

Bangladesh Merchant Shipping (Amendment) Ordinance, 1983

৮০৮

বাংলাদেশ গেজেট, প্রতিপত্ত, জানুয়ারী ২১, ১৯৮৮

অতএব, সেহেতু, গণপ্রজাতন্ত্রী বাংলাদেশের সংবিধানের ৯৩(১) অনুচ্ছেদে প্রদত্ত ক্ষমতাবলে রাষ্ট্রপতি নিম্নরূপ অধ্যাদেশ প্রণয়ন ও জারী করিলেন:—

১। সংক্ষিপ্ত শিরনামা।—এই অধ্যাদেশ the Bangladesh Merchant Shipping (Amendment) Ordinance, 1983 নামে অভিহিত হইবে।

২। Ord. XXVI of 1983 এর Part IV এর Chapters 7 এবং 8 এর প্রতিস্থাপন।— Bangladesh Merchant Shipping Ordinance, 1983 (XXVI of 1983), অতঃপর উক্ত Ordinance বালিয়া উল্লেখিত, এবং Part IV এর Chapters 7 এবং 8 এর পরিবর্তে নিম্নরূপ Chapter প্রতিস্থাপিত হইবে, যথা:—

“CHAPTER 7

CERTIFICATE OF COMPETENCY

80. **Definition.**—In this Chapter, unless there is anything repugnant in the subject or context, “Director-General” means the Director-General of the Department of Shipping established under this Ordinance.

81. **Application.**—This Chapter shall apply only to Bangladesh ships.

82. **Manning of ships.**—(1) No ship shall go to sea or proceed on a voyage unless it is manned in accordance with the provisions of this Chapter and possesses a Certificate issued by the Director-General to the effect that the ship is manned in accordance with such provisions.

(2) The Director-General shall issue the Certificate under sub-section (1) in such manner as may be prescribed.

(3) The Director-General may, by order notified in the official Gazette, require a ship to carry such minimum number of officers, doctors, cooks and other crewmen as may be specified in the order.

(4) The Director-General shall not exercise his power under sub-section (3) requiring a ship to carry seamen, other than doctors and cooks, except to the extent that it appears to him necessary or expedient in the interest of safety of the ship.

(5) The Director-General may make different provisions for different descriptions of ships or for ships of the same description in different circumstances.

(6) The Government may exempt any ship or class of ships from any requirements of an order made under sub-section (3).

(7) An exemption granted under sub-section (6) may be in respect of a particular period or of one or more particular voyages.

(8) If a ship goes to sea or proceed on a voyage in contravention of the provisions of sub-section (1), the master of the ship shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one lac taka or with both.

83. **Certificate of Competency.**—(1) The Director-General shall grant Certificate of Competency for various grades of service in different trades in a ship after conducting such examinations or tests as may be prescribed.

(2) No seaman, master or pilot shall be employed or engaged for service on board a ship unless he has the requisite Certificate of Competency granted under sub-section (1).

(3) No person shall be granted a Certificate of Competency under sub-section (1) for employment or engagement on board a ship of or above sixteen hundred tons as a radio officer or operator unless he has—

- (a) such maritime radio communication general certificate as may be determined by the Director-General;
- (b) at least six months' sea-service as a trainee radio officer or operator;
- (c) successfully completed survival craft course, fire-fighting course and first-aid course.

(4) Notwithstanding anything contained in this section, the Director-General may relax the requirement of this section in respect of a person if—

- (a) such person satisfies the Director-General that he is reasonably capable of discharging the duties and responsibilities of the trade for which he is sought to be employed or engaged;
- (b) the owner of the ship satisfies the Director-General that despite due efforts person with requisite Certificate could not be available for employment or engagement.

84. **Recognition of Certificate of Competency not granted by the Director-General.**—(1) A Certificate of Competency granted to a seaman, master or pilot by any authority in Bangladesh under any law for the time being in force before the commencement of the Bangladesh Merchant Shipping (Amendment) Ordinance, 1988 (III of 1988) shall be recognised as equivalent to a Certificate of Competency granted under this Chapter.

(2) A Certificate of Competency granted to a seaman, master or pilot by any authority outside Bangladesh may be recognised by the Director-General, by an order notified in the official Gazette, as equivalent to a Certificate of Competency granted under this Chapter.

(3) All provisions of this Ordinance relating to Certificate of Competency granted under this Chapter shall apply to such Certificates of Competency recognised under sub-section (1) or sub-section (2) and the recognition of any such Certificates may be suspended or withdrawn on the same ground and in the same manner as a Certificate of Competency granted by the Director-General under this Chapter is suspended or cancelled.

85. **Form of Certificates.**—Every Certificate of Competency granted under this Chapter shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the Certificate; and the other shall be kept by the Director-General and recorded in the prescribed manner.

86. **Loss of Certificate.**—Whenever a seaman proves to the satisfaction of the Director-General that he has, without any fault on his part, lost or been deprived of a Certificate of Competency already granted to him under this Chapter, the Director-General shall, on payment of such fee as may be prescribed, cause a copy of such Certificate to be granted to him or issue a duplicate thereof, and such copy or duplicate shall have all the effects of the original.

