

THE INDIAN MERCHANT SHIPPING (AMENDMENT)
ACT, 1953

No. 23 OF 1953



[21st May, 1953]

An Act to enable effect to be given to an International Convention for the Safety of Life at Sea, signed in London on the tenth day of June, nineteen hundred and forty-eight, to amend the provisions of the Indian Merchant Shipping Act, 1923 relating to life-saving appliances, wireless and radio navigational aids and to other matters affected by the said Convention.

BE it enacted by Parliament as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1953.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Substitution of certain expressions for certain other expressions in Act XXI of 1923.**—In the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the principal Act), except as otherwise provided in this Act,—

(a) in Part V and in clause (f) of section 280, for the words 'wireless telegraphy inspectors' and 'wireless telegraphy inspector' wherever they occur, the words 'radio inspectors' and 'radio inspector' shall, respectively, be substituted;

(b) In Part V,—

(i) for the words and figures 'International Convention respecting Load Lines, 1930' wherever they occur, the words 'Load Line Convention' shall be substituted;

(ii) for the words and figures 'International Convention for the Safety of Life at Sea, 1929' or 'International Convention for the Safety of Life at Sea signed in London on the 31st day of May, 1929' wherever they occur, the words 'Safety Convention' shall be substituted;

↓ 15-6-1953, vide ^{Price annos 3 or 4d} notfn. no. SRO 1107, A 4.6.53, Gazette of India, 1953, Pt. II, Sec. 3, p-844.

(iii) for the word 'wireless' wherever it occurs, the word 'radio' shall be substituted;

(iv) after the words 'telegraph' and 'telegraphy' wherever they occur, the words 'or radio-telephone' and 'or radio-telephony' shall, respectively, be inserted.

3 Amendment of section 2, Act XXI of 1923.—In section 2 of the principal Act, for clause (6), the following clause shall be substituted, namely:—

“(6) ‘passenger’ means any person carried in 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 ship-wrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled; and

(c) a child under one year of age.”

4. Omission of section 143A, Act XXI of 1923.—Section 143A of the principal Act shall be omitted.

5. Amendment of section 145A, Act XXI of 1923.—In section 145A of the principal Act, in sub-section (2), for clauses (a) to (h), the following clauses shall be substituted, namely:—

“(a) the closing and keeping closed the openings in steamers' hulls and in water-tight bulk-heads;

(b) the securing of, and keeping in place and inspecting contrivances for closing any such openings as aforesaid;

(c) the operation of mechanisms of contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof; and

(d) the entries to be made in the Official Log Book or other record to be kept of any of the matters aforesaid.”

6. Substitution of new section for section 213A in Act XXI of 1923.—For section 213A of the principal Act, the following section shall be substituted, namely:—

“213A. *Definitions.*—In this Part, unless the context otherwise requires,—

(a) ‘country to which the Load Line Convention applies’ means—

(i) a country the Government of which has been declared or is deemed to have been declared under section 213B to

have accepted the Load Line Convention and has not been so declared to have denounced that Convention;

(ii) a country to which it has been so declared that the Load Line Convention has been applied under the provisions of article twenty-one thereof, not being a country to which it has been so declared that that Convention has ceased to apply under the provisions of that article;

(b) 'country to which the Safety Convention applies' means—

(i) a country the Government of which has been declared under section 213B to have accepted the Safety Convention and has not been so declared to have denounced that Convention;

(ii) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend;

(c) 'Load Line Convention' means the Convention signed in London on the fifth day of July, nineteen hundred and thirty, for promoting safety of life and property at sea, as amended from time to time;

(d) 'Safety Convention' means the Convention for the Safety of Life at Sea, signed in London on the tenth day of June, nineteen hundred and forty-eight, as amended from time to time."

