STATUTORY INSTRUMENTS

1970 No. 285

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Load Lines) (Hong Kong) Order 1970

Made - - - -	*25th February* 1970
Laid before Parliament	*3rd March* 1970
Coming into Operation	*4th March* 1970

At the Court at Buckingham Palace, the 25th day of February 1970

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 28(1) and 30 of the Merchant Shipping (Load Lines) Act 1967(**a**) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Merchant Shipping (Load Lines) (Hong Kong) Order 1970.

(2) This Order shall come into operation on 4th March 1970.

2. The Interpretation Act 1889(**b**) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

3. The provisions of the Merchant Shipping (Load Lines) Act 1967, modified and adapted as in the Schedule hereto, shall extend to Hong Kong.

W. G. Agnew

SCHEDULE TO THE ORDER

General provisions

Ships to which Act applies.

1. This Act applies to all ships except—

(*a*) ships of war;

(*b*) ships solely engaged in fishing; and

(*c*) pleasure yachts.

Load line rules.

2.—(1) The Governor may make rules in accordance with the following provisions of this Act (in this Act referred to as "the load line rules"); and in making those rules the Governor shall have regard in particular to the Convention of 1966.

(**a**) 1967 c. 27. (**b**) 1889 c. 63.

(2) The load line rules shall make provision—

(*a*) for the surveying and periodical inspection of ships to which this Act applies ;

(*b*) for determining freeboards to be assigned from time to time to such ships ;

(*c*) for determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description prescribed by the rules ; and

(*d*) for determining, by reference to that mark and the freeboards for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description prescribed by the rules, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the rules.

(3) The load line rules shall include the following provisions, that is to say—

(*a*) provisions specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which this Act applies as appear to the Governor to be relevant to the assignment of freeboards to such ships ;

(*b*) provisions whereby, at the time when freeboards are assigned to a ship in accordance with the load line rules, such particulars relating to those requirements as may be determined in accordance with the rules are to be recorded in such manner as may be so determined ; and

(*c*) provisions for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is for the purposes of this Act to be taken to comply, or not to comply, with the conditions of assignment ;

and those provisions shall be set out separately in the load line rules under the title of " rules as to conditions of assignment ".

(4) The load line rules shall also include provisions requiring such information relating to the stability of any ship to which freeboards are assigned thereunder, and such information relating to the loading and ballasting of any such ship, as may be determined in accordance with the rules to be provided for the guidance of the master of the ship in such manner as may be so determined.

(5) In relation to any matter authorised or required by this Act to be prescribed by the load line rules, those rules may make different provision by reference to (or to any combination of) any of the following, that is to say, different descriptions of ships, different areas, different seasons of the year and any other different circumstances.

(6) Except in so far as the context otherwise requires, in this Act " deck-line " means such a mark as is referred to in paragraph (*c*) of subsection (2) of this section and " load lines " means such lines as are referred to in paragraph (*d*) of that subsection.

Ships registered in Hong Kong

Compliance with load line rules.

3.—(1) Subject to any exemption conferred by or under this Act, no ship to which this Act applies, being a ship registered in Hong Kong, shall proceed or attempt to proceed to sea unless—

(*a*) the ship has been surveyed in accordance with the load line rules ;

(*b*) the ship is marked with a deck-line and with loadlines in accordance with those rules ;

(*c*) the ship complies with the conditions of assignment ; and

(*d*) the information required by those rules to be provided as mentioned in section 2(4) of this Act is provided for the guidance of the master of the ship in the manner determined in accordance with the rules.

(2) If any ship proceeds or attempts to proceed to sea in contravention of the preceding subsection, the owner or master of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding three thousand dollars.

(3) Any ship which in contravention of subsection (1) of this section attempts to proceed to sea without being surveyed and marked as mentioned in paragraphs (*a*) and (*b*) of that subsection may be detained until she has been so surveyed and marked.

(4) Any such ship as is mentioned in subsection (1) of this section which does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of section 45 of the Merchant Shipping Ordinance(a) (power to detain unsafe ships, and procedure for detention).

Submersion of load lines.

4.—(1) Where a ship to which this Act applies, being a ship registered in Hong Kong, is marked with load lines, the ship shall not be so loaded that—

(*a*) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged, or

(*b*) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of the preceding subsection, the owner or master of the ship shall (subject to subsection (5) of this section) be guilty of an offence and liable on summary conviction—

(*a*) to a fine not exceeding six thousand dollars, and

(*b*) to such additional fine, not exceeding an amount calculated in accordance with the next following subsection, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) Any additional fine imposed under subsection (2)(*b*) of this section shall not exceed six thousand dollars for every complete inch, and for any fraction of an inch over and above one or more complete inches, by which—

(*a*) in a case falling within paragraph (*a*) of subsection (1) of this section, the appropriate load line on each side of the ship was submerged, or

(*b*) in a case falling within paragraph (*b*) of that subsection, the appropriate load line on each side of the ship would have been submerged as therein mentioned ;

and, if the amount by which that load line was or would have been submerged was less than a complete inch, any such additional fine shall not exceed six thousand dollars.

