

THE BRITISH BURMA PILOTS ACT, 1883.

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ACT No. XII OF 1883.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th August, 1883.)

An Act to provide for the licensing and control of pilots in British Burma and for investigating certain charges against them.

Preamble.

WHEREAS it is expedient to provide for the licensing and control of pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

Preliminary.

Short title.

1. (1) This Act may be called the British Burma Pilots Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Chief Commissioner of British Burma; and

Commencement.

(3) It shall come into force on such date as the Chief Commissioner may fix in this behalf.

2. In this Act—

Definition of "port".

"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force.

XII of 1875.

Licensing of Pilots.

Licensing of pilots.

3. The Chief Commissioner may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

(a) for the conduct of the examinations and for the qualifications to be required;

(b) establishing

- (b) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;
- (c) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and
- (d) for the fees to be paid for the examinations and licenses.

4. (1) A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section 3.

No person to act as pilot except under license.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

5. (1) The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

Power to make rules to regulate conduct of pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both :

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

Special Court.

6. (1) If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily

Power to direct investigation by special Court into charges against pilots.

factorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

(2) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

Constitution
of Court.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Appointment
of president.

8. (1) The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Assessors.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

Appointment
of assessors.

10. (1) The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons one of whom is named in the list of merchants and the other in list of pilots, the other assessors

or

or assessor, as the case may be, shall be appointed and summoned by the president.

11. The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule, prescribe. Fees to be paid to assessors.

12. Before any investigation under this Act is commenced, the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court. Copy of grounds of charge to be supplied to pilot.

13. For the purpose of an investigation under this Act, the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise. Person charged to be heard.

14. For the purpose of an investigation under this Act, the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made. Powers of the Court as to evidence and regulating proceedings.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion. Court to report to Chief Commissioner.

16. (1) The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special Court, and in particular with respect to— Power of Chief Commissioner to make rules.

(a) the mode in which the president shall, under section 10, summon the assessors ;

(b) the amount of the fees to be paid to the assessors ; and

(c) the

(c) the procedure of the Court.

(2) All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Power to cancel, suspend or reduce Licenses.

Power to cancel, suspend or reduce license for misconduct, &c.

17. The Chief Commissioner may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say :—

(a) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or

(b) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act. V of 1883.

Power to suspend license pending trial or investigation.

18. When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be. V of 1883.

Delegation of Functions of Chief Commissioner.

Power to delegate functions of Chief Commissioner.

19. The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate his functions under section 6, section 8, section 10, sub-section (1), or section 18 to such person as he thinks fit.