7. Insertion of new section 213B in Act XXI of 1923.—After section 213A of the principal Act, the following section shall be inserted, namely:—

"213B. *Countries to which Load Line Convention or Safety Convention applies.*—(1) The Central Government, if satisfied,—

(a) that the Government of any country has accepted or denounced the Load Line Convention or, as the case may be, the Safety Convention; or

(b) that the Load Line Convention or, as the case may be, the Safety Convention extends, or has ceased to extend to any territory;

may, by notification in the Official Gazette, make a declaration to that effect.

(2) Any declaration made by or on behalf of the Central Government before the commencement of the Indian Merchant Shipping (Amendment) Act, 1953, in any form whatsoever, that the Government of any country has accepted or denounced the Load Line Convention or that the said Convention extends or has ceased to extend to any territory shall be deemed to have been made under subsection (1)."

8. Amendment of sections 214 and 216, Act XXI of 1923.—In sub-section (1) of section 214 and in section 216 of the principal Act, after the word 'Tights' the words 'and shapes' shall be inserted.

9. Amendment of section 216A, Act XXI of 1923.—In section 216A of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

(a) the arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage and to the number of persons carried;

(b) the number, description and mode of construction of the boats, life rafts, line throwing appliances, life-jackets and life-buoys to be carried by ships according to the classes in which the ships are arranged;

(c) the equipment to be carried by any such boats and rafts and the method to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;

(d) the provision in ships of a proper supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(e) the quantity, quality and description of buoyant apparatus to be carried on board ships either in addition to or in substitution for boats, life rafts, life-jackets and life-buoys;

(f) the position and means of securing the boats, life rafts, life-jackets, life-buoys and buoyant apparatus;

(g) the marking of boats, life rafts, and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;

(h) the manning of lifeboats and the qualifications and certificates of life-boatmen;

(i) the provision to be made for mustering the persons on board and for embarking them in the boats (including provision for the lighting of, and the means of ingress and egress from, different parts of the ship);

(j) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;

(k) the assignment of specific duties to each member of the crew in case of emergency;

(l) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;

(m) the practice in ships of boat-drills and fire-drills;

(n) the provision in ships of means of making effective distress signals by day and by night;

(o) the provision in ships, engaged on voyages in which pilots are likely to be embarked of suitable pilot ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe; and

(p) the periodical examination of any appliances or equipment required by any rules made under this Act to be carried by ships."

10. Substitution of new sections for sections 225 and 226 in Act XXI of 1923.—For sections 225 and 226 and the heading thereto, the following shall be substituted, namely:—

"Dangerous Goods and Grain-Cargoes

225. Carriage of dangerous goods.—(1) The Central Government may make rules for regulating in the interests of safety the carriage of dangerous goods in ships to which this section applies.

(2) This section applies to—

(a) Indian ships;

(b) other ships while they are within any port in India or are embarking or disembarking passengers within the territorial waters of India, or are loading or discharging cargo or fuel within those waters.

(3) If any of the rules made in pursuance of this section is not complied with in relation to any ship, the owner or master of the ship shall be liable to a fine which may extend to three thousand rupees and the ship shall be deemed for the purpose of this Part to be an unsafe ship.

226. Carriage of grain.—(1) Where grain is loaded on board any Indian ship or is loaded within any port in India on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner or the master of the ship or any agent of the owner who was charged with the loading or with sending the ship to sea laden with grain shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(2) Where any ship which is loaded with grain outside India without all necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port in India so laden, the owner or master of the ship shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading:

Provided that this sub-section shall not have effect if the ship would not have entered any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(3) If any person commits an offence under sub-section (1) or sub-section (2), he shall be liable to a fine which may extend to three thousand rupees.

(4) On the arrival at a port in India from a port outside India of any ship carrying a cargo of grain, the master shall cause to be delivered at the port to such customs or other officer as may be specified by the Central Government in this behalf, a notice stating—

(a) the draught of water and free-board of the said ship after the loading of the cargo was completed at the final port of loading; and

(b) the following particulars of the grain carried, namely:—

(i) the kind of grain and quantity thereof stated in cubic feet, quarters, bushels or tons weight;

(ii) the mode in which the grain is stowed; and

(iii) the precautions taken to prevent the grain from shifting;

and if the master fails to deliver any notice required by this sub-section or if in any such notice he makes any statement that he knows to be false in a material particular or recklessly makes a statement that is false in a material particular, he shall be liable to a fine which may extend to one thousand rupees.

