



PARLIMEN MALAYSIA



RANG UNDANG-UNDANG
Perkapalan Saudagar (Pindaan) 1983
DR.12/1983

Naskhah sahiih—Bahasa Inggeris

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Ordinan Perkapalan Saudagar 1952.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong, dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. (1) Akta ini bolehlah dinamakan Akta Perkapalan Saudagar (Pindaan) 1983 dan hendaklah mula berkuatkuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*; dan Menteri boleh menetapkan tarikh berlainan bagi peruntukan-peruntukan berlainan Akta ini.

Tajuk ringkas dan mula berkuatkuasa.

2. Ordinan Perkapalan Saudagar 1952 (kemudian dari ini disebut "Ordinan") adalah dipinda dengan menggantikan seksyen 71, 71A dan 72 dengan seksyen-seksyen baru yang berikut:

Seksyen 71, 71A dan 72 baru. Ord. 70/52.

"Certificates of competency to be held by officers of foreign-going ships.

71. (1) Every foreign-going ship, when going to sea from any place in the Federation, shall be provided with officers duly certificated under this Ordinance according to the following scale:

(a) every ship shall have a master holding a certificate of competency as master of a foreign-going ship;

(b) if the ship is of five thousand gross register tons or more, there shall be, besides the master—

(i) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship;

(ii) a second officer holding a certificate of competency not lower than that of second mate of a foreign-going ship; and

(iii) a third officer holding a certificate of competency not lower than that of third mate of a foreign-going ship;

(c) if the ship is of less than five thousand gross register tons, there shall be, besides the master—

(i) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship; and

(ii) a second officer holding a certificate of competency not lower than that of third mate of a foreign-going ship;

(d) if the ship is a steamship of 3000 kw propulsion power or more, there shall be at least four engineers, as follows:

(i) one first-class engineer;

(ii) one engineer who shall be at least a second-class engineer; and

(iii) two engineers who shall be at least fourth-class engineers or first-class engine drivers;

(e) if the ship is a steamship of more than 750 kw propulsion power but less than 3000 kw propulsion power, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a second-class engineer;

- (ii) one engineer who shall be at least a third-class engineer; and
- (iii) one engineer who shall be at least a fourth-class engineer or a first-class engine driver;
- (f) if the ship is a steamship of 750 kw propulsion power or less, there shall be at least two engineers, one of whom shall be at least a third-class engineer and the other at least a first-class engine driver.

(2) The Director of Marine may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any of the provisions of this section.

(3) For the purposes of this section and of sections 71A and 72, 745.7 watts propulsion power is equal to one horsepower.

Certificates of competency to be held by officers of home-trade ships.

71A. (1) Every home-trade ship, when going to sea from any place in the Federation, shall be provided with officers duly certificated under this Ordinance according to the following scale:

- (a) if the ship is of five thousand gross register tons or more, there shall be—
 - (i) a master holding a certificate of competency as master of a foreign-going ship or a master holding both a certificate of competency as master of a home-trade ship and a certificate of competency as first mate of a foreign-going ship;
 - (ii) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship; and
 - (iii) a second officer holding a certificate of competency not lower than that of mate of a home-trade ship;

(b) if the ship is of less than five thousand gross register tons, there shall be—

(i) a master holding a certificate of competency not lower than that of master of a home-trade ship;

(ii) a chief officer holding a certificate of competency not lower than that of mate of a home-trade ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a home-trade ship;

(c) if the ship is a steamship of 3000 kw propulsion power or more, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a second-class engineer;

(ii) one engineer who shall be at least a fourth-class engineer or first-class engine driver; and

(iii) one engineer who shall be at least a second-class engine driver;

(d) if the ship is a steamship of more than 750 kw propulsion power but less than 3000 kw propulsion power, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a first-class engine driver;

(ii) one engineer who shall be at least a second-class engine driver; and

(iii) one engineer who shall be at least a third-class engine driver;

(e) if the ship is a steamship of 350 kw to 750 kw propulsion power, there shall be at least two engineers, one of whom shall be at least a first-class engine driver and the other at least a second-class engine driver;

(f) if the ship is a steamship of less than 350 kw propulsion power, there shall be at least one engineer who shall be at least a third-class engine driver.

