

Merchant Shipping Ordinance 2001

MERCHANT SHIPPING ORDINANCE, 2001

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ORDINANCE NO. LII OF 2001

PAKISTAN MERCHANT SHIPPING

ORDINANCE, 2001

An Ordinance to consolidate and amend the law relating to merchant shipping

[Gazette of Pakistan, Extraordinary, Part-I, 3rd October,2001]

F.No.2(1)/2001-Pub. The following Ordinance promulgated by the President is hereby published for general information:-

Whereas it is expedient to consolidate and amend the law relating to merchant shipping and to provide for matters connected therewith and incidental thereto;

Now, Therefore, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999 and the Provisional Constitution Order No.1 of 1999 read with the Provincial Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

PART I

CHAPTER 1.

PRELIMINARY

1. Short title, extent, application and commencement. (1) This Ordinance may be called may be called the Pakistan Merchant Shipping Ordinance, 2001.

(2) It extends to the whole of Pakistan.

(3) Save as otherwise expressly provided, this Ordinance shall apply to (a) all Pakistan ships wherever they may be;

(b) all ships deemed to be registered under this Ordinance wherever they may be; and

(c) all other ships while in a port or place in, or within the territorial waters or within the exclusive economic zone specified in Section 6 of the Territorial Waters and Maritime Zones Act, 1976 (LXXXII of 1976):

Provided that the provisions of this Ordinance shall not apply to (i) any ship, commissioned for service, in the Pakistan Navy or, while employed otherwise than for commercial use in the service of Government, any other ship belonging to Government; or

(ii) any ship belonging to any foreign State while employed otherwise than for commercial use in the service of such State.

(4) It shall come into force at once.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context,

(1) "apprentice" means person appointed for training to the sea service under this Ordinance, whether called an apprentice or a cadet, or by any other name whatever;

(2) "bareboat or demise charter" means the hiring of a ship for a period where the charter appoints ship's master and crew and pay all running expenses of a ship and has a right to have the vessel registered in his name;

(3) "cargo ship" means a ship which is not a passenger ship;

(4) "coats" includes coats of creeks and tidal waters;

(5) "coasting ship" means a ship which is exclusively employed in trading coast-wise within Ports or places in Pakistan or any marine areas specified in the Pakistan Territorial Waters and Maritime Zones Act, 1976 (LXXXII of 1976), or any other law for the time being in force and between such ports or places as the Federal Government, may, from time to time, notify;

(6) "coasting trade" means the carriage by sea of passengers or goods between ports or places in areas specified in clause (5);

(7) "collision regulations" means the regulations made under Section 411;

(8) "company" means a company as defined in clause (7) of sub-section (1) of Section 2 of the Companies Ordinance, 1984 (XLVII of 1984), and includes

(a) a body corporate constituted or established by or under any Pakistan law; and

(b) any partnership or association of persons, whether incorporated or not;

(9) "Customs collector" means any of the officers of Customs appointed under Section 3 of the Customs Act, 1969 (IV of 1969), and for the time being in separate charge of a customs port as defined in Section 2 thereof;

(10) "distressed seaman" means a seaman engaged under this Ordinance who, by reason of having not being properly discharged or left behind from or ship-wrecked, in any ship at any port or place outside port of engagement in Pakistan, is in distress there;

(11) "effects", in relation to a seaman, includes clothes and documents;

(12) "equipment", in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances, of every description, spars, masts, rigging and sails, for signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears and appliances of all kinds, and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship and pollution prevention;

(13) "fishing vessel" means vessel used commercially for catching fish, whales, seals, walrus or other living resources of the sea;

(14) "foreign-going ship" means a ship, not being a coasting ship or a home-trade ship, employed in trading between any port or place in Pakistan and any other port or place or between ports or places outside Pakistan;

(15) "free board " means, in the case of any ship which is marked with a deck line, the height from the water to the upper edge of the deck line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured;

(16) "gross", in relation to tonnage of vessel, means the gross tonnage of the vessel as registered under this Ordinance;

(17) "High Court", in relation to a vessel means the High Court within the limits of whose appellate jurisdiction

(a) the port of registry of the vessel is situated;

(b) the vessel is for the time being; or

(c) the cause of action wholly or in part arises;

(18) "home-trade ship" or "home-trade passenger ship" means ship employed in trading between ports and places in Pakistan or between any port and place in Pakistan to or from an area within the extremities not exceeding five hundred nautical miles from a point on the Pakistani coast and including Gulf of Oman not beyond Ras-ul-Hadd and ports or places in the Gulf;

(19) "Load Line Convention" means the International Convention Load Lines, 1966, as amended from time to time;

(20) "Maritime Board" means a Board convened under Section 481;

(21) "master" includes any person, other than a pilot appointed by the owner, having command or charge of any ship and includes the person who replaces him as master;

(22) "nakhuda" means the person in command or charge of a sailing vessel or modern crafts of primitive build;

(23) "net" in relation to tonnage of a vessel, means the net tonnage of the vessel as registered under this Ordinance;

(24) "nuclear ship" means a ship provided with a nuclear power plant;

(25) "owner" means

(a) in relation to a registered ship, the person or persons and companies who are for the time being shown as owners in the Register Book maintained under this Ordinance;

(b) in relation to any other ship, the persons and companies to whom the ship or a share in the ship belongs;

(c) in relation to a sailing vessel or a fishing vessel, the persons or companies to whom the vessel belongs; and

(d) in relation to any ship, in addition to the person who owns the ship, includes also the bareboat charterer and any other person who operates the ship and to whom the owners responsibilities have been formally assigned;

(26) "Pakistan consular officer" means a consul-general, consul, vice-consul, pro-consul or consular agents appointed as such by the Federal Government and includes

(a) any person authorised by the Federal government to perform the functions of any of them; and

(b) a seamen's Welfare Officer performing the functions of a Pakistan Consular Officer under Part IV;

(27) "Pakistani ship" means a ship registered as such under this Ordinance;

(28) "passenger" means any person carried on board a ship except

(a) a person employed or engaged in any capacity on board the ship on the business of the ship;

(b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance which neither the master nor the charterer, if any, could have prevented or forestalled; or

(c) a child under one year of age;

(29) "passenger ship" means a ship carrying more than twelve passengers;

(30) "pilgrim" means a person going to or returning from the Kingdom of Saudi Arabia for or after performing Hajj, and includes and such passenger who is returning without having actually landed in the Kingdom of Saudi Arabia;

(31) "pilgrim of lowest class" means a pilgrim for whom no separate accommodation in any cabin, smoke-room or saloon is reserved;

(32) "pilgrim ship" means a special trade passenger ship carrying or about to carry pilgrims from or to any port or place in Pakistan to or from any port or place in the Red Sea or any port declared as such by the Federal Government:

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

(33) "port of registry", in relation to a ship, a sailing vessel or a fishing vessel, means the port at which she is registered or is to be registered;

(34) "prescribed" means prescribed by rules made under this Ordinance;

(35) "proper return port", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged or the port agreed to as such by the master, seaman or apprentice, as the case may be;

(36) "radio installation" means radio equipment, as prescribed;

(37) "ratification" means the act of acceptance of International Convention or instruments relating to merchant shipping including but not limited to safety of life at sea, protection of marine environment etc., and any amendments thereto by the Government of Pakistan and the depositing of instrument of ratification or accession to such Convention with the international body concerned and the expression "ratified shall be construed accordingly;

(38) "sailing vessel" means any description of vessel which is

(a) fitted exclusively with sails, or

(b) provided with sufficient sail area for navigation under sails alone and, if fitted with mechanical means of propulsion, such means are meant for auxiliary purposes only;

(39) "safety Convention" means any international safety Conventions, treaty or agreement ratified by Pakistan insofar as it relates to the safety of life at sea;

(40) "safety convention certificate" means

- (i) a passenger ship certificate;
- (ii) a special trade passenger ship safety certificate;
- (iii) a special trade passenger ship space certificate;
- (iv) a cargo ship safety construction certificate;
- (v) a cargo ship safety equipment certificate;
- (vi) a cargo ship safety radio certificate;
- (vii) an exemption certificate;
- (viii) a nuclear passenger ship safety certificate;
- (ix) a nuclear cargo ship safety certificate issue under Parts VI, X or, as the case may be, Part XIV;
- (x) any other certificates s may be prescribed;

(41) "surveyor" means a person appointed under Section 4 and includes a nautical surveyor, ship surveyor or an engineer surveyor;

(42) "salvage" means the rendering of assistance to ships in danger, to any things on board and to things floating, sunk or washed ashore;

(43) "salvor" means, in the case of salvages rendered by the officers or crew or part of the crew of any ship belonging to the Federal Government, the person in command of that ship;

(44) "sea-going", in relation to a vessel, means a vessel proceeding to sea beyond such limits as may be specified by the Federal Government by notification in the official Gazette;

(45) "Seaman" means a person employed or engaged, or to be employed or engaged, for service in any capacity on board any ship, but does not include master, pilot of apprentice;

(46) "second hand", in relation to a fishing vessel, means the person next in authority to the skipper of the vessel;

(47) "ship" includes every description of vessel used in navigation not propelled by. oars;

(48) "skipper" means the person in command of a fishing vessel or in charge of the navigation of such vessel;

(49) "special trade" means the conveyance of large number of special trade passengers by sea on international voyages within the area specified under the Special Trade Agreement;

(50) "Special Trade Agreement" means the Special Trade Passenger Ships Agreement signed at London on the fourth day of October, 1971;

(51) "special trade passenger" means a passenger carried in special trades in special trades in spaces on the weather deck, upper deck, or between decks which accommodate more than eight passengers;

(52) "special trade passenger ship" means a mechanically propelled passenger ship carrying more than fifty special trade passengers;

(53) "tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, but does not include a harbour;

(54) "valid international load line certificate" means a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a ship, other than a Pakistani ship, by the competent authority in the country in which the ship is registered;

(55) "valid safety convention certificate" means a certificate purporting to have been issued in accordance with the Safety Convention in respect of a ship, not being a Pakistan ship, by the competent authority in the country in which the ship is registered;

(56) "vessel" includes a ship, boat, sailing vessel, fishing vessel and any other description of vessel used or intended to be used in navigation and includes dynamically supported craft, submersibles and fixed or floating platforms;

(57) "voyage", in relation to a ship, means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(58) "wages" includes emoluments;

(59) "wreck" includes the following when found in the sea or in the tidal waters or on the shores thereof, namely:-

(a) goods which have been cast or fall into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and then remain floating on the surface;

(c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(d) goods which are thrown away or abandoned; and

(e) a vessel abandoned without hope or intention or recovery; and

(60) "young person" means a person under eighteen years of age.

CHAPTER 2

MERCANTILE MARINE DEPARTMENT

3. Office of Mercantile Marine Department. (1) the Federal Government may establish and maintain an office of the Mercantile Marine Department at the port of Karachi and at such other port as may be deemed necessary.

(2) The office of the Mercantile Marine Department at the port of Karachi shall be in the charge of such officer as the Federal Government may appoint in this behalf.

(3) The Principal Officer may, in addition to any other functions, perform all or any of the functions of a surveyor under this Ordinance.

(4) The Federal Government may appoint a Chief Nautical Surveyor and a Chief Engineer and Ship Surveyor to perform such duties under this Ordinance as may be assigned to them by the Federal Government and to supervise the performance of surveyors.

4. Surveyors. (1) The Federal Government may, by notification in the official Gazette, appoint for each office established under Section 3 as many persons, as it may think fit, possessing such qualifications as may be prescribed in this behalf, to be surveyors for the purposes of this Ordinance.

5. Radio Inspectors. (1) The Federal Government may, by notification in the official Gazette, appoint as many Radio Inspectors as it may consider necessary for the purpose of securing that the requirements of this Ordinance and the rules made there under relating to radio installation and radio service are complied with.

(2) The radio inspector shall perform his functions under this Ordinance under the general supervision and control of the Principal Officer.

CHAPTER 3.

SHIPPING OFFICES

6. Shipping Offices. (1) The Federal Government shall maintain a shipping office at every port in Pakistan where there was a shipping office immediately before the commencement of this Ordinance and may establish and maintain such office at any other port as it may deem necessary.

(2) For every shipping office, the Federal Government shall appoint a Shipping Master and may appoint such Deputy Shipping Masters as it may consider necessary possessing such qualifications as may be prescribed.

(3) A Shipping Master and a Deputy Shipping Master shall, in the performance of their functions, be subject to the general supervision and control of the Federal Government or of such authority as the Federal Government may, by general or special order, direct.

(4) All acts done by or before a Deputy Shipping Master shall have the same effect, as if done by or before a Shipping Master.

7. Conduct of business of shipping office at other office. (1) The Federal Government may direct that where at any port there is no shipping office established, the whole or any part of the business of a Shipping Office shall be conducted at such office and be committed to such officer at that office as the Federal Government may specify; and thereupon such business shall be conducted accordingly.

(2) For the purposes of this Ordinance, an office at which the business of a shipping office is conducted under sub-section (1) shall be deemed to be a shipping office and the officer to whom such business is committed under that sub-section shall be deemed to be a Shipping Master.

8. Duties of the Shipping Master. The duties of a Shipping Master shall, in general in respect of Pakistani ships, be

(a) to superintend and afford facilities for engagement and discharge of seamen in the manner provided in this Ordinance and the rules made thereunder;

(b) to perform such other functions relating to seamen, apprentices and ships as are, by or under this Ordinance or by general or special order of the Federal Government, assigned to a Shipping Master.

9. Fees for engagement or discharge of seamen. (1) In respect of all engagements and discharges of seamen, the owner of a ship or master so engaging or discharging shall pay to the Shipping Master such fee as the Federal Government may, by notification in the official Gazette, fix; and the Shipping Master may decline to act in any case until such fee has been paid.

(2) A copy of the scale of fees for the time being payable under sub-section (1) shall be affixed at some conspicuous place in the Shipping Office.