(4) If the master of a ship takes the ship to sea when she is loaded in contravention of subsection (1) of this section, or if any other person, having reason to believe that the ship is so loaded, sends or is party to sending her to sea when she is loaded in contravention of that subsection, then (without prejudice to any fine to which he may be liable in respect of an offence under subsection (2) of this section) he shall be guilty of an offence under this subsection and liable—

(*a*) on conviction on indictment, to a fine ;

(*b*) on summary conviction, to a fine not exceeding six thousand dollars.

(a) Laws of Hong Kong, Revised Edition 1967. Cap. 281.

(5) Where a person is charged with an offence under subsection (2) of this section, it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) Without prejudice to any proceedings under the preceding provisions of this section, any ship which is loaded in contravention of subsection (1) of this section may be detained until she ceases to be so loaded.

(7) For the purposes of the application of this section to a ship in any circumstances prescribed by the load line rules in accordance with section 2(2)(*d*) of this Act, " the appropriate load line " means the load line which, in accordance with those rules, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

Miscellaneous offences in relation to marks.

5. Where a ship to which this Act applies, being a ship registered in Hong Kong, is marked in accordance with any requirements as to marking imposed by or under this Act, then if—

(*a*) the owner or master of the ship fails without reasonable cause to keep the ship so marked, or

(*b*) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, except where he does so under the authority of a person empowered under the load line rules to authorise him in that behalf,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding three thousand dollars.

Issue of load line certificates.

6.—(1) Where a ship to which this Act applies, being a ship registered in Hong Kong, has been surveyed and marked in accordance with the load line rules, the appropriate certificate shall be issued to the owner of the ship on his application.

(2) For the purposes of this section the appropriate certificate—

(*a*) in the case of an existing ship of not less than 150 tons gross tonnage, and in the case of a new ship of not less than 24 metres in length, is a certificate to be called an " International Load Line Certificate (1966) ", and

(*b*) in the case of any other ship, is a certificate to be called a " Hong Kong load line certificate ".

(3) Subject to the next following subsection, any certificate required by subsection (1) of this section to be issued—

(*a*) shall be issued by the Governor or by a person authorised in that behalf by the Governor, and

(*b*) shall be in such form, and shall be issued in such manner, as may be prescribed by the load line rules.

(4) The Governor may request a Contracting Government to issue an International Load Line Certificate (1966) in respect of any ship to which this Act applies which is a ship registered in Hong Kong and falling within subsection (2)(*a*) of this section; and the following provisions of this Act shall have effect in relation to such a certificate so issued, which contains a statement that it has been issued at the request of the Government of Hong Kong, as they have effect in relation to an International Load Line Certificate (1966) issued by the Governor.

Effect of load line certificate.

7. Where a certificate, issued in pursuance of the last preceding section and for the time being in force, is produced in respect of the ship to which the certificate relates,—

(*a*) the ship shall be deemed to have been surveyed in accordance with the load line rules, and

(*b*) if lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by the load line rules, and the positions of those lines so marked correspond to the positions of the deck-line and load lines as specified in the certificate, the ship shall be deemed to be marked as required by those rules.

Duration, endorsement and cancellation of load line certificates.

8.—(1) The load line rules shall make provision for determining the period during which any certificate issued under section 6 of this Act is to remain in force, including—

(*a*) provision enabling the period for which any such certificate is originally issued to be extended within such limits and in such circumstances as may be prescribed by the rules, and

(*b*) provision for cancelling any such certificate in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to—

(*a*) periodical inspections of the ship in accordance with the load line rules, and

(*b*) any extension of the period for which the certificate was issued,

as may be prescribed by the rules.

Ships not to proceed to sea without load line certificate.

9.—(1) Subject to any exemption conferred by or under this Act, no ship to which this Act applies, being a ship registered in Hong Kong, shall proceed or attempt to proceed to sea unless the appropriate certificate is in force in respect of the ship.

(2) Before any such ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the Director of Marine or to any public officer authorised by the Director in that behalf from whom a clearance for the ship is demanded; and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding three thousand dollars.

(4) In this section "the appropriate certificate" means the certificate which is the appropriate certificate for the purposes of section 6 of this Act.

Publication of load line certificate and entry of particulars in official log-book.

