

A BILL

i n t i t u l e d

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

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Merchant Shipping (Amendment) Act 2017.

(2) Subject to subsection (3), this Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

(3) This Act comes into operation in the States of Sabah and Sarawak on such date as the Minister may, after consultation with the State Authorities of Sabah and Sarawak, appoint by notification in the *Gazette*.

General amendment

2. The Merchant Shipping Ordinance 1952 [*Ordinance 70/1952*], which is referred to as “the Ordinance” in this Act, is amended—

- (a) by substituting for the words “steamer” and “steamship” wherever appearing the word “ship”; and
- (b) by substituting for the words “steamers” and “steamships” wherever appearing the word “ships”.

Amendment of section 2

3. Section 2 of the Ordinance is amended—

- (a) by substituting for the definition of “Malaysian ship” the following definition:

‘ “Malaysian ship” means a ship registered or licensed under Part II;’;

- (b) by inserting after the definition of “port officer” the following definition:

‘ “port undertakings” means the operation and maintenance of port and includes port-related activities at a port which is under the authority of the Director of Marine;’;

- (c) by substituting for the definition of “registrar” the following definition:

‘ “Registrar” means the Registrar of Ships appointed under subsection 12(1);’;

- (d) by deleting the definition of “Registrar General”; and

- (e) by inserting after the definition of “seafarer” the following definition:

‘ “service undertakings” means any services rendered by the Director of Marine to implement Malaysia’s flag state obligations or other services rendered by him to facilitate the shipping industry;’.

Deletion of section 3

4. The Ordinance is amended by deleting section 3.

Amendment of section 10

5. Section 10 of the Ordinance is amended—

(a) by substituting for the words “Yang di-Pertuan Agong” wherever appearing the words “Director of Marine”;

(b) in subsection (2A)—

(i) by substituting for the words “, for special purposes and on special occasions, any person, whether or not a citizen of Malaysia,” the words “any person or organization”; and

(ii) by inserting after the words “such a person” the words “or organization”; and

(c) in subsection (5)—

(i) in paragraph (a), by deleting the words “such steamers and”;

(ii) by substituting for the words “; and” at the end of paragraph (b) a semicolon;

(iii) by substituting for the full stop at the end of paragraph (c) a semicolon; and

(iv) by inserting after paragraph (c) the following paragraphs:

“(d) the requirements for appointment of any person or organization under subsection (2A);

(e) the requirements that the person or organization appointed under subsection (2A) shall fulfil when performing his or its functions; and

(f) the manner in which the person or organization appointed under subsection (2A) is to be regulated.”.

New section 10A

6. The Ordinance is amended by inserting after section 10 the following section:

“Licensing
of service
or port
undertakings.

10A. (1) Except in relation to ports where a port authority has been established by law, the authority for ports shall be the Director of Marine.

(2) The Director of Marine may issue a licence to any person to provide service undertakings or port undertakings under this Ordinance.

(3) Before exercising his power under subsection (2), the Director of Marine shall prepare and submit to the Minister a service plan for his approval.

(4) No service plan shall be put into effect until it has been approved by the Minister.

(5) A licence issued under this section shall set out the following matters:

- (a) the functions to be performed by the licensee;
- (b) the particular duties of the licensee in respect of the functions to be performed by the licensee;
- (c) the compliance by the licensee of the performance standards as determined by the Director of Marine;
- (d) the duration of the licence; and
- (e) such other matters or conditions as the Director of Marine thinks fit.

(6) The Minister may make regulations as may be necessary or expedient for giving full effect to or for carrying out the provisions of this section.

(7) Without prejudice to the generality of subsection (6), the Minister may make regulations—

- (a) to prescribe the annual fee payable by the licensee;
- (b) to prescribe the fees and charges which shall be charged by the licensee in respect of the functions performed by the licensee;
- (c) to prescribe the qualifications of persons to be employed by the licensee;
- (d) to prescribe the type of records to be kept by the licensee; and
- (e) to prescribe the type of returns to be submitted by the licensee to the Director of Marine at certain intervals.

(8) If the licensee contravenes any condition of the licence or any of the provisions of this section or the regulations made under this section and fails to remedy such contravention within a stipulated time period, the Director of Marine may revoke the licence issued to the licensee under subsection (2).”.

Substitution of Parts IIA, IIB and IIC

7. The Ordinance is amended by substituting for Parts IIA, IIB and IIC the following Parts:

“PART II

REGISTRATION AND LICENSING OF SHIPS

Preliminary

Interpretation. **11.** (1) In this Part, unless the context otherwise requires—

“authorized officer” means any person appointed by the Director of Marine as an authorized officer under section 68G;

“bareboat charter” means the hiring of a ship to a charterer under bareboat charter terms;

“bareboat chartered-in ship” means a ship on a bareboat charter registered as a Malaysian ship under this Part;

“bareboat charter terms” means the hiring of a ship for a stipulated period on the terms which give the charterer possession and control of the ship, including the right to appoint the master and crew of the ship;

“certificate of registry” means a certificate of registry, a provisional certificate of registry or a certificate of bareboat charter registry issued under this Part;

“licensing officer” means a public officer appointed under section 56;

“Register” means the Malaysia Ship Register or Malaysia International Ship Register maintained by the Registrar under section 14;

“representative person” means a person appointed under subsection 20(3).

(2) In this Part, unless the contrary intention appears—

- (a) owner is the person or persons whose name appear in the Register or record of licences;
- (b) a reference to the owner of a ship shall, if there is more than one owner, be read as a reference to each of the owners; and
- (c) a reference to a ship includes a reference to a share or part of a ship.

(3) Where in relation to a ship or to any matter connected with a ship, any provision of this Part that imposes a duty or liability on the owner of the ship or provides for the service of a notice on the owner of the ship—

- (a) owner means the owner of a registered ship or a ship to be registered;

- (b) in the case of a ship registered under the Malaysia International Ship Register, owner includes the representative person; or
- (c) in the case of bareboat chartered-in ship, owner means the bareboat charterer,

provided that nothing in this subsection shall prejudice the operation of that provision in so far as it imposes the duty or liability on any person other than the owner.

Registry

Registrar
and Deputy
Registrar.

12. (1) The Director of Marine may appoint a public officer to be the Registrar of Ships and such number of public officers to be the Deputy Registrar of Ships.

(2) The Deputy Registrar of Ships shall, subject to the control of the Registrar of Ships, perform the functions of the Registrar of Ships and have all the powers of the Registrar of Ships under this Part.

Functions
and powers
of Registrar.

13. (1) The functions of the Registrar are—

- (a) to maintain the Register;
- (b) to issue a certificate or document which is required to be issued by him under this Part, and to rectify, suspend, cancel, revoke or terminate the certificate or document;
- (c) to require information or documents to be furnished under this Part and to require the surrender of certificates and other documents issued under this Part;
- (d) to issue copies of or extracts from any certificates or documents, and entries in the Register; and
- (e) to have overall administrative control of the ship registration office and its branch offices.

(2) Notwithstanding subsection (1), the Registrar shall have the power to do all things necessary or expedient to be done, in connection with, or incidental to the performance of his functions.

Register.

14. (1) The Registrar shall maintain a Malaysia Ship Register and a Malaysia International Ship Register.

(2) The Register shall contain—

(a) particulars of ships, owners, including bareboat charterers, mortgagees and representative persons, and their respective interests in the ships;

(b) particulars of division of shares in a ship which may be divided into any number of shares and shall not be changed unless the ship is registered anew; and

(c) any other particulars as may be determined by the Director of Marine.

(3) The Registrar shall maintain the Register in both physical or electronic form as may be determined by the Director of Marine.

Rectification of Register.

15. The Registrar may rectify the Register if a clerical error has occurred and sufficient evidence is produced to satisfy him that the entry is incorrect, and on making the rectification he may, if necessary, issue a new certificate of registry.

Instructions.

16. The Director of Marine may issue instructions in writing which shall be consistent with this Ordinance to the Registrar if the Director of Marine thinks necessary or expedient for the better carrying out of the provisions of this Part.

Ship registration office.

17. The Director of Marine may establish a ship registration office and such number of branch offices of the ship registration office as he thinks necessary.

Registration of Ships

Ship must be registered.

18. (1) Subject to this Ordinance or any other written law, no ship shall be within Malaysian waters or the exclusive economic zone unless the ship is registered in Malaysia as a Malaysian ship or registered in any other country.

(2) The owner or master of a ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Qualification to own Malaysian ship.

19. A person is qualified to own a Malaysian ship—

(a) to be registered under the Malaysia Ship Register if the person is—

(i) a Malaysian citizen; or

(ii) to an extent as may be determined by the Minister, a body corporate incorporated in Malaysia;

(b) to be registered under the Malaysia International Ship Register if the person is—

(i) a Malaysian citizen or, subject to subsection 20(3), a non-Malaysian citizen;

(ii) a body corporate incorporated in Malaysia; or

(iii) subject to subsection 20(3), a body corporate incorporated outside Malaysia; or

(c) to be registered under the Malaysia Ship Register or Malaysia International Ship Register if the person is the charterer of a ship under bareboat charter terms.

Application and requirements for registration.