(5) Any person authorised in this behalf by general or special order of the Central Government, may, for securing the observance of the provisions of this section, inspect a ship carrying a cargo of grain and the mode in which such cargo is stowed therein.

(6) The Central Government may, subject to the condition of previous publication, make rules in relation to the loading of ships generally or of ships of any class specifying the precautions to be taken and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression "necessary and reasonable precautions".

(7) In this section, the expression 'grain' includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and the expression 'ship carrying a cargo of grain' means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage reckoning one hundred cubic feet or two tons of weight of grain as equivalent to one ton of registered tonnage."

11. Amendment of section 227, Act XXI of 1923.—In sub-section (1) of section 227 of the principal Act, after the word 'submerge' the words 'in salt water' shall be inserted.

12. Omission of section 240, Act XXI of 1923.—Section 240 of the principal Act shall be omitted and for the heading above that section, the following heading shall be substituted, namely:—

"Installation of Radio-telegraphy, Radio-telephony and Direction Finders".

13. Amendment of section 242, Act XXI of 1923.—For sub-section (1) of section 242 of the principal Act, the following sub-sections shall be substituted, namely:—

(1) Every sea-going Indian ship, being a passenger steamer, and every other sea-going Indian ship of five hundred tons gross tonnage or upwards, shall, in accordance with the rules made under section 245,

be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed:

Provided that the Central Government may, by notification in the Official Gazette, exempt from the obligation imposed by this section any ship or class of ships if it is of the opinion that having regard to the nature of the voyage on which the ship or ships are engaged or other circumstances of the case, the provision of a radio installation is unnecessary or unreasonable.

(1A) The radio installation required under the said rules to be provided for a passenger steamer or for any other ship of sixteen hundred tons gross tonnage or upwards shall be a radio telegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross tonnage, other than a passenger steamer shall be either a radio telegraph installation or a radio telephone installation at the option of the owner."

14. Amendment of section 242A, Act XXI of 1923.—For sub-section (1) of section 242A of the principal Act, the following sub-section shall be substituted, namely:—

"(1) On and after such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf every Indian ship of sixteen hundred tons gross tonnage or upwards shall be provided with a radio direction finder of the prescribed description."

15. Amendment of section 242B, Act XXI of 1923.—In section 242B, for the words 'wireless telegraph log' wherever they occur, the words 'radio log' shall be substituted.

16. Substitution of new section for section 244 in Act XXI of 1923.—For section 244 of the principal Act, the following section shall be substituted, namely:—

"244. *Application of this Part to ships other than Indian ships.*—The provisions of this Part relating to radio-telegraphy, radio-telephony and direction finders shall apply to ships other than Indian ships while they are within any port in India in like manner as they apply to Indian ships."

17. Insertion of new section 245AA in Act XXI of 1923.—After section 245A of the principal Act, the following shall be inserted, namely:—

"Stability Information"

245AA. Information about ship's stability.—(1) There shall be carried on board every Indian ship whose keel is laid after the commencement of the Indian Merchant Shipping (Amendment) Act, 1953, such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The said information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be

based on the determination of the ship's stability by means of an inclining test of the ship:

Provided that the Central Government may allow the information to be based on a similar determination of the stability of a sister ship.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Director-General of Shipping.

(4) If any such ship proceeds or attempts to proceed to sea without such information as aforesaid on board, the owner or master of the ship shall be liable to a fine which may extend to one thousand rupees.

(5) It is hereby declared that for the purpose of section 118 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) information under this section shall be deemed to be a document relating to the navigation of the ship."