10. Seamen's Welfare Officers. (1) The Federal Government may appoint Seamen's Welfare Officers at such ports or places in Pakistan as it may consider necessary.

(2) A Seamen's Welfare Officer appointed under sub-section (1) shall, under the general supervision and control of the Federal Government or of such other authority as the Federal Government may, by general or special order, direct, perform at any port or place in Pakistan, such functions in relation to welfare of seaman as may be assigned to him by the Federal Government.

CHAPTER 4.

REGISTRATION

11. Application. This Chapter shall not apply to sailing vessels or fishing vessels nor to such ships registered under the Inland Mechanically Propelled Vessels Act, 1917 (I of 1917), as are not sea-going.

12. Restriction on acquisition of ship. (1) No citizen of Pakistan, nor any company shall acquire any ship for registration under Pakistan flag unless qualified to do so under this Ordinance.

(2) No Pakistani ship shall, except with prior permission writing from the Federal Government be converted, modified or altered in such manner so as to change the character of the ship.

(3) Whoever contravenes or attempts to contravene the provisions of sub-section (1) or sub-section (2) shall be liable to a fine which may extend to one hundred thousand rupees and any transaction made in contravention of any such provisions shall be void.

13. Qualification for registration of Pakistan ships. (1) For the purposes of this Ordinance, a ship may be registered as a Pakistani ship if it is owned by persons of the following description, namely

(a) citizens of Pakistan by birth or by migration;

(b) persons having acquired citizenship of Pakistan by registration under the Pakistan Citizenship Act, 1951 (II of 1951);

(c) companies having their principal place of business in Pakistan and which conduct operation and management of the ship from Pakistan; or

(d) any individual or company permitted by Federal Government.

(2) A ship on bareboat or demise charter for a period of not less than six months may be registered as a Pakistani ship in the name of a persons provided that such a person falls under any of the description given in clauses (a) to (d) of sub-section (1) and subject to condition as may be prescribed.

(3) A bareboat charter registry may be kept suspended for a period of charter, where Pakistani ships are bareboat chartered out to a person other than Pakistani Nationals on conditions as prescribed.

(4) Citizens of Pakistan by birth or by migration or Companies have their principal place of business in Pakistan which are conducting operation and management of ships from Pakistan or any other individual Company permitted by Federal Government, may obtain Second Registry of ships or other crafts registered abroad in their names provided that this Registry shall be for such period as the Government may prescribe.

14. Obligation to register ships. (1) Ships owned by citizens of Pakistan and companies shall be registered under this Ordinance,

(2) A ship required by this Ordinance to be registered may be detained until the master of the ship, if so required, produces the certificate of registry in respect of the ship.

15. Exemption from registry. The following ships shall be exempted from registry under this Ordinance, namely:-

- (a) Ships not exceeding fifteen tones net registered tonnage employed solely in navigation on the rivers or coasts of Pakistan within which the managing owners of the ships are resident;
- (b) Ships not exceeding thirty tones net registered tonnage and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Pakistan; and
- (c) Ships belonging to Government of Pakistan except where expressly provided by notification in official Gazette.

16. Registrars of Pakistani ships and ports of registry. (1) The following persons shall be registrars of Pakistani ships

(a) at the port of Karachi and Part Muhammad Bin Qasim, the Principal Officer of the Mercantile Marine Department, Karachi, or a person duly authorised by the Federal Government; and

(b) at any other port, such authority as the Federal Government may, by notification in the official Gazette, appoint to be the registrar of ships.

(2) A registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of his any act or default in his capacity of registrar unless the same has happened through his neglect or willful act.

(3) The ports of Karachi, Muhammad Bin Qasim and such other ports in Pakistan as the Federal Government may, by notification in Official Gazette, specify in this behalf, shall be the ports of registry at which Pakistan ships may be registered under this Ordinance.

17. Provisions for entries in register book. Every registrar of Pakistani ships shall keep a book to be called the register book and entries in that book and entries in that book shall be made in accordance with the following provisions, namely:-

(a) The property in a ship shall be divided into sixty-four shares;

(b) Subject to the provisions of this Ordinance with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title or any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any shares therein;

(d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose severally of any interest in a ship or in any share therein in respect of which they are registered; and

(e) a company may be registered as owner by its name.

18. Measurement of ships. Every Pakistani ship shall before registry have her tonnage ascertained in the prescribed manner.

19. Marking of ships. Every Pakistani ship shall before registry be marked permanently and conspicuously in the prescribed manner.

20. Entry of particulars in register book. As soon as the requirements of this Ordinance, preliminary to registry, have been complied with the registrar shall enter in the register book, the following particulars respecting the ship, namely

(a) the name of the ship and the previous name and registry, if any, and the name of the port to which she belongs;

(b) the details comprised in the surveyor's certificate;

(c) the particulars respecting her origin stated in the declaration of ownership;

(d) the name and description of his registered owner or owner, and if there are more owners than one, the proportions in which they are interested in her; and

(e) international call sign of the ship, if assigned.

21. Port of Registry. The port at which a Pakistani ship is registered for the time being shall be deemed her port of registry and the port to which she belongs.

22. Certificate of Registry. On completion of the registry of a Pakistani ship, the registrar shall grant a certificate of registry containing the particulars respecting her entered in the register book with the name of her master.

23. Custody and use of certificate. (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatever had or claimed by any owner, mortgagees, or other person to, on, or in the ship.

(2) No person, whether interested in the ship or not, who has in his possession or under his control the certificate of registry of a ship shall refuse or omit, without reasonable cause, to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar, officer of customs, or other person entitled by law to require such delivery.

(3) Any Judge or any Court, taking cognizance of the matter, may, by order, summon the person so refusing or omitting to deliver the certificate to appear before such Judge or Court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such Judge or Court that there was reasonable cause for such refusal, the offender shall be liable to a fine which may extend to one hundred thousand rupees, but if it is shown to such Judge or Court that the certificate is lost, the person summoned shall be discharged, and the Judge or Court shall certify that the certificate of registry is lost.

(4) If the person so refusing is proved to have absconded so that the order of a Judge or process of a Court cannot be served on him, or if he persists in not delivering up the certificate, the Judge or Court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost, or destroyed, or as near thereto as circumstances permit.

24. Penalty for use of improper certificate. If the master or owner of a Pakistani ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be liable to a fine which may extend to one hundred thousand rupees and the ship shall be liable forfeiture.

25. Power to grant duplicate certificate. The registrar of the port of registry of a Pakistani ship may, on the delivery up to him of the defaced or mutilated certificate of registry of a ship, grant a duplicate certificate in lieu thereof.

26. Provision for loss of certificate. (1) In the event of the certificate of registry of a Pakistani ship being mislaid, lost or destroyed, the registrar of her port of registry shall grant a duplicate certificate of registry in lieu of her original certificate.

(2) If the port, having a Pakistani registrar or consular officer, at which the ship is at the time of the event referred to in sub-section (1) or first arrives after the event

(a) is outside Pakistan, where the ship is registered in Pakistan; or

(b) Where the ship is registered at a Port of registry under this Ordinance, is not that port; then the master of the ship, or some other person having knowledge of the facts of the case, shall make a declaration stating the facts of the case, and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief, and the registrar or consular officer, as the case may be, shall thereupon grant a provisional certificate, containing a statement of the circumstances under which it is granted.

(3) Such registrar or Consular officer shall forward a copy of the certificate at the first convenient opportunity to the registrar of shipping, Mercantile Marine Department, Karachi, who upon receipt will issue a duplicate certificate or registry within thirty days of the receipt. The Master upon receipt of the duplicate certificate of registry within thirty days of the receipt. The Master upon receipt of the duplicate certificate of registry, shall return the provisional certificate to the registrar of the Consular officer.

27. Endorsement of change of master on certificate. Where the master of a Pakistani ship is changed, the registrar, or if there is none the Pakistan consular officer, at the port where the change occurs, shall endorse and sign on the certificate of registry a memorandum of the change, and shall forthwith report the change to the Registrar of Shipping, Mercantile Marine Department, Karachi, and any officer of customs at any port in Pakistan may refuse to permit any person to do any act there as master of a Pakistani ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

28. Endorsement of change of ownership. (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry

either by the registrar of the ship's port of registry or by the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry.

(2) The master shall, for the purpose of such endorsement by the registrar of the ship's port of registry, deliver the certificate of registry to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this section is not made before her return, then upon her first return to that port.

(3) The registrar of any port, not being the ship's port of registry, who require to make an endorsement under this section may for that purpose require the master of the ship to deliver to him the ship's certificate of registry so that the ship may not thereby detained and the master shall deliver the same accordingly.

(4) If the master fails to deliver to the registrar the certificate of registry required by this section he shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

29. Provisional certificate for ships becoming Pakistani owned abroad. If at a port outside Pakistan, and not being a port of registry established under this Ordinance, a ship becomes the property of persons qualified to own a Pakistani ship, the Pakistan consular officer there may grant to her master, on his application, a provisional certificate, stating

(a) the name of the ship;

(b) the time and place of her purchase and the names of her purchasers;

(c) the name of her master; and

(d) the particulars respecting her tonnage, build and description which he is able to obtain.

and shall forward a copy of the certificate at the first convenient opportunity to the Registrar of Shipping, Mercantile marine Department, Karachi, who upon receipt will issue a certificate of registry.

30. Temporary passes in lieu of certificates of registry. Where it appears to the Federal Government that by reason of special circumstances it would be desirable that permission should be granted to any Pakistani ship to pass, without being previously registered, from one port in Pakistan to any other port in Pakistan, the Federal Government may grant a pass accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry.

31. Transfer of ships or shares. (1) A registered ship or a share therein, when disposed of to any person shall be transferred by bill of sale.

(2) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of the registrar and shall be executed by the transferor in the presence of and attested by at least two witnesses.

32. Declaration of transfer. Where a registered ship, or a share therein, is transferred the transferee shall not be entitled to be registered as owner thereof until he or, in the case of a company, the person authorized by this Ordinance to make declarations on behalf of the company,

(a) a statement of the qualification of the transferee to own a Pakistani ship, or if the transferee is a company of such circumstances of the constitution and business thereof as prove it to be qualified to own a Pakistani ship; and

(b) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein

(33) Registry of transfer. (1) Every bill of sale for the transfer of a registered ship, or of a share therein, when duly executed, shall be produced to the registrar or her port of registry with the declaration of transfer and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, as the case may be, and shall endorse on the bill of sale the effect of that entry having been made with the day and hour thereof.

(2) Bills of sale of a ship, or of a share therein, shall be entered in the register book in the order of their production to the registrar.

34. Transmission of property in ship on death, bankruptcy, marriage, etc. (1) Where the property in a registered ship, or share therein, is transmitted to a person qualified to own a Pakistani ship on the marriage, death, or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Ordinance

(a) that person shall authenticate the transmission by making and signing a declaration, in this Ordinance called a declaration of transmission, identifying the ship and containing statements required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted.

(b) if the transmission takes place by virtue of marriage, the declaration shall be accompanied by a copy of the register of the marriage or other legal evidence of celebration thereof, and shall declare the identity of the female owner;

(c) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by proof of such claim; or

(d) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a succession certificate, probate or letters of administration under the Succession Act, 1925 (XXXIX of 1925), or a duly certified copy thereof.

(2) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons but those persons however numerous, shall, for

the purpose of the provision of this Ordinance with respect to the number of persons entitled to be registered as owners, be considered as one person.

35. Order for sale on transmission to unqualified person. (1) Where the property in a registered ship, or share therein, is transmitted on marriage, death, bankruptcy or otherwise to a person not qualified to own a Pakistani ship, then

(a) if the ship is registered in Pakistan the High Court; or

(b) if the ship is registered in a port of registry established by this Ordinance, the principal Civil Court having jurisdiction,

may on application by or on behalf of the unqualified person, order a sale of the property so transmitted and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the Court may direct.

(2) The Court may require any evidence in support of the application it thinks necessary and may make such order thereon and on such terms and conditions it thinks just or may refuse to make the order.

(3) Every such application for sale must be made within four weeks after the occurrence of the event on which the transmission has taken place or within such further time, not exceeding one year from the date of the occurrence, as the Court may allow.

(4) If such an application is not made within the time aforesaid, or if the Court refuses an order for sale, the ship or share transmitted shall thereupon be subject of forfeiture under this Ordinance.

36. Transfer of ship on sale by order of Court. Where any Court, whether under the preceding sections or otherwise, orders the sale of any ship or share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof, and every registrar shall obey the requisition of the person so named in respect of any transfer to the same extent as if such person were the registered owner.

37. Power of Court to prohibit transfer. Where the ship is registered in Pakistan the High Court and in the case of a port of registry established outside Pakistan under this Ordinance, the principal Civil Court having jurisdiction, may if it thinks fit, without prejudice to the exercise of any other power, on the application of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein and the Court may make the order thereon on such terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs and every registrar, without being made a party to the proceeding, shall on being served with the order obey the same.

38. Mortgage of ship or share. (1) registered ship or a share therein may be made a security for a loan or other valuable consideration and upon production of instrument creating the security (in this Ordinance called a mortgage), the registrar of the ship's port of registry shall record it in

the register book. The instrument creating the security shall have a summary attached in the prescribed form to be recorded by the registrar.

(2) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall by memorandum under his hand notify on each mortgage that it has been recorded by him stating the day and hour of that record.

39. Entry if discharge of mortgage. Where a registered mortgage is discharge, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate if any, which passed to the mortgages shall vest in the person in whom (having regard to intervening acts and circumstances, if any), it would have vested, if the mortgage had not been made.

40. Priority of mortgage. If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied, or constructive notice, have priority according to the date at which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

41. Mortgagees not treated as owner. Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not, by reason of the mortgage, be deemed the owner of the ship or share nor shall the mortgagor be deemed to have ceased to be the owner thereof.

42. Mortgages to have power of sale. Every registered mortgagee shall have power if the mortgage money or any part of it is due or if there is any material breach of the security instrument by mortgagor to sell the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgage shall not, except under the order of a Court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

43. Mortgage not affected by bankruptcy. A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order, or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim, or interest therein of the other creditors of the bankrupt or any trustee or assignee on their behalf.