10.—(1) Where a certificate is issued in respect of a ship under section 6 of this Act—

(*a*) the owner of the ship shall forthwith on receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and shall cause it to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use, and

(*b*) the master of the ship, before making any other entry in any official log-book relating to the ship, shall enter in it the particulars as to the positions of the deck-line and the load lines which are specified in the certificate.

(2) Before any ship to which this Act applies, being a ship registered in Hong Kong, leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship—

(*a*) shall enter in the official log-book such particulars relating to the depth to which the ship is for the time being loaded as may be prescribed by regulations made by the Governor under this Act, and

(*b*) subject to the next following subsection, shall cause a notice, in such form and containing such of those particulars as may be specified in the regulations for the purposes of this paragraph, to be posted up in some conspicuous place on board the ship;

and, where such a notice has been posted up, the master of the ship shall cause it to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place.

(3) The regulations may exempt ships trading within the river trade limits as defined in section 2 of the Merchant Shipping Ordinance(**a**) or any class of such ships specified in the regulations, from the requirements as to notices contained in the last preceding subsection.

(4) If the owner or master of a ship fails to comply with any requirement imposed on him by the preceding provisions of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding seven hundred and fifty dollars.

Inspection of ships.

11.—(1) A surveyor of ships may inspect any ship to which this Act applies, being a ship registered in Hong Kong, for the purpose of seeing that the provisions of this Act have been complied with in respect of the ship.

(2) For the purposes of any such inspection any such surveyor shall have in Hong Kong all the powers which a Board of Trade inspector has in the United Kingdom under the Merchant Shipping Act 1894(**b**).

Ships not registered in Hong Kong

Valid Convention certificates.

12.—(1) This section applies to any ship which, being a ship to which this Act applies and not being registered in Hong Kong,—

(*a*) is registered in a Convention country or, not being registered in any such country or elsewhere, flies the flag of a Convention country, and

(*b*) is either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres in length.

(2) The Governor may, at the request of the Government of the parent country of a ship to which this section applies, issue in respect of the ship a certificate in such form as may be prescribed by the load line rules, if the Governor is satisfied that he could properly issue a certificate in respect of the ship under section 6(1) of this Act if the ship were registered in Hong Kong.

(3) The load line rules shall make such provision as appears to the Governor to be appropriate for securing that certificates which are issued as International Load Line Certificates (1966) in respect of ships to which this section applies, and are so issued by Governments other than the Government of Hong Kong, shall be recognised for the purposes of this Act in such circumstances as may be prescribed by the rules.

(4) Certificates issued as mentioned in subsection (2) or subsection (3) of this section shall be included among the certificates to be called "International Load Line Certificates (1966)".

(5) In this Act "valid Convention certificate" means a certificate which either—

(*a*) has been issued under subsection (2) of this section and is for the time being in force, or

(*b*) having been issued as mentioned in subsection (3) of this section, is produced in circumstances in which it is required by the load line rules to be recognised for the purposes of this Act.

(**a**) Laws of Hong Kong, Revised Edition 1967. Cap. 281. (**b**) 1894 c. 60.

Compliance with load line rules.

13.—(1) Subject to the next following subsection, and to any exemption conferred by or under this Act, no ship to which this Act applies, not being a ship registered in Hong Kong, shall proceed or attempt to proceed to sea from any port of the Colony unless—

(*a*) the ship has been surveyed in accordance with the load line rules;

(*b*) the ship is marked with a deck-line and with load lines in accordance with those rules;

(*c*) the ship complies with the conditions of assignment; and

(*d*) the information required by those rules to be provided as mentioned in section 2(4) of this Act is provided for the guidance of the master of the ship in the manner determined in accordance with the rules.

(2) The preceding subsection does not apply to a ship in respect of which a valid Convention certificate is produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of the preceding provisions of this section, the owner or master of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding three thousand dollars.

(4) Any ship which in contravention of this section attempts to proceed to sea without being surveyed and marked as mentioned in paragraphs (*a*) and (*b*) of subsection (1) of this section may be detained until she has been so surveyed and marked.

(5) If any such ship as is mentioned in subsection (1) of this section, not being a ship in respect of which a valid Convention certificate is produced, does not comply with the conditions of assignment, then—

(*a*) if the ship is a British ship, she shall be deemed to be unsafe for the purposes of section 45 of the Merchant Shipping Ordinance(a), or

(*b*) if the ship is a foreign ship, section 49 of that Ordinance shall have effect in relation to the ship as if she were unsafe by reason of one of the matters specified in that section.

Submersion of load lines.