18. Omission of section 245B, Act XXI of 1923.—Section 245B of the principal Act shall be omitted and for the heading above that section, the following heading shall be substituted, namely:—

"Safety Certificates, Safety Equipment Certificates, Safety Radio-telegraphy Certificates, Safety Radio-telephony Certificates and Exemption Certificates".

19. Insertion of new section 245CC in Act XXI of 1923.—After section 245C of the principal Act, the following section shall be inserted, namely:—

"245CC. Safety Equipment Certificates for ships not being passenger ships.—If the Central Government is satisfied in respect of any Indian ship, not being a passenger ship, that it complies with the rules for life-saving and fire extinguishing appliances applicable to the ship and that she is properly provided with the lights, shapes and means of making fog signals required by the collision regulations issued under the Merchant Shipping Acts or any other similar law for the time being in force, the Central Government shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid; and any certificate issued under this section is hereafter in this part of this Act referred to as a Safety Equipment Certificate."

20. Amendment of section 245D, Act XXI of 1923.—In section 245D of the principal Act,—

(a) in sub-section (1), after the words "Safety Radio-telegraphy Certificate" the words "or as the case may be, a Safety Radio-telephony Certificate" shall be inserted;

(b) in sub-section (2), after the words "Safety Radio-telegraphy Certificate" the words "and the Safety Radio-telephony Certificate" shall be inserted.

21. Amendment of section 245F, Act XXI of 1923.—For sub-sections (1) and (2) of section 245F of the principal Act, the following sub-sections

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shall be substituted, namely:—

“(1) A Safety Certificate, Qualified Safety Certificate, Safety Radio-telegraphy Certificate, Safety Radio-telephony Certificate or an Exemption Certificate issued under section 245C, section 245D or section 245E, as the case may be, shall be in force for one year, and a Safety Equipment Certificate issued under section 245CC shall be in force for twenty-four months, from the date of its issue, or for such shorter period as may be specified in the Certificate:

Provided that no such certificate shall remain in force after notice is given by the authority issuing the Certificate to the owner or master of the ship in respect of which it has been issued that that authority has cancelled the certificate.

(2) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship for a period not exceeding one month from the date when the certificate would but for the extension, have expired, or, if the ship is absent from India on that date, for a period not exceeding five months from that date.”

22. Amendment of section 245G, Act XXI of 1923.—In section 245G of the principal Act, in sub-section (1), for the words “or Safety Radio-telegraphy Certificate” the words “Safety Equipment Certificate, Safety Radio-telegraphy Certificate or Safety Radio-telephony Certificate” shall be substituted.

23. Amendment of section 245H, Act XXI of 1923.—In section 245H of the principal Act, in sub-section (2),—

(i) for the figures ‘1600’ the figures ‘500’ shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) a Safety Equipment Certificate issued under section 245CC and a Safety Radio-telegraphy Certificate or, as the case may be, a Safety Radio-telephony Certificate issued under section 245D;”

24. Amendment of section 245-I, Act XXI of 1923.—In section 245-I of the principal Act—

(a) in sub-section (2), for the figures ‘1600’ the figures ‘500’ shall be substituted; and

(b) in sub-section (3), for the words, ‘passenger steamer’ or ‘steamer’ wherever they occur, the word ‘steamship’ shall be substituted.

25. Amendment of section 245J, Act XXI of 1923.—In section 245J of the principal Act,—

(a) in sub-section (1), for the words “Safety Radio-telegraphy Certificates” the words “Safety Equipment Certificates, Safety Radio-telegraphy Certificates, Safety Radio-telephony Certificates” shall be substituted;

(b) in sub-section (2), after the figures and letter ‘245C’ the word, figures and letters “section 245CC” shall be inserted;

(c) in sub-section (3)—

(i) after the figures and letter "245C" the figures and letters "245CC" shall be inserted; and

(ii) for the words "or a Safety Radio-telegraphy Certificate" the words "a Safety Equipment Certificate, a Safety Radio-telegraphy Certificate, or a Safety Radio-telephony Certificate" shall be substituted.