(2) The Director of Marine may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any of the provisions of this section.

Certificates of competency to be held by officers of local-trade ships.

72. (1) Every local-trade ship, when going to sea from any place in the Federation, shall be provided with officers duly certificated under this Ordinance according to the following scale:

(a) if the ship is of five thousand gross register tons, there shall be—

(i) a master holding a certificate of competency as master of a foreign-going ship;

(ii) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a home-trade ship;

(b) if the ship is of one thousand and six hundred gross register tons or more but less than five thousand gross register tons, there shall be—

(i) a master holding a certificate of competency not lower than that of master of a home-trade ship;

(ii) a chief officer holding a certificate of competency not lower than that of mate of a home-trade ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a local-trade ship;

(c) if the ship is of two hundred gross register tons or more but less than one thousand and six hundred gross register tons, there shall be—

(i) a master holding a certificate of competency not lower than that of master of a local-trade ship;

(ii) a chief officer holding a certificate of competency not lower than that of mate of a local-trade ship; and

(iii) if the ship plies between East and West Malaysia, then in addition to (i) and (ii), a second officer holding a certificate of competency not lower than that of mate of a local-trade ship;

(d) if the ship is of less than two hundred gross register tons, there shall be—

(i) a master holding a certificate of competency not lower than that of master of a local-trade ship; and

(ii) a chief officer holding a certificate of competency not lower than that of mate of a local-trade ship;

(e) if the ship is a steamship of 3000 kw propulsion power or more, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a second-class engineer;

(ii) one engineer who shall be at least a fourth-class engineer or first-class engine driver; and

(iii) one engineer who shall be at least a second-class engine driver;

(f) if the ship is a steamship of more than 750 kw propulsion power but less than 3000 kw propulsion power, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a first-class engine driver;

(ii) one engineer who shall be at least a second-class engine driver; and

(iii) one engineer who shall be at least a third-class engine driver;

(g) if the ship is a steamship of 350 kw to 750 kw propulsion power, there shall be at least two engineers, one of whom shall be at least a first-class engine driver and the other at least a second-class engine driver;

(h) if the ship is a steamship of less than 350 kw propulsion power, there shall be at least one engineer who shall be at least a third-class engine driver.

(2) The Director of Marine may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any of the provisions of this section.”.

3. Seksyen 73 Ordinan adalah dipinda dengan menggantikan subseksyen (2) dan (3) dengan yang berikut:

Pindaan
seksyen 73.

“(2) Every mechanically propelled vessel licensed under section 475 and employed exclusively within the limits of a port shall be provided with officers duly certificated under this Ordinance according to the following scale:

(a) if the vessel is of less than twenty-five gross register tons, there shall be an officer holding a certificate of competency not lower than that of helmsman;

(b) if the vessel is of twenty-five gross register tons or more, there shall be—

(i) an officer holding a certificate of competency not lower than that of helmsmen;

(ii) an engineer who shall be at least a third-class engine driver.

(3) For the purpose of this section, a vessel is mechanically propelled if it is fitted with any mechanical means of propulsion, whether such means are being used or not.”.

Pindaan
seksyen 74.

4. Seksyen 74 Ordinan adalah dipinda—

(a) dengan menggantikan perkataan-perkataan “hundred dollars” dalam subseksyen (1) dengan perkataan-perkataan “thousand ringgit or imprisonment for a term not exceeding one year or to both such fine and imprisonment”; dan

(b) dengan menggantikan perkataan-perkataan “hundred dollars,” dalam subseksyen (2) dengan perkataan-perkataan “thousand ringgit or imprisonment for a term not exceeding one year or to both such fine and imprisonment”;

Pindaan
seksyen 76.

5. Subseksyen (1) seksyen 76 Ordinan adalah dipinda—

(a) dengan memasukkan sebaik sahaja di bawah perkataan-perkataan “second mate of a foreign-going ship;” dalam perenggan (a) yang berikut :

“third mate of a foreign-going ship;

third mate (exempt) of a foreign-going ship;”;

(b) dengan memotong perkataan “steersman;” dalam perenggan (a); dan

(c) dengan memasukkan sebaik sahaja di bawah perkataan-perkataan “second-class engineer;” dalam perenggan (b) yang berikut :

“third-class engineer;
fourth-class engineer;”.