20. (1) An application for registration as a Malaysian ship under the Malaysia Ship Register or Malaysia International Ship Register—

(a) shall be made to the Registrar in the form as may be determined by the Director of Marine;

- (b) shall be accompanied by any documents that can certify compliance in relation to—
 - (i) the safety standard of the ship;
 - (ii) the risk of pollution from the ship; and
 - (iii) the safety and welfare of persons engaged on board the ship; and
- (c) shall be accompanied by any document containing the following particulars:
 - (i) the name of the ship and its existing tonnages (if known);
 - (ii) a statement of the date when and the place where the ship was built, or if the date and place of building are not known, a statement that the owner or bareboat charterer does not know the date and place of the building of the ship;
 - (iii) a statement as to the owner of the ship and the citizenship of the owner, and if the ship is owned by more than one person, the number of shares each owner is entitled to;
 - (iv) a statement that no other person is entitled as owner to any legal or beneficial interest in the ship or any share of the ship; and
 - (v) such other particulars as may be determined by the Director of Marine.

(2) The applicant shall ensure that steps are taken to comply with the requirements for survey and measurement of ship, ship's name and marking of ship as stipulated in sections 21, 22 and 23.

(3) Where an application to register a ship as a Malaysian ship under the Malaysia International Ship Register is made by a non-Malaysian citizen or a body corporate incorporated outside Malaysia, the non-Malaysian citizen or body corporate must appoint a representative person who shall be—

- (a) a Malaysian citizen having his permanent residence in Malaysia; or
- (b) a body corporate incorporated in Malaysia and having its principal place of business in Malaysia,

and the non-Malaysian citizen or body corporate shall ensure that, so long as the ship remains registered, a representative person is so appointed.

(4) The representative person appointed under subsection (3) shall—

- (a) file documents or furnish information required to be filed or furnished under the Ordinance; and
- (b) accept service of any documents required to be served on the owner relating to the proceedings for any offence.

(5) Where an application to register a ship as a Malaysian ship is made in respect of a ship which has at any time been registered under the law of another country, the application shall be accompanied by evidence to establish—

- (a) that the ship is no longer registered under the law of another country;
- (b) that steps have been taken to terminate the registration of the ship under the law of another country; or
- (c) in the case of a bareboat chartered ship, that the registration of the ship at its primary registry has been suspended or that consent of the authority of primary registry has been obtained to suspend the registration of the ship at the primary registry.

Survey and
measurement
of ship.

21. (1) Before the registration of a ship as a Malaysian ship the owner shall cause the ship to be surveyed and measured by a Surveyor of Ships and the tonnage ascertained in accordance with any regulations made under this Part.

(2) The Surveyor of Ships shall grant a certificate specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may be required by the Registrar.

(3) The certificate of measurement shall be delivered to the Registrar before registration.

Ship's name.

22. (1) The Registrar may require that the proposed name for a ship intended to be registered under this Part be submitted to him for his approval in the form as he may determine.

(2) The Registrar may refuse to approve a proposed name for a ship if the name is—

- (a) undesirable, unacceptable or inappropriate;
- (b) a name with intention to mislead;
- (c) made up of initials only;
- (d) registered in the Register to another ship; or
- (e) a name that has been de-registered in the Register, unless for the purpose of re-registration of the same ship it was registered under.

(3) The owner of a Malaysian ship shall not change the name of the ship, or cause or permit any such change, without the prior written permission of the Registrar and the payment of the prescribed fee.

(4) A person may, subject to the payment of the prescribed fee, apply to reserve a prefix or suffix for a ship in accordance with the regulations made under this Ordinance.

Marking of
ship.

23. (1) A ship shall, before it is registered, be marked permanently and conspicuously to the satisfaction of the Registrar in accordance with any regulations made under this Part.

(2) The markings on a ship shall be permanently maintained, and no alteration shall be made to them except where any of the particulars denoted by the markings are altered in the manner as provided in the regulations made under this Part.

(3) An owner or master of a ship who fails to maintain the ship marking as required by this section or the regulations made under this Part commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) If the scale showing the ship's draught of water is in any respect inaccurate so as to be likely to mislead, the owner of the ship commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(5) A person who, otherwise than as provided under this section or the regulations made under this Part—

(a) conceals, removes, alters, defaces or obliterates;
or

(b) suffers any person under his control to conceal, remove, alter, deface or obliterate,

any marking required by this section or the regulations made under this Part commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(6) The Director of Marine may, upon receipt of a certificate from the Surveyor of Ships specifying that a ship is insufficiently or inaccurately marked, detain the ship until the insufficiency or inaccuracy has been remedied.

Additional information and documents and inspection of ship.

24. Upon receipt of an application for registration of a ship as a Malaysian ship, the Registrar may require the applicant to furnish additional information or documents relating to the ship and the Registrar may go on board the ship to inspect the ship and any documents relating to the ship.

Registration and refusal to register.

25. (1) If the Registrar is satisfied that the requirements relating to registration of a ship as a Malaysian ship have been fulfilled, the Registrar shall register the ship and enter the particulars in the Malaysia Ship Register or Malaysia International Ship Register, as the case may be.

(2) Notwithstanding subsection (1), the Registrar shall not—

- (a) in the case of a registration under the Malaysia International Ship Register, register a ship that is above the prescribed age and tonnage; or
- (b) register a bareboat chartered ship as a Malaysian ship without the approval of the Minister.

(3) The Registrar may refuse to register a ship as a Malaysian ship if he is satisfied that the applicant has not complied with any of the requirements for registration.

(4) If the Registrar refuses to register a ship as a Malaysian ship, he shall serve a notice on the applicant within fourteen working days from the date of application stating the refusal and the grounds of such refusal.

Provisional registration.

26. (1) Notwithstanding subsection 25(3), the Registrar may, subject to conditions and restrictions as may be determined by the Director of Marine, provisionally register a ship as a Malaysian ship and issue a provisional certificate of registry.

(2) A provisional certificate of registry issued by the Registrar shall have the same effect as a certificate of registry and the provisions of this Part relating to certificate of registry shall apply to the provisional certificate of registry.

Prohibition of registration.

27. (1) Notwithstanding subsections 25(1) and 26(1), the Minister may, by a certificate issued to the Registrar, prohibit the registration of a ship as a Malaysian ship under this Part if he is satisfied that such registration will be prejudicial to the national interest.

(2) The certificate issued under subsection (1) shall be admissible in evidence and shall constitute *prima facie* proof of the facts set out in the certificate without proof of the signature of the Minister to such certificate.

Certificate of registry.

28. (1) Upon registration of a ship as a Malaysian ship, the Registrar shall, on payment of the prescribed registration fee, annual tonnage fee and any other fee, issue a certificate of registry or, in the case of a bareboat chartered-in ship, a certificate of bareboat charter registry.

(2) A certificate of registry shall be valid for a period as may be determined by the Registrar and may be renewed.

(3) The master or owner of a Malaysian ship shall not use or permit the use of, for the purpose of navigation of the ship, a certificate of registry that has not been issued under this section or has expired and is not in force in respect of the ship.

(4) The master or owner of a Malaysian ship who contravenes subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(5) A ship registered under this Part may be detained until the owner or master of the ship produces the certificate of registry for that ship.

Duty to
inform change
of particulars
after
registration.

29. (1) The master or owner of a ship which has been registered as a Malaysian ship shall inform the Registrar of any changes to the particulars relating to the ship to be updated in the Register.

(2) The master or owner of a Malaysian ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Custody of
certificate of
registry.

30. (1) A certificate of registry shall be used only for the lawful navigation of a ship, and shall not be subject to detention to secure any civil right or claim.

(2) Where any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody of the certificate for the purposes of the lawful navigation of the ship, or to the Registrar, any authorized officer, officer of customs, or other person entitled by law to require such delivery, any Magistrate may summon the person so refusing to appear before him, and to be summarily examined before him, unless it is proved to the satisfaction of the Magistrate that there was reasonable cause for such refusal, that person commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Issuance
of new
certificate of
registry.

31. (1) The Registrar may, on payment of prescribed fee, issue a new certificate of registry in lieu of the original if the certificate of registry is mislaid, lost, defaced or destroyed.

(2) If a new certificate of registry is issued under subsection (1), the original certificate of registry shall be deemed to have been revoked.

Suspension of registration. **32.** The Registrar may suspend the registration of a Malaysian ship—

- (a) on the application of the owner; or
- (b) if the ship is taken in war or hostilities, as a result of which the owner or bareboat charterer has lost control over the operation of the ship.

Termination of registration. **33.** The Registrar may terminate the registration of a Malaysian ship—

- (a) on the application of the owner;
- (b) where being a ship registered in the Malaysia Ship Register, the ship ceases to be owned by one or more persons qualified to own a Malaysian ship;
- (c) where being a bareboat chartered-in ship—
 - (i) the ship ceases to be operated under a bareboat charter;
 - (ii) the rights and obligations of the bareboat charterer under the bareboat charter terms are assigned;
 - (iii) the primary registry in respect of the ship is closed or annulled; or
 - (iv) the consent referred to in paragraph 20(5)(c) is revoked or withdrawn;
- (d) where being a provisionally registered ship—
 - (i) the owner of the ship fails to obtain a deletion certificate from the previous registry;
 - (ii) the ownership of the ship is in dispute; or
 - (iii) the period of provisional registration has lapsed;

- (e) if the ship is broken up, or is an actual or constructive total loss such that it is no longer capable of being used in navigation;
- (f) if the ship, other than a bareboat chartered-in ship, at the time of registration remains registered in a place outside Malaysia;
- (g) if the ship, other than a bareboat chartered-out ship, subsequently becomes registered in a place outside Malaysia; or
- (h) if a representative person ceases to be appointed in relation to the ship.

Deletion
from
Register.

34. (1) The Registrar may delete a Malaysian ship from the Register—

- (a) on an application by the owner; or
- (b) when the registration of the ship is terminated in accordance with section 33.

(2) If an encumbrance has been registered on the ship, the Registrar shall notify the circumstances of the case to the holder of the rights, and the deletion from the Register shall not affect the encumbrance whatsoever and all its priorities shall remain.