14.—(1) Where a ship to which this Act applies, not being a ship registered in Hong Kong, is within any port of the Colony, and is marked with load lines, the ship shall not be so loaded that—

(*a*) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged, or

(*b*) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Subsections (2), (3), (5) and (6) of section 4 of this Act shall have effect for the purposes of this section as if any reference in those subsections to subsection (1) of that section, or to paragraph (*a*) or paragraph (*b*) of the said subsection (1), were a reference to subsection (1), or (as the case may be) to the corresponding paragraph of subsection (1), of this section:

Provided that, in the case of a ship to which section 12 of this Act applies, the ship shall not be detained, and no proceedings shall be brought by virtue of this subsection, unless the ship has been inspected by a surveyor of ships in pursuance of section 17 of this Act.

(3) In relation to a ship in respect of which a valid Convention certificate is produced, "load line" in subsection (1) of this section means a line marked on the ship in the position of a load line specified in that certificate; and for the purposes of the application of the relevant provisions to such a ship in any circumstances for which a particular load line is specified in the certificate, the "appropriate load line" means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(a) Laws of Hong Kong, Revised Edition 1967. Cap. 281.

(4) Where a valid Convention certificate is not produced in respect of a ship, then, for the purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the load line rules in accordance with section 2(2)(*d*) of this Act, " the appropriate load line " means the load line which, in accordance with those rules, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(5) In subsections (3) and (4) of this section " the relevant provisions " means the provisions of subsection (1) of this section and any provisions of section 4 of this Act as applied by subsection (2) of this section.

Hong Kong load line certificates.

15.—(1) Where a ship to which this Act applies, not being a ship registered in Hong Kong, has been surveyed and marked in accordance with the load line rules, then on the application of the owner of the ship a Hong Kong load line certificate shall be issued to him by the Governor or by a person authorised in that behalf by the Governor.

(2) Subject to the next following subsection, the provisions of sections 7 and 8 of this Act shall have effect in relation to a certificate issued under the preceding subsection as they have effect in relation to a certificate issued under section 6 of this Act.

(3) Any certificate issued under subsection (1) of this section in respect of a ship to which section 12 of this Act applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Governor if he has reason to believe that the ship is plying on international voyages.

Production of certificate to Director of Marine.

16.—(1) Subject to any exemption conferred by or under this Act, before a ship to which this Act applies, not being a ship registered in Hong Kong, proceeds to sea from any port of the Colony, the master of the ship shall produce the appropriate certificate to the Director of Marine or to any public officer authorised by the Director in that behalf from whom a clearance for the ship is demanded ; and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(2) For the purposes of this section the appropriate certificate—

(*a*) in the case of a ship to which section 12 of this Act applies, where a clearance for the ship is demanded in respect of an international voyage, is a valid Convention certificate ;

(*b*) in the case of any such ship, where a clearance for the ship is demanded in respect of any other voyage, is either a valid Convention certificate or a Hong Kong load line certificate for the time being in force in respect of the ship ; and

(*c*) in any other case, is a Hong Kong load line certificate for the time being in force in respect of the ship.

Provisions as to inspection.

17.—(1) Subject to the following provisions of this section, a surveyor of ships may inspect any ship to which this Act applies, not being a ship registered in Hong Kong, while the ship is within any port of the Colony ; and for the purposes of any such inspection any such surveyor shall have in Hong Kong all the powers which a Board of Trade inspector has in the United Kingdom under the Merchant Shipping Act 1894(**a**).

(2) Any such surveyor may go on board any ship to which section 12 of this Act applies, while the ship is within any port of the Colony, for the purpose of demanding production of any International Load Line Certificate (1966) or Hong Kong load line certificate for the time being in force in respect of the ship.

(**a**) 1894 c. 60.

(3) If on any such demand a valid Convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) of this section shall be limited to seeing—

(*a*) that the ship is not loaded beyond the limits allowed by the certificate;

(*b*) that lines are marked on the ship in the positions of the load lines specified in the certificate;

(*c*) that no material alterations have taken place in the hull or superstructures of the ship which affect the position in which any of those lines ought to be marked; and

(*d*) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) If on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in paragraph (*c*) or paragraph (*d*) of the last preceding subsection that the ship is manifestly unfit to proceed to sea without danger to human life, then—

(*a*) if the ship is a British ship, she shall be deemed to be unsafe for the purposes of section 45 of the Merchant Shipping Ordinance(a), or

(*b*) if the ship is a foreign ship, section 49 of that Ordinance shall have effect in relation to the ship as if she were unsafe by reason of one of the matters specified in that section.

(5) Where a ship is detained under the provisions of that Ordinance as applied by the last preceding subsection, the Director of Marine shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

Exemptions

Power to make exemption orders.