44. transfer of mortgages. A registered mortgage of a ship or share may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument the registrar shall record it by entering in the register book the name of the transferees as mortgages of the ship or share, and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him stating the day and hour of the record.

45. Transmission of in mortgage by death, bankruptcy or marriage, etc. (1) Where the interest of a mortgagee in a ship or share is transmitted on marriage, death, or bankruptcy, or by any

lawful means, other than by a transfer under this Ordinance, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Ordinance required in case of a corresponding transmission of the ownership of a ship or share.

(2) The registrar, on the receipt of the declaration and the production of the evidence, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

46. Powers of mortgage and sale. A registered owner, if desirous by way of mortgage or sale of the ship or share in respect which he is registered at any place out of the country in which the port of registry of the ship is situated, may apply to the registrar, and the registrar shall thereupon enable him to do so by granting a certificate of mortgage or a certificate of sale.

47. Requisites for certificates of mortgage and sale. Before a certificate of mortgage or sale is granted, the applicant shall state to the registrar, and the registrar shall enter in the register book, the following particulars, namely:-

(a) The name of the person by whom the power mentioned in the certificate is to be exercised, and in the case of a mortgage the maximum amount of charge to be created if it is intended to fix any such maximum; and in the case of a sale the minimum price at which a sale is to be made if it is intended to fix any such minimum;

(b) the place where the power is to be exercised, or if no place is specified, a declaration that it may be exercised anywhere, subject to the provisions of this Ordinance; and

(c) the limit of time within which the power may be exercised.

48. Restrictions on certificates of mortgage and sale. A Certificate of mortgage or sale shall not be granted so as to authorise any mortgage or sale to be made and if the port of registry of the ship is situated in Pakistan, at any place within Pakistan or if the port of registry is established outside Pakistan, by order under this Ordinance, at that port, or within such adjoining area as is specified in the order; or by any person not named in the certificate.

49. Power of the Federal Government in case of loss of certificate of mortgage or sale. On proof at any time to the satisfaction of the Federal Government that a certificate of mortgage or sale is lost or destroyed, or so obliterated to be useless, and that the power thereby given have never been exercised, or if they have been exercised, then on proof of the several matters and things that have been done there under, the registrar may, with the sanction of the Federal Government either issue a new certificate, or direct such entries be made in the register books, or such other things be done as might have been made or done as if the loss, destruction, or obliteration had not taken place.

50. Revocation of certificates of mortgage and sale. (1) A registered owner of any ship or share therein in respect of which a certificate of mortgage or sale has been granted specifying the places where the power thereby given is to be exercised, may, by an instrument under his

hand, authorize the registrar by whom the certificate was granted to give notice to the registrar or Pakistan consular officer at every such place that the certificate is revoked.

(2) Notice shall thereupon be given accordingly and shall be recorded by the registrar or Pakistan consular officer receiving it, and after it is recorded the certificate shall be deemed to be revoked and of no effect so far as respects any mortgage or sale to be thereafter made at that place.

(3) The notice, after it has been recorded, shall be exhibited to every person applying for the purpose of effecting or obtaining a mortgage or transfer under the certificate.

(4) A registrar or Pakistan consular officer on recording any such notice shall state to the registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

51. Registry of alterations, registry anew and transfer of registry. (1) When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if the alteration is made at any port having a registrar, that registrar, or if it is made elsewhere, the registrar of the first port having a registrar at which the ship arrives after the alteration, shall, on application being made to him and on receipt of a certificate from the proper surveyor stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew.

(2) On failure to register a new ship or to register an alteration of a ship so altered as aforesaid, that ship shall be deemed not duly registered and shall not be recognised as a Pakistan ship.

52. Provisional certificate and endorsement. (1) When any registrar not being the registrar of the ship's port of registry. On an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Every such provisional certificate or certificate provisionally endorsed, shall within ten days after the first subsequent arrival of the ship at her port of discharge in Pakistan, at her port of discharge in or, if she is registered at a port of registry established outside Pakistan under this Ordinance, at that port, be delivered up to the registrar thereof, and that registrar shall cause the ship to be registered anew.

(3) The registrar granting a provisional certificate under this section or provisionally endorsing a certificate shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry, containing a similar statement as the certificate or endorsement.

53. Registry anew on change of ownership. Where the ownership of any ship is changed the registrar of the port at which the ship is registered may, on the application of the owners of the ship, register the ship anew although registration anew is not required under this Ordinance.

54. Restrictions on re-registration of abandoned ships. Where a ship has ceased to be registered as a Pakistani ship by reason of having been wrecked or abandoned, or for any

reason other than capture by the enemy or transferred to a person not qualified to own a Pakistani ship, the ship shall not be re-registered until she has at the expense of the applicant for registration, been surveyed by a surveyor and certified by him to be seaworthy.

55. Provision for cases of infancy or other incapacity. where by reason of infancy, lunacy, or any other cause any person interested in any ship or any share therein, is incapable of making any declaration or doing anything required or permitted by this Ordinance to be made or done in connection with the registry of the ship or share, the guardian or committee, if any, of that person or, if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, to any Court having jurisdiction in respect of the property of such persons, may make such declaration or a declaration as nearly corresponding on behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted.

56. Equities not included by Ordinance. The expression "beneficial interest", where used in this part of this Ordinance, includes interests arising under a contract and other equitable interests; and it is hereby declared that without prejudice to the powers of disposition and of giving receipts conferred by this Ordinance on registered owners and mortgagees and without prejudice to the provisions of this Ordinance relating to the exclusion of unqualified persons from the ownership of Pakistani ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein the same manner as in respect of any other personal property.

57. Liability of owners. Where any person is beneficially interested otherwise than by way of mortgage in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other Ordinance on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties with or without joining the other of them.

58. Ship's managing owner or manger to be registered. (1) The name and address of the managing owner, for the time being of every ship registered at a port in Pakistan, shall be registered at the custom house of that port.

(2) Where there is no managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and person whose name is so registered shall, for the purposes of this Ordinance, be under the same obligations and subject to the same liabilities as if he were the managing owner.

(3) If default is made complying with this section the owner shall be liable, or if there are more owners than one each owner shall be liable in proportion to his interest in the ship, to a fine which may extend to fifty thousand rupees each time the ship leaves any port in Pakistan.

59. Forgery of documents. If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book, builder's certificate, surveyor's certificate, certificate of registry, declaration of bill of sale, instrument of mortgage, or certificate of mortgage or sale

under this Part of this Ordinance, or any entry or endorsement required by this Part of this Ordinance to be made in or on any of those documents, that person shall in respect of each offence be punishable with imprisonment which shall not be less than three months and with fine which may extend to five hundred thousand rupees.

60. False declaration. (1) If any person in the case of any declaration made in the presence of or produced to a registrar under this Part or in any document or other evidence produced to such registrar,

(a) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in any ship, or any share in a ship; or

(b) utters, produces, or makes use of any declaration or document containing any such false statement knowing the same to be false, shall, in respect of each offence, be liable to a fine which may extend to fifty thousand rupees.

(2) If any person wilfully makes a false declaration touching the qualification of himself, or of any other person or of any corporation to own a Pakistani ship or any share therein, he shall, for each offence, be liable to a fine which may extend to fifty thousand rupees and the ship or share shall be liable to forfeiture to the extent of the interest therein of the declarant unless it is proved that the declaration was made without authority of any person or corporation on whose behalf the declaration is made.

61. National character of ship to be declared before clearance. (1) An officer of customs, or appropriate designated authority for this purpose, shall not grant a clearance or transpire for any ship until the master of such ship has declared to that officer the name of the country to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance or transpire.

(2) If a ship attempts to proceed to sea without such clearance or transpire, she may be detained until the declaration is made.

62. Penalty for concealment of Pakistan character or assumption of foreign character. If the master or owner of a Pakistani ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the Pakistani character of the ship from any person entitled by any law, for the time being in force, to enquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be liable to forfeiture and the master, if he commits or is privy to the commission of the offence, shall in respect of each offence be liable to a fine which may extend to one hundred thousand rupees.

63. Penalty for acquiring ownership if unqualified. If an unqualified person acquires as owner, otherwise than by such transmission as here in before provided, any interest either legal or beneficial in a ship using a Pakistani flag and assuming the Pakistani character, that interest shall be liable to forfeiture.

64. Liabilities of ships not recognized as Pakistan ships. where it is declared by this Ordinance that a Pakistani ship shall not be recognized as a Pakistani ship, that ship shall not be entitled to

any benefits, privileges or protection usually enjoyed by Pakistani ships nor to use the Pakistan flag or assume the Pakistani national character, but so far as regards the payment of dues, the liabilities to fines and forfeiture, and the punishment of offence committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised Pakistani ship.

65. National colours for ships. (1) The Federal Government may, by notification in the official Gazette, declare the proper national colours for Pakistani ships.

(2) If any distinctive colours, other than those declared under sub-section (1), are hoisted on board any Pakistani ship the owner of the ship, unless he proves that they were hoisted without his knowledge or consent, the master of the ship and every person hoisting such colours shall be liable to a fine which may extend to ten thousand rupees.

(3) Any commissioned officer of the Pakistan Navy, Principal Officer, any Customs Collector, or any Pakistan consular officer, may board any ship on which any colours in contravention of this Ordinance are hoisted and seize and take away the colours which shall be forfeited to the Federal Government.

66. Penalty for unduly assuming Pakistan character. (1) If a person uses the Pakistan flag and assumes the Pakistani national character on board a ship owned in whole or in part by any persons not qualified to own a Pakistani ship, for the purpose of making the ship appear to be a Pakistani ship, the ship shall be liable to forfeiture under this Ordinance unless the assumption has been for the purpose of escaping capture by any enemy or by a foreign ship of war on the exercise belligerent right.

(2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the Pakistani flag and assume the Pakistani national character shall lie upon the person using and assuming the same.

67. Pakistani ships to hoist proper national colours in certain cases. (1) A Pakistani ship shall hoist the proper national colours

(a) On a signal being made to her by any vessel of the Pakistan Navy;

(b) on entering or leaving any foreign port; and

(c) if the net tonnage is fifty or more, on entering or leaving any Pakistani port.

(2) The master of a ship in respect of which the provisions of sub-section (1) are not complied with, shall be liable to a fine which may extend to ten thousand rupees.

68. Saving for Pakistan Navy. The provisions of this Ordinance with respect to colours worn by merchant ships shall not affect any other powers of the Pakistan Navy in relation thereto.

69. Recognition of tonnage measurement of ships of foreign country. (1) Whenever it appears to the Federal Government that the tonnage regulations applicable in a foreign country are equivalent to those adopted under this Ordinance, the Federal Government may order that the

ships of that country shall, without being re-measured in Pakistan, be deemed to be of the tonnage denoted in their certificates of registry or other national papers, in the same manner, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry, of a Pakistani ship and any space shown by the certificate of registry, or other national papers of any such ships as deducted from the tonnage shall, where a similar deduction in the case of Pakistani ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be deemed to comply with those conditions, and to be so evidenced, unless a surveyor of ships certifies to the Federal Government that the construction and the equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a Pakistani ship registered in Pakistan.

(2) The Federal Government may limit the time during which the order shall remain in operation and make the order subject to such conditions and qualifications, if any, as it may deem expedient.

(3) If it is made to appear to the Federal Government that the tonnage of any foreign ship as measured by the rules of the country, to which she belongs, materially differs from the which would be here tonnage if measured under rules applicable in Pakistan, the Federal Government may order that notwithstanding any order for the time being in force under this section any of the ships of that country may, for all or any of the purposes of this Ordinance, be re-measured in accordance with rules applicable in Pakistan.

70. Space occupied by deck cargo to liable to dues. (1) If any Pakistani or foreign ship other than a home-trade ship carries as deck cargo to be liable to dues. (1) If any Pakistani or foreign ship other than a home-trade ship carries as deck cargo, that is to say, in any uncovered space upon deck or in any covered space not included in the cubical contents contents forming the ship's registered tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by those goods at the time at which the dues become payable.

(2) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by the goods and by straight lines enclosing a rectangular space sufficient to include the goods.

(3) The tonnage of the space shall be declared by the Master, and if misdeclared be ascertained by an officer of the Mercantile Marine Department or of Customs in manner directed and when so ascertained shall be entered by him in a memorandum which he shall deliver to the master and the master shall, when the said dues are demanded, produce that memorandum in like manner as if it were the certificate of registry, or in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.

(4) Nothing in this section shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of Pakistan or to deck cargo carried by a ship while engaged in the coasting trade in Pakistan.

71. Surveyors and regulations for measurement of ships. All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships in the prescribed manner.

72. Levy of tonnage rates under local laws on the registered tonnage. Any persons having powers to levy tonnage rates on ships may, if they think fit, with the consent of the Federal Government, levy those tonnage regulations adopted in Pakistan, notwithstanding that any local law under which those rates are levied provides for levying the same upon some different system of tonnage measurement.

73. Close of registry. The owner of registered ship may sell, dispose of or dismantle the ship by following the prescribed procedure for closing the registry otherwise he shall be liable to a fine which may extend to one hundred thousand rupees.

74. Powers to make rules in respect of matters in this Part. (1) The Federal Government may, by notification in the official Gazette, make rules to carry out the purpose of this part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely

(a) the manner in which the tonnage of any ship shall be ascertained, whether for the purpose of registration or otherwise including the mode of measurement;

(b) the recognition for the purpose of ascertaining the tonnage of any ship or for any other purpose, of any tonnage certificate granted in respect of any ship in other country, not being a country with which Pakistan has entered into an agreement in this behalf, including the conditions and restrictions subject to which such recognition may be granted.