Revocation
of certificate
of registry.

35. (1) The Registrar may revoke a certificate of registry of a Malaysian ship—

- (a) when the registration of the ship is suspended;
or
- (b) when the registration of the ship is terminated.

(2) A certificate of registry is deemed revoked when the period of validity of the certificate of registry has lapsed.

(3) Upon the revocation of a certificate of registry, the owner or master of the ship shall surrender the certificate of registry to the Registrar for cancellation.

(4) An owner or master who fails to surrender the certificate of registry or continues to use the certificate of registry upon its revocation, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Notice of registration, suspension and revocation to primary registry.

36. Where a bareboat chartered ship is registered or where its registration is terminated or suspended, the Director of Marine shall notify the authority in the country of primary registry, of the particulars of the registration, termination or suspension.

Rights of owner of Malaysian ship.

37. (1) Subject to any rights appearing in the Register to be vested in any person, the owner of a Malaysian ship has the right to dispose of the ship and give effectual receipts for any money paid or advanced by way of consideration in respect of the disposal.

(2) Notwithstanding subsection (1), any interests arising under contract or other equitable interests may be enforced by or against the owners and mortgagees of ships in respect of their interest in the ship in the same manner as in respect of any personal property.

Malaysian ship on bareboat chartered-out.

38. (1) The Registrar may, subject to such conditions as may be determined by the Director of Marine, give consent to the owner of a Malaysian ship to register the ship as a bareboat charter in another country, where such ship shall be referred to as a “bareboat chartered-out ship”.

(2) Notwithstanding subsection (1), the Minister may disallow any Malaysian ship to be bareboat chartered-out for any reason and duration as he thinks fit.

(3) The registration of a bareboat chartered-out ship shall be suspended while the ship is bareboat chartered-out and re-registered in another country.

(4) The owner of a bareboat chartered-out ship shall immediately surrender the certificate of registry of the ship once the registration of the bareboat chartered-out ship in another country is complete.

Transfers, transmission and mortgage

Transfer of
Malaysian
ship.

39. (1) Any transfer of a registered Malaysian ship or share therein shall be effected by a bill of sale.

(2) Where any registered Malaysian ship or a share therein has been transferred in accordance with subsection (1), the transferee shall not be registered as owner of the ship unless—

- (a) he has made an application to the Registrar in the form as may be determined by the Director of Marine; and
- (b) the Registrar is satisfied that the ship continues to be owned to an extent as may be determined by the Minister by a person who is qualified to own a Malaysian ship and that he would not refuse to register the ship.

(3) Where an application under subsection (2) is granted by the Registrar, he shall register the bill of sale.

Transmission
of shares in
Malaysian
ship.

40. (1) Where the shares in a registered ship is transmitted to any person by any lawful means other than the transfer under section 39, that person shall not be registered as the owner of the ship unless—

- (a) he has made an application to the Registrar; and
- (b) the Registrar is satisfied that the ship continues to be owned, to an extent as may be determined, by the Minister by a person who is qualified to own a Malaysian ship.

(2) Where an application under subsection (1) is granted by the Registrar, he shall cause the applicant's name to be registered as the owner of the ship.

Transmission of shares in registered ship by order of Court.

41. (1) Where shares in a registered ship are transmitted to any person by any lawful means other than a transfer under section 39, but as a result of which the ship is no longer owned by a person who is qualified to own a Malaysian ship, the Court may, on application by or on behalf of that person, order the sale of the shares so transmitted and direct that the proceeds of sale after deducting the expenses of the sale shall be paid to that person or otherwise as the Court may direct.

(2) The Court may require any evidence in support of the application as it thinks fit, and may make the order for sale on any terms and conditions it thinks just, or may refuse to make the order and generally may act as it thinks fit.

(3) Every such application shall be made within the period of twenty-eight days beginning with the date of the occurrence of the event on which the transmission had taken place or within such extended period as the Court may allow, but such period shall not exceed one year beginning with the date of the occurrence of that event.

(4) The shares transmitted under subsection (1) shall be liable to forfeiture if such an application is not made within the time allowed by or under subsection (3) or the Court refuses an order for sale under subsection (2).

Court order on the sale of registered ship.

42. (1) Where the Court, whether in pursuance of section 41 or otherwise, orders the sale of a ship or shares in the ship, the order of the Court shall contain a declaration vesting in some named person the right to transfer the property in the ship.

(2) The person so named shall be entitled to transfer the property in the ship in the same manner and to the same extent as if he were the registered owner of the ship.

(3) The Registrar shall deal with any application relating to the transfer of the property in the ship made by the person so named as if that person were the registered owner of the ship.

The Court may prohibit dealing with registered ship.

43. The Court may, if it thinks fit and without prejudice to the exercise of any other power, on the application of any interested person make an order prohibiting for a specified time any dealing with a registered ship.

Mortgage of registered ship.

44. (1) A registered ship, other than a bareboat chartered-in ship, may be made a security for the repayment of a loan or the discharge of any other obligation.

(2) The instrument creating any such security referred to in this Part as a mortgage shall be in the form as may be determined by the Director of Marine.

(3) Where a mortgage executed in accordance with subsection (2) is produced to the Registrar, he shall register the mortgage in the order in which it is produced to the Registrar for the purpose of registration.

Priority of registered mortgages.

45. Where two or more mortgages are registered in respect of the same ship, the priority of the mortgagees between themselves shall be determined by the order in which the mortgages were registered and not by reference to any other matter.

Registered mortgagee's power of sale.

46. (1) Subject to subsection (2), every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship and to give effectual receipts for the purchase money.

(2) Where two or more mortgagees are registered in respect of the same ship, a subsequent mortgagee shall not, except under an order of the Court, sell the ship without the concurrence of every prior mortgagee.

Assignment of registered mortgage or share.

47. (1) A registered mortgage of a ship or share may be assigned to any person and the deed affecting the assignment shall be in the form as may be determined by the Director of Marine.

(2) On production of the deed of assignment to the Registrar, he shall record in the Register the name of the assignee of the mortgage and certify the entry on the deed of assignment.

(3) The assignee shall have the same right of preference as the assignor.

Protection of registered mortgagors.

48. Where a ship is subject to a registered mortgage—

(a) except so far as may be necessary for making the ship available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship; and

(b) the mortgagor shall be treated as not having ceased to be owner of the ship.

Transmission of mortgage by operation of law.

49. Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by an assignment under section 47, the Registrar shall on production of the evidence to the satisfaction of the Registrar, cause the name of that person to be entered in the Register as mortgagee of that ship.

Discharge of registered mortgage.

50. Where a registered mortgage has been discharged, the Registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage, cause an entry to be made in the Register to the effect that the mortgage has been discharged.

Protection of undischarged mortgage.

51. Where the registration of any ship has been terminated under this Ordinance, the termination of that registration shall not affect any entry made in the Register so far as relating to any undischarged mortgage of that ship or of any share in it.

Mortgage not
affected by
bankruptcy.

52. A registered mortgage of a ship or share in a ship shall not be affected by the mortgagor having been adjudicated bankrupt after the date of registration of the mortgage, notwithstanding the ship or share is in the possession of the mortgagor at the date of adjudication and the mortgagee shall have preference over any rights, claim or interest in the ship or share of any creditor, trustee or assignee.

Non-
application.

53. Sections 39 to 52 shall not apply to a bareboat chartered-in ship and any matters or questions corresponding to those for which the provisions apply shall be determined by reference to the law of the country of primary registry.

Licensing of ships

Licensing.

54. (1) Except for a ship exempted under section 55, any ship below fifteen net tonnage in any part of Malaysian waters for any of the following purposes:

- (a) trade or business;
- (b) the transportation of any person other than for trade or business; or
- (c) sports, leisure or recreational activity,

shall obtain a licence under this Part.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) In this section, “trade or business” includes—

- (a) the conveyance of goods or passengers;
- (b) fishing;
- (c) salvage operations;

- (d) dredging;
- (e) cable-laying;
- (f) off-shore exploration;
- (g) conservation;
- (h) marine construction;
- (i) oceanography;
- (j) hydrography; and
- (k) port services.

Exemption
from
licensing.

55. The following ships are exempted from the requirement for licence under section 54:

- (a) any ship, including a fishing vessel, registered under this Ordinance or any other written laws in Malaysia;
- (b) any ship, not being a fishing vessel, which is duly registered in accordance with the laws of any country outside Malaysia;
- (c) a ship's life boat;
- (d) a fishing vessel licensed under the Fisheries Act 1985 [*Act 317*];
- (e) a foreign fishing vessel to which a permit has been issued under the Fisheries Act 1985;
- (f) in relation to the State of Sabah, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sabah [*Sabah Ordinance 11/1960*] and in relation to the State of Sarawak, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sarawak [*Sarawak Ordinance 2/1960*]; and
- (g) any class or description of ship specified by the Minister by order published in the *Gazette*.

Licensing
officer.

56. The Director of Marine may appoint any public officer as a licensing officer to perform the functions in connection with licensing of ships under this Part.

Application and requirements for a licence.

57. (1) An application for a licence under this Part shall be made to the licensing officer—

- (a) in the form and manner as may be determined by the Director of Marine; and
- (b) accompanied by the information and document as may be determined by the Director of Marine.

(2) In addition to subsection (1), the applicant shall ensure that steps are taken to comply with the requirements for survey and measurement of ship, ship's name and marking of ship as stipulated in sections 21, 22 and 23 or in the regulations made under this Part.

Additional information and documents and inspection of ship.