26. Amendment of section 245K, Act XXI of 1923.—In section 245K of the principal Act, after the figures and letter "245C" the figures and letters "245CC" shall be inserted.

27. Amendment of section 245L, Act XXI of 1923.—In section 245L of the principal Act, for the words "or a Safety Radio-telegraphy Certificate" the words "a Safety Equipment Certificate, a Safety Radio-telegraphy Certificate, or a Safety Radio-telephony Certificate" shall be substituted.

28. Insertion of new section 245MM in Act XXI of 1923.—In Part V of the principal Act, after section 245M, the following section shall be inserted, namely:—

"245MM. *Exemption of certain ships from certain provisions of this Act.*—(1) Nothing in this Act,—

(a) prohibiting a ship from proceeding to sea, unless there are in force in relation to the ship, or are produced, the appropriate certificates issued under this Part or the appropriate accepted Safety Convention Certificates;

(b) requiring information about a ship's stability to be carried on board;

(c) imposing a penalty for the contravention of any rules relating to openings in ship's hulls and watertight bulkheads;

shall, unless in the case of information about a ship's stability, the Central Government otherwise orders, apply to any troopship, pleasure yacht or fishing vessel, or to any ship of less than five hundred tons gross tonnage other than a passenger steamer or to any ship not propelled by mechanical means.

(2) Nothing in the preceding sub-section shall affect the exemption conferred by section 4 of this Act.

(3) Notwithstanding that any provision of this Act is expressed to apply to ships not registered in India while they are within any port in India, that provision shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled."

29. Substitution of new section for section 245P in Act XXI of 1923.—For section 245P of the principal Act, the following section shall be substituted, namely:—

“245P. *Obligation to render assistance on receiving signal of distress.*—(1) The master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable or in the special circumstances of the case considers it unreasonable or unnecessary to do so or unless he is released from such obligation under the provisions of sub-section (3) or sub-section (4) of this section.

(2) Where the master of any ship in distress has requisitioned any Indian ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition, by continuing to proceed with all speed to the assistance of the persons in distress.

(3) The master shall be released from the obligation imposed by sub-section (1) of this section as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) The master shall be released from the obligation imposed by sub-section (1) and if his ship has been requisitioned, from the obligation imposed by sub-section (2), if he is informed by the persons in distress or by the master of any ship that has reached the persons in distress that assistance is no longer required.

(5) If the master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress is unable or in the special circumstances of the case considers it unreasonable or unnecessary to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of those persons and if he fails to do so, he shall be liable to a fine which may extend to one thousand rupees.

(6) The master of every Indian ship for which an official log is required shall enter or cause to be entered in the official log book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(7) Any master failing to comply with the provisions of sub-section (1) or sub-section (2) shall be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.”

30. Amendment of section 289C, Act XXI of 1923.—In section 289C of the principal Act, after the word ‘unnecessary’ the words ‘or ought to be dispensed with’ shall be inserted.

31. Transitional provisions.—Without prejudice to the provisions of section 24 of the General Clauses Act, 1897 (X of 1897),—

(a) any rules made under any provision of Part V of the principal Act shall, until revoked, have effect as if they had been made under the corresponding provisions of that Part as amended by this Act;

(b) any certificate in force in respect of any ship at the commencement of this Act shall continue in force until the date shown on the certificate subject, however, to the cancellation of the certificate under the principal Act and section 245H of the principal Act shall have effect, accordingly;

(c) nothing in section 245H of the principal Act shall prohibit a ship from proceeding to sea without a Safety Equipment Certificate until after expiration of twenty-four months from the 19th day of November, 1952, nor a ship of less than sixteen hundred tons gross tonnage from proceeding in sea without a Safety Radio-telegraphy Certificate or, a Safety Radio-telephony Certificate or an Exemption Certificate, until after the expiration of one year from that date;

(d) sub-section (2) of section 245F of the principal Act as amended by this Act shall apply to any such certificate as is mentioned in clause (b) issued before the commencement of this Act as it applies to any such certificate issued after the commencement of this Act.