(c) the manner in which the surveys of ships shall be conducted and the form of certificates to be issued by a surveyor;

(d) the manner in which ships shall be marked;

(e) the form in which any document or instrument required by or under this Part to be prepared or executed and the particulars which it should contain;

(f) the persons by whom and authorities before which any declaration required by this Part shall be made, and the circumstances in which any such declaration may be waived and other evidence accepted;

(g) the returns that shall be made by registrars to the federal Government or to such other authority as the Federal Government may appoint and the form in which and the intervals at which such returns shall be made;

(h) the procedure for registration, marking, naming or alteration of the names of Pakistani ships;

(i) the fees that may be levied and the actual expenses, if any, incurred by Federal Government in the performance of its functions under this part and the manner in which such fees and expenses shall be collected or recovered;

(j) the manner in which registrars and other authorities may exercise their powers under this part or maintain the register book and other books and registers;

(k) the manner in which ships belonging to Federal Government to which the provisions of this part may be made applicable; and

(l) any other matter which may be or is to be prescribed.

PART III

COASTAL SHIPPING

CHAPTER 5.

CONTROL OF SHIPPING

75. Application. This Part applies only to such sea-going ships propelled by mechanical power as are not less than one hundred and fifty tons gross or of such other tonnage as the Federal Government may, by notification in the official Gazette, fix.

76. International shipping operators. (1) All Pakistani shipping operators shall, subject to the provisions of Section 79, be entitled to participate in the coastal shipping.

(2) The Federal Government may exclude or restrict operators from countries, to be specified in the official Gazette, to participate in the coastal shipping to, and from, Pakistan.

77. Government cargo. The carriage of Government cargo between a foreign and Pakistani port and vice versa may be reserved for Pakistani shipping operators provided Pakistani ships operate from such ports.

78. Requirements for participation in coastal shipping. (1) Pakistani shipping operators, wishing to participate in the coastal shipping, registered as such with the Federal Government.

(2) A foreign shipping operator, wishing to participate in the coastal shipping, shall be adequately insured against all professional liabilities and have an agent in Pakistan.

79. Power to fix shipping rates. (1) The Federal Government may, by order published in the Official Gazette, fix in the prescribed manner, the rates at which any Pakistani ship may be hired and the rates which may be charged for the carriage of passengers or cargo by any ship engaged in the coasting trade of Pakistan.

(2) If the Federal Government considers that with a view to enabling it to fix the rates under sub-section (1) it is necessary or expedient so to do, it may constitute a Shipping Rates Advisory Board in the prescribed manner for the purpose of advising it; and such Board may be constituted either generally or for a particular case or route or in respect of rates for the carriage of passengers or cargo or both.

(3) Where an order fixing the rates to be charged for hire or for the carriage of passengers or cargo has been published under sub-section (1) no owner, master or agent of a ship shall charge rates in excess of the rates so fixed.

(4) The Federal Government may determine a period to be observed between the notification and change which may be different for different shipping services.

(5) The power to make rules conferred by sub-section (1) shall, except on the first occasion of the exercise thereof, be subject to the conditions of previous publication.

80. Duty to notify tariffs and other transport conditions. A shipping operator in the coastal shipping shall notify at request freight rates and other transport conditions to the representative shippers' organizations.

81. Duty to provide conference agreement. The shipping operators in the coastal shipping who operate within the framework of a liner conference, shall provide the Federal Government with a copy of the liner conference agreement as soon as possible after it has been concluded or amended.

82. Power to disapprove conference agreement. (1) The Federal Government may disapprove a liner conference agreement or clauses therein, if

(a) the agreement or clauses therein contravene obligations contained in Sections 76 or 77;

(b) the agreement has not been provided in accordance with Section 81;

(c) the agreement or clauses therein are not in accordance with obligations contained in international agreements to which the Federal Government is a party; and

(d) the agreement provides for such high rates for the carrying out of the liner service as to seriously jeopardize the interests of the shippers.

(2) The Federal Government shall notify its decision in writing to the shipping operators and the representative shippers' organizations involved stating the grounds for disapproval.

(3) If the Federal Government has disapproved the provisions of any agreement relating to freight rates or other transport conditions, the previous freight rates or conditions shall apply to the agreement.

83. Prohibition on compliance with disapproved agreement. As soon as the Federal Government has notified disapproval of an agreement, or any part thereof, in accordance with sub-section (2) of Section 82, the parties shall not comply with the agreement or, as the case may be the disapproved part thereof.

84. Prohibition to contravene cargo sharing measures. No person shall transport cargo, provide sailing or use ships of tonnage in contravention of rules made under this Ordinance.

85. Representative Organizations. For the purposes of this Ordinance, the Federal Government may, by notification in Official Gazette, designate representative organizations of ship owners and shippers.

86. Power to call for information. (1) The Shipping Authority may, by notice served personally or by post, require the master, owner or agent of any ship to furnish, within the period specified in the notice, information regarding any of the following matters, namely:

(a) The classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any period specified in this behalf in the notice; and

(b) any other matter which may be prescribed.

87. Power of Shipping Authority to enter ship. Where, the Shipping Authority is of opinion that directions given under this Ordinance are not being complied with, it may enter or authorize any other person to enter on board any ship and require relevant documents for examination.

88. Penalty. If any person, on whom a notice has been served under Section 86, fails to furnish the information required within the specified time or in furnishing such information makes any statement which he knows to be false in any material particular, shall be liable to imprisonment which shall not be less than three months and fine which may extend to five hundred thousand rupees.

89. Power to make rules. (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely

(a) the manner in which rates shall be fixed under sub-section (1) Section 79;

(b) the Constitution and functions of the Board constituted under sub-section (2) of Section 79 and the procedure for discharge of its functions;

(c) the matters regarding which information may be required to be furnished under Section 86;

(d) the procedure for determining minimum or maximum number of sailing per year,

(e) the determination of number and type of ships and the amount of tonnage to be used;

(f) the description of government cargo;

(g) cargo sharing and recognition of national shipping line;

(h) the freight rates for the carriage of Government cargo; and

(i) any other matter which may or is to be prescribed.

PART IV

MANNING OF SHIP

CHAPTER 6.

CERTIFICATION OF COMPETENCY

90. Application. This part applies only to sea-going ships propelled by electricity or other mechanical power.

91. Ships to be provided with certificated officers. (1) Every Pakistani ship when going to sea from any port or place shall be provided with minimum number of duly certificated officers and ratings for various categories of ships as may be prescribed by the Federal Government.

(2) The Federal Government may, by order, exempt, subject to such terms and conditions as it may think fit to impose, any ship or class of ship from any of the manning requirements as set out under sub-section (1).

(3) Nothing in this section which relates to engineers shall apply to any ship to which the provisions of the Inland Mechanically Propelled Vessels Act, 1917 (I of 1917), apply as long as such ship is employed on voyages confined to ports or places within the same province.

(4) If any person

(a) having been engaged as one of the officers mentioned in sub-section (1) goes to sea as such officer without being duly certificated or, as the case may be, approved, or

(b) employs a person as an officer without ascertaining that the person so employed is duly certificated or, as the case may be approved: shall, for each offence, be liable to fine which may extend to fifty thousand rupees.

92. When officers or ratings deemed to be certificated. (1) Subject to the provisions of Section 100, an officer or rating shall not be deemed duly certificate under this Ordinance unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade granted or deemed to have been so granted in accordance with this Ordinance.

(2) The Federal Government may, if it considers `necessary or expedient so to do, permit, by order in writing, any person, not being a person otherwise duly certificate who satisfies the prescribed requirements, to act in a capacity higher than that for which he is so certificate, and a person capacity for so long as the order remains in force, but nothing herein shall permit anyone to act as a master unless he holds class Master Mariner Certificate or a certificate of lower grade with suitable endorsements appropriate for the class of ships or as Chief engineer required under this Ordinance to hold a certificate not lower than Class I Chief Engineer Certificate.

93. Grades of certificates of competency. (1) Certificates of competency and other certificates including endorsements to the qualified officers of any description or qualified seamen of any

description shall be granted in accordance with this Ordinance for each of the following grades, namely:-

- (a) Master of foreign-going ship or certificate of competency (Deck Officer) Class I master Marine;
- (b) first Mate of foreign-going ship or certificate of competency (Deck Officer) class II;
- (c) second Mate of foreign-going ship or certificate of competency (Deck Officer) class III;
- (d) certificate of competency (Deck Officer) class IV;
- (e) first class engineer or certificate of competency (Chief Engineer Officer) class I;
- (f) second class engineer or certificate of competency (second Engineer Officer) class II;
- (g) certificate of competency (Marine Engineer Officer) class III;
- (h) certificate of competency (Marine Engineer Officer) class IV.
- (i) master home trade endorsement;
- (j) master coastal trade endorsement;
- (k) tug master endorsement;
- (l) certificate of qualification as master of a foreign-going tug;
- (m) skipper;
- (n) chief engineer officer endorsement;
- (o) dangerous cargoes such as crude liquid petroleum or petroleum products or liquid chemical or liquefied gases endorsement; and
- (p) certificate or endorsements to seaman as required by the international conventions from time to time.

(2) Certificates of competency specified in clauses (b), (c) and (d) of sub-section (1) may be endorsed in accordance with this Ordinance for all or any of the following, namely

- (a) master (home trade);
- (b) master (coasting ship); or
- (c) tug master; and

(d) certificates of competency specified in clauses (f), (g) and (h) of sub-section (1) may be endorsed in accordance with this Ordinance for Chief Engineer Officer endorsement.

(3) A certificate of competency granted for the grade of engineer officer shall state whether it entitles the holder to act as engineer of ships fitted with steam engines or of ships fitted with any other type of engines, or of ships fitted with any other type of engines, and the holder shall not be entitled to act as engineer of a ship fitted with a type of engine not stated in the certificate.

(4) A certificate of competency (Deck Officer) class I shall entitle the lawful holder thereof to go to sea as a master in any class of ship and a certificate of competency suitably endorsed for master (home trade) shall entitle the lawful holder thereof to go to sea in corresponding grade in a coasting ship.

(5) If it appears to the Federal Government that certificates of competency for grades other than those set out in sub-section (1) may be granted, it may, by notification in the official Gazette, specify the other grades in respect of which certificates of competency may be granted.

94. Examinations for certificates. The federal Government, or a person duly authorized by it in this behalf, shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency or endorsements under this Ordinance.

95. Grant of certificates on passing examination. The Federal Government or any person authorised by it under Section 94, shall grant to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have passed the examination satisfactory and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such certificate of competency and appropriate endorsements as the case requires:

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

96. Certificate of competency for Naval Officers. Subject to rules made under Section 105 of this Ordinance a person, not being in Pakistan Naval reserve

(a) who has attained the rank of Lieutenant Commander in the Executive Branch of the Pakistan Navy and has completed not less than three and a half years watch-keeping service actually at sea may be granted a certificate of competency (Deck Officer) class I;

(b) who has attained the rank of Lieutenant Commander or Lieutenant in the engineering branch of the Pakistan Navy and has complete, if a Lieutenant Commander not less than three and a half years, and if a Lieutenant not less than twenty-one months' watch-keeping service at sea, may be granted a certificate of competency (Engineer Officer) Class I and Class II respectively.

97. Form of certificates. Every certificate of competency granted under this Ordinance shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate and the other shall be kept by the Federal Government and recorded in the prescribed manner.

98. Record of orders affecting certificates. A note of all orders made under this Ordinance for suspending, canceling, altering or otherwise affecting any certificate of competency shall be entered on the copy of the certificate kept by the Federal Government.

99. Loss of certificate. Whenever a master, mate, or engineer proves to the satisfaction of the Federal Government that he has, without any fault on his part, lost or been deprived of a certificate of competency granted to him under this Ordinance, the Federal Government shall, on payment of the prescribed fee, if any, cause a copy of the certificate, to which by the record kept in accordance with this Ordinance he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

100. Recognition of certificates of competency granted in other countries. Where the law in force in a foreign country provides for the examination of, and grant of certificates of competency to, persons intending to act as masters, mates or engineers on board ships, and the Federal Government is satisfied that

(a) the examinations are so conducted as to be equally efficient with the examinations so conducted as to be equally efficient with the examinations for the same purpose in Pakistan under this Ordinance;

(b) the certificates are granted on such principles as to show the like qualifications and competency as those granted under this Ordinance;

(c) the certificates are liable to be cancelled or suspended for like reasons and in like manner as those granted under this Ordinance; and

(d) the certificates granted under this Ordinance are accepted or recognised in that foreign country as equivalent to the corresponding certificates granted under the law of that country, the Federal Government may, by notification in the official gazette, declare that any certificate of competency granted under the laws in that foreign country and specified in notification, shall, subject to such conditions, if any, as the Federal Government may think fit to impose, be recognised as equivalent to the corresponding certificates of competency granted under this Ordinance shall apply to such certificates.

101. Restriction on employment of aliens. Notwithstanding the provisions of Section 100, no person, who is not for the time being a citizen of Pakistan, shall be employed to act as master, mate or engineer of any Pakistani ship except with the previous permission in writing of the Federal Government and in giving such permission the Federal Government may impose such conditions as to duration of employment or otherwise as it may think fit.

102. Production of certificates and other documents of qualifications. Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of this Ordinance, shall on

demand produce it to any shipping master, surveyor or proper officer, and if he is not himself the master, to the master of the ship; and if he fails to do so without reasonable cause he shall be liable on summary conviction to a fine which may extend to ten thousand rupees.

103. Power to cancel or suspend certificates. If it appears to the Federal Government that the holder of a certificate of competency granted under this Ordinance has obtained it on false or erroneous information, it may, without prejudice to any other penalty to which such holder may be liable, cancel or suspend such certificate:

Provided that no order under this section shall be passed by the Federal Government unless the person concerned has been given an opportunity of making a representation against the proposed order.

104. Penalty. If any person

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

(b) makes, assists in making, or procures to be made any false representation for the purpose of procuring either for himself or for any other person a certificate of competency; or

(c) fraudulently uses a certificate of competency, or a copy thereof, which has been forged, altered, cancelled or suspended, or to which he is not entitled; or

(d) fraudulently lends his certificate of competency or allows it to be used by any other person:

he shall, for each offence, be punishable with imprisonment which shall not be less than three months and fine which may extend to five hundred thousand rupees.