18.—(1) If in the opinion of the Governor the sheltered nature and conditions of international voyages—

(*a*) between near neighbouring ports in Hong Kong and in another Convention country, or

(*b*) between near neighbouring ports in any two or more countries or territories outside Hong Kong,

make it unreasonable or impracticable to apply the provisions of this Act to ships plying on such voyages, and the Governor is satisfied that the Government of the other country or territory (or, as the case may be, of each of the other countries or territories) concurs in that opinion, the Governor may by order published in the Hong Kong Government Gazette specifying those ports direct that ships plying on international voyages between those ports, or any class of such ships specified in the order, shall be exempt from the provisions of this Act.

(2) The Governor may by order published in the Hong Kong Government Gazette direct that ships under 80 tons register engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from the provisions of this Act while not carrying cargo, or (if the order so provides) shall be exempt from the provisions of this Act whether carrying cargo or not.

(3) Any order under this section may be made subject to such conditions as the Governor thinks fit; and, where any such order is made subject to conditions, the exemption conferred by the order shall not have effect in relation to a ship unless the ship complies with those conditions.

(a) Laws of Hong Kong, Revised Edition 1967. Cap. 281.

Further powers to exempt ships.

19.—(1) In this section any reference to exempting a ship is a reference to exempting the ship either—

(*a*) from all the provisions of this Act and of the load line rules, or

(*b*) from such of those provisions as are specified in the instrument conferring the exemption.

(2) On the application of the owner of a ship to which this Act applies, which is registered in Hong Kong and is either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres in length, the Governor may exempt the ship if in his opinion the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this Act and of the load line rules, the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

(3) On the application of the owner of a ship to which this Act applies, which is registered in Hong Kong and is either—

(*a*) an existing ship of less than 150 tons gross tonnage or a new ship of less than 24 metres in length, or

(*b*) a ship (not falling within the preceding paragraph) which does not ply on international voyages,

the Governor may exempt the ship.

(4) Without prejudice to the last preceding subsection, where a ship to which this Act applies, which is registered in Hong Kong and is either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres in length, does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Governor, on the application of the owner of the ship, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(5) Any exemption conferred under this section may be conferred subject to such conditions as the Governor thinks fit; and, where any such exemption is conferred subject to conditions, the exemption shall not have effect unless those conditions are complied with.

Issue of exemption certificates.

20.—(1) Where the Governor exempts a ship under the last preceding section, the Governor shall issue the appropriate certificate to the owner of the ship.

(2) For the purposes of this section the appropriate certificate—

(*a*) where the exemption is conferred under subsection (2) or subsection (4) of the last preceding section, is a certificate to be called an "International Load Line Exemption Certificate", and

(*b*) where the certificate is conferred under subsection (3) of that section, is a certificate to be called a "Hong Kong load line exemption certificate".

(3) Any certificate issued under this section shall be in such form, and shall be issued in such manner, as may be prescribed by the load line rules.

Duration and termination of exemptions, and duration, endorsement and cancellation of exemption certificates.

21.—(1) The load line rules shall make provision for determining the period during which any exemption conferred under section 19 of this Act, or any certificate issued under section 20 of this Act, is to remain in force, including—

(*a*) provision enabling the period for which any such exemption or certificate is originally conferred or issued to be extended within such limits and in such circumstances as may be prescribed by the rules, and

(*b*) provision for terminating any such exemption, and for cancelling any such certificate, in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to—

(*a*) periodical inspections of the ship in accordance with the load line rules, and

(*b*) any extension of the period for which the certificate was issued,

as may be prescribed by the rules.

International Load Line Exemption Certificates.

22.—(1) The load line rules shall make such provision as appears to the Governor to be appropriate for securing that exemption certificates which, in accordance with the Convention of 1966, are issued in respect of ships to which section 12 of this Act applies, and are so issued by Governments other than the Government of Hong Kong, shall in such circumstances as may be prescribed by the rules have the like effect for the purposes of this Act as if they were valid Convention certificates.

(2) Certificates issued as mentioned in the preceding subsection shall be included among the certificates to be called " International Load Line Exemption Certificates ".

Subdivision load lines and deck cargo

Subdivision load lines.

23.—(1) Where in pursuance of any rules for the time being in force under section 1 of the Merchant Shipping (Safety Convention) Act 1949(**a**) as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953(**b**) a passenger steamer to which this Act applies, being a ship registered in Hong Kong, is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 4 of this Act, the said section 4 shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

(2) Where in pursuance of any such rules, or in pursuance of the Convention referred to in that Act as the Safety Convention or any law of any country made for the purpose of giving effect to that Convention, a passenger steamer to which this Act applies, not being a ship registered in Hong Kong, is marked with subdivision load lines, and the lowest of those load lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 14 of this Act, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

(3) In this section " passenger steamer " has the meaning assigned to it by section 26 of the Merchant Shipping (Safety Convention) Act 1949 as extended to Hong Kong.

