that country if he is satisfied in like manner as in the case of a [\* \*]<sup>1</sup> ship registered in the Union of Burma that such a certificate can properly be issued, and, where a certificate is issued at such a request, it shall contain a statement that it has been so issued.

Issue of certificates to ships of foreign countries.

(2) With a view to determining the validity in the Union of Burma of certificates purporting to have been issued in accordance with the International Convention for the Safety of Life at Sea, 1929, in respect of ships not registered in the Union of Burma, the President of the Union shall make such rules as appear to him to be necessary, and for the purpose of the provisions of this Act the expression "a valid Safety Convention Certificate" means a certificate or certificates complying with such of those rules as are applicable in the circumstances.

(3) Where a valid Safety Convention Certificate is produced in respect of a passenger steamer not registered in the Union of Burma and there is attached to the certificate a memorandum which—

- (a) has been issued by or under the authority of the Government of the country to which the steamer belongs, and
- (b) modifies for the purpose of any particular voyage, in view of the number of persons actually carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

**245H.** (1) No [\* \*]<sup>1</sup> ship registered in the Union of Burma being a passenger steamer shall proceed on a voyage from any place in the Union of Burma to any place outside the Union of Burma unless there is in force in respect of the ship either—

Prohibition on proceeding to sea without certificates

- (a) a Safety Certificate issued under section 245C, or

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (b) a Qualified Safety Certificate issued under section 245C and an Exemption Certificate issued under section 245E,

being a certificate or certificates which by the terms thereof is or are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(2) No sea-going [\* \*]<sup>1</sup> ship registered in the Union of Burma being a ship of 1,600 tons gross tonnage or upwards other than a passenger steamer shall proceed on a voyage from any place in the Union of Burma to any place outside the Union of Burma unless there is in force in respect of the ship—

- (a) such certificate or certificates as would be required in her case by the provisions of sub-section (1) if she were a passenger steamer, or
- (b) a Safety Radio-telegraphy Certificate issued section 245D, or
- (c) an Exemption Certificate, issued under section 245E, relating to the wireless telegraphy equipment.

being a certificate or certificates which by the terms thereof is or are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(3) If any ship to which this section applies proceeds or attempts to proceed to sea in contravention of this section—

- (a) in the case of a ship being a passenger steamer, the master or owner of the steamer shall, without prejudice to any other remedy or penalty under this Act, be liable for each offence to a fine which may extend to one hundred rupees for every passenger carried on board the steam-ship; and
- (b) in the case of a ship not being a passenger steamer, the master or owner of the ship shall for each offence be liable to a fine which may extend to one thousand rupees.

(4) The master of every ship to which this section applies shall produce to the officer of customs from whom a port-clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port-clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

(5) Where an Exemption Certificate issued under section 245E in respect of any ship to which this section applies specifies any conditions on which the certificate is issued and those conditions are contravened, the master or owner of the ship shall for each offence be liable to a fine which may extend to one thousand rupees.

Recognition  
of certificates  
issued outside  
the Union of  
Burma.

**245I. (1)** Where there is produced in respect of any steam-ship not registered in the Union of Burma a valid Safety Convention Certificate, such certificate shall be accepted as having the same force as the corresponding certificate issued in respect of a ship registered in the Union of Burma by the President of the Union.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) The master of every ship not registered in the Union of Burma, being a passenger steamer or being a ship of 1,600 tons gross tonnage or upwards, belonging to a country to which the International Convention for the Safety of Life at Sea, 1929, applies, shall produce a valid Safety Convention Certificate to the officer of customs from whom a clearance for the ship is demanded in respect of a voyage from a place in the Union of Burma to a place outside the Union of Burma, and a clearance shall not be granted and the ship may be detained until such a certificate is so produced.