Seksyen 76A
baru.

6. Ordinan adalah dipinda dengan menggantikan seksyen 76A dengan seksyen baru yang berikut :

Certificates of efficiency of survival craftman. 76A. Certificates of efficiency shall be granted in accordance with this Ordinance for the grade of this survival craftman.”.

7. Seksyen 79 Ordinan adalah dipinda—

Pindaan
seksyen 79.

- (a) dengan menggantikan perkataan-perkataan “mates, helmsmen and steersman or of efficiency as lifeboat men” dalam subseksyen (1) dengan perkataan-perkataan “mates and helmsmen or of efficiency as survival craftmen”; dan
- (b) dengan menggantikan perkataan-perkataan “steersman or certificate of efficiency as lifeboat man,” dalam subseksyen (3) dengan perkataan-perkataan “certificate of efficiency as survival craftman”.

8. Seksyen 81 Ordinan adalah dipinda dengan menggantikan perkataan-perkataan “steersman, engineer, engine-driver or lifeboat man” dengan perkataan-perkataan “engineer, engine-driver or survival craftman”.

Pindaan
seksyen 81.

HURAIAN

Rang Undang-undang ini bertujuan meminda seksyen-seksyen 71, 71A, 72, 73, 74, 76, 76A, 79 dan 81 Ordinan Perkapalan Saudagar 1952. Tujuan pindaan-pindaan kepada seksyen 71, 71A, 72, 73, 76A, 79 dan 81 ialah untuk menetapkan keperluan-keperluan baru untuk mengendalikan kapal-kapal yang menuju ke luar negeri, kapal-kapal dagangan dalam negeri dan kapal-kapal dagangan tempatan dan kapal-kapal yang dilesen di bawah seksyen 475 Ordinan. Keperluan-keperluan ini, yang lebih tinggi daripada keperluan-keperluan yang sedia ada, adalah selaras dengan Konvensyen Antarabangsa berkenaan dengan Standard Latihan, Perakuan dan Penjagaan Waktu bagi Pelaut-Pelaut, 1978.

Tujuan pindaan kepada seksyen 74 adalah untuk memper-
tingkatkan penalti-penalti yang lebih tinggi bagi kesalahan-kesalahan yang dinyatakan dalam seksyen itu oleh kerana penalti-penalti yang ada sekarang ini adalah terlalu rendah.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 1200.]

(ii) a second officer holding a certificate of competency not lower than that of second mate of a foreign-going ship; and
(iii) a third officer holding a certificate of competency not lower than that of third mate of a foreign-going ship.

A BILL

intituled

An Act to amend the Merchant Shipping Ordinance 1952.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong, with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Merchant Shipping (Amendment) Act 1983 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint; and the Minister may appoint different dates for different provisions of this Act.

Short title,
and com-
mencement.

2. The Merchant Shipping Ordinance 1952 (hereinafter referred to as the "Ordinance") is amended by substituting for sections 71, 71A and 72 the following new sections:

New
sections
71, 71A and
72.
Ord. 70/52.

71. (1) Every foreign-going ship, when going to sea from any place in the Federation, shall be provided with officers duly certificated under this Ordinance according to the following scale:

"Certificates of competency to be held by officers of foreign-going ships.

(a) every ship shall have a master holding a certificate of competency as master of a foreign-going ship;

(b) if the ship is of five thousand gross register tons or more, there shall be, besides the master—

(i) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship;

(ii) a second officer holding a certificate of competency not lower than that of second mate of a foreign-going ship; and

(iii) a third officer holding a certificate of competency not lower than that of third mate of a foreign-going ship;

(c) if the ship is of less than five thousand gross register tons, there shall be, besides the master—

(i) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship; and

(ii) a second officer holding a certificate of competency not lower than that of third mate of a foreign-going ship;

(d) if the ship is a steamship of 3000 kw propulsion power or more, there shall be at least four engineers, as follows:

(i) one first-class engineer;

(ii) one engineer who shall be at least a second-class engineer; and

(iii) two engineers who shall be at least fourth-class engineers or first-class engine drivers;

(e) if the ship is a steamship of more than 750 kw propulsion power but less than 3000 kw propulsion power, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a second-class engineer;

(ii) one engineer who shall be at least a third-class engineer; and

(iii) one engineer who shall be at least a fourth-class engineer or a first-class engine driver;

(f) if the ship is a steamship of 750 kw propulsion power or less, there shall be at least two engineers, one of whom shall be at least a third-class engineer and the other at least a first-class engine driver.