58. Upon receipt of an application for a licence under section 57, the licensing officer may require the applicant to furnish additional information or documents relating to the ship and the licensing officer may go on board the ship to inspect the ship and any documents relating to the ship.

Issuance of licence and refusal to issue licence.

59. (1) If the licensing officer is satisfied that the requirements for a licence have been fulfilled, the licensing officer shall, upon payment of the prescribed fee, issue a licence to the applicant.

(2) The Director of Marine may determine the terms and conditions to be attached to a licence issued under subsection (1).

(3) A licence issued under this section shall be valid for a period as may be determined by the Director of Marine and may be renewed.

(4) The licensing officer shall refuse to issue a licence if he is satisfied that the applicant has not complied with any of the requirements for a licence.

(5) If the licensing officer refuses to issue a licence, he shall serve a notice on the applicant within fourteen working days from the date of application stating the refusal and the grounds upon which such refusal is made.

Record of licences.

60. (1) Upon issuance of licence, the licensing officer shall enter the particulars of the licence into the record of licences.

(2) The licensing officer shall maintain in both physical and electronic form the record of licences as may be determined by the Director of Marine.

Custody of licence.

61. The owner of a ship licensed under section 59 shall cause the licence to be kept at all times on board the ship in custody of the person in charge of the ship.

Ships licensed under this Part shall not proceed beyond coastal waters of State.

62. (1) A ship licensed under this Part shall not proceed beyond the coastal waters of a State in which the licence is issued.

(2) Notwithstanding subsection (1), such ship may proceed beyond the coastal waters of a State up to the outer limits of the Malaysian waters if—

(a) it is expressly allowed in the terms of the licence;

(b) it is necessary due to stress of weather; or

(c) it is due to other causes beyond the control of the master.

(3) For the purpose of this section, “coastal waters” means part of the sea adjacent to the coast of a State not exceeding three nautical miles measured from the low-water line.

Offences relating to unlicensed ship.

63. Any person who uses a ship or causes or permits a ship to be used for a purpose other than the purpose for which it is licensed or contrary to the conditions of the licence commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Malaysia Shipping Development Fund

Interpretation. **64.** For the purposes of sections 65 to 68F—

“Committee” means the Malaysia Shipping Development Fund Committee established under section 66;

“Fund” means the Malaysia Shipping Development Fund established under section 65.

Establishment of the Fund. **65.** (1) A fund to be known as the “Malaysia Shipping Development Fund” is established and shall be controlled and administered by the Committee.

(2) The Fund shall consist of the annual tonnage fees collected under this Part.

(3) The Fund shall be expended for the following purposes:

- (a) to improve the shipping industry;
- (b) to provide awards, fellowships, scholarships and research grants relating to the shipping industry;
- (c) to sponsor research projects undertaken by organizations, institutions of higher learning or individuals for the purpose of the shipping industry;
- (d) to organize seminars, expositions and other similar activities relating to the shipping industry;
- (e) to pay any other expenses properly incurred by the Committee in the execution of its functions under this Part.

(4) All costs, charges and expenses of administering the Fund shall be chargeable to the Fund and may be paid out of the Fund from time to time.

(5) The moneys of the Fund, in so far as they are not immediately required to be expended by the Committee under this Part, shall be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

Establishment
of the
Committee.

66. (1) A Committee to be known as the “Malaysia Shipping Development Fund Committee” is established.

(2) The Committee shall consist of the following members to be appointed by the Minister by notification in the *Gazette*:

- (a) the Director of Marine as the Chairman;
- (b) a representative of the Ministry of Transport;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Marine Department;
- (e) a representative of the Government of the State of Sabah;
- (f) a representative of the Government of the State of Sarawak; and
- (g) not less than three but not more than five other persons who have wide experience or special knowledge in matters relating to shipping.

(3) The Minister may, in respect of each member of the Committee appointed under paragraph (2)(g), appoint an alternate member who may attend any meeting of the Committee when the member in respect of whom he is an alternate to is for any reason unable to attend the meeting; and an alternate member when attending the meeting shall be deemed to be a member of the Committee.

(4) The Minister may appoint any member temporarily to exercise the functions of the Chairman during the temporary absence of the Chairman due to incapacity, illness or any other cause and that member shall, during the period in which he is exercising the functions of the Chairman, be deemed to be the Chairman.

(5) A member of the Committee appointed under subsection (2) shall, unless he sooner resigns or his appointment is sooner revoked or he otherwise vacates his office, hold office for a period of two years from the date of his appointment and shall be eligible for reappointment.

(6) An alternate member shall, unless he sooner resigns or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate member ceases to be a member of the Committee.

Functions
of the
Committee.

67. The functions of the Committee shall be to control and administer the moneys of the Fund for the improvement of the shipping industry and for purposes ancillary thereto.

Disclosure
of financial
interest.

68. (1) A member of the Committee appointed under paragraph 66B(2)(g) who acquires any financial interest after his appointment in any undertaking relating to the shipping industry shall within fourteen days after so doing, or if he does not know of the financial interest within fourteen days after it comes to his knowledge, give notice in writing to the Minister specifying the financial interest so acquired; and the Minister may if he thinks fit revoke the appointment of that member.

(2) Where a corporation has an interest in the shipping industry, a member of the Committee shall be deemed to have a financial interest in that corporation if—

- (a) the corporation is, or its directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that member in relation to any matter;
- (b) that member has a controlling interest in the corporation; or
- (c) that member and his associates are entitled to exercise or control the exercise of not less than one-tenth of the votes attached to the voting shares in the corporation.

Financial interest of spouse or child of member.

68A. (1) Any financial interest of a spouse or a child of a member of the Committee in the position to benefit from the Fund shall be deemed to be a financial interest of the member of the Committee.

(2) A member of the Committee shall, within fourteen days of his spouse or child acquiring any such financial interest, notify the Committee in writing of such acquisition and if he fails to do so he commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) A financial interest shall not be disregarded by reason only of—

- (a) its remoteness;
- (b) the manner in which it arose; or
- (c) the fact that the financial interest is, or is capable of being made subject to restraint and restriction.

Register of members' financial interest.

68B. The Committee shall keep and maintain or cause to be kept and maintained a register of members' financial interest and within fourteen days of receiving information regarding such interest, shall cause to be entered in the register that information and the date of entry corresponding to the member's name.

Report of activities to the Minister.

68C. The Committee shall, not later than 30 June of each year, cause to be made and transmitted to the Minister a report dealing with the activities of the Committee during the preceding year, and may contain such information as the Minister may from time to time require.

Audit.

68D. (1) The accounts of the Fund shall be audited annually by the Auditor-General and the provisions of the Audit Act 1957 [Act 62] shall apply.

(2) The Committee shall, not later than 31 March of the following year or such later date as the Minister of Finance may determine, transmit to the Auditor-General the financial statements of the accounts referred to in subsection (1) which will consist of the balance sheet, profit and loss statement and such other supporting statements as may be required by the Minister of Finance.

(3) The audited statements shall be submitted to the Minister of Finance, who shall cause them to be laid before each House of Parliament.

Regulations. **68E.** The Minister may make such regulations as may be necessary or expedient and for giving full effect to the provisions relating to the Fund.

Issuance of directions. **68F.** The Minister may issue general directions to the Committee which shall be consistent with this Ordinance and the Committee shall comply with such directions.

Authorized officer

Authorized officer. **68G.** (1) The Director of Marine may appoint any public officer as authorized officer to conduct investigation or inspection to verify the compliance or non-compliance of any requirements under this Part, Part IIA or any regulations made under this Part or Part IIA.

(2) For the purpose of any such inspection or investigation, the authorized officer shall have the powers conferred to an Inspector under this Ordinance.

(3) Notwithstanding subsection (2), an authorized officer shall have the power to do all things necessary or expedient to be done, in connection with, or incidental to the performance of his functions.

Miscellaneous

Electronic
filing of
documents.

68H. (1) The Director of Marine may provide a service for the electronic filing of any document required by this Ordinance or regulations made under it to be submitted to the Registrar or licensing officer.

(2) A person who intends to use the service provided under subsection (1) shall become a subscriber to the service by paying the prescribed fee and complying with such terms and conditions as may be determined by the Director of Marine.

(3) The Director of Marine may determine the documents that may be electronically filed.

(4) A document electronically filed under this section shall be deemed to have satisfied the requirement for the submission of such documents if the document is communicated or transmitted to the Registrar or licensing officer in such manner as may be determined by the Director of Marine.

(5) A document that is required to be stamped, signed or sealed shall, if it is to be electronically filed, be certified or authenticated in such manner as may be determined by the Director of Marine.

(6) A copy of or an extract from any document electronically filed with the Registrar or licensing officer under subsection (1) supplied or issued by the Registrar or licensing officer and certified under the hand of the Registrar or licensing officer to be a true copy of or an extract from such document shall be admissible in evidence in any proceedings as of equal validity as the original document.

(7) Where a document is electronically filed with the Registrar or licensing officer, the Registrar or licensing officer shall not be liable for any loss or damage suffered by any person by reason of any error or omission of whatever nature or however arising appearing in any document obtained by any person under the service referred to in subsection (1), if such error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Registrar or licensing officer or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the provision of the service.

National colours and other colours allowed.

68I. (1) Subject to subsection (3), every registered Malaysian ship shall fly the red ensign, without any defacement or modification, which shall be the proper national colours for a registered Malaysian ship.

(2) The Director of Marine shall determine the colours for ships owned by the Government or in the service of the Government.

(3) Notwithstanding subsection (1), any colour allowed to be worn in accordance with a warrant from the Yang di-Pertuan Agong shall also be the proper national colours for a registered Malaysian ship.