(3) Where a valid Safety Convention Certificate is produced in respect of a passenger steamer not registered in the Union of Burma the steamer shall not be deemed to be unsafe for the purposes of section 238 of this Act by reason of the defective condition of her hull, equipments or machinery unless it appears that the steamer cannot proceed to sea without danger to the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

**245J.** (1) The President of the Union may, subject to the condition of previous publication, make rules to carry out the purposes of the provisions of this Part relating to Safety Certificates, Qualified Safety Certificates, Safety Radio-telegraphy Certificates and Exemption Certificates.

Power of President to make rules as to certificates.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe the form of the certificates referred to in sub-sections (2) and (3) of section 245C, sub-section (2) of section 245D, and section 245E, the charging of fees for the grant of such certificates, the amount of such fees, and the manner in which they shall be recoverable.

(3) The President of the Union may delegate to any person the functions assigned to the President of the Union by sections 245C, 245D and 245G of granting a Safety Certificate, a Qualified Safety Certificate or a Safety Radio-telegraphy Certificate in respect of any ships or classes of ships.

**245K.** The provisions of sections 139, 139A, 140 and 142 of this Act shall apply to and in relation to every certificate issued by the President of the Union under sections 245C, 245D and 245E in the same manner as they apply to and in relation to a certificate of survey.

Application of sections 139, 139A, 140 and 142 to certificates.

**245L.** The President of the Union may request the Government of a country to which the International Convention for the Safety of Life at Sea, 1929, applies to issue a Safety Certificate or a Safety Radio-telegraphy Certificate in respect of a British ship registered in the Union of Burma, and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the President of the Union.

Issue by foreign Government of certificate to ships registered in the Union of Burma.

**245M.** Where any foreign ship is detained under this Part in any case to which the provisions of section 238 do not apply, or where any proceedings are taken under this Part against the master or owner of any such ship, notice shall forthwith be served on the Consular Officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such

Detention of foreign ships in cases not referred to in section 238.

notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

## PART VA.

### NAVIGATION.

Method of giving helm orders.

**245N.** (1) No person on any [\* \*]<sup>1</sup> ship registered in the Union of Burma shall when the ship is going ahead give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right," unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left" or any equivalent of "port" or "left," unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of this section shall for each offence be liable to a fine which may extend to five hundred rupees.

Duty to report dangers to navigation.

**245O.** (1) The master of any [\* \*]<sup>1</sup> ship registered in the Union of Burma on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information accordingly by all means of communication at his disposal, and in accordance with such rules as the President of the Union may make in this behalf, to ships in the vicinity and to such authorities on shore as may be prescribed by these rules.

(2) If the master of a ship fails to comply with the provisions of this section, he shall be liable for each offence to a fine which may extend to five hundred rupees.

(3) For the purposes of this section the expression "tropical storm" means a hurricane, typhoon, cyclone or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in the vicinity.

Obligation to render assistance on receiving signal of distress.

**245P.** (1) The master of a [\* \*]<sup>1</sup> ship registered in the Union of Burma on receiving a signal of distress by wireless telegraphy from any other ship shall proceed with all speed to the assistance of the persons in distress, unless he is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to do so, or unless he receives information that his assistance is no longer required.

(2) If the master is unable or in the special circumstances of the case considers it unreasonable or unnecessary to proceed to the assistance of the persons in distress, he shall forthwith send a message by wireless telegraphy informing the master of the ship in distress accordingly, and shall enter in the official log-book his reasons for not going to the assistance of those persons.

(3) Any master failing to comply with the provisions of sub-section (1) shall be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.



(4) Any master failing to comply with the provisions of sub-section (2) shall be liable to a fine which may extend to one thousand rupees.

245Q. (1) The President of the Union may, subject to the condition of previous publication, make rules prescribing—

Power of President to make rules as to signals.

- (a) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom such information is to be communicated.
- (b) the signals which shall be signals of distress and of urgency, respectively.
- (c) the circumstances in which and the purposes for which any such signal is to be used, and the circumstances in which it is to be revoked, and
- (d) the speed at which any message sent by wireless telegraphy in connection with such signal is to be transmitted.