Deck cargo.

24.—(1) The Governor may make regulations (in this section referred to as " the deck cargo regulations ") prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which this Act applies; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances.

(2) If the load line rules provide (either generally or in particular cases or classes of cases) for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then (without prejudice to the generality of the preceding subsection) the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(**a**) 1949 c. 43. (**b**) S.I. 1953/592 (1953 I, p. 1173).

(3) In prescribing any such special requirements as are mentioned in the last preceding subsection, the Governor shall have regard in particular to the provisions of Chapter IV of the Convention of 1966.

(4) If any provisions of the deck cargo regulations are contravened—

(*a*) in the case of a ship registered in Hong Kong, or

(*b*) in the case of any other ship while the ship is within any port of the Colony,

the master of the ship shall (subject to the next following subsection) be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

(5) Where a person is charged with an offence under the last preceding subsection, it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) For the purpose of securing compliance with the deck cargo regulations, any person authorised in that behalf by the Director of Marine may inspect any ship to which this Act applies which is carrying cargo in any uncovered space on her deck; and for the purposes of any such inspection any such person shall have in Hong Kong all the powers which a Board of Trade inspector has in the United Kingdom under the Merchant Shipping Act 1894(**a**).

Miscellaneous and supplementary provisions

Increase of penalties for offences in connection with passenger steamers.

25.—(1) A person who after the entry into force of this Act in Hong Kong commits an offence under any of the enactments specified in column 1 of Schedule 1 to this Act shall (instead of being liable on summary conviction to the penalty specified in column 2 of that Schedule) be liable, on conviction as mentioned in column 3 of that Schedule, to the penalty specified in the said column 3.

(2) Section 1 of this Act shall not have effect for the purposes of this section.

Provisions as to fees.

26.—(1) In respect of any survey or inspection carried out in pursuance of the load line rules, and in respect of any certificate issued under this Act, there shall be paid such fee as may be prescribed by regulations made by the Governor.

(2) Subject to the next following subsection, any fees payable under the preceding subsection shall be paid to the Government of Hong Kong.

(3) The last preceding subsection shall not apply to any fee paid in respect of—

(*a*) a survey or inspection which is carried out otherwise than by a surveyor of ships appointed under the Merchant Shipping Ordinance(**b**), or

(*b*) a certificate issued otherwise than by the Governor.

Miscellaneous supplementary provisions.

27.—(1) Without prejudice to the operation of section 34(2) of this Act, section 69 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932 as extended to Hong Kong by the Merchant Shipping Load Line Convention (Hong Kong) No. 1 Order 1938(**c**) (notice to be given to consular officer where proceedings taken in respect of foreign ships) shall have effect as if any reference therein to that Act included a reference to this Act.

(**a**) 1894 c. 60.
(**b**) Laws of Hong Kong, Revised Edition 1967. Cap. 281.
(**c**) S.R. & O. 1938/781 (Rev. XIV, p. 383: 1938, p. 2096).

(2) Where a ship is detained under any provision of this Act which provides for the detention of a ship until an event specified in that provision occurs, section 46 of the Merchant Shipping Ordinance (which relates to the costs of detention) shall apply as if the ship had been finally detained under that Ordinance.

(3) The provisions of section 31 of that Ordinance (delivery up of certificate) and of section 35 of that Ordinance (penalty for forgery of certificate or declaration) shall have effect in relation to any certificate which can be issued under this Act as they have effect in relation to a passenger steamer's certificate.

(4) Section 436(3) of the Merchant Shipping Act 1894 (which provides for recording the draught of water and the freeboard of ships) shall not have effect in relation to ships to which this Act applies, except any such ship which, by virtue of any order made or exemption conferred under this Act, is exempt from all the provisions of this Act.

(5) Any certificate issued under this Act shall be admissible in evidence.

Application of Act in relation to certain territories outside Hong Kong.

28.—(3) Where Her Majesty has, by Order in Council made under section 28(3) of this Act as in force in the United Kingdom, directed (subject to the limitation therein mentioned) that certificates issued under provisions of the law of any country or territory (other than Hong Kong) in respect of the ships referred to in such Order shall have the like effect for the purposes of this Act as in force in the United Kingdom as if they were United Kingdom load line certificates, such certificates shall (subject to the same limitation) have the like effect in respect of such ships for the purposes of this Act as extended to Hong Kong as if they were Hong Kong load line certificates.

Application of Act to certain unregistered British ships.