Penalty for carrying improper colour.

68J. (1) If—

- (a) any distinctive national colours, other than the red ensign and any proper national colour allowed to be worn under subsection 68I;
- (b) any colour usually worn by the ships of the Royal Malaysian Navy or resembling those of the Royal Malaysian Navy; or
- (c) the pennant usually carried by the ships of the Royal Malaysian Navy or any pennant resembling that pennant,

are hoisted on board any registered Malaysian ship without warrant from the Yang di-Pertuan Agong, the master or the owner of the ship, and every other person hoisting it commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) If any colour or pennant is hoisted on board a ship in contravention of subsection (1)—

- (a) any commissioned naval or military officer;
- (b) any police officer with a rank of an Inspector and above;
- (c) any authorized officer; and
- (d) any Malaysian consular officer,

may go on board the ship and seize the colour or pennant.

(3) Any colour or pennant seized under subsection (2) shall be forfeited by the Government.

Duty to
show
Malaysian
ensign.

68K. (1) A registered Malaysian ship shall hoist the red ensign—

- (a) on a signal, instruction or order being made to the ship by any ship of the Royal Malaysian Navy, including any ship under the command of a commissioned naval officer, or any ship or aircraft owned by the Government;
- (b) on entering or leaving any Malaysian or foreign port; and
- (c) while in a Malaysian port from sunrise to sunset.

(2) Any master who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Offences relating to assuming Malaysian character of ship.

68L. (1) If the master or owner of a ship which is not a Malaysian ship does anything, or permits anything to be done, for the purpose of causing the ship to assume the character of a Malaysian ship then, except as provided under subsections (3) and (4), the ship shall be liable to forfeiture and the master and owner of the ship commit an offence.

(2) If the master or owner of a Malaysian ship does anything, or permits anything to be done, for the purpose of concealing the Malaysian nationality of the ship, the ship shall be liable to forfeiture and the master and owner of the ship commit an offence.

(3) No liability arises under subsection (1) or (2), where the assumption of the character of a Malaysian ship or the concealment of the Malaysian nationality of a ship has been made for the purpose of escaping capture by an enemy, or by a foreign ship of war in the exercise of some belligerent right.

(4) Where the registration of any ship has been terminated, any marks which are prescribed by the regulations and displayed on the ship within the period of fourteen days beginning with the date of termination of that registration shall be disregarded for the purposes of subsections (1) and (2).

(5) Any person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Duty to declare national character of ship.

68M. (1) The master shall, prior to proceeding to the sea from any port or place in Malaysia, declare to a port officer the name of the country to which he claims that the ship belongs.

(2) If a ship proceeds or attempts to proceed to the sea without the declaration as required under subsection (1), the master commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both and the ship may be detained until the declaration is made.

Taking
detained ship
on a voyage
or excursion.

68N. (1) Where a ship which is forfeited or detained under section 68L or 68M proceeds or attempts to proceed to the sea before it is released from detention by the Director of Marine, the master and the owner of the ship or bareboat charterer commits an offence and shall, on conviction, be liable to a fine not exceeding two million ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Where a ship—

- (a) proceeds or attempts to proceed to the sea in contravention of subsection (1); and
- (b) has on board a public officer acting in the execution of his duty or any person acting on behalf of the public officer,

the master and the owner of the ship or bareboat charterer each commit an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) The master and the owner of the ship or the bareboat charterer shall jointly and severally be liable to pay all expenses incidental to the taking of the public officer or the person acting on behalf of the public officer on the voyage and for securing his return to the port he was taken from in Malaysia, and all such expenses shall be a debt due to the government and may be recovered in the same manner as a fine.

Offences
relating to
Malaysian
ship
ownership.

68O. (1) If at any time there occurs, in relation to a registered Malaysian ship, any change affecting the status of ownership and the qualification to be owner of a Malaysian ship, the owner of the ship shall, within thirty days after the change occurs, notify the Registrar of that change.

(2) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the status of ownership and the qualification to be an owner of a Malaysian ship and which he has been required to produce to the Registrar under this Ordinance, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) Any owner who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

False
declaration
or
information.

68p. Any person who—

- (a) makes any false or misleading statements or furnishes any false or misleading information to the Registrar, licensing officer or authorized officer pursuant to a requirement to make any statement or furnish any information, whether in an application or otherwise, as specified under this Part; or
- (b) makes any false declaration or produces any forged certificate,

commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Regulations.

68q. (1) The Minister may make regulations as may be necessary or expedient for giving effect to or for carrying out the provisions of this Part.

(2) Without prejudice to the generality of subsection (1), the regulations may—

- (a) prescribe the number of owners, including joint owners, of a ship permitted for the purposes of registration, and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;

- (b) provide for any matters relating to registration, re-registration and licensing of ships;
- (c) provide for any matters relating to ship's name;
- (d) provide for any matters relating to survey and marking of ships;
- (e) provide for any matters relating to suspension, termination or closure of the registration of ships, including matters such as the removal of the markings on the ships;
- (f) provide for any matters relating to ascertainment of the tonnage of any ship;
- (g) prescribe the trading limits or areas for ships registered under the Malaysia Ship Register or Malaysia International Ship Register;
- (h) provide for any matters relating to representative person;
- (i) provide for any matters relating to the safety standard of ships to be registered or licensed under this Part;
- (j) prescribe the fees required to be prescribed under this Part and the manner of their collection;
- (k) provide for any matters relating to ships that are bareboat chartered-out;
- (l) prescribe the age and tonnage of ships to be registered under this Part; and
- (m) prescribe any other matters which is required by this Part to be prescribed.

(3) Regulations made under this Part may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding two hundred thousand ringgit or imprisonment for a term not exceeding two years or to both for such offence.

PART IIA
DOMESTIC SHIPPING

Interpretation. **68R.** In this Part, unless the context otherwise requires—

“authorized officer” means any person appointed by the Director of Marine as an authorized officer under section 68G;

“Board” means the Domestic Shipping Licensing Board established under section 68AD;

“domestic shipping” means the use of ship for—

(a) services in Malaysian waters or the exclusive economic zone other than fishing; or

(b) the shipment of goods or carriage of passengers from or to any port or place in Malaysia or from another port or place in Malaysia or the exclusive economic zone;

“domestic shipping officer” means an officer appointed under section 68AF;

“licence” means a domestic shipping licence.

Prohibition on non-Malaysian ships engaging in domestic shipping.

68S. (1) No ship other than a registered Malaysian ship may engage in domestic shipping.

(2) The master or owner of a ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Licence for domestic shipping.

68T. (1) No ship shall engage in domestic shipping without a licence issued under this Part.

(2) The owner or master of a ship who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Exemption. **68u.** A Malaysian ship of less than fifteen net tonnage is exempted from the provisions of this Part.

Permission to engage in domestic shipping. **68v.** The Minister may, subject to such conditions and restrictions as he may determine, permit any class of ships other than ships referred to under section 68U to engage in domestic shipping.

Application and issuance of licence. **68w.** (1) An application for a licence under this Part shall be made to the domestic shipping officer in the form and manner as may be prescribed.

(2) The domestic shipping officer may refuse to determine an application made otherwise than in accordance with this Part.

(3) A licence issued shall be for such duration and subject to such conditions as the domestic shipping officer considers necessary.

Furnishing of information. **68x.** The domestic shipping officer may, by notice, require the owner or master of any ship in respect of which a licence is issued or is to be issued to furnish within the period specified in the notice information on—

(a) the classes of passengers or goods which the ship is capable of carrying or has carried during any specified period;

(b) the type of services engaged in by the ship;

(c) the rates of freight or charter charges applicable to the ship; and

(d) any other relevant matter.

Revocation of licence. **68y.** (1) Subject to subsection (2), a domestic shipping officer may revoke any licence if he is satisfied that the licensee, his servant or agent has—

(a) contravened any of the provisions of this Ordinance; or

(b) committed a breach of any of the terms or conditions of the licence.

(2) Notwithstanding subsection (1), the licensing officer shall give the licensee reasonable opportunity to make a representation against the intended revocation.

(3) If a licensing officer revokes a licence under this section, the licensee shall surrender the licence to the domestic shipping officer within fourteen days of the notice of revocation, and if the licensee without lawful excuse fails to do so, he commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Appeal.

68z. Any person aggrieved by the decision of the domestic shipping officer to refuse to issue or revoke a licence may, within fourteen days of the decision being made known to him in writing, appeal to the Board whose decision shall be final.

Power of authorized officer to board ship.

68AA. (1) For the purpose of ensuring that the provisions of this Part are complied with, the Director of Marine or any authorized officer may go on board any ship in Malaysian waters or the exclusive economic zone and—

- (a) require the master or owner of the ship to give such information relating to the ship, its cargo, stores, crew, passengers or voyage as he may consider necessary; and
 - (b) he may demand to inspect all documents which ought to be on board the ship and require all or any of such documents to be brought to him for inspection.
- (2) A master or owner of any ship—
- (a) who without lawful excuse refuses to allow the Director of Marine or any authorized officer to board the ship;
 - (b) when so required by the Director of Marine or authorized officer refuses or fails to submit the required documents;

- (c) who, in submitting the required document, knowingly makes any statement that is false in a material particular; or
- (d) who, with intent to deceive, furnishes a document that is false in a material particular,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Power to detain ships.

68AB. (1) The Director of Marine or any authorized officer may detain any ship if he has reasonable cause to suspect that there has been a contravention of section 68s or 68t.

(2) Any ship that has been detained under subsection (1) may be released upon the deposit of a financial security with the Director of Marine for an amount to be determined by him.