87. **Master to be custodian of Certificates.**—The master of a ship shall be the custodian of Certificates of Competency of all seamen; and a seaman serving on board a ship shall deposit his Certificate of Competency with the master of the ship for its safe custody and for its production to the concerned authority whenever required to do so.

88. **Employment of aliens.**—(1) No person who is not a citizen of Bangladesh shall be employed or engaged on board a ship as a seaman or in any other capacity without the previous permission in writing of the Government.

(2) Where the provision of sub-section (1) is contravened the owner of the ship shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lac taka or with both.

89. **Continuous Discharge Certificate Book.**—(1) No person shall be employed or engaged on board a ship unless he enters into an agreement with the owner of the ship in such manner as may be prescribed.

(2) Upon an agreement under sub-section (1), a seaman shall be issued a Continuous Discharge Certificate Book by the Shipping Master, on payment of such fee and in such manner as may be prescribed, for recording details of his service.

(3) Every Continuous Discharge Certificate Book shall be in duplicate, and one copy thereof shall be delivered to the person entitled to the Book and the other shall be kept by the Shipping Master and recorded in the prescribed manner.

90. **Power to cancel or suspend Certificate, etc.**—(1) If it appears to the Director-General that the holder of a Certificate of Competency granted or Continuous Discharge Certificate Book issued under this Chapter has obtained it on false or erroneous information, he may, without prejudice to any other penalty to which such holder may be liable, by order, cancel or suspend such Certificate or Book:

Provided that no such order shall be passed by the Director-General unless the holder of the Certificate or the Book has been given an opportunity of making representation against the proposed order.

(2) A person aggrieved by an order under sub-section (1) may prefer an appeal to the Government within a period of one month from the date of such order and the decision of the Government on such appeal shall be final.

(3) Upon cancellation or suspension of a Certificate or the Book under sub-section (1), the holder of the Certificate or the Book shall surrender the same to the Director-General.

(4) If any person contravenes the provision of sub-section (3), he shall be liable to fine which may extend to one lac taka.

91. Record of orders affecting Certificates, etc.—A note of all orders made under this Ordinance for suspending, cancelling, altering or otherwise affecting Certificate of Competency or Continuous Discharge Certificate Book shall be entered on the copy of the Certificate or the Book kept by the Director-General.

92. Port clearance.—(1) The Collector of Customs shall not grant a port clearance to any ship unless a certificate issued by the Merchantile Marine Office established under this Ordinance is produced to him to the effect that the ship is duly manned in accordance with the provisions of this Chapter.

(2) If any ship attempts to go to sea without a port clearance under sub-section (1), the Collector of Customs or any officer authorised by him in this behalf may detain the ship until a Certificate mentioned in sub-section (1) is produced.

93. Report of accidents, etc.—(1) When a ship has sustained or caused any accident of whatever nature occasioning loss of life or any serious injury to any person or has received any material damage affecting her sea-worthiness or her efficiency either in her hull or in any part of her machinery or in any of her fittings or equipment, the owner or master of the ship shall, within three days after the happening of the accident, damage or casualty or, as soon thereafter as possible, transmit to the Director-General a report of the accident or damage and of the probable cause thereof stating the name of the ship, port of registry and the place of occurrence.

(2) When any mutiny, strike, murder, assault or violence occurs in any ship, the owner or master of the ship shall, within three days after the occurrence of the incident, transmit to the Director-General a report of the same and the probable cause thereof with all other relevant information.

(3) Whenever an accident or incident of the nature specified in sub-section (1) or sub-section (2) occurs on, or in connection with, a foreign flag Ship in Bangladesh waters, the agents of the ship shall, within twenty four hours after the happening of the accident or occurrence of the incident, transmit to the Director-General a report of the same and of the probable cause thereof with all other relevant information.

(4) On receipt of a report under sub-section (1) or sub-section (2) or sub-section (3) the Director-General may, without prejudice to any other legal proceedings under any other law for the time being in force, order an enquiry into the accident or incident mentioned in the report.

(5) Where the Director-General is satisfied that an accident, damage or casualty has happened due to negligence or incompetence on the part of a person who is a foreign national or a person having a Certificate of Competency issued by a foreign Government or organisation, he may, without prejudice to any other action under this Ordinance or any other law for the time being in force, debar—

(a) such person from being employed or engaged for service on a Bangladesh ship;

(b) any foreign ship from entering Bangladesh waters with such person being employed or engaged for service on that ship.

(6) If a person fails without any reasonable cause to comply with the requirements of this section, he shall be liable with fine which may extend to fifty thousand taka.

94. Penalty.—If any person—

(a) forges or fraudulently alters or assists in forging or fraudulently altering any Certificate of Competency or an official copy of any such Certificate, or

(b) makes or assists in making any false representation for the purpose of procuring either for himself or for any other person a Certificate of Competency, or

(c) fraudulently uses a Certificate of