29.—(1) This section applies to ships which—

(*a*) are British ships to which this Act applies, but

(*b*) are not registered, whether in Hong Kong or elsewhere.

(2) The Governor may by order specify a class of ships to which this section applies and direct that, in such circumstances as may be specified in the order, the provisions of this Act relating to ships registered in Hong Kong shall have effect in relation to ships of that class as if they were registered in Hong Kong.

Provisions as to orders, rules and regulations, and as to functions of Governor.

30.—(1) Any order, rules or regulations made under this Act may contain such transitional or other incidental and supplementary provisions as may appear to the Governor to be appropriate.

(2) Any power of the Governor to make an order under this Act shall include power to revoke or vary the order by a subsequent order.

(3) For the purposes of this Act and without prejudice to the generality of the powers therein contained, any load line rules and any regulations made (whether before or after the entry into force of this Act in Hong Kong) by the Board of Trade under the provisions of this Act as in force in the United Kingdom shall, unless varied by or repugnant to rules or, as the case may be, regulations made by the Governor under this Act as extended to Hong Kong, be deemed to be the load line rules or, as the case may be, regulations made under this Act. Such rules and regulations shall be read subject to the modifications set out in the next following subsection and to any further modifications which may be made thereto by the Governor.

(4) The modifications hereinbefore referred to are that, except where the context otherwise requires, references—

(*a*) to the United Kingdom shall be taken as references to Hong Kong;

(*b*) to the Board of Trade or the Board shall be taken as references to the Governor;

(*c*) to any Act (including this Act) or to any rules or regulations made under such an Act shall be taken as references to that Act, or, as the case may be, those rules or regulations, as in force in Hong Kong ;

(*d*) to Her Majesty's Government in the United Kingdom shall be taken as references to the Hong Kong Government ;

(*e*) to the commencement of any Act (including this Act) shall be taken as references to the commencement in Hong Kong of that Act as extended to Hong Kong ;

(*f*) to any sum in sterling shall be taken as references to the equivalent sum in Hong Kong currency ;

(*g*) in the Merchant Shipping (Load Lines) (Transitional Provisions) Regulations 1968 to the date 21st July 1970 shall be taken as references to a date two years after the coming into operation of those Regulations in Hong Kong.

Convention countries.

31.—(2) In this Act " Convention country " means a country or territory which is either—

(*a*) a country the Government of which has been declared by Her Majesty by Order in Council made under section 31 of this Act as in force in the United Kingdom to have accepted or acceded to the Convention of 1966, and has not been so declared to have denounced that Convention, or

(*b*) a territory to which it has been so declared that the Convention of 1966 extends, not being a territory to which it has been so declared that that Convention has ceased to extend,

and " Contracting Government " means any such Government as is referred to in paragraph (*a*) of this subsection.

Interpretation.

32.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" the Act " or " this Act " means this Act as extended to Hong Kong :

" alteration " includes deterioration ;

" clearance " includes a transire ;

" Convention country " and " Contracting Government " have the meanings assigned to them by section 31(2) of this Act ;

" Governor " means the Governor of Hong Kong and includes any person or persons administering the Government of Hong Kong ;

" Director of Marine " means the Director of Marine of Hong Kong ;

" dollars " means Hong Kong dollars ;

" parent country ", in relation to a ship, means the country or territory in which the ship is registered, or, if the ship is not registered anywhere, means the country or territory whose flag the ship flies ;

" port of the Colony " means any place declared as such by the Governor by notification ;

" valid Convention certificate " has the meaning assigned to it by section 12(5) of this Act.

(2) In this Act, subject to the next following subsection, " international voyage " means a voyage between—

(*a*) a port of the Colony and a port outside Hong Kong, or

(*b*) a port in a Convention country (other than Hong Kong) and a port in any other country or territory (whether a Convention country or not) which is outside Hong Kong.

(3) In determining, for the purposes of the last preceding subsection, what are the ports between which a voyage is made, no account shall be taken of any deviation by a ship from her intended voyage which is

due solely to stress of weather or any other circumstance which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and for the purposes of that subsection any colony, protectorate or other dependency, any territory for whose international relations a Government is separately responsible, and any territory for which the United Nations are the administering authority, shall be taken to be a separate territory.

(4) In this Act "new ship" means a ship whose keel is laid, or which is at a similar stage of construction, on or after the material date, and "existing ship" means a ship which is not a new ship; and for the purposes of this subsection the material date—

(*a*) in relation to a ship whose parent country is a Convention country other than the United Kingdom, is the date as from which it is declared under section 31 of this Act as in force in the United Kingdom either that the Government of that country has accepted or acceded to the Convention of 1966 or that it is a territory to which that Convention extends, and

(*b*) in relation to any other ship is 21st July 1968.