Register of domestic shipping licences.

68AC. A domestic shipping officer shall keep or cause to be kept a register of domestic shipping licences into which he shall enter particulars of licences that have been approved.

Domestic Shipping Licensing Board

Establishment and composition of the Board.

68AD. (1) There is established a board to be called the “Domestic Shipping Licensing Board”.

(2) The Board shall consist of the following members to be appointed by the Minister:

- (a) the Secretary-General of the Ministry of Transport who shall be the Chairman;
- (b) the Director of Marine or his representative;
- (c) a representative of the Ministry of Transport;
- (d) a representative of the Government of the State of Sabah and a representative of the Government of the State of Sarawak; and

(e) not less than five other persons, who have wide experience or special knowledge in matters relating to shipping.

(3) The Minister may, in respect of each member of the Board appointed under paragraph (2)(e), appoint an alternate member who may attend any meeting of the Board when the member in respect of whom he is an alternate to is for any reason unable to attend the meeting; and an alternate member when attending the meeting shall be deemed to be a member of the Board.

(4) No person shall be appointed as a member or alternate member of the Board unless prior to the appointment he makes a statutory declaration as to whether he has any and if so what financial interest in any undertaking providing domestic shipping.

(5) The appointment of every member and alternate member of the Board shall be published in the *Gazette*.

(6) The Minister may appoint any member temporarily to exercise the functions of the Chairman during the temporary absence of the Chairman due to incapacity, illness or any other cause and that member shall, during the period in which he is exercising the functions of the Chairman, be deemed to be the Chairman.

(7) A member of the Board appointed under subsection (2) shall, unless he sooner resigns or his appointment is sooner revoked or he otherwise vacates his office, hold office for a period of two years from the date of his appointment and shall be eligible for reappointment.

(8) An alternate member, unless he sooner resigns or his appointment is sooner revoked, shall cease to be an alternate member when the member in respect of whom he is an alternate member to ceases to be a member of the Board.

(9) There shall be paid to members of the Board, or to such of them as the Minister may determine, such allowances as he may determine.

(10) No member of the Board shall incur personal liability for loss or damage caused by an act or omission in administering the affairs of the Board, unless the loss or damage is occasioned by an intentionally wrongful act or omission on his part.

(11) All members of the Board shall be deemed to be public servants within the meaning of the Penal Code.

Functions of the Board.

68AE. The functions of the Board shall be:

- (a) to control matters relating to domestic shipping;
- (b) to issue general directions to the Director of Marine including that in relation to conditions for the issuance of domestic shipping licence; and
- (c) to advise the Minister on matters relating to domestic shipping.

Appointment of domestic shipping officers.

68AF. (1) The Board may appoint such number of domestic shipping officers for the purposes of dealing with applications for the domestic shipping licences and all matters related to the domestic shipping licencing.

(2) Every domestic shipping officer shall comply with all directions issued by the Board in pursuance of paragraph 68AE(b).

Disclosure of financial interest.

68AG. (1) A member of the Board appointed under paragraph 68AD(2)(e) who acquires any financial interest after his appointment in any undertaking providing domestic shipping shall within four weeks after so doing, or if he does not know of the financial interest within four weeks after it comes to his knowledge, give notice in writing to the Minister specifying the financial interest so acquired; and the Minister may if he thinks fit revoke the appointment of that member.

(2) Where a corporation has an interest in shipping, a person shall be deemed to have a financial interest in that corporation if—

- (a) the corporation is, or its directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person in relation to any shipping matter;
- (b) that person has a controlling interest in the corporation; or
- (c) that person or his associates, or that person and his associates are entitled to exercise or control the exercise of not less than one-tenth of the votes attached to the voting shares in the corporation.

Financial interest of a spouse or child of a member.

68AH. (1) Any financial interest in any undertaking providing domestic shipping of the spouse, or a child under the age of majority of a member of the Board shall be deemed to be a financial interest of the member.

(2) A member of the Board shall, within four weeks of his spouse or child under the age of majority acquiring any financial interest in an undertaking providing domestic shipping, notify the Minister in writing of such acquisition and if he fails to do so he commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) A financial interest in an undertaking providing domestic shipping shall not be disregarded by reason only of—

- (a) its remoteness;
- (b) the manner in which it arose; or
- (c) the fact that the financial interest is, or is capable of being made subject to restraint and restriction.

Register of members' financial interest.

68AI. The Board shall keep and maintain or cause to be kept and maintained a register of members' financial interest in any undertaking providing domestic shipping; and within fourteen days of receiving information regarding such interest shall cause to be entered in the register that information and the date of entry against the member's name.

Annual report.

68AJ. The Board shall not later than 30 June of each year cause to be made and transmitted to the Minister a report dealing with the activities of the Board during the preceding year, and may contain such information as the Minister may from time to time require.

Regulations.

68AK. The Minister may make regulations as may be necessary or expedient for giving effect to or for carrying out the provisions of this Part, and without prejudice to the generality of the foregoing provisions, the regulations may—

- (a) prescribe the procedure for the application for a licence under this Part and matters associated with such application, including the particulars to be supplied at the time of application;
- (b) provide for the issuance and renewal of licences and other associated matters, including the form of the licence, the fees payable and the manner of payment of the fees;
- (c) prescribe the fares or rates which may be charged for the provision of domestic shipping by any ship engaged on any route or sector involved in domestic shipping;
- (d) prescribe that offences committed under the regulations are punishable with imprisonment for a term not exceeding six months or a fine not exceeding twenty-five thousand ringgit or to both;
- (e) prescribe in respect of anything which is required to be or which may be prescribed under this Part;

- (f) prescribe the manner and procedures for the Board to conduct its business; and
- (g) provide for any other matter which may be expedient or necessary for the better carrying out of the provisions of this Part.

Minister
may issue
directions.

68AL. The Minister may issue to the Board general directions which shall be consistent with this Ordinance and the Board shall comply with such directions.”.

Deletion of sections 473, 473B, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 483A, 483B, 483C, 484 and 485

8. The Ordinance is amended by deleting sections 473, 473B, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 483A, 483B, 483C, 484 and 485.

Deletion of Eleventh, Twelfth, Thirteenth and Fifteenth Schedules

9. The Ordinance is amended by deleting the Eleventh, Twelfth, Thirteenth and Fifteenth Schedules.

Savings provision

10. (1) All persons holding office under the Ordinance and all members of the Domestic Shipping Licensing Board appointed under Part II B of the Ordinance before the date of coming into operation of this Act shall be deemed to have been duly appointed until such persons cease to hold office or are appointed anew.

(2) All Malaysian ships registered under the provisions of the Ordinance before the date of coming into operation of this Act shall continue to be registered under the Ordinance as if the Ordinance had not been amended by this Act.

(3) An owner of a Malaysian ship which has been registered under the Ordinance before the date of coming into operation of this Act may apply to the Registrar to convert the number of shares in the ship from sixty-four to any number of shares as the owner determines.

(4) All applications for registration, transmission or transfer of ship and applications for registration of mortgage or assignment of mortgage made under the Ordinance which are pending before the date of the coming into operation of this Act shall, on the date of the coming into operation of this Act, be dealt with by the Registrar under the provisions of the Ordinance as amended by this Act.

(5) All documents, endorsements, exemptions or certifications in relation to the registration of Malaysian ship prepared, made or granted before the date of coming into operation of this Act shall, in so far as it is consistent with the provisions of the Ordinance as amended by this Act and except as otherwise expressly provided in this Act, continue to be valid and be deemed to have been prepared, made or granted under the provisions of the Ordinance as amended by this Act.

(6) All domestic shipping licences issued under Part II_B of the Ordinance and boat licences issued under Part XIII of the Ordinance before the date of coming into operation of this Act shall continue to be valid until the expiry of the licence as if the Ordinance had not been amended by this Act.

(7) All applications for a domestic shipping licence under Part II_B of the Ordinance and boat licences under Part XIII of the Ordinance which are pending before the date of coming into operation of this Act shall, on the date of the coming into operation of this Act, be dealt with by the domestic shipping officer or the licensing officer under the provisions of the Ordinance as amended by this Act.

(8) All rules, regulations, orders, directions, notifications, exemptions and other subsidiary legislation, howsoever called, made, given or done under the Ordinance before the date of coming into operation of this Act shall be deemed to have been made, given or done under the provisions of the Ordinance as amended by this Act, and shall, in so far as they are consistent with the Ordinance as amended by this Act, continue to remain in full force and effect until they are revoked.

(9) Any notice, order, action, direction, decision or document issued or made under the Ordinance before the date of coming into operation of this Act, shall, in so far as it is consistent with the Ordinance as amended by this Act, continue to be valid and be deemed to have been issued or made under the provisions of the Ordinance as amended by this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Merchant Shipping Ordinance 1952 (*Ordinance 70/1952*) (“the Ordinance”). The main purposes of the amendment are to encourage the registration of ships in the Malaysia Ship Register and Malaysia International Ship Register, to provide for the registration of ships on bareboat charter, to empower the Director of Marine to licence persons or organizations to provide service undertakings and port undertakings at ports where the Director of Marine is exercising his power as the port authority, and to establish the Malaysia Shipping Development Fund. This Bill also seeks to strengthen the provisions in respect of licensing of ships and domestic shipping.

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.