(2) In making any rule under this section the President of the Union may direct that the breach of it shall be punishable with fine which may extend to five hundred rupees.

## PART VI.

### SPECIAL SHIPPING INQUIRIES AND COURTS.

246. (1) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

Shipping casualties and report the c.f.

- (a) on or near the coasts of the Union of Burma, any ship is lost, abandoned, stranded or materially damaged ;
- (b) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts ;
- (c) on or near those coasts, any ship causes loss or material damage to any other ship ;
- (d) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in the Union of Burma ; or
- (e) any British ship is supposed to have been lost, and any evidence can be obtained in the Union of Burma as to the circumstances under which she proceeded to sea or was last heard of.

(2) In sub-section (1), the word "coasts" includes the coasts of creeks and tidal rivers.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds

to any place in the Union of Burma from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in the Union of Burma, give immediate notice of the shipping casualty to the nearest Magistrate and also to the officer appointed in this behalf by the President of the Union.

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Report of  
shipping  
casualties to  
President.

247. (1) Whenever any such officer receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the President of the Union and may proceed to make a preliminary inquiry into the casualty.

(2) Any such officer—

(i) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage ;

(ii) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ;

(iii) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make ;

(iv) may require and enforce the production of all books, papers or documents which he considers important for such purpose ; and

(v) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(3) An officer making a preliminary inquiry under this section shall send a report thereof to the President of the Union.

Application  
to Court for  
a formal  
investigation.

248. The officer appointed under sub-section (3) of section 246, whether he has made a preliminary inquiry or not, may, and, where the President of the Union so directs, shall, make an application to a Court empowered under section 249, requesting it to make a formal investigation into any shipping casualty ; and the Court shall thereupon make such investigation.

Court  
empowered to  
make formal  
investigation.

249. Magistrates of the first class specially empowered in this behalf by the President of the Union shall have jurisdiction to make formal investigations into shipping casualties under this Part.

**250.** (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

**251.** (1) If the President of the Union has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the President of the Union—

Power for President to direct investigation into charges of incompetency or misconduct.

- (a) if the master, mate or engineer holds a certificate under this Act, in any case,
- (b) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases :—
  - (i) where the incompetency or misconduct has occurred on a British ship on or near the coasts of the Union of Burma, or on board a British ship in the course of a voyage to a port within the colony;
  - (ii) where the incompetency or misconduct has occurred on board a [ \* \* ]<sup>1</sup> ship registered in the Union of Burma;
  - (iii) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in the Union of Burma;

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the President of the Union.

**252.** For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Person accused to be heard.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

**Powers of Courts as to evidence and regulation of proceedings.**

**253.** For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction.

**Assessors.**

**254. (1)** A Court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs :

Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

(3) The assessors shall be chosen from a list to be prepared from time to time by the President of the Union.

**Power to arrest witnesses and cause entry and detention of vessels.**

**255. (1)** If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer subject, nevertheless, to any general or special instructions from the President of the Union to enter any vessel.

(2) Any officer so authorized 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.

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

**Power to commit for trial and bind over witnesses.**

**256.** Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in 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 prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all its powers as a criminal Court.

**Report by Court to President.**

**257. (1)** The Court shall, in the case of all investigations under this Part, transmit to the President of the Union a full report of the conclusions at which it has arrived, together with the evidence.

(2) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent

through the President of the Union and the transmission of the report to the President of the Union shall be a sufficient compliance with this sub-section.

*Suspension and cancellation of Certificates and grant of fresh Certificates.*

1 258. \* \* \* \*

259. (1) When any such Court cancels or suspends any such certificate, the President of the Union may, if he thinks fit, grant without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

Power to issue local certificates in lieu of cancelled or suspended certificates.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

(3) The President of the Union may act under this section either in pursuance of a recommendation from the Court or of his own motion.