(2) The Director of Marine may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any of the provisions of this section.

(3) For the purposes of this section and of sections 71A and 72, 745.7 watts propulsion power is equal to one horsepower.

Certificates of competency to be held by officers of home-trade ships. 71A. (1) Every home-trade ship, when going to sea from any place in the Federation, shall be provided with officers duly certificated under this Ordinance according to the following scale:

(a) if the ship is of five thousand gross register tons or more, there shall be—

(i) a master holding a certificate of competency as master of a foreign-going ship or a master holding both a certificate of competency as master of a home-trade ship and a certificate of competency as first mate of a foreign-going ship;

(ii) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a home-trade ship;

(b) if the ship is of less than five thousand gross register tons, there shall be—

(i) a master holding a certificate of competency not lower than that of master of a home-trade ship;

(ii) a chief officer holding a certificate of competency not lower than that of mate of a home-trade ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a home-trade ship;

(c) if the ship is a steamship of 3000 kw propulsion power or more, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a second-class engineer;

(ii) one engineer who shall be at least a fourth-class engineer or first-class engine driver; and

(iii) one engineer who shall be at least a second-class engine driver;

(d) if the ship is a steamship of more than 750 kw propulsion power but less than 3000 kw propulsion power, there shall be at least three engineers, as follows:

(i) one engineer who shall be at least a first-class engine driver;

(ii) one engineer who shall be at least a second-class engine driver; and

(iii) one engineer who shall be at least a third-class engine driver;

(e) if the ship is a steamship of 350 kw to 750 kw propulsion power, there shall be at least two engineers, one of whom shall be at least a first-class engine driver and the other at least a second-class engine driver;

(f) if the ship is a steamship of less than 350 kw propulsion power, there shall be at least one engineer who shall be at least a third-class engine driver.

(2) The Director of Marine may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any of the provisions of this section.

Certificates of competency to be held by officers of local-trade ships.

72. (1) Every local-trade ship, when going to sea from any place in the Federation, shall be provided with officers duly certificated under this Ordinance according to the following scale:

(a) if the ship is of five thousand gross register tons, there shall be—

(i) a master holding a certificate of competency as master of a foreign-going ship;

(ii) a chief officer holding a certificate of competency not lower than that of first mate of a foreign-going ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a home-trade ship;

(b) if the ship is of one thousand and six hundred gross register tons or more but less than five thousand gross register tons, there shall be—

(i) a master holding a certificate of competency not lower than that of master of a home-trade ship;

(ii) a chief officer holding a certificate of competency not lower than that of mate of a home-trade ship; and

(iii) a second officer holding a certificate of competency not lower than that of mate of a local-trade ship;

(c) if the ship is of two hundred gross register tons or more but less than one thousand and six hundred gross register tons, there shall be—

- (i) a master holding a certificate of competency not lower than that of master of a local-trade ship;
- (ii) a chief officer holding a certificate of competency not lower than that of mate of a local-trade ship; and
- (iii) if the ship plies between East and West Malaysia, then in addition to (i) and (ii), a second officer holding a certificate of competency not lower than that of mate of a local-trade ship;

(d) if the ship is of less than two hundred gross register tons, there shall be—

- (i) a master holding a certificate of competency not lower than that of master of a local-trade ship; and
- (ii) a chief officer holding a certificate of competency not lower than that of mate of a local-trade ship;

(e) if the ship is a steamship of 3000 kw propulsion power or more, there shall be at least three engineers, as follows:

- (i) one engineer who shall be at least a second-class engineer;
- (ii) one engineer who shall be at least a fourth-class engineer or first-class engine driver; and
- (iii) one engineer who shall be at least a second-class engine driver;

(f) if the ship is a steamship of more than 750 kw propulsion power but less than 3000 kw propulsion power, there shall be at least three engineers, as follows:

- (i) one engineer who shall be at least a first-class engine driver;
- (ii) one engineer who shall be at least a second-class engine driver; and
- (iii) one engineer who shall be at least a third-class engine driver;

(g) if the ship is a steamship of 350 kw to 750 kw propulsion power, there shall be at least two engineers, one of whom shall be at least a first-class engine driver and the other at least a second-class engine driver;

(h) if the ship is a steamship of less than 350 kw propulsion power, there shall be at least one engineer who shall be at least a third-class engine driver.

(2) The Director of Marine may, subject to such conditions as he thinks fit, exempt any ship or class of ship from any of the provisions of this section."

3. Section 73 of the Ordinance is amended by substituting for subsections (2) and (3) the following:

Amendment
of
section 73.

"(2) Every mechanically propelled vessel licensed under section 475 and employed exclusively within the limits of a port shall be provided with officers duly certificated under this Ordinance according to the following scale:

- (a) if the vessel is of less than twenty-five gross register tons, there shall be an officer holding a certificate of competency not lower than that of helmsman;

(b) if the vessel is of twenty-five gross register tons or more, there shall be—

(i) an officer holding a certificate of competency not lower than that of helmsman; and

(ii) an engineer who shall be at least a third-class engine driver.

(3) For the purpose of this section, a vessel is mechanically propelled if it is fitted with any mechanical means of propulsion, whether such means are being used or not.”.

Amendment
of
section 74.

4. Section 74 of the Ordinance is amended—

(a) by substituting for the words “hundred dollars” in subsection (1) the words “thousand ringgit or imprisonment for a term not exceeding one year or to both such fine and imprisonment”; and

(b) by substituting for the words “hundred dollars,” in subsection (2) the words “thousand ringgit or imprisonment for a term not exceeding one year or to both such fine and imprisonment”.

Amendment
of
section 76.

5. Subsection (1) of section 76 of the Ordinance is amended—

(a) by inserting immediately below the words “second mate of a foreign-going ship;” in paragraph (a), the following:

“third mate of a foreign-going ship;
third mate (exempt) of a foreign-going ship;”;

(b) by deleting the word “steersman;” in paragraph (a); and

(c) by inserting immediately below the words “second-class engineer;” in paragraph (b), the following:

“third-class engineer;
fourth-class engineer;”.

6. The Ordinance is amended by substituting for section 76A the following new section:

New section 76A.

“Certificates of efficiency of survival craftman.” 76A. Certificates of efficiency shall be granted in accordance with this Ordinance for the grade of survival craftsman.”.

7. Section 79 of the Ordinance is amended—

Amendment of section 79.

(a) by substituting for the words “mates, helmsmen and steersmen or of efficiency as lifeboat men” in subsection (1) the words “mates and helmsmen or of efficiency as survival craftsmen”; and

(b) by substituting for the words “steersman or certificate of efficiency as lifeboat man,” in subsection (3) the words “certificate of efficiency as survival craftsman”.

8. Section 81 of the Ordinance is amended by substituting for the words “steersman, engineer, engine-driver or lifeboat man” the words “engineer, engine-driver or survival craftsman”.

Amendment of section 81.

EXPLANATORY STATEMENT

This Bill seeks to amend sections 71, 71A, 72, 73, 74, 76, 76A, 79 and 81 of the Merchant Shipping Ordinance 1952. The purpose of the amendments to sections 71, 71A, 72, 73, 76, 76A, 79 and 81 is to prescribe new manning requirements for foreign-going, home-trade and local-trade ships and ships licensed under section 475 of the Ordinance. These requirements, which are higher than the existing requirements, are consistent with the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.

The purpose of the amendment to section 74 is to provide higher penalties for the offences stated in that section as the existing penalties are manifestly inadequate.

FINANCIAL IMPLICATION

This Bill will not involve the Government in any extra financial expenditure.

[PN. (U²) 1200.]