

Power to cancel, suspend or reduce Licences.

17. The President of the Union may cancel or suspend, or reduce the grade of any licence 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 President of the Union, 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 the Burma Merchant Shipping Act, the President of the Union 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.

Power to cancel, suspend or reduce licence for misconduct, etc.

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 the Burma Merchant Shipping Act, the President of the Union may suspend his licence until the final orders of the President of the Union in respect of the findings on such trial or investigation have been communicated to the pilot or during such shorter period as the President of the Union may consider necessary:

Power to suspend licence pending trial or investigation.

Provided that the order directing such temporary suspension may be cancelled at any time by the President of the Union, or after the conclusion of the trial by the Magistrate, or after the conclusion of the investigation by the president of the special Court, but such Magistrate or president shall submit to the President of the Union a special report stating his reasons for cancelling such order.

Delegation of functions of the President of the Union.

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

Power to delegate functions of President.

THE BURMA LIGHTHOUSE ACT.

[BURMA ACT II, 1937.] (1st April, 1937.)

PART I.**PRELIMINARY.**

11. * * * *

2. In this Act, unless there is anything repugnant in the subject or context.—

Definitions.

- (a) "Customs-collector" means an officer of customs exercising the powers of a Customs-collector under the Sea Customs Act, and

¹ Omitted by Act II, 1945.

- includes any person appointed by the President of the Union to discharge the functions of a Customs-collector under this Act ;
- (b) "general lighthouse" means any lighthouse included in the Schedule or any lighthouse which the President of the Union may, by notification, declare to be a general lighthouse for the purposes of this Act ;
 - (c) "lighthouse" includes any light-vessel, fog-signal, buoy, beacon or any mark, sign or apparatus exhibited or used for the guidance of ships ;
 - (d) "local lighthouse" means any lighthouse in the Union of Burma which is not a general lighthouse ;
 - (e) "local lighthouse authority" means a person appointed by the President of the Union to have the superintendence and management of a local lighthouse ;
 - (f) "owner" includes any part-owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned ;
 - (g) "port" means any port to which the Ports Act extends ; and
 - (h) words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the Burma Merchant Shipping Act.

Power to make rules.

3. The President of the Union may make rules consistent with this Act to carry into effect the purposes thereof.

Appointment of Inspectors.

4. The President of the Union may, by notification, appoint Inspectors and a Chief Inspector of Lighthouses.

Appointment of Advisory Committee.

5. (1) The President of the Union shall appoint an Advisory Committee to advise him generally on matters connected with the administration of this Act, and in particular shall consult it in regard to—

- (a) the erection and position of local lighthouses or of any works appertaining thereto ;
- (b) additions to, or alterations or removal of, local lighthouses ;
- (c) the variation of the character of any local lighthouse or of the mode of use thereof ;
- (d) the cost of any proposals relating to local lighthouses ; or
- (e) the making or alteration of any rules under this Act.

(2) Such Advisory Committee shall consist of persons representing interests affected by this Act or having special knowledge on the subject-matter thereof.

PART II.

GENERAL LIGHTHOUSES.

Superintendence and Management.

Superintendence and management.

6. The superintendence and management of general lighthouses shall vest in the President of the Union with the power to make what arrangements he thinks fit, by contract or otherwise, to discharge this responsibility.

Light-Dues.

7. For the purpose of providing or maintaining or of providing and maintaining general lighthouses in the Union of Burma for the benefit of ships voyaging to or from the Union of Burma or between ports in the Union of Burma the President of the Union shall, subject to the provisions of this Act, cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in the Union of Burma.

Levy and collection of light-dues.

8. (1) The President of the Union may, by notification, prescribe rates at which light-dues in respect of general lights shall be payable, and may prescribe different rates for different classes of ships, or for ships of the same class when in use for different purposes or in different circumstances.

Rates of light-dues leviable.

(2) Light-dues payable in respect of a ship shall be paid by the owner or master of the ship on its arrival at, and on its departure from, any port in the Union of Burma :

Provided that, if light-dues have been paid in accordance with the provisions of this Act in respect of any ship, no further dues shall become payable in respect of that ship for a period of thirty days from the date on which the dues so paid became payable.

(3) An order under sub-section (1) imposing, abolishing or varying light-dues shall not take effect till the expiration of thirty days from the day on which the order was notified in the Gazette.

9. Light-dues shall be paid to the Customs-collector who shall grant to the person paying the same a receipt in writing specifying—

Receipts for light-dues.

- (a) the port at which the dues have been paid ;
- (b) the amount of the payment ;
- (c) the date on which the dues became payable, and
- (d) the name, tonnage and other particulars of the ship in respect of which the payment is made.

10. (1) For the purpose of the levy of light-dues, a ship's tonnage shall be reckoned [as prescribed by rules made under this Act].¹

Ascertainment of tonnage.

(2) In order to ascertain the tonnage of any ship for the purpose of levying light-dues, the Customs-collector may—

- (a) if the ship is registered under any law for the time being in force in the Union of Burma or under the law of any foreign country [in respect of which the President of the Union has, by notification, declared]¹ that ships of that country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers (any such ship being hereafter in this section referred to as a registered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other person refuses or neglects to

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

produce the register or papers, as the case may be, or otherwise to satisfy the Customs-collector as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained ;
or

(b) if the ship is not a registered ship and the owner or master fails to satisfy the Customs-collector as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to such mode.

(3) If any person refuses or neglects to produce any register or other papers or otherwise to satisfy the Customs-collector as to the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage, and, if the ship is a registered ship, shall further, on conviction by a Magistrate of the first class having jurisdiction in the port where the ship lies or in any port to which she may proceed, be punishable with fine which may extend to one thousand rupees.