260. (1) Any certificate which has been granted under this Act to any master, mate or engineer, may be suspended or cancelled by the President of the Union in the following cases, that is to say :—

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

(a) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any [British possession or the Union of Burma]<sup>2</sup> to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life has been caused by his wrongful act or default ;

(b) if he is proved to have been convicted of any offence which, if committed in the Union of Burma, would be non-bailable, or, if committed in England, would be a felony ; and

(c) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force.

(2) Notwithstanding anything contained in this Act, the President of the Union may, at any time, without any formal investigation, suspend or cancel

57 & 58  
Vict. c. 60.

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.  
<sup>2</sup> Substituted *ibid.*

any engine driver's certificate granted by him if, in his opinion, the holder is, or has become, unfit to act as an engine driver.

261. \* \* \* \*

Report to  
Board of  
Trade

262. When the President of the Union cancels or suspends under section 260 the certificate of a master, mate or engineer he shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Power  
to revoke  
cancellation  
or suspension  
and grant  
new certi-  
ficate.

263. (1) The President of the Union may at any time revoke any order of cancellation or suspension which he may have made under section 260, or grant, without examination, to any person whose certificate he has so cancelled a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

Power of  
Court of  
Investigation  
or Inquiry as  
to certificates  
granted by  
the President.

264. (1) A certificate of a master, mate or engineer which has been granted by the President of the Union under this Act may be cancelled or suspended—

(a) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life has been caused by the wrongful act or default of such master, mate or engineer ;

(b) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

(3) Where the Court cancels or suspends a certificate, the Court shall forward it to the President of the Union together with the report which it is required by this Part to transmit to him.

(4) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(5) The duties imposed and powers conferred by sections 262 and 263 on the President of the Union shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the President of the Union as if he had himself cancelled or suspended the certificate under section 260.

265. (1) The principal Court of ordinary criminal jurisdiction at any port in the Union of Burma [ \* \* \* \* ]<sup>1</sup> may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

Power to remove master and appoint a new master.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

266. (1) A master, mate, or engineer whose certificate is cancelled or suspended by any Court or by the President of the Union shall deliver his certificate—

Delivery of certificate cancelled or suspended.

- (a) if cancelled or suspended by a Court, to that Court ;
- (b) if cancelled or suspended by the President of the Union, to him, or to a shipping master or other person appointed in this behalf by him.

(2) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

*Investigations into Explosions.*

267. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of the Union of Burma, the President of the Union or a person duly appointed by him in this behalf may, if he thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as he thinks fit.

Power to investigate causes of explosions on board steam-ships.

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

*Courts of Survey.*

268. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

Constitution of Court of Survey

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Magistrate of the first class or other fit person appointed in this

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

behalf by the President of the Union either generally or for any specified case.

(3) The assessors shall be persons of nautical, engineering or other special skill or experience.

(4) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the President of the Union either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the President of the Union in the Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

**Powers and procedure of Court of survey.**

**269.** (1) The Judge shall, on receiving notice of an appeal or a reference from the President of the Union, immediately summon the assessors to meet forthwith in the prescribed manner.

(2) The Court of Survey shall hear every case in open Court.

(3) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(5) The Judge shall have the same power as the President of the Union has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the President of the Union, may attend at any inspection or survey made in pursuance of this section.

(7) The Judge shall report the proceedings of the Court in each case to the President of the Union in the manner prescribed, and each assessor shall either sign such report or report to the President of the Union the reasons for his dissent.

**Power of President to make rules with respect to Court of Survey.**

**270.** The President of the Union may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and in particular, and without prejudice to the generality of the foregoing power, with respect to--

(a) the procedure before the Court;

(b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs.

#### *Scientific Referees.*

**Reference in difficult cases to scientific persons.**

**271.** (1) If the President of the Union is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, he may refer the matter to



such one or more out of a list of scientific referees to be from time to time prepared by the President of the Union, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between a person duly appointed by the President of the Union in this behalf and the appellant, or, in default of any such agreement, by the President of the Union, and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(2) The President of the Union, if the appellant in any such appeal so requires and gives security to his satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

## PART VII. <sup>1</sup>

### WRECK AND SALVAGE.

272. In this Part "wreck" includes the following when found in the sea or any tidal water or on the shores thereof :— "Wreck" defined.