(5) Any reference in this Act to the gross tonnage of a ship shall be construed as a reference to the tonnage of the ship as ascertained in accordance with the tonnage regulations of the Merchant Shipping Act 1894(**a**); and, where in accordance with those regulations alternative tonnages are assigned to a ship, the gross tonnage of the ship shall, for the purposes of this Act, be taken to be the larger of those tonnages.

(6) For the purposes of this Act the length of a ship shall be ascertained in accordance with regulations made by the Governor under this Act.

(7) Any reference in this Act to any provision of the Convention of 1966 shall, in relation to any time after that provision has been amended in pursuance of Article 29 of that Convention, be construed as a reference to that provision as so amended.

(8) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

Repeals and transitional provisions.

33.—(1) Subject to the following provisions of this section, the enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) Without prejudice to the operation of section 38 of the Interpretation Act 1889(**b**) (which relates to the effect of repeals), for the purposes of the transition from the law in force immediately before the commencement of this Act to the provisions of this Act the Governor may by regulations provide that those provisions shall have effect subject to such transitional provisions as may be contained in the regulations.

Construction, citation, commencement and extent.

34.—(2) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1965 as in force in Hong Kong, and, without prejudice to the generality of this provision, references in those Acts as so in force to the Merchant Shipping Acts shall be construed as including references to this Act.

(**a**) 1894 c. 60. (**b**) 1889 c. 63.

SCHEDULES TO THE ACT

SCHEDULE 1

Section 25.

INCREASE OF PENALTIES

Enactment	Old penalty	New penalty
Merchant Shipping Act 1906		
Section 21 (Non-compliance with provisions as to passenger steamers).	A fine not exceeding £10 for each passenger carried.	Irrespective of the number of passengers, on summary conviction, a fine not exceeding six thousand dollars; and, on conviction on indictment, a fine.
Merchant Shipping (Safety Convention) Act 1949.		
Section 12(3)(*a*) (Going to sea without appropriate certificates) as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953(a).	A fine not exceeding two hundred dollars for each passenger carried.	Irrespective of the number of passengers, on summary conviction, a fine not exceeding six thousands dollars; and, on conviction on indictment, a fine.

(a) S.I. 1953/592 (1953 I, p. 1173).

SCHEDULE 2

Section 33.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1932 c. 9.	The Merchant Shipping (Safety and Load Line Conventions) Act 1932.	Section 23, as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1935(a). Sections 40 to 61, other than sections 42, 52(2), 55 and 61(1), (2) and (3), as extended to Hong Kong by the Merchant Shipping Load Line Convention (Hong Kong) No. 1 Order 1938(b) (hereinafter referred to as the " 1938 Order "). Sections 66 and 70, as extended to Hong Kong by the 1938 Order(b).

(a) SR&O 1935/692 (Rev. XIV, p. 595; 1935, p. 1131).
(b) SR&O 1938/781 (Rev. XIV, p. 383; 1938, p. 2096).

Chapter	Short Title	Extent of Repeal
1949 c. 43.	The Merchant Shipping (Safety Convention) Act 1949.	Sections 18 and 20, as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953(a). In subsection (1) of section 29, as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953(c), paragraph (*c*) and the words from " unless in the case of " to " Governor otherwise orders ".
1964 c. 47.	The Merchant Shipping Act 1964.	Section 14, as extended to Hong Kong by the Merchant Shipping (Safety Convention) (Hong Kong) Order 1965(b).
1965 c. 47.	The Merchant Shipping Act 1965.	Section 2, and, in Schedule 1, as extended to Hong Kong by the Merchant Shipping (Tonnage) (Hong Kong) Order 1967(c), the entry relating to the Merchant Shipping (Safety and Load Line Conventions) Act 1932.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

The Merchant Shipping (Load Lines) Act 1967 makes further provision as to load lines and related matters and increases certain penalties under the Merchant Shipping Acts 1894-1965 relating to passenger steamers. It enabled the United Kingdom to give effect to the International Convention on Load Lines, 1966. Section 28(1) of the Act provides that Her Majesty may by Order in Council direct that the provisions of the Act shall extend to (*inter alia*) any colony, with exceptions, adaptations or modifications.

2. This Order provides for the extension of the Act to Hong Kong with modifications and adaptations, and the Act as modified and adapted is set out in the Schedule to the Order. This Order will enable the International Convention on Load Lines, 1966 to be extended to Hong Kong.

(a) S.I. 1953/592 (1953 I, p. 1173).
(b) S.I. 1965/2011 (1965 III, p. 5931).
(c) S.I. 1967/1764 (1967 III, p. 4730).

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