Recovery of Dues.

Recovery of
light-dues,
expenses
and costs

11. (1) If the owner or master of any ship refuses or neglects to pay to the Customs-collector on demand the amount of any light-dues or expenses payable under this Part of this Act in respect of the ship, the Customs-collector may seize the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of the dues or expenses, together with the costs of the seizure and detention, is paid.

(2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the Customs-collector may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

Refusal of
port-clear-
ance.

12. The officer whose duty it is to grant a port-clearance for any ship shall not grant the port-clearance until the amount of all light-dues, expenses and costs payable in respect of the ship under this Part of this Act and of any fines imposed thereunder has been paid, or until security for the payment thereof has been given to his satisfaction.

Determina-
tion of
disputes as to
liability for
payment.

13. If any dispute arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Part of this Act or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by a Magistrate of the first class having jurisdiction at the place where the dispute arises, and the decision of such Magistrate shall be final.

14. (1) If the master of any ship in respect of which any light-dues are payable under this Part of this Act at any port causes the ship to leave such port without having paid the same, the Customs-collector at that port may by writing require the Customs-collector at any other port in the Union of Burma to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

Light-dues payable at one port recoverable at another.

(2) Any Customs-collector to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Part of this Act at the port at which he is the Customs-collector, and a certificate by the Customs-collector at the port at which the light-dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under section 11 or section 13 that such amount is payable.

15. (1) If the owner or master of a ship evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Part of this Act, he shall, on conviction by a Magistrate of the first class having jurisdiction in any port in the Union of Burma to which the vessel may proceed or in which she may be found, be punishable with fine which may extend to five times the amount of the sum payable.

Penalty for evading payment of light-dues.

(2) In any proceeding before a Magistrate in a prosecution under sub-section (1), any such certificate as is mentioned in sub-section (2) of section 14, stating that the owner or master has evaded such payment, shall be sufficient proof of the evasion, unless the owner or master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

Exemption.

16. The following ships shall be exempted from the payment of light-dues under this Act, namely :—

Exemption from payment of light-dues.

- (a) any ship belonging to the Government or to a foreign Prince or State and not carrying cargo or passengers for freight or fares, and
- (b) any ship of a tonnage of less than fifty tons ;

and the President of the Union may, by notification, exempt any other ships, or classes of ships, or ships performing specified voyages, from such payment either wholly or to such extent only as may be specified in the notification.

Refund.

17. Where light-dues have been paid in respect of any ship in excess of the amount payable under this Part of this Act, no claim to refund of such excess payment shall be admissible, unless it is made within six months from the date of each payment.

Refund of excess payments.

Accounts.

18. The President of the Union shall cause to be maintained a separate account of all amounts received by way of light-dues, expenses, costs and fines

Accounts.

under this Part of this Act and of all expenditure incurred for the purposes of this Act, as soon as possible after the close of each financial year.

PART III.

LOCAL LIGHTHOUSES.

Local Lighthouse Authority.

Local
lighthouse
authority.

19. The President of the Union may appoint any person to be the local lighthouse authority as respects any local lighthouse.

All powers conferred on such authority by or under any enactment enabling such authority to maintain such lighthouse shall be exercised subject to this Act.

Inspection.

Power to
inspect local
lighthouses.

20. (1) The Chief Inspector of Lighthouses may, at any time, and any Inspector of Lighthouses may, if authorized in this behalf by a general or special order in writing of the President of the Union, enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit.

(2) Every person having the charge of, or concerned in the management of, any local lighthouse shall be bound to furnish to any officer authorized by or under sub-section (1) to inspect the lighthouse all such information regarding the same as the officer may require.

(3) Every local lighthouse authority shall furnish all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as the President of the Union may require.

Control.

Control of
local light-
houses by the
President.

21. (1) If, after an inspection under section 20 or such other inquiry as he thinks fit, the President of the Union is satisfied that a direction under this sub-section is necessary or expedient for the safety, or otherwise in the interests, of shipping, he may direct any local lighthouse authority—

(a) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such lighthouse, or

(b) to erect, place or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within which the local lighthouse authority exercises its powers.

(2) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the President of the Union at least one month's notice in writing of its intention so to do :

Provided that, in cases of emergency, a local lighthouse authority may take such action as it deems necessary and shall give immediate notice of the

same to the President of the Union and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse.

(3) If a local lighthouse authority—

- (a) fails to comply with any direction made under sub-section (1), or
- (b) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or
- (c) fails to make adequate financial provision for the performance of any such duty,

the President of the Union may, by order in writing, require the local lighthouse authority to comply with the direction, or to make arrangements to his satisfaction for the proper exercise of the power or performance of the duty, or to make financial provision to his satisfaction for the performance of the duty, as the case may be, within such period as he may specify.

(4) If the local lighthouse authority fails to comply with an order made under sub-section (3) within the specified period or within such further time as the President of the Union may allow, the President of the Union may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the Government any expenditure incurred in so doing.

Management by Government.

22. The President of the Union may, at the request of a local lighthouse authority, undertake the superintendence and management of any local lighthouse on its behalf, and the local lighthouse authority shall pay to the Government such sums to defray the cost of superintendence and management as may be agreed.

Management of local lighthouses by the Government.

Repeal.

123. * * * *

SCHEDULE.

(1) Lighthouse on islands or reefs :—

- (a) Oyster Island.
- (b) Beacon Island.
- (c) Alguada Reef.
- (d) Table Island.
- (e) Double Island.

(2) The Baragua Flats Light vessel and the Krishna Light vessel.

(3) The Mergui Archipelago beacons.

(4) Any other lighthouse in the Union of Burma which the President of the Union may declare to be a general lighthouse.

¹ Deleted by Act II, 1945.