105. Power to make rules as to grant of certificates of competency. The Federal Government may, by notification in the official Gazette, make rules to regulate the grant of certificates of competency and the endorsements thereon under this Ordinance and may be such rules

(a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers, ratings and the endorsements thereon;

(b) prescribe the qualifications required of persons for the grant of certificates of competency and the endorsements thereon;

(c) fix the fees to be paid by applicants for examinations or for the issue of duplicate certificates;

(d) prescribe the form of such certificates and the manner in which copies thereof are to be kept and recorded; and

(e) any other matter which it is necessary to prescribe.

CHAPTER 7.

APPRENTICESHIP TO SEA SERVICE

106. Assistance for apprenticeship to sea service. All Shipping Masters shall give to persons desirous apprenticing boys not under seventeen years of age for training to the sea service or requiring apprentices not under that age for the sea service, such assistance as may be in their power, and may receive from those persons such fees as may be prescribed.

107. Special provisions as to apprenticeship to sea service. (1) The apprenticeship of any boy to the sea service shall be by contract in writing between the apprentice or, if he is a minor, his guardian on his behalf, and the persons taking the apprentice.

(2) Every contract under sub-section (1) shall be executed in duplicate in such form and in such manner as may be prescribed.

(3) Every such contract made in Pakistan and every assignment or cancellation thereof, and where the apprentice bound deserts or dies the fact of the desertion or death shall be recorded in the manner provided in Section 108.

108. Manner in which contract, etc. is to be recorded. (1) The person to whom an apprentice to the sea service is bound for the purpose of the record, shall

(a) transmit to the Shipping-Master both copies of the contract within seven days of the execution thereof and the Shipping Master shall record one copy and endorse the fact that it has been so recorded on the other and return the same to such person; and

(b) notify to the Shipping Master and assignment or cancellation of the contract and the desertion or death of the apprentice, within seven days of its occurrence, if it occurs within Pakistan, or as soon as circumstances permit, if it occurs elsewhere.

(2) If any person fails to comply with any of the requirements of sub-section (1), he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

109. Production of contract to persons before voyage in ship. (1) the master of a ship shall, before carrying an apprentice to sea from a port or place in Pakistan, cause the apprentice to appear before the Shipping Master before whom the crew are engaged, and shall produce to him contract by which the apprentice is bound and every assignment thereof.

(2) The name of the apprentice, with the date of the contract and of the assignments thereof, if any, and the names of the ports at which the same have been registered shall be entered on the agreement with the crew.

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

CHAPTER 8.

EMPLOYMENT OF YOUNG PERSONS

110. Employment of young persons. No person under fifteen years of age shall be engaged or carried to sea to work in any capacity in any ship except

- (a) in a school ship, or training ship in accordance with the prescribed conditions;
- (b) in a ship in which all persons employed are members of one family; or
- (c) where such person is to be employed on nominal wages and shall be under the protection of his father or other adult near male relative.

111. Engagement of young persons as trimmer or stoker. (1) Save as otherwise provided in sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship.

(2) Sub-section (1) shall not apply

(a) to any work of trimming or stoking done by a young person in a school ship or training ship in accordance with the prescribed conditions; or

(b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or

(c) to the engagement or carrying to sea of a young person over sixteen years of age to work as a trimmer or stoker on a home trade ship in accordance with the prescribed conditions.

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

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

112. Medical examination of young persons. (1) Save as otherwise provided in sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(2) Sub-section (1) shall not apply

(a) to the employment of a young person in a ship in which all persons employed are members of one family; or

(b) where the Shipping Master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without certificate required by sub-section (1) being delivered to

the master, and young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (1).

(3) A certificate of physical fitness required by sub-section (1) shall remain in force for two years only from the date on which its is granted.

(4) The Shipping Master may require the master of any ship to produce for inspection any medical certificate delivered to him under sub-section (1).

113. Penalty for false representation by parent or guardian. If any young person is engaged to work in any capacity in a ship in contravention of Section 110, Section 111, or Section 112, on a false representation by his parent or guardian, or any other person, that the young person is of an age at which such engagement is not in contravention of any of those sections, such parent or guardian shall be liable to a fine which may extend to five thousand rupees.

114. Penalty for contravention of Section 110, 111 and 112. If any young person is carried to sea to work in contravention of Section 110, Section 111 or Section 112 or if any master refuses or neglects to produce for inspection and certificate of physical fitness delivered to him, when required so to do, under sub-section (4) of section 112 he shall, for each such offence, be liable to a fine which may extend to five thousand rupees.

115. Maintenance of list or register of young persons in a ship and penalty for failure to maintain or produce for inspection register of such persons. (1) There shall be included in every agreement with the crew of every ship whether a Pakistani ship or not, which engages young persons in Pakistan a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any ship where there is no agreement, the master shall maintain a register of young person with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

(2) The shipping Master may required the master of any ship where there is no such agreement as aforesaid to produce for inspection the register maintained under sub-section (1).

(3) If any master fails to maintain the register required to be maintained under sub-section (1), of refuses or neglects to produce such register for inspection when required so to do under sub-section (2), he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

116. Power to make rules. The Federal Government may, by notification in the official Gazette, make rules prescribing,

(a) the conditions of employment of young persons, in any capacity, in school ships and training ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;

(b) the conditions of employment of young persons as trimmers or stokers in home trade ships and coasting ships;

(c) the authorities whose certificates of physical fitness shall be accepted for the purposes of Section 112; and

(d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

CHAPTER 9.

ENGAGEMENT OF SEAMEN

117. Rules relating to engagement of seaman and maritime labour. (1) Subject to the other provisions of this Ordinance, the Federal Government may, by notification in the official Gazette, make rules regulating the engagement of seamen and other matters affecting maritime labour generally so far as they relate to Pakistani ships.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely

(a) the establishment of one or more maritime services and welfare boards and the Constitution, composition and functions thereof;

(b) the registration of seamen, and the fees to be charged by the Shipping Master for the issue of registration books and other forms to them; and

(c) the principles and procedure to be followed by ship owners in engaging and promoting seamen.

118. Supply of seamen in contravention of this Ordinance prohibited. (1) A person shall not engage, supply or employ for the purpose of engaging or supplying a seaman to be entered on board any Pakistani ship unless that person is the owner or master of the ship or is bona fide servant and in the constant employment of owner, or is a shipping Master or Deputy Shipping Master or an agent licensed under Section 119.

(2) A person shall not receive or accept to be entered on board any Pakistani ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of sub-section (1).

(3) If a person contravenes the provisions of sub-section (1) or sub-section (2) he shall, for each offence, be liable to a fine which may extend to one hundred thousand rupees.

119. Manning agent. (1) No person shall act in Pakistan as a manning agent unless it is a company licensed as a manning agent with the Federal Government.

(2) the Federal Government may, by notification in the official Gazette, make rules specifying conditions of the manning agent.

120. Seamen to be in possession of seamen's service book. (1) No person shall engage any Pakistani seaman at any port or place in Pakistan except in a coasting ship of a gross tonnage

of less than two hundred so long as such coasting ship is employed on voyages confined to ports of places within the same Province unless the seaman is in possession of a seaman's service book issued in Pakistan by a Shipping Master in a form as may be prescribed, or a valid Pakistan International Passport.

(2) If a person engages any seaman in contravention of sub-section (1), he shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

121. Loss of seaman's service book. Whenever a seaman proves to the satisfaction of a Shipping Master that the continuous discharge certificate issued to him has, without any fault on his part, been lost, torn or defaced, or that he has otherwise been deprived of it, the Shipping Master shall, on payment of the prescribed fee, if any issue to the seaman a copy of the certificate to which he may be entitled and such copy shall have all the effect of the original.

122. Cancellation of seaman's service book. (1) Notwithstanding anything contained elsewhere in this Ordinance, the Shipping Master may suspend, cancel, or confiscate the seaman's service book of any seaman who is shown, to the satisfaction of the Shipping Master, to have deserted his ship or is found guilty of smuggling, theft, misbehavior or is in breach of agreement or such other offence as may, in the opinion of the Shipping Master, make him unsuitable for employment on board a ship.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of receipt of such order, prefer an appeal to the Federal Government.

(3) An appeal under sub-section (2) shall be preferred and disposed of in such form and manner as may be prescribed.

123. Certificate of physical fitness. (1) No person shall engage any Pakistani seaman other than master and officers at any port or place in Pakistan, nor carry to sea any such seaman other than Master and officers in any ship officers, are in possession of a certificate in the prescribed form issued in the capacity in which he is to serve.

(2) The Federal Government may make rules for carrying into effect the provisions of this section and the rules so made may provide for

(a) the standard of physical fitness required of seamen or different classes of seamen having regard to the age of the seamen and the nature of duties to be performed by them;

(b) the nature of the medical examination of seamen and the authority by whom the medical examination shall be conducted;

(c) the form and the contents of the certificates of physical fitness and the period of their validity; and

(d) the medical authority by whom a seaman who has been refused a certificate of physical fitness in the first instance may be re-examined, and the fee payable for such re-examination.

(3) If any person engages or carries any seaman in contravention of sub-section (1), he shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

(4) An owner, master or agent may, prior to engaging a seaman who is in possession of a valid certificate of physical fitness, have him examined by any registered medical practitioner.

124. Rules relating to safe manning. (1) The Federal Government may, by notification in the official Gazette, make rules regulating the issuance of minimum safe manning certificate to ships of any class or type, provided any shortage of the officers or ratings listed in such certificate owing to unavoidable circumstances of this Ordinance until the voyage is completed.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely

(a) the rating of seamen other than officers;

(b) the minimum and maximum age limits, qualifications and experience required for each rating; and

(c) the number of each rating to be carried on board a ship having regard to her tonnage, mode of propulsion, daily consumption of fuel, number of passengers she is certified to carry and the life saving appliances carried thereon.

125. Agreement with crew. (1) The master of every Pakistani ship, except a coasting ship of a gross tonnage of less than two hundred so long as such coasting ship is employed on voyages confined to ports or places within the same Province, shall enter into an agreement in accordance with this Ordinance with every seaman whom he engages at, and carries to sea as one of his crew from, any port or place in Pakistan.

(2) The master of a ship who neglects or fails to enter into an agreement required by sub-section (1) shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

126. Forms and contents of agreement. (1) An agreement with the crew made under Section 125 shall be in the form approved by the Federal Government, and shall be dated at the time of the first signature thereof, and shall be signed,

(a) where the ship is at the port or place of engagement, by the master before any seaman signs the same; and

(b) where the ship is not at the port or place of engagement, by the owner or the owner's agent before the master signs it and by the master before the seaman is on board.

(2) An agreement with the crew made under Section 125 shall contain as terms thereof the following particulars, namely

(a) the name of the ship or ships with the official number of numbers in which each seaman undertakes to serve;

(b) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or maximum period of the voyage or engagement and the places or ports of the world, if any, to which the voyage or engagement is not to extend;

(c) the time at which each seaman is to be on board or to being work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman, such scale being not less than the prescribed scale;

(g) any regulations as to conduct on board and as to fines, short allowance or provision or other lawful punishments for misconduct, which have been sanctioned by the Federal Government as regulations proper to be adopted, and which the parties agree to adopt;

(h) payment of compensation for personal injury or death caused by accident arising out of or in course of employment;

(i) where it is agreed that the services of any Pakistani seaman shall end at any port or place outside Pakistan, a stipulation to provide him either fit employment on board some other ship bound to the port or place at which he was engaged or to such other port or place in Pakistan as may be mutually agreed upon, or a passage free of charge to any such port or place; and

(j) stipulations relating to such other matters as may be prescribed.

(3) the agreement with the crew made under section 125 shall provide that in the event of a dispute arising outside Pakistan in respect of any matter touching the agreement, such dispute shall be referred to the Pakistan consular officer whose decision thereon shall be binding on the parties until the return of the ship to the port or place in Pakistan at which the seaman is to be discharged.

(4) The agreement with the crew made under Section 125 shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seamen in each case respecting the advance of wages or supply of warm clothing and similar other matters, as are not inconsistent with the provisions of any law for the time being in force relating to merchant shipping.

(5) If a master enters into an agreement with any seaman for a scale of provisions less than the prescribed scale he shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

127. Engagement in Pakistan of seamen for foreign ships. If the master, owner or agent of a foreign ship engages seamen from any port or place in Pakistan, it shall not be necessary for such seaman to enter into an agreement under Section 125 of this Ordinance.

128. Special provisions with regard to agreements with crew of Pakistan foreign-going ships. (1) The following provisions shall have effect with respect to the agreement with the crew made in Pakistan in the case of Pakistan foreign-going ships, namely:-

(a) The agreement shall, subject to the provisions of this Ordinance, as to substitute, be signed by each seaman in the presence of a Shipping Master;

(b) the Shipping Master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature;

(c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be retained by the Shipping Master, and the other part shall be the Shipping Master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;

(d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost, within twenty four hours of the ship's putting to sea by desertion, death, or other unforeseen cause, the engagement shall, if practicable, be made before a Shipping Master, and if not practicable, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness who shall attest the signature;

(e) the agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may, subject to the provisions of sub-section (2), be made to extend over two or more voyages; and agreements so made are in this Ordinance referred to as running agreements;

(f) on every return to a port or place in Pakistan before the final termination of a running agreement, the master shall discharge or engage before the Shipping Master at such port or place any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement that no such discharges or engagements have been made or are intended to be made before the ship leaves such port or place or, as the case may be, that all those made have been made as required by law; and

(g) the master shall deliver the running agreement so endorsed to the Shipping Master, and the Shipping Master shall, if the provisions of this Ordinance relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) A running agreement shall not extend beyond the expiration of the period of six months from the date on which it was executed, or beyond the first arrival of the ship at her port or place of destination in Pakistan after the expiration of that period, or beyond the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of the period of six months from the date on which it was executed, the ship proceeds on a voyage from a port

or place outside Pakistan to any other such port or place which is not on the direct route or a customary route to her port or place of destination in Pakistan:

Provided further that every such agreement shall, in addition to any other particulars required by law, contain such stipulations, as the Federal Government may direct, for the discharge of the crew and payment of their wages for securing their return to the port or place at which they were shipped or to some other port or place in Pakistan, and for other purpose, on the termination of the agreement at a port or place outside Pakistan under the foregoing proviso.