3. *Clause 2* contains the general amendment to substitute the words “steamer” and “steamship” for the word “ship” and the words “steamers” and “steamships” for the word “ships”. The usages of those words are no longer relevant because “steamer” and “steamship” are also “ships”. Prior to the amendment, different standards were applied to different categories of ships according to their mode of propulsion. Therefore it was necessary to distinguish the technical difference between “steamer” and “steamship” and “ship”. However, pursuant to international conventions and standards, ships are now governed by the same standard, regardless of their mode of propulsion. With the substitution of the words “steamer” and “steamship” with the word “ship” and the words “steamers” and “steamships” for the word “ships”, section 3 of the Ordinance is deleted in *clause 4* of the Bill as there is no longer a necessity to extend the application of the Ordinance to ships propelled by electricity, internal combustion engine or other mechanical power.

4. *Clause 3* seeks to amend section 2 of the Ordinance to amend existing definitions and to introduce new definitions.

5. *Clause 5* seeks to amend section 10 of the Ordinance. *Subclause 5(a)* seeks to enable the Director of Marine to appoint the Surveyor-General of Ships, Surveyor of Ships and Radio Surveyor. *Subclause 5(b)* seeks to provide for the appointment of persons or organizations to perform specific functions of the Surveyor of Ships or Radio Surveyor in accordance with the Code for Recognized Organizations adopted by the International Maritime Organization, which Malaysia is a member, in accordance with Resolution MSC.349(92) and MEPC.237(65). *Subclause 5(c)* seeks to provide for rule-making power of the Minister to regulate persons and organizations appointed to perform specific functions of the Surveyor of Ships or Radio Surveyor.

6. *Clause 6* seeks to introduce a new section 10A into the Ordinance. The new section 10A seeks to establish that the Director of Marine shall be the authority for ports where no port authority has been established under any written law. The new section 10A also seeks to empower the Director of Marine to issue licence to persons or organizations to provide service undertakings or port undertakings in respect of the ports. The new section 10A further empowers the Minister to make regulations to give effect to the provision.

7. *Clause 7* seeks to substitute Parts IIA, IIB and IIC of the Ordinance with Parts II and IIA.

The proposed Part II provides for the registration and licensing of ships consisting of sections 11 to 68Q.

The proposed section 11 contains the definition of words and phrases used in the proposed Part II.

The proposed section 12 seeks to empower the Director of Marine to appoint the Registrar and Deputy Registrars. Prior to the amendment, the Registrar and the Deputy Registrars were known as the Registrar General and registrars.

The proposed section 13 seeks to provide for the functions and powers of the Registrar.

The proposed section 14 seeks to provide for the Malaysia Ship Register and Malaysia International Ship Register to be maintained by the Registrar. The Register may be in both physical and electronic form.

The proposed section 15 seeks to empower the Registrar to rectify the Register should any clerical error occur and the Registrar may issue a new certificate of registry if necessary.

The proposed section 16 seeks to empower the Director of Marine to issue written instructions to the Registrar for the better carrying out of the provisions of this Ordinance.

The proposed section 17 seeks to provide for the establishment of a ship registration office and its branch offices.

The proposed section 18 seeks to require ships navigating in Malaysian waters or the exclusive economic zone to be registered either in Malaysia or any other country and provides for the penalty for contravention of the proposed provision.

The proposed section 19 seeks to provide for the qualifications for persons to own a Malaysian ship. A person qualified to own a Malaysian ship under the Malaysia Ship Register must be a Malaysian citizen or, to an extent as may be determined by the Minister, a body corporate incorporated in Malaysia. A person who is qualified to own a Malaysian ship under the Malaysia International Ship Register must be a Malaysian citizen or a body corporate incorporated outside Malaysia. However, a non-Malaysian citizen or a body corporate incorporated outside Malaysia may also own a Malaysian ship under the Malaysia International Ship Register if that person or body corporate appoints a representative person under the proposed subsection 20(3). The representative person appointed must be a Malaysian citizen having a permanent residence in Malaysia or a body corporate incorporated in Malaysia having its principal place of business in Malaysia. The provision for the requirement of appointment of a representative person replaces the requirement for the appointment of a ship manager under section 66c of the Ordinance. The proposed section 19 also provides that ships on bareboat charter may be registered under the Malaysia Ship Register or the Malaysia International Ship Register. Prior to this amendment, there was no law in Malaysia for the registration of ships on bareboat charter.

The proposed section 20 seeks to provide the procedures for an application for registration as a Malaysian ship.

The proposed section 21 seeks to provide for the requirement for survey and measurement of a ship by the Surveyor of Ships to ascertain the ship's tonnage before the ship may be registered as a Malaysian ship.

The proposed section 22 seeks to provide for the requirement of a ship's proposed name to be submitted to the Registrar for his approval prior to the registration of the ship. The proposed section 22 sets out the grounds on which a Registrar may refuse to approve a proposed name for a ship.

The proposed section 23 seeks to require the marking of ships to be done prior to the ship being registered. A ship's marking must be permanently maintained and not altered and the owner or master of the ship who fails to maintain a ship's marking as required by the proposed provision commits an offence.

The proposed section 24 seeks to empower the Registrar, for the purpose of registration of a ship, to require any additional information or documents. The Registrar may also go on board a ship to inspect the ship and any documents relating to the ship.

The proposed section 25 seeks to provide for the registration of a ship or refusal to register a ship by the Registrar.

The proposed section 26 seeks to provide that the Registrar may provisionally register any ship and issue a provisional certificate of registry. A provisional certificate has the same effect as a certificate of registry.

The proposed section 27 seeks to empower the Minister to prohibit registration of any ship if he is satisfied that the registration will prejudice national interest.

The proposed section 28 seeks to provide for the issuance of a certificate of registry upon registration of a ship as a Malaysian ship. For the purpose of navigation of a ship, the master or owner of the Malaysian ship shall not use or permit the use of a certificate of registry that has not been issued under the provision or has expired and is not in force.

The proposed section 29 seeks to impose a duty on the master or owner of a Malaysian ship to inform the Registrar of any changes of particulars relating to the ship.

The proposed section 30 seeks to provide that a certificate of registry issued by the Registrar shall be used only for the purpose of navigation and shall not be used as a security for any civil right or claim. The proposed section 30 further provides that a person who refuses to deliver the certificate of registry to the person entitled to the custody of the certificate of registry or to the Registrar without reasonable cause commits an offence.

The proposed section 31 seeks to provide that the Registrar may issue a new certificate of registry if the certificate of registry is mislaid, lost, defaced or destroyed. If a new certificate is issued the original certificate shall be deemed to have been revoked.

The proposed section 32 seeks to provide that the Registrar may suspend the registration of a Malaysian ship upon the application of the owner or if the ship is taken in war or hostilities.

The proposed section 33 seeks to provide for the circumstances under which the Registrar may terminate the registration of a Malaysian ship.

The proposed section 34 seeks to provide that the Registrar may delete a Malaysian ship from the Register upon the application from a ship owner or when the registration of a ship is terminated under section 33. The proposed section 34 further protects any encumbrances entered in the Register in respect of the Malaysian ship, notwithstanding the deletion from the Register.

The proposed section 35 seeks to provide that the Registrar may revoke the certificate of registry of a Malaysian ship if the registration of the ship is suspended or terminated or when the period of validity of the certificate of registry has lapsed. The proposed section 35 further imposes a duty upon the owner or master of the ship to surrender the revoked certificate of registry to the Registrar, failing which would amount to an offence.

The proposed section 36 provides that the Director of Marine shall notify the authority in the country of primary registry if the registration of a bareboat chartered-in ship is terminated or suspended.

The proposed section 37 provides the owner of a Malaysian ship the right to dispose of the ship. This provision also recognizes interests arising under contract and equity and allows for such interests to be enforced by or against the owners and mortgagees of any ship, in which case, the ship is treated as if it were any other personal property in law.

The proposed section 38 seeks to empower the Registrar to give consent to owner of a Malaysian ship to register his ship as a bareboat charter in another country, to be known as a “bareboat chartered-out ship”. However, the proposed section 38 also empowers the Minister to disallow any Malaysian ship to be bareboat chartered-out notwithstanding the Registrar’s consent.

The proposed section 39 seeks to provide for the procedures for transfer of a Malaysian ship. The proposed section 39 recognizes that a bill of sale may not be in the prescribed form as previously provided for in the Ordinance and therefore accepts any bill of sale as valid as long as the required particulars are stated for registration.

The proposed section 40 deals with transmission of a Malaysian ship other than by way of transfer under the proposed section 39, which is transfer by operation of law in circumstances such as death and bankruptcy. A person who receives the shares in a Malaysian ship by way of transmission can only be registered as the owner of that ship if he applies for registration and if he is qualified to own a Malaysian ship.

The proposed section 41 seeks to provide that a person who is not qualified to own a Malaysian ship who received the shares in the ship by way of transmission may apply to the Court for an order for the sale of the ship. This application shall be made within twenty-eight days from the date of transmission and may be extended by the Court up to one year. If the application for the order for sale is not made within this period, or if the application is refused by the court, the shares may be forfeited.

The proposed section 42 seeks to provide that an order for sale made by the Court under the proposed section 41 shall contain a declaration vesting in an individual the right to transfer the property in a ship. For the purpose of this section, such individual shall be treated as if he were the owner of the ship.

The proposed section 43 seeks to provide that the Court may prohibit for a specified period any dealings with a registered ship on the application of any interested person.

The proposed section 44 provides that a registered ship other than a bareboat chartered-in ship may be used as security for mortgage. Under such circumstances, the Registrar shall register the mortgage according to the priority in which it was produced for registration. The proposed section 44 also seeks to provide for mortgagor and mortgagee's rights in a registered ship and ensures that bareboat chartered-in ship cannot be used as security.

The proposed section 45 seeks to clarify that the priority of registered mortgages is based on the concept of "first in time of registration". This is consistent with general maritime law in relation to priority of mortgages.