- (a) goods which have been cast into the sea and then sink and remain under water ;
- (b) goods which have been cast or fall into the sea and remain floating on the surface ;
- (c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again ;
- (d) goods which are thrown away or abandoned ; and
- (e) a ship abandoned without hope or intention of recovery.

273. (1) The President of the Union may, by notification in the Gazette, appoint such person as he thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as he may prescribe. Appointment of receivers.

(2) Persons so appointed shall be called receivers of wreck.

274. (1) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,— Rules to be observed by persons finding wreck.

- (a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished ;
- (b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

<sup>1</sup> Section 9 of the Burma Aircraft Act *ante* makes the provisions of this Part (with such modifications as the President of the Union may make therein) applicable to aircraft on or over the sea or tidal waters.

(2) Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by sub-section (1) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

Government or person finding wreck entitled to salvage.

**275.** (1) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

Notice to be given by receiver.

**276.** The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the President of the Union may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Wreck may in certain cases be sold.

**277.** If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Proceeds how applied.

**278.** On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same :

Provided that he makes his claim within one year from the date of the sale.

Savings.

**279.** Nothing in this Part shall be deemed to—

- (a) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts ; or
- (b) affect section 29 of the Ports Act, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

PART VIII.

LEGAL PROCEEDINGS.

**280.** The following persons shall be deemed to be public servants within the meaning of the Penal Code, namely :—

Certain persons to be deemed public servants.

- (a) every surveyor appointed under this Act ;
- (b) every Judge, assessor or other person acting under Part VI ;
- (c) every person appointed under this Act to report information as to shipping casualties ;
- (d) every person authorized under this Act to make any investigation under Part VI, and all persons whom he calls to his aid ;
- (e) every person directed to make an investigation into an explosion on a steam-ship under section 267 ;
- (f) every Wireless Telegraphy Inspector appointed under this Act.

**281.** No Magistrate shall try any offence against 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.

Jurisdiction of Magistrates.

**282.** Any person committing any offence against this Act or any rule thereunder may be tried for the offence in any place in which he may be found or which the President of the Union may, by notification in the Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Place of trial of the offender.

**283.** (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in the Union of Burma before any Court or Magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorized, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in His Britannic Majesty's dominions or before any British consular officer, if elsewhere, shall be admissible in evidence—

Depositions to be received in evidence when witnesses cannot be produced.

- (a) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made ;
- (b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness ;
- (c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in

a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

Enforcing  
detention of  
ship.

**284.** (1) Where under this Act a ship is authorized or ordered to be detained, any commissioned officer on full pay in the naval or military service of [the Government],<sup>1</sup> or any port officer, harbour-master, conservator of a port, or officer of customs may detain the ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorized under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

Levy of  
wages, etc.,  
by distress of  
moveable  
property.

**285.** When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

Levy of  
wages, fines,  
etc., by  
distress of  
ship.

**286.** Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Service of  
documents.

**287.** Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same

<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

for him on board that ship, with the person being or appearing to be in command or charge of the ship ; and

- (c) if the document is to be served on the master of a ship where there is no master and the ship is in the Union of Burma, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in the Union of Burma, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution. Application of fines.

PART IX.

SUPPLEMENTAL.

289. (1) Where a shipping-master has reasons to suspect that the provisions of this Act are not complied with, that officer may— Powers to see Act is complied with.

(a) enter on board any [ \* \* ]<sup>1</sup> ship, and

(b) muster and examine the crew.

(2) If any person obstructs any shipping-master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

Ship Surveyors.

290. The President of the Union may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the Union of Burma, and may make rules— Power to appoint examiners and to make rules as to qualifications of ship surveyors.