(3) If any master wilfully makes a false statement in any such endorsement as is referred to in clause (f) of sub-section (1), he shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

129. Renewal of running agreements in certain cases. (1) When a running agreement has been made with the crew of a foreign-going Pakistani ship and the ship arrives after the expiration of a period of six months from the date on which it was executed at port or place of destination in Pakistan which is not the port or place at which the crew have agreed to be discharged, the master may, with the previous sanction of the Shipping Master, renew the agreement with the crew, or may be required by the Shipping Master so to renew the agreement for the voyage from such port or place of destination to the port or place in Pakistan at which the crew have agreed to be discharged.

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

130. Special provisions as to agreements with crew of home trade or coasting ships. (1) The following provisions shall have effect with respect to the agreements with crew of home trade ships or coasting ships for which an agreement with the crew is required under this Ordinance, namely:-

(a) an agreement for service in a home-trade ship or a coasting ship for which an agreement is required by section 125, not being a ship engaged exclusively on the work of any harbour, pilotage or local authority, shall be made for a single ship and the crew engaged before a Shipping Master as provided in this Ordinance for foreign-going ships; and such agreement may be made to extend over two or more voyages so that it shall terminate either within six months of the date on which it was executed or on the first arrival of the ship at her port or place of destination in Pakistan after the expiry of that period or on discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that if such agreement expires while the ship is not in a port or place in Pakistan, the agreement shall remain in force until the ship is again in such port or place;

(b) an agreement, if any, for service in coasting ship for which an agreement is not required by Section 125 shall not extend beyond the next following the thirtieth day of June or the thirty-

first day of December or the first arrival of the ship at her final port or place of destination in Pakistan after such date, or the discharge of cargo consequent on such arrival; and

(c) an agreement for service in two or more coasting ships belonging to the same owner may be made by the owner instead of by a master and the provisions of this Ordinance with respect to the making of the agreement shall apply accordingly.

(2) Notwithstanding anything contained in clause (b) or clause (c), the owner of two or more coasting ships or his agent may enter into time agreements in the form sanctioned by the Federal Government with individual seaman to serve in any one or more such ships belonging to such owner and such agreements may extend beyond the next following the thirtieth day of June or the thirty-first day of December.

131. Changes in crew to be reported. (1) The master of every Pakistani ship the crew of which has been engaged before a Shipping Master shall, before finally leaving Pakistan, sign and send to the nearest Shipping Master a full and accurate statement in the form sanctioned by the Federal Government, of every change which takes place in his crew before finally leaving Pakistan, and that statement shall be admissible in evidence.

(2) Nothing in sub-section (1) shall be construed as enabling the master to engage, except in accordance with the other provisions of this Ordinance, any seaman as an additional member of the crew.

(3) If any master fails without any reasonable cause to comply with the requirements of sub-section (1), he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

132. Certificates as to agreements with crew of foreign going and home trade ships. (1) In the case of a Pakistani foreign going ship or a Pakistani home trade ship, on the due execution of an agreement with the crew in accordance with this Ordinance, and also when, in the case of a Pakistani foreign going ship, the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement with the provisions of this Ordinance respecting that agreement, the Shipping Master shall grant the master of the ship a certificate to that effect.

(2) The master of every such ship as aforesaid shall, before proceeding to sea, produce that certificate to the Customs Collector whose duty is to grant a port clearance.

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

(4) The master of such ship shall within forty-eight hours after ship's arrival at the port or place where the crew is to be discharged, deliver such agreement to a Shipping Master at that port or place; and the Shipping Master shall thereupon give to the master a certificate to that effect; and no Customs Collector shall clear any such ship inwards without the production of such certificate.

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

133. Certificate as to agreement with care of coasting ship. (1) The master or owner of a Pakistani coasting ship for which an agreement with the crew is required under this Ordinance shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or, if the ship is not at any port or place in Pakistan within that period, within forty-eight hours of her next arrival at a port or place in Pakistan, deliver to a Shipping Master in Pakistan every agreement made within the six months next preceding such days respectively.

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

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

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

(2) Any master who fails, without reasonable cause, to comply with the provisions of subsection (1) shall, for each offence, be liable to a fine which may extend to five thousand rupees.

135. Alteration in agreement with the crew. Every erasure, interlineations or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineations or alteration by the written attestation, if made in Pakistan, of some Shipping Master, or, if made elsewhere, of a Pakistan consular officer.

136. List of crew to be furnished to Shipping Master. (1) The master or owner of every Pakistani ship, not being a ship engaged exclusively on the work of any harbour, pilotage or local authority, and the master of every ship, other than a Pakistani ship, while in a port or place in Pakistan, shall make out and sign a list (in this Ordinance referred to as the list of crew) in such form and containing such particulars as may be prescribed and different forms may be prescribed for different classes of ships.

(2) The list of crew relating to a ship, except a Pakistani coasting ship, shall be delivered to the Shipping Master at the port or place where the ship happens to be as soon after arrival as possible and before departure.

(3) The list of crew relating to a Pakistani coasting ship shall be delivered or transmitted by the master or owner to a Shipping Master in Pakistan or within twenty-one days after, the thirtieth day of June and the thirty-first day of December in each year; and the Shipping Master shall give to such master or owner a certificate of such delivery or transmission, and any such ship may be detained, and shall not be cleared in wards by the Customs Collector until the certificate is produce.

(4) Any master or owner who fails, without reasonable cause, to comply with any of the provisions of this section shall, for each offence, be liable to a fine which may extend to five thousand rupees.

137. Power to prohibit engagement of specified Pakistan seamen. The Federal Government or an officer authorised by it in this behalf may, by order in writing, stating the reasons thereof, prohibit any person from engaging, in Pakistan or in any specified part thereof, any citizen of Pakistan or any person domiciled in Pakistan to serve as a seaman on any ship specified in such order.

138. Power to board ships and muster seamen. (1) For the purpose of preventing seamen from being taken on board any ship at any port in Pakistan contrary to the provisions of this Ordinance, any Shipping Master may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the seamen employed therein.

(2) If the master or any other person obstructs any Shipping Master or Deputy Shipping Master in the execution of his duty under this section, he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

139. Forged seamen's service book. If any person who

(a) forges any seamen's service book or certificate of physical fitness, or a copy of any such certificate; or

(b) fraudulently alters any entry in any seamen's service book or a certificate of physical fitness; or

(c) fraudulently alters any entry in any seamen's service book or a certificate of physical fitness which is forged or altered or does not belong to him, he shall, for each offence, be liable to a fine which may extend to fifty thousand rupees.

CHAPTER 10

DISCHARGE OF SEAMEN

140. Discharge of seamen before Shipping Master. (1) When a seaman serving in a foreign going ship or home trade ship is, on the termination of his engagement, discharged in Pakistan, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Ordinance in the presence of a Shipping Master.

(2) The provisions of sub-section (1) shall apply in relation to the discharge of seamen serving in any Pakistani coasting ship for which an agreement is required under this Ordinance as they apply in relation to the discharge of seamen serving in a foreign ship or home trade ship

Provided that this sub-section shall not apply where a seaman is discharged from a ship under an agreement made in accordance with Section 128 for service in two or more ships for the purpose of being engaged in another ship to which the agreement relates.

(3) If the master or owner of a Pakistani coasting ship for which an agreement with the crew is not required under this Ordinance so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign going ship or home trade ship.

(4) If any master, owner or owner's agent acts in contravention of any of the provisions of this section, he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

141. Entries to be made in seamen's service book and return of certificates of competency to Officers or discharge. (1) If a seaman is discharged from a ship in Pakistan, either on his discharge or on payment of his wages, the master shall enter in the seamen's service book, discharge of the seaman under his signature and particulars specifying the period of the seaman's service and the date and place of his discharge.

(2) The master shall, upon the discharge of every certificated officer whose certificate of competency has been delivered to, and retained, by him return the certificate to the officer.

(3) If a master acts in contravention of sub-section (1), or fails, without reasonable cause, to return the certificate of competency to the officer concerned as required by sub-section (2), he shall for each offence, be liable to a fine which may extend to ten thousand rupees.

142. Discharge of a seaman aboard. (1) When the master of a Pakistani ship discharges a seaman at any port or place outside Pakistan, except at a port or place in a country in which the seaman was engaged, the provisions of this Ordinance respecting the discharge of seaman in Pakistan shall apply subject to the following modifications, namely:-

(a) at a port or place having a Pakistani consular officer:-

(i) the master shall not discharge a seaman except with the previous sanction of the Pakistan consular officer endorsed on the agreement with the crew nor unless the law in force at such port or place prohibits it, otherwise than in the presence of that officer;

(ii) the Pakistan consular officer to whom an application is made for sanction under clause (i) shall examine the grounds on which the seaman is proposed to be discharged, and may grant or refuse such sanction; and

(iii) if a copy of the report as required by sub-section (1) of Section 141 is endorsed on the seaman's continuous discharge certificate, the Pakistan consular officer shall verify the same; and

(b) at a port or place where there is no Pakistan consular officer the master may himself, if not contrary to any law in force in such port or place, discharge a seaman and shall, if the seaman so desires, endorse on his continuous discharge certificate the report as required by sub-section (1) of Section 141.

(2) As soon as may be after a seaman has been discharged under sub-section (1), the master shall sign and send to the Shipping Master before whom the crew was engaged a full and accurate statement in the form sanctioned by the Federal Government of the seaman so discharged.

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

143. Discharge of seamen and apprentices on change of ownership. (1) Where a Pakistani ship is transferred or disposed of at any port or place outside Pakistan, every seaman and apprentice belonging to that ship shall be discharged at that port or place unless the seaman or apprentice consents in writing in the presence of the Pakistan consular officer to complete the voyage of the ship if continued.

(2) Where a seaman or apprentice is so discharged, the provisions of this Ordinance as to continuous discharge certificate and the repatriation of the seaman or apprentice to proper return port shall apply as if the service of the seaman or apprentice had terminated otherwise than by the consent of the seaman to be discharged during the currency of the agreement.

144. Transmission of documents on transfer of seaman from one ship to another. (1) Where a seaman is transferred under his agreement from one ship to another the master of the ship from which the seaman is transferred shall, as soon as practicable, transmit to the master of the other ship all documents in his possession relating to the seaman.

(2) If the master fails, without reasonable cause, to comply with sub-section (1), he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

145. Repatriation of seamen and apprentices on termination of service abroad. (1) When the service of a seaman or apprentice terminates, without the consent of the seaman or apprentice at a port or place outside Pakistan, and before the expiration of the period for which the seaman was engaged or the apprentice was bound, the master or owner of the ship shall, in addition to any other relative obligation imposed on either of them under this Ordinance, make adequate provision for the maintenance of the seaman or apprentice according to his rank or rating, and for the return of that seaman or apprentice to a proper return port.

(2) If the master or owner fails without reasonable cause to comply with sub-section (1), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seaman or apprentice, be recoverable as wages due to him, and if defrayed by a Pakistan consular officer, be regarded as expenses falling within the provisions of sub-section (2) of Section 181.

Explanation. Inability to provide the said expenses shall not, for the purposes of this sub-section, be regarded as reasonable cause.

146. Leaving behind in Pakistan a seaman apprentice shipped aboard. (1) The master of a ship shall not discharge at any port or place in Pakistan a seaman or apprentice shipped outside Pakistan unless he previously obtains sanction in writing of a Shipping Master, but such sanction shall not be refused when the seaman or apprentice is discharged on the expiration of the period for which the seaman was engaged or the apprentice was bound.

(2) Subject to the provisions of sub-section (1), the sanction may be given or refused at the discretion of the Shipping Master and whenever it is refused the reasons for so refusing it shall be recorded by him.

147. Leaving behind a seaman or apprentice by masters of Pakistani ships. (1) Master of Pakistani ship shall not leave a seaman or apprentice behind at any port or place outside Pakistan except where the seaman or apprentice is discharged in accordance with this Ordinance, unless he previously obtains from Pakistan consular officer a certificate endorsed on the agreement with the crew and stating the cause of the seaman or apprentice being left behind.

(2) The Pakistan consular officer to whom an application is made, for a certificate under which the seaman or apprentice is to be left behind, may grant or refuse the certificate as he thinks just.

(3) As soon as may be, after a seaman or apprentice is left behind under sub-section (1), the master shall sign and send to the Shipping Master before whom the crew was engaged a full and accurate statement in the form sanctioned by the Federal Government of the seaman or apprentice so left behind.

(4) If a master acts in contravention of any of the provisions of this section, he shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

148. Wages and other property of seaman or apprentice left behind Pakistani ships aboard. (1) If a seaman or apprentice belonging to a Pakistani ship is left behind at any port or place outside Pakistan, the master of the ship shall enter in the official log book a statement of the amount due to the seaman or apprentice in respect of wages at the time when he was left behind and of all property left on board by him, and shall take such property into his charge.

(2) Within forty-eight hours after the arrival at the port in Pakistan at which the voyage terminates, the master shall deliver to the Shipping Master

(a) a statement of the amount due to the seaman or apprentice in respect of wages, and of all property left on board by him; and

(b) a statement, with full particulars, of any expenses that may have been caused to the master or owner of the ship by the absence of the seaman or apprentice, where the absence is an offence punishable under Section 204; and if required by the Shipping Master to do so, shall furnish such vouchers as are reasonably required to verify the statements.

(3) The master shall at the time when he delivers that statements referred to in sub-section (2) to the Shipping Master also deliver to him the amount due to the seaman or

apprentice in respect of wages and the property that was left on board by him, and the Shipping Master shall give to the master a receipt therefor in the prescribed form.

