

THE NATIVE PASSENGER SHIPS ACT, 1870.

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ACT No. XII OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st April 1870).

An Act for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

WHEREAS abuses have occurred in the overcrowding of Ships conveying Native Passengers between Ports and places in India, and Ports and places in the Red Sea or Persian Gulf; and whereas similar abuses have also occurred in the case of Ships commanded or owned by subjects of Her Majesty and conveying Native Passengers between other Ports and places situate east of the Cape of Good Hope, and Ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide for the regulation of all such Ships as aforesaid which shall depart from or arrive at any of the said Ports or places in India, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Native Passenger Ships Act, 1870." Short title.

2. This Act extends to all subjects of Her Majesty whether within British India or within the dominions of Princes and States in India in alliance with Her Majesty, and to all persons being Native Indian subjects of Her Majesty without and beyond British India. Extent of Act.

Nothing

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Act not to apply to Ships-of-War, &c.

Or to sea-going Steam Vessels conveying public mails.

Nothing in this Act applies to any Ship-of-War or Transport belonging to or in the service of Her Majesty or to any Ship-of-War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel employed in the conveyance of the public mails under a contract.

Repeal of Act.

Amendment of Act No. II of 1860, section 1.

3. Act No. XXI of 1858 (*for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages*) is hereby repealed; and section one of Act No. II of 1860 (*to amend the law relating to the carriage of Passengers by sea*) shall be read as if, for the words and figures "Act XXI of 1858," the words and figures "The Native Passenger Ships Act, 1870," were substituted.

Interpretation-clause.

"Magistrate."

4. In this Act —

The word "Magistrate" means a person exercising powers not inferior to those of a Subordinate Magistrate of the first class, and includes a Justice of the Peace, and, at the Port of Aden, the Political Resident and his Assistants :

"Local Government."

The words "Local Government" mean the person or persons for the time being immediately administering the Executive Government of the territories where the Port or place in question is situate :

"Master."

The word "Master" includes every person having command or charge of a Vessel :

"Native Passenger Ship."

The words "Native Passenger Ship" mean a vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a Port or place in British India or in the said dominions to any Port or place in the Red Sea or Persian Gulf, or which may arrive at any Port or place within British India or the said dominions from any Port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers.

CHAPTER II.

CHAPTER II.

RULES AS TO NATIVE PASSENGER SHIPS.

5. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any Port or place within British India or the said dominions other than such Ports and places as the Local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a Port or place so to be appointed, no person shall be received on board as a passenger, except at some other duly appointed Port or place.

Native Passenger Ship to sail only from Ports appointed by Government.

6. No Native Passenger Ship shall depart or proceed upon any such voyage from any Port or place appointed under this Act, until the Master shall have obtained a certificate from an officer authorized to grant the same.

Not to sail without obtaining a certificate.

7. If any Native Passenger Ship departs or proceeds upon a voyage from any Port or place within British India or the said dominions,

Penalty.

or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of section five or section six,

the Owner or Master shall, for every passenger conveyed on a Ship unlawfully departing or proceeding on such voyage, or for every passenger unlawfully received on board, be liable to a penalty not exceeding one hundred rupees, or to imprisonment not exceeding one month, or to both;

and the Ship, if found within two years in any place within British India, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment of the fines imposed under this Act, with all costs, has been enforced under the provisions of section thirty-five.

8. Within British India, the Local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred and imposed by this Act.

Appointment of officers.

9. The

Master to give notice of day of sailing, &c.

9. The Master of any Native Passenger Ship sailing from any Port or place appointed under this Act, shall give notice to the proper officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing ;

such notice shall be given not less than three days before the proposed day of sailing.

Power to enter and inspect Ship.

10. After receiving such notice, the officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the Ship and the fittings, provisions, and stores therein ;

and any person impeding or refusing to allow such inspection shall be liable, on conviction, to a fine not exceeding five hundred rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

Ship may be surveyed.