- (a) for the conduct of such examinations and the qualifications to be required,
- (b) for the grant of certificates to qualified persons,
- (c) for the fees to be paid for such examinations and certificates,
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and
- (e) for the suspension and cancellation of such certificates.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290, exercise such profession in such port unless he holds a certificate granted under that section : No person to practise as ship surveyor unless qualified.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from

<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

discharging any of the duties of such employment, or apply to any person specially exempted by the President of the Union from the operation of this section.

Penalty for practising as ship surveyor without certificate.

**292.** Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees and shall be incapable of maintaining any suit for any fee or reward for anything done by him.

Powers of person appointed or authorized to survey ship.

**293.** Any person appointed or authorized under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Provisions with respect to rules.

**294.** All rules made under this Act shall be published in the Gazette and, on such publication, shall have effect as if enacted in this Act.

Power to appoint committees to advise on rules and scales.

**294A.** (1) The President of the Union may, if he thinks fit, appoint committees for the purpose of advising him when considering the making or alteration of any rules or scales under this Act, consisting of such persons as he may appoint representing the interests principally affected, or having special knowledge of the subject-matter.

(2) There shall be paid to the members of any such committee such travelling and other allowances as the President of the Union may fix.

(3) Committees may be appointed under this section to advise the President of the Union especially as regards any special rules or scales, or, generally, as regards any class or classes of rules or scales which the President of the Union may assign to them.

Protection of persons acting under Act.

**295.** No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Application of Merchant Shipping Acts to British ships and ships registered in the Union of Burma.

**296.** (1) For the avoidance of doubts it is hereby declared that subject to the provisions of any law for the time being in force, the Merchant Shipping Acts shall, in so far as other provisions have not been made in this or in any other law, continue to apply to British ships and ships registered in the Union of Burma in the same manner and to the same extent as they would have applied if the Constitution had not come into operation.

(2) For the purpose of facilitating the application of the Merchant Shipping Acts hereby declared to be in force in the Union of Burma any Court or other authority may construe the Acts with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before such Court or authority.

<sup>1</sup> Inserted by the Union of Burma (Adaptation of Laws) Order, 1948.

SCHEDULE I.

(See section 9.)

TABLE A.

FEEs TO BE CHARGED FOR MATTERS TRANsACTED AT SHIPPIng OFFICES.

1. Engagement or discharge of crews :—

				Rs.	a.	p.
in ships under 100 tons	...	...	3	0	0	
from 100 to 200 "	...	...	7	0	0	
200 to 300 "	...	...	10	0	0	
300 to 400 "	...	...	12	8	0	
400 to 500 "	...	...	15	0	0	
500 to 600 "	...	...	17	8	0	
600 to 700 "	...	...	20	0	0	
700 to 800 "	...	...	22	8	0	
800 to 900 "	...	...	25	0	0	
900 to 1,000 "	...	...	27	8	0	
Above 1,000 "	..	...	30	0	0	

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

TABLE B.

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF FEES IN TABLE A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.—

			Rs.	a.	p.
from wages of any mate, purser, engineer, surgeon,					
carpenter or steward	...	...	0	12	0
from wages of all others except apprentices	...	...	0	8	0

2. In respect of engagements and discharges of seamen,—

separately, upon each engagement and each discharge	0	8	0
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## SCHEDULE II.

(See section 131.)

*Rates of Fees payable in respect of Survey of Steam-ships.*

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

SCHEDULE III. <sup>1</sup>

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## SCHEDULE IV.

\* \* \* \*

**THE BURMA REGISTRATION OF SHIPS ACT.****CONTENTS.***Sections.*

1. \* \* \* \*  
Ships to be registered.  
Certificate of registry.
- 1A. \* \* \* \*
2. Ports of registry.
3. Registrars.
4. Book of registry.
5. Declaration.
6. Further declaration by owners who attend.
7. Measurement to be made.
8. Certificate of surveying-officer.
9. Measurement of tonnage for purpose of registry.
- 10-11. \* \* \* \*
12. Marking of register tonnage on ship.
13. \* \* \* \*
14. Registered tonnage to be repeated in every subsequent register.

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<sup>1</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.