(4) The master shall be entitled to be reimbursed out of the wages or property referred to in clause (a) of sub-section (2) such expenses in the statement referred to in clause (b) of that sub-section as appear to the Shipping Master to be properly chargeable.

CHAPTER 11.

WAGES OF SEAMEN

(A) PAYMENT OF WAGES

149. Master to deliver account of wages. (1) the Master of every ship shall, before paying off or discharging a seaman under this Ordinance, deliver at the time and in the manner provided by this Ordinance a full and true account in a form sanctioned by the Federal Government of the seaman wages and of all deductions to be made therefrom on any account whatever.

(2) The said amount shall be delivered

(a) where the seaman is not discharged before Shipping Master, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

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

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

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

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

151. Disrating of seamen. (1) Where the master of a ship disrates a seaman, he shall forthwith enter or cause to be entered in the official log-book a statement of the disrating, and furnish the seaman with a copy of the entry, and any reduction of wages consequent on the disrating shall not take effect until the entry has been so made and the copy so furnished.

(2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 149 and 150.

152. Deductions on account of provident fund, etc. (1) Notwithstanding anything contained elsewhere in this Ordinance, or in any other law for the time being in force, a deduction may be made from the wages of a seaman either monthly or at the end of a voyage as applicable in each case, on account of provident fund, pension, social insurance, gratuity or any other fund approved by the Federal Government for the purpose.

(2) the Federal Government may make rules with regard to the manner in which the deductions from the wages may be made and the amount of such deductions for the purposes of such fund, and the collection, deposit, withdrawal, administration, disbursement, expenditure and other ancillary matters relating thereto.

153. Payment of wages before Shipping Master. (1) Where a seaman is discharged before a Shipping Master in Pakistan, the master or owner of the ship shall pay the wages of the seaman through, or in the presence of, the Shipping Master unless a competent Court otherwise directs; and in such a case, if the master or owner pays the wages in the other manner, he shall be liable to a fine which may extend to ten thousand rupees.

(2) If the master or owner, of a home-trade ship of a gross tonnage of less than two hundred, so desires he may pay the wages of the seaman of that ship in the same manner as a seaman discharged from a foreign-going ship is paid.

154. Time of payment of wages. (1) The master or owner of every ship discharging a seaman under this Ordinance shall pay to every seaman his wages within five days of the seaman's discharge and the seaman shall at the time of his discharge, be entitled to be paid on this account a sum equal to his balance or wages due to him.

(2) If the seaman consents, the final settlement of his wages may be left to the Shipping Master, and the receipt of the Shipping Master shall in that case operate as if it were a release given by the seaman in accordance with this Chapter.

(3) In the event of the seamen's wages or any part thereof not being settled under sub-section (2), then unless the delay is due to the act or default of the seaman or to any reasonable dispute as to liability or to any other cause not being the wrongful act or default of the owner or master, the seamen's wages shall continue to run and be payable until the time of the final settlement thereof.

(4) If the Master or owner, except in a case where final settlement of wages is left to a Shipping Master under sub-section (2), fails, without reasonable cause, to make payment as required by sub-section (1), he shall pay to the seaman such sum not exceeding the amount of two days' pay for each of the days during which the payment is delayed the Shipping Master may, in each case, decide.

(5) Any sums payable under sub-section (4) may be recovered as wages.

155. Settlement of wages. (1) Where a seaman is discharged and the settlement of his wages completed before a Shipping Master, he shall sign in the presence of the Shipping Master a release in a form sanctioned by the Federal Government of all claims in respect of the past

voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the Shipping Master.

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

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

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

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

(6) Notwithstanding anything contained in the preceding sub-sections a seaman may except from the release signed by him, any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release; and the release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall sub-section (4) apply to any payment, receipt or settlement made with respect to any such claim or demand.

156. Decision of disputes by Shipping Master. (1) Where under the agreement with the crew any dispute arises at any port in Pakistan between the master, owner or agent of a ship and any of the crew of the ship, it shall be submitted to the Shipping Master

(a) where the amount in dispute does not exceed five thousand rupees, at the instance of either party to the dispute; and

(b) in any other case, if both parties to the dispute agree in writing to submit the dispute to the Shipping Master.

(2) The Shipping Master shall hear and decide the dispute so submitted and an award made by him upon the submission shall be conclusive as to the rights of the parties, and any document purporting to be such submission or award shall be prima facie evidence thereof:

Provided that if, in any case, the Shipping Master is of opinion that any question of law is involved he may refer the case for opinion of the High Court.

(3) an award made by a Shipping Master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by a magistrate under this Ordinance.

(4) Nothing in the Arbitration Act, 1940 (X of 1940), shall apply to any matter submitted to a Shipping Master for decision under this section.

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

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

158. Rate of exchange for payment of seamen in Pakistan. Where a seaman or apprentice has agreed with the master of a ship for payment of his wages in Pakistan or other currency, and payment of, or on account of, his wages, if made in any currency other than that stated in the agreement shall, notwithstanding anything in the agreement, be made at the rate of exchange for the time being current at the place where the payment is made.

(B) RIGHTS OF SEAMEN IN RESPECT OF WAGES

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

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

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

161. Wages on termination of service by wreck, illness, etc. (1) Where the service of any seaman engaged under this Ordinance terminate before the date contemplated in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside Pakistan under a certificate granted under this Ordinance of his unfitness or inability to proceed on the voyage, the seaman shall be entitled to receive,

(a) in the case of wreck, loss or abandonment of this ship

(i) wages at the rate to which he was entitled at the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrives at a proper return port, or for a period of one month, whichever be longer; and

(ii) compensation for the loss of his effects,

(a) in the case of a seaman employed on a home-trade ship, of not less than one month's wages; and

(b) in the case of seaman employed on a foreign going ship, of not less than three month's wages; and

(b) in the case of unfitness or inability or proceed on the voyage, wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port subject to such limits as may be prescribed.

(2) A seaman shall not be entitled to receive any wages under sub-clause (i) of clause (a) of sub-section (1) if he declines to avail himself of the repatriation arrangements made by, or on behalf of, the owner and approved by the Pakistan consular officer concerned, nor shall a seaman be entitled to receive such wages in respect of any period during which

(a) he was, or could have been suitably employed, or

(b) through negligence he failed to apply to the proper authority for relief as a distressed or destitute seaman.

(3) This section shall apply to every person employed or engaged in any capacity on board any ship and for the time being entered on the ship's articles of agreement and to every master, pilot and apprentice, as it applies to a seaman.

162. Wages not to accrue during refusal or imprisonment. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when so required nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

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

164. Restriction on sale of and charges upon wages. (1) As respects wages due or accruing to a seaman or apprentice

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

(2) The provisions of clauses (b) and (c) of sub-section (1) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund approved in this behalf by the Federal Government, the main purpose of which is the provision of benefits for seamen on retirement; and the provisions of clauses (a) and (d) of sub-section (1) shall not apply to anything done or to be done for giving effect to such an assignment.

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

165. Summary proceedings for wages. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him become payable, use for the same in a summary manner before any magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged or at which any person upon whom the claim is made is or resides, and the order made by the magistrate in the matter shall be final.

166. Restrictions on suits for wages. A proceeding for the recovery of wages shall not be instituted by, or on behalf of, any seaman or apprentice in any Civil Court

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

(C) ADVANCES AND ALLOTMENT OF WAGES

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

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

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

or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(4) No seaman, who has been lawfully engaged and has received under his agreement an advance payment shall, wilfully or through misconduct, fail to attend his ship or desert therefrom before the payment becomes really due to him.

(5) Where it is shown to the satisfaction of the Shipping Master that a seaman lawfully engaged has wilfully or through misconduct failed to join the ship, the Shipping Master may withhold any of the seaman's certificate of discharge for such period as he may think fit, and while a seaman's certificate of discharge is so withheld, the Shipping Master may refuse to furnish copies of any such certificate or certified extracts therefrom.

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

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

(3) Allotment notes shall be in the form as the Federal Government may prescribe.

169. Payment of sums allotted. (1) The owner or any agent who has authorised the drawing of an allotment note shall pay or remit to the persons nominated in this behalf by the seaman the amount mentioned in such note, and inform the Shipping Master that this has been done.

(2) If any owner or agent fails to pay, or remit as aforesaid, any such amount the Shipping Master shall demand the sums due under the allotment note and if the owner or agent fails to pay such sums to the Shipping Master, the Shipping Master may sue for and recover the same with costs:

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

(3) Shipping Master on receiving any such sum as aforesaid shall pay it over to the person, bank or fund named in that behalf in the allotment note.

(4) All such receipts and payment shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of a Shipping Master.

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

CHAPTER 12.

PROPERTY OF DECEASED SEAMEN

170. Master to take charge of the effects of deceased seaman. (1) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in Pakistan, dies during that voyage, the master of the ship shall immediately report the death to the Shipping Master at the port of engagement of the seaman and take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he thinks fit, cause any effects to be sold by public auction.

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

(a) A Statement of the amount of money and description of the effects;

(b) in the case of a sale, a description of each article sold and the sum received for each; and

(c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

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

171. Disposal of property of seaman who dies during the voyage. (1) Where a seaman or apprentice dies as aforesaid and the ship, before coming to a port in Pakistan, touches and remains for more than forty-eight hours at some port elsewhere, the master shall report the case to the Pakistan consular officer at such port and shall give to that officer any information he requires as to the destination of the ship and probable length of the voyage.

(2) The Pakistan consular officer may, if he thinks it expedient require the property of the seaman or apprentice to be delivered and paid to him and shall thereupon give to the master a receipt thereof and endorse under this hand upon the agreement with the crew such particulars with respect thereto as the Federal Government may require.

(3) The receipt shall be produced by the master to the Shipping Master within forty-eight hours after his arrival at his port of destination in Pakistan.

(4) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in Pakistan without touching and remaining as aforesaid at a port elsewhere or the Pakistan consular officer does not require the delivery and payment of the property as aforesaid the

master shall, within forty-eight hours after his arrival at his port of destination in Pakistan, pay and deliver the property to the Shipping Master at that port.

(5) A deduction claimed by the master in such account shall not be allowed unless verified by an entry in the official log-book, and also by such vouchers, if any, as may be reasonably required by the Shipping Master.

(6) A Shipping Master in Pakistan shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect.

172. Liability of master in respect of property of deceased seamen, etc. (1) If the master fails to comply with the provisions of this Ordinance with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of such property, he shall, notwithstanding any penalty to which he may be liable under this Ordinance, be accountable for the property to the Shipping Master as aforesaid and shall pay and deliver the same accordingly; and shall in addition be punishable, for each offence, with fine not exceeding three times the value of the property not accounted for or, if such value is not ascertained, with fine which may extend to ten thousand rupees.

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

173. Property of deceased seamen left abroad but not on board ship. If any seaman or apprentice on a Pakistan ship, or engaged in Pakistan on any other ship, the voyage of which is to terminate in Pakistan, dies at any place outside Pakistan leaving any money or effects not on board the ship, the Pakistan consular officer at or near the place shall claim and take charge of such money and other effects, hereinafter referred to as the property of a deceased seaman or apprentice.

174. Dealing with property of deceased seamen. (1) A Pakistani consular officer or a Shipping Master to whom the effects of a deceased seaman or apprentice are delivered or who takes charge of such effects under this Ordinance may, if he thinks fit, sell the effects and the proceeds of any such sale shall be deemed to form part of the property of the deceased seaman or apprentice.

(2) Before selling any valuable comprised in the said effects, such officer or Shipping Master shall endeavor to ascertain the wishes of the next-of-kin of the deceased seaman or apprentice as to the disposal of such valuable and shall, if practicable and lawful, comply with such wishes.

(3) A Pakistan consular officer to whom any property of a deceased seaman or apprentice is delivered or who takes charge of any such property under this Ordinance shall remit the property to the Shipping Master at the port of engagement of the deceased seaman or apprentice in such manner and shall render such accounts in respect thereof as may be prescribed.

175. Recovery of wages, etc., of seamen lost with their ship. (1) Where a seaman or apprentice is lost with the ship to which he belongs, the Federal Government or such officer as the Federal Government may appoint in this behalf, may recover the wages and the compensation due to him from the owner, master or agent of the ship in the same Court and in the same manner in which seaman's wages are recoverable, and shall deal with these wages in the same manner as with the wages and compensation due to other deceased seaman or apprentices under this Ordinance.

(2) In any proceedings for the recovery of the wages and compensation, if it is shown by some official records or by other evidence that the ship has, twelve months or upwards before the institution of the proceeding, left any port, she shall, unless it is shown that she has been heard of within twelve months after the departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the Court hearing the case may think probable.

(3) Any duplicate agreement or list of the crew made out, or statement of a change of the crew delivered under this Ordinance at the time of last departure of the ship from Pakistan, or a certificate purporting to be a certificate from a Pakistan consular officer at any port of Pakistan, stating that certain seamen or apprentices were shipped in the ship from the said part shall be, in the absence of proof to the contrary, sufficient proof that the seaman or apprentices were shipped in the ship from the said part shall be, in the absence of proof to the contrary, sufficient proof that the seamen or apprentices therein named as belonging to the ship were on board at the time of the loss.

176. Property of seamen dying in Pakistan. If a seaman or apprentice dies in Pakistan and is at the time of his death to claim from the master or owner of the ship in which he has served any effects or unpaid wages, the master, owner or agent shall pay and deliver or account for such property to the Shipping master at the port where the seaman or apprentice was discharged or was to have been discharged or to such other officer s the Federal Government may direct.

177. Payment over property of deceased seamen by Shipping Master. Where any property of a deceased seaman or apprentice is paid or delivered to Shipping Master, the Shipping Master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may

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

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Act, 1925 (XXXIX of 1925), to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

178. Disposal of unclaimed property of deceased seamen. (1) Where no claim to the property of a deceased seamen or apprentice received by a Shipping Master is substantiated within one year from the receipt thereof by such Shipping Master, the Shipping master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

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

Provided that, after the expiration of six years from the receipt of such property by the Shipping Master, no claim to such property shall be entertained by the Shipping Master without the sanction of the Federal Government.

CHAPTER 13.

DISTRESSED SEAMEN

179. Application of Chapter to apprentices. This Chapter shall apply to apprentices as it applies to seamen.

180. Power to make rules with respect to distressed seamen. The Federal Government may make rules with respect to the relief, maintenance and return to a proper return port of a shipwrecked relief, maintenance and return to a proper return port of a shipwrecked seamen found in distress at any place in or out of Pakistan, and with respect to the circumstances in which and the conditions subject to which, seamen may be relieved and provided with passages, and generally for carrying out the purposes of this Chapter; and a distressed seaman shall not have any right to be relieved, maintained or sent to a proper return port except in the cases and to the extent and on the conditions as may be prescribed.

181. Relief and maintenance of distressed seamen. (1) The Pakistan consular officer at or near the place outside Pakistan where a seaman is in distress shall, on application being made to him by or on behalf of the distressed seaman, provide in accordance with rules made in this behalf for the return of the seaman to a proper return port and also for his necessary clothing and maintenance until his arrival at such port.

(2) Where any expenses, other than excepted expenses are incurred by or on behalf of the Federal Government on account of a distressed seaman either for his maintenance, necessary clothing, conveyance to a proper return port, or in case of death, for his burial or otherwise in accordance with this Ordinance, those expenses, together with the wages, if any, due to the seaman, shall be a charge upon the ship, whether a Pakistani ship or not, to which the distressed seaman belonged, and shall be a debt due to the Federal Government from the master of the ship or from the owner of the ship for the time being, or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss, or where the ship has been transferred to some person not being a citizen of Pakistan either from the owner for the time being or from the person who was the owner of the ship at the time being or from the person who was the owner of the ship at the time of the transfer, and also, if the ship be a ship other than a Pakistani ship, from the person, whether principal or agent, who engaged the seaman for service in the ship.

(3) All excepted expenses incurred by, or on behalf, of the Federal Government in accordance with the provisions of this Ordinance shall constitute a debt due to the Federal Government for which the seaman in respect of whom they were incurred and the owner or agent of the ship to which that seaman belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be jointly and severally liable; and the owner or agent shall be entitled to recover from the seaman any amount paid by the owner or agent to the Federal Government in settlement on part settlement of such debt, and may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman.

(4) All excepted expenses incurred in accordance with the provisions of this Ordinance in respect of any distressed seaman by the owner or agent of the ship to which the seaman belong at the time of his discharge or other event which resulted in his becoming a distressed seaman shall constitute a debt due to the owner or agent for which the seaman shall be liable; and the owner or agent may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman, but shall not be entitled to recover from the seaman any repatriation expenses other than excepted expenses.

(5) In any proceedings for the recovery of any expenses which in terms of sub-section (3) are a debt due to the Federal Government, the production of an account of the expenses and proof of payment thereof by, or on behalf of, or under the direction of, the Federal Government shall be prima facie evidence that the expenses were incurred in accordance with the provisions of this Ordinance by or on behalf of the Federal Government.

(6) Any debt which may be due to the Federal Government under this section may be recovered by any officer authorised by it in writing in this behalf from the person concerned in the same manner in which wages may be recovered by seaman.

(7) For the purpose of this section, "excepted expenses" and expenses incurred in cases where the certificate of the proper authority obtained on leaving a seaman behind states, or the Federal Government is otherwise satisfied, that the cause of the seaman being left behind is desertion, disappearance, imprisonment for misconduct, or discharge from the ship on the ground of misconduct, or otherwise due to the fault of the seamen.

182. Mode of providing for return of seamen to proper port. (1) A seaman may be sent to a proper return port by reasonable route either by sea or land or if necessary by air or partly by anyone and partly by any other of these modes.

(2) Provision shall be made for the return of the seaman as to whole of the route if it is by sea, or as to any part of the route which is by sea by placing the seaman onboard a Pakistani ship which is in want of men to make up its complement, or, if that is not practicable, by providing the seaman with a passage in any ship, whether a Pakistani ship or not, or with the money for his passage and, as to any part of the route which is by land or air, by paying the expenses of his journey and of his maintenance during the journey or providing him with means to pay those expenses.

(3) Where the master of a ship is required under this Chapter to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman passage or the expenses of his journey or of providing the seamen with means to pay his

passage or those expenses, deposit with the Pakistan consular officer such sum as that officer considers sufficient to defray the expenses of the return of the seaman to a proper return port.

183. Receiving distressed seamen on ships. (1) The master of a Pakistani ship shall receive on board his ship and afford passage and maintenance to all distressed seamen whom he is required by the Pakistan consular officer or the Shipping Master to take on board his ship, and shall during the passage provide every such distressed seaman with accommodation equal to that normally provided for the crew of the ship and subsistence proper to the rank or rating of the said distressed seaman:

Provided that the master of the ship shall not be required to receive on board his ship a distressed seaman in terms of this section if the Pakistan consular officer or the Shipping Master is satisfied that accommodation is not and cannot be made available for such seaman.

(2) If the master of any such ship, when required so to do under sub-section (1), fails or refuses to receive on board his ship, or to give a passage or subsistence to, or provide for, a distressed seaman, he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

184. Pakistan consular officer or Shipping Master to decide return port to or route by which seaman is to be sent. If in any case question arises as to what return port a seaman is to be sent to or as to the route by which he should be sent, it shall be decided by the Pakistan consular officer or the Shipping Master, as the case may be, supervising the repatriation and in deciding any such question regard shall be made both to the convenience of the seaman and to the expense involved, and also, where that is the case, the fact that a Pakistani ship which is in want of men to make up its complement is about to proceed to a proper return port.

185. Provisions as to taking distressed seamen on ships. (1) Where a distressed seaman is for the purpose of his return to a proper return port placed on board a Pakistani ship, the Pakistan consular officer or the Shipping master by whom the seaman is so placed shall endorse on the agreement with the crew of the ship particulars of the seaman so placed on board.

(2) On the production of a certificate signed by the Pakistan consular officer or the Shipping Master, as the case may be, by whose directions distressed seamen were received on board, specifying the number and the names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master stating the number of days during which each distressed seaman has received subsistence, the full complement of his crew and the actual number of seamen employed on board his ship and every variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid in respect of the subsistence and passage of every seamen so conveyed and provided for by him, exceeding the number, if any, wanted to make up the complement of his crew, such sum for each day as the Federal Government may, by rules made in this behalf, allow.

186. What shall be evidence of distress. In any proceeding under this Chapter, a certificate of the Federal Government, or of such officer as the Federal Government may specify in this behalf, to the effect that the seaman named therein is distressed shall be conclusive evidence that such seaman is a distressed seaman within the meaning of this Ordinance.

CHAPTER 14.

PROVISIONS AND ACCOMMODATION FOR SEAMEN AND THEIR HEALTH

187. Ships to have sufficient provisions and water. (1) All Pakistani ships and all ships for which seamen have been engaged in Pakistan shall have on board sufficient provisions and water of good quality and fit for the use of the crew according to the scale specified in the agreement with the crew.

(2) If any person making an inspection under Section 197 finds that provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship, and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

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

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

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

(6) If a master fails to furnish provisions to a seaman in accordance with the agreement entered into by him and the Court considers the failure to be due to the neglect or default of the master, or if a master furnishes to a seaman provisions which are bad in quality or unfit for use, such master shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

(7) Nothing in sub-section (6) shall affect any claim for compensation under Section 188.

188. Allowance for short or bad provisions. (1) In either of the following cases

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

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

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance such sums as may be prescribed, to be paid to him in addition to, and be recoverable as, wages.

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

Provided that, if the amount of compensation claimed does not exceed five hundred rupees in respect of any one seaman, the Shipping master may, on application of either party settle the compensation as if it were a dispute submitted to him under Section 156 and the decision of the Shipping master in the matter shall be final.

189. Pakistani foreign going ships to carry duly certificated cooks. (1) Every Pakistani foreign-going ship going to sea from any port or place in Pakistan shall be provided with and carry a duly certificate cook.

(2) A cook shall not be deemed to be duly certificated within the meaning of this section unless he is the holder of a certificate of competency in cooking granted by or under the authority of, or recognized by, the Federal Government on such terms and conditions as may be prescribed in this behalf.

190. Medicines to be provided and kept on board certain ships. (1) All Pakistani foreign-going ships and all home-trade ships shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as the Federal Government may, from time to time, by notification in the Official Gazette, fix in respect of a ship or class of ships.

(2) Every such ship shall also carry such medical guide containing instructions for dispensing the medicines and using the appliances as may be approved by the Federal Government.

(3) The Federal Government may, by notification in the Official Gazette, make rules for the proper maintenance and care of medicines chests, their contents and their regular inspection.

(4) The master of a ship in respect of which the provisions of this section or of any rules made thereunder are contravened shall, for each offence, be liable to a fine which may extend to ten thousand rupees.

191. Certain ships to carry medical officers. (1) Every foreign-going ship, on hundred persons (including the crew) or upwards, shall have on board as part of her complement a medical officer possessing such qualifications as may be prescribed.

(2) If any such ship does not carry on board a duly qualified medical officer the ship shall be detained until such medical officer is provided.

(3) Nothing in this section shall apply to any special trade passenger ship including a pilgrim ship.

192. Weights and measures on board. (1) The master of a ship shall keep on board proper weights and measures for determining the qualities of the several provisions and articles served

out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities.

(2) If the master of a ship fails, without reasonable cause, to comply with sub-section (1), he shall, for each offence, be liable to a fine which may extend to five thousand rupees.

193. Expenses of medical attendance in case of illness. (1) If the master of, or a seaman or apprentice belonging to, a Pakistani ship receives any hurt or injury or suffers from any illness (not being a hurt, injury or illness due to his own wilful act or default or his own misbehavior), resulting in his being discharged or left behind at a place other than his proper return port, the expenses of providing the necessary surgical and medical advice, attendance and treatment and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is brought back to the port from which he was shipped or other port agreed upon after receiving the necessary medical treatment, and of his conveyance to that port, and in case of death, the expenses, if any, of his burial or cremation shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(2) If the master, seaman or apprentice is on account of any illness or injury temporarily removed from his ship, at a port other than his proper return port, for the purpose of preventing infection or otherwise for the convenience of the ship, and subsequently returns to his duty, the expenses of removal and of providing the necessary surgical and medical advice, attendance and treatment and medicine and of his maintenance while away from the ship, shall be defrayed in like manner.

(3) The expenses of all medicines and surgical and medical advice, attendance and treatment, given to a master, seaman or apprentice, while on board his ship, shall be defrayed in like manner.

(4) Where any expenses referred to in sub-section (1), (2) and (3) have been paid by the master, seaman or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such such expenses are paid by the Federal Government, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Federal Government.

194. Power to make rules with respect to crew accommodation. (1) The Federal Government may, by notification in the official Gazette, make rules with respect to the crew accommodation to be provided in ships; and different provisions may be made for different classes of ships and different classes of persons.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely

(a) the minimum space for each person which must be provided in any ship to which the rules apply by way of sleeping accommodation for seamen and apprentices and the maximum number of persons by whom any specified part of such sleeping accommodation may be used;

(b) the position in any such ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) the submission to such authority as be specified in this behalf of plans and specifications of any works proposed to be carried out for the provisions or alteration of any such accommodation and the authorization of that authority to inspect any such works;

(d) the maintenance and repair of any such accommodation and the prohibition or restriction of the use of any such accommodation for purposes other than those for which it is designed; and

(e) the manner as to how ships registered or under construction at the commencement of any such rules may be dealt with after such commencement.

(3) If any person making an inspection under Section 197 finds that the crew accommodation is unsanitary or is not in accordance with the provisions of this Ordinance, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

Explanation. In this section, the expression "crew accommodation" includes sleeping rooms, mess room, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen, not being accommodation which is also used by, or provided for the use of passengers.

(4) The Federal Government may exempt any ship or class of ships from the requirements of any rules made under this section either absolutely or subject to such conditions as it may consider fit.

195. Inspection of crew accommodation when a ship is re-registered. Whenever a ship to which the rules made under Section 194 apply, is registered or re-registered in Pakistan, or the crew accommodation of a ship has been substantially altered or reconstructed, or a complaint in respect of crew accommodation has been made in accordance with the rules, and on such other occasions as may be required under the rules, a surveyor shall inspect the crew accommodation and satisfy himself that the requirements of crew accommodation have been duly complied with.

196. Bedding, towels, etc, to be provided. (1) The owner of every Pakistani ship shall supply or cause to be supplied to every seaman for his personal use such clothing, bedding towels, mess utensils and other articles of such quality and according to such scales as may be prescribed.

(2) If any requirement of sub-section (1) is not complied with in the case of any ship the owner thereof, unless he proves that the non-compliance was not caused by his inattention, neglect or wilful default, shall be liable to a fine which may extend to five thousand rupees.

197. Inspection of provisions, water and medicines. (1) A Shipping Master, surveyor, Seamen's Welfare Officer, Port Health Officer, Pakistan consular Officer or other officer duly appointed in this behalf by the Federal Government at any port.

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

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

(i) the provisions and water;

(ii) the medicines and appliances;

(iii) the weights and measures; and

(iv) the crew accommodation,

with which the ship is required to be provided by or under this Ordinance.

(2) If any person making an inspection under this section finds that the crew accommodation is unsanitary or is not in accordance with the provisions of this Ordinance, he shall signify it in writing to the master and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

198. Inspection by master of provisions, water and accommodation at sea. The master of every Pakistani ship while at sea shall, at least once in a week, cause an inspection to be made of the provisions and water provided for the use of the seamen and apprentices and the crew accommodation, for the purpose of ascertaining whether the same are being maintained in accordance with the requirements of this Ordinance, and the person making the inspection shall enter a statement of the result of the inspection in a separate book kept for the purpose.