11. The officer aforesaid may, if he think fit, cause the Ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the Ship is, in his opinion, sea-worthy and fit for her intended voyage.

Officer to be satisfied, before giving certificate—

12. The officer aforesaid shall not give his certificate, unless he shall be satisfied—

That the Ship is sea-worthy:

(1). That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated ; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers :

That the space between-decks for passengers is sufficient :

(2). That the space appropriated to the passengers in the between-decks contains at the least twelve superficial and seventy-two cubical feet of space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years :

That the space on the upper deck is sufficient :

(3). That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers :

(4). That

(4). That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

That there is a due supply of provisions.

13. No such Ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

Number of passengers.

14. The Master of any such Ship, before departing or proceeding on any such voyage from any Port or place in British India, shall sign two lists, specifying (as accurately as may be) the names of all the passengers, and stating the number of the crew; and shall deliver them to the officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersign and return to the Master one of such lists.

List of passengers.

The Master shall note in writing on such last-mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the Ship at her destination or at any Port at which it may be intended to land passengers and before any passengers are landed, produce the list, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the Port of arrival if it be a Foreign Port, or to the Chief Officer of Customs, or the officer (if any) appointed under this Act, at any Port or place at which it shall be intended to land the passengers or any of them.

In case of non-compliance with any of the requirements of this section on the part of the Master, or if any false entry be wilfully made by him in any such list, the Master shall be liable to a fine not exceeding five hundred rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

15. If,

Ship taking additional passengers and touching at intermediate Port.

15. If, after the Ship shall have departed or proceeded on any such voyage, any additional passengers are taken on board at a Port or place within British India or the said dominions, appointed under this Act for the embarkation of passengers,

or if such Ship shall, upon her voyage, touch or arrive at any such Port, having previously received on board additional passengers at any place beyond British India or the said dominions, the Master shall obtain a fresh certificate from the officer at such Port, and shall make lists of all such additional passengers; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate granted or list made under this section.

In case the Master fail to obtain any such fresh certificate, or to make any such list of additional passengers, he shall be liable to a fine not exceeding five hundred rupees, or to imprisonment for a term not exceeding three months, or to both.

Penalty for fraudulent alteration in Ship after certificate obtained.

16. If any Master of a Ship, after having obtained a certificate under section six or section fifteen of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the Ship, its passengers, or other matters to which such certificate relates, he shall be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.

Information to be transmitted to Ports of embarkation.

17. The Chief Officer of Customs, or the officer (if any) appointed under this Act, at any Port or place within British India at which the Ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the Ship and the passengers conveyed therein, to the officer at the Port from which the Ship commenced her voyage, and also to the officer at any other Port within British India or the said dominions where the passengers or any of them embarked.

Report of Consul, &c., to be admissible in evidence.

18. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding section, or a copy of the

the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

19. Whenever, in the course of any legal proceeding instituted under this Act at any Port or place in British India, the testimony of any witness is required in relation to the subject-matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the Port or place where such proceedings are instituted) or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate or Consular Officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted :

Depositions to be received in evidence when witnesses cannot be produced.

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

20. Within British India, the Local Government may, by any proclamation to be from time to time issued for that purpose and published in the Government Gazette (if any), or in one of the public newspapers, declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native

Length of voyage to be fixed by proclamation.

Passenger

Passenger Ship from any Port or place in British India or the said dominions to any other Port or place.

Quantity of provisions and water to be shipped.

21. Every Native Passenger Ship, at the time of departure from the Port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumption of the passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say, a supply of water to the amount of five gallons for every week of the declared duration of the voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, flour, oatmeal, or bread-stuffs to the amount of seven pounds weight to every week of such duration for every such passenger;

Provided that, when any such Ship shall be destined to call at a Port or place in the course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling, shall be deemed to be a compliance with this Act.

The provision of this section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the Local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

Contract by passengers for supply of their own provisions.

22. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Penalty on Ships bringing excessive number of passengers from certain Foreign Ports to Indian Ports.

23. If any Ship, bringing passengers from any Port or place east of the Cape of Good Hope and not within British India or the said dominions to any Port or place within British India or the said dominions, shall have on board a greater number of passengers or persons than in the proportion prescribed by this Act, the Master of such Ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, for each person in excess of such proportion to

a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

24. In the case of every Native Passenger Ship sailing from any Port within British India to any Port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such Ship, shall not grant such clearance unless and until the Owner, Agent or Master of such Ship and two sureties resident in British India shall, by a joint and several bond, have become bound unto the Secretary of State for India in Council in the penal sum of rupees five thousand, conditioned to be void if the said Ship touches at Aden on her outward and also on her homeward voyage and does not leave that Port without having obtained from the proper authority a clean bill of health.

Bond when Ship clears for a port in Red Sea.

25. Every Ship carrying more than thirty passengers being Natives of Asia or Africa, and sailing from any Port east of the Cape of Good Hope to any Port in the Red Sea,

Ships sailing to or from a port in Red Sea to touch at Aden.

or sailing from any Port in the Red Sea to any Port east of the Cape of Good Hope,

shall touch at Aden, and shall not leave that Port without having obtained from the proper authority a clean bill of health.

Every Master of a Ship offending under this section, shall, for every such offence, be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.

26. No bill of health shall be granted under section twenty-four or section twenty-five in case the Ship has on board a greater number of passengers or persons than in the proportion prescribed by this Act.

Bill of health.

CHAPTER III.

COASTING STEAMERS.

27. Steam Vessels intended to carry passengers on coasting voyages from or to any Port or place within British India, shall, before proceeding on such voyages, be furnished with certificates granted in manner hereinafter provided.

Certificates to be furnished to coasting Steam Vessels intended to carry passengers.

28. Every

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Certificates
to coasting
Steam Vessels
how to be
granted, &c.

28. Every such certificate shall be granted at the discretion of an officer authorized by the Local Government to grant the same, and shall remain in force for the period therein specified, unless sooner revoked.

The officer so authorized shall not grant such certificate, or suffer the same to remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty rupees), that such Steam Vessel is sea-worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyage.

The certificate shall state the limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry: such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, and the cargo carried, as the case requires.

Copy of certificate to be placed in conspicuous part of Ship.

29. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the Ship, so as to be visible to persons on board the same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force; and in default, such Owner or Master shall, for each offence, be liable to a fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.

Penalty for excess of number specified in certificate.

30. If such Steam Vessel has on board thereof any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall, for every passenger over and above the number allowed by the certificate, be liable to a fine not exceeding twenty rupees, or to imprisonment not exceeding one week, or to both.

Penalty for proceeding without certificate.

31. If any such Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding five hundred rupees, or to imprisonment for any term not exceeding three months, or to both.

32. In

32. In the grant or revocation of any certificate under this Act, the officer granting or revoking the same shall be subject to the control of the Local Government or of any intermediate authority which that Government may appoint.

Grant or revocation of certificate to be subject to control of Government.

CHAPTER IV.

MISCELLANEOUS.

33. If any Native passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.

Penalty on landing passenger at a place other than that at which he has contracted to land.

34. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Passenger's right of action preserved.

35. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Adjudication of offences.

If the person on whom any fine is imposed under this Act is the Master or Owner of a Ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture and apparel.

Fine leviable by distress on Ship.

36. For the purpose of the adjudication of penalties under this Act, every offence hereunder shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

37. The penalties to which Masters and Owners of Ships are liable by this Act, shall be enforced only by information laid at the instance of the officers appointed to grant certificates under this Act; or, at any

By whom proceedings for penalties to be instituted.

Port

Port or place where there is no such officer, by the Chief Officer of Customs.

Application
of fines.

38. Any Magistrate imposing any fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such fine is imposed, or in or towards payment of the expenses of the proceedings.