The proposed section 46 seeks to provide that a mortgagee may sell the ship in order to realize the debt secured by the property in the ship. If there are two or more mortgages registered in the same ship, the subsequent mortgagee, unless by an order of the Court, shall not sell the ship without the approval of the prior mortgagee.

The proposed section 47 seeks to provide for assignment of mortgages where the assignee shall have the same right of preference as the assignor.

The proposed section 48 seeks to recognize the mortgagee's interest in the ship as security for a loan and that the mortgagor is still the owner of the ship for the purposes of this Ordinance. The proposed provision seeks to protect the interest of the owner as well as the mortgagee whereby the mortgagee shall not be treated as the owner of a ship so mortgaged.

The proposed section 49 seeks to allow for the transmission of mortgage by operation of law, such as in cases of death or bankruptcy, and allows the Registrar to cause the name of a person to whom a mortgage has been transmitted to, to be entered in the Register as the mortgagee of the ship.

The proposed section 50 seeks to provide that when a mortgage has been discharged, the Registrar shall cause an entry to be made in the Register about the discharge of the mortgage.

The proposed section 51 seeks to provide that termination of registration of a ship does not affect the rights of the mortgagee under an undischarged mortgage.

The proposed section 52 seeks to provide for the protection of mortgages in a ship or a share in the ship notwithstanding that the mortgagor having been adjudicated a bankrupt after the date of registration of the mortgage.

The proposed section 53 seeks to provide for the non-application of sections 39 to 52 to bareboat chartered-in ships and that any matters or questions corresponding to those for which the provisions apply shall be determined by reference to the law of the country of primary registry.

The proposed section 54 seeks to impose requirement for licence on any ship below fifteen net tonnage involved in trade or business, transportation of any person other than for trade or business or sports, leisure or recreational activity. At present, ships below five hundred gross tonnage under Part XIII of the Ordinance are required to be licensed for such activities.

The proposed section 55 seeks to exempt ships from the requirement of licensing under the proposed section 54.

The proposed section 56 seeks to empower the Director of Marine to appoint licensing officers from among the public officers for the purposes of licensing of ships.

The proposed section 57 seeks to provide for the procedure for the application of a licence.

The proposed section 58 seeks to empower the licensing officer, for the purpose of licensing of a ship, to require any additional information or documents he thinks necessary. The licensing officer may also go on board a ship to inspect the ship and any documents relating to the ship.

The proposed section 59 seeks to provide for the licensing of a ship or refusal to licence a ship by the licensing officer.

The proposed section 60 seeks to provide that the licensing officer shall enter the particulars of every licence into the record of licences maintained by him. The record of licences may be in both physical and electronic form.

The proposed section 61 seeks to impose an obligation on the owner of a licensed ship to cause the licence to be kept on board the ship.

The proposed section 62 seeks to prohibit a licensed ship from proceeding beyond the coastal waters of a State in which the licence is issued unless allowed in the terms of the licence, necessary due to stress of weather or due to other causes beyond the control of the master.

The proposed section 63 seeks to provide that using a ship or causing or permitting a ship to be used for a purpose other than the purpose for which it is licensed is an offence.

The proposed section 64 contains the definition of words used in sections 65 to 68F.

The proposed section 65 seeks to establish the Malaysia Shipping Development Fund which shall consist of moneys collected from payments of annual tonnage fee under Part II and to provide the purposes for which the Fund may be expended.

The proposed section 66 seeks to establish the Malaysia Shipping Development Fund Committee which shall consist of the Director of Marine who shall be the Chairman, a representative from the Ministry of Transport, Ministry of Finance, the Marine Department and the Government of the State of Sabah and Sarawak, and persons who have wide experience or special knowledge in shipping matters.

The proposed section 67 seeks to provide that the function of the Committee is to control and administer the Fund for the improvement of the shipping industry.

The proposed section 68 seeks to provide for the disclosure of financial interest by Committee members.

The proposed section 68A seeks to provide that any financial interest of the spouse or child of a Committee member is deemed to be the Committee member's financial interest.

The proposed section 68B seeks to provide that the Committee shall keep and maintain a register of members' financial interests.

The proposed section 68C seeks to provide that the Committee shall make and transmit to the Minister an annual report of the activities of the Committee.

The proposed section 68D seeks to provide that the accounts of the Fund shall be audited annually by the Auditor-General.

The proposed section 68E seeks to provide the Minister with power to make regulations necessary and expedient and for giving full effect to the provisions of the Fund.

The proposed section 68F seeks to provide the Minister with the power to issue general directions to the Committee.

The proposed section 68G deals with the appointment of authorized officers for the purpose of investigation and inspection under the proposed Parts II and II A.

The proposed section 68H seeks to enable the Director of Marine to provide a service for electronic filing of any document required by the Ordinance or regulations made under the Ordinance to be submitted to the Registrar or licensing officer.

The proposed section 68I seeks to provide for the proper national colours to be flown by Malaysian ships and ships owned by the Government or in the service of the Government.

The proposed section 68J seeks to provide for the penalty of carrying improper colour on board any registered Malaysian ship.

The proposed section 68K seeks to impose a duty on the master of a registered Malaysian ship to hoist the red ensign in the circumstances stipulated in the proposed provision.

The proposed section 68L seeks to provide for the offence of assuming the character of a Malaysian ship and concealing the Malaysian nationality of a ship. A ship which contravenes the proposed provision may be forfeited.

The proposed section 68M seeks to impose a duty on the master of a ship to declare the name of the country to which the ship belongs before proceeding to the sea from any port or place in Malaysia. A ship which contravenes the proposed provision may be detained until the declaration is made.

The proposed section 68N seeks to make it an offence to proceed or attempt to proceed to the sea any ship forfeited under the proposed section 68L or detained under the proposed section 68M.

The proposed section 68O seeks to impose a duty on the owner of a ship to inform the Registrar of any change affecting his ownership and qualification as owner of the ship.

The proposed section 68P seeks to provide for an offence for giving false or misleading statements or making false declaration and information and the penalty for the offence.

The proposed section 68Q seeks to empower the Minister to make regulations under the proposed Part II.

The proposed Part IIA, which consists of sections 68R to 68AK, provides for the licensing of ships for domestic shipping.

The proposed section 68R contains the definition of words and phrases used in the proposed Part IIA.

The proposed section 68S seeks to prohibit non-Malaysian ships from engaging in domestic shipping and provides for the penalty for contravention of the proposed provision.

The proposed section 68T requires all ships engaging in domestic shipping to obtain a domestic shipping licence and provides for the penalty for contravention of the proposed provision.

The proposed section 68U seeks to exempt a Malaysian ship of less than fifteen net tonnage from the domestic shipping licensing requirement under Part IIA.

The proposed section 68v empowers the Minister to permit any class of ships to engage in domestic shipping. Permits issued under the proposed provision seeks to address the lack of Malaysian ships in a certain types of specialization, such as surveying vessels and dredgers, by allowing such categories of non-Malaysian specialized ships to serve in Malaysian waters.

The proposed section 68w seeks to provide for the procedures for application and issuance of a domestic shipping licence.

The proposed section 68x seeks to empower the domestic shipping officer to require the owner or master of a ship to furnish information.

The proposed section 68y seeks to provide for powers to the domestic shipping officer to revoke any domestic shipping licence, the procedure for surrender of licence following revocation of the licence and the penalty imposed for non-compliance. The licensee is given an opportunity to be heard before a licence is revoked.

The proposed section 68z seeks to provide for the procedure for appeals against the decision of a domestic shipping officer to refuse to issue or to revoke a domestic shipping licence.

The proposed section 68AA seeks to empower the Director of Marine or the authorized officer to go on board any ship for the purpose of ensuring compliance with the proposed Part II A.

The proposed section 68AB seeks to empower of the Director of Marine or the authorized officer to detain any non-Malaysian ship that engages in domestic shipping or any Malaysian ship that engages in domestic shipping without a domestic shipping licence, under the proposed section 68s or 68t.

The proposed section 68AC requires the domestic shipping officer to keep a register of domestic shipping licences.

The proposed section 68AD seeks to provide for the establishment of the Domestic Shipping Licensing Board.

The proposed section 68AE seeks to provide for the functions of the Domestic Shipping Licensing Board.

The proposed section 68AF seeks to provide for the appointment of the domestic shipping officers.

The proposed section 68AG seeks to provide for the disclosure of financial interest by member of the Board.

The proposed section 68AH seeks to provide that any financial interest of the spouse or child of a member of the Board is deemed to be the member's financial interest.

The proposed section 68AI seeks to provide that the Board shall keep and maintain a register of member's financial interests.

The proposed section 68AJ seeks to provide that the Board shall make and transmit to the Minister an annual report of the activities of the Board.

The proposed section 68AK seeks to empower the Minister to make regulations under Part IIA.

The proposed section 68AL seeks to empower the Minister with the power to issue general directions to the Board.

8. *Clause 8* seeks to delete sections 473, 473B, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 483A, 483B, 483C, 484 and 485 of the Ordinance in consequence of the substitution of Parts IIA, IIB and IIC of the Ordinance.

9. *Clause 9* seeks to delete the Eleventh, Twelfth, Thirteenth and Fifteenth Schedules of the Ordinance in consequence of the substitution of Parts IIA, IIB and IIC and the deletion of sections 473 and 476 of the Ordinance. The matters provided for under the Schedules will be provided for in the regulations made under the relevant provisions of the Ordinance.

10. *Clause 10* deals with the savings provision.

FINANCIAL IMPLICATIONS

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

[PN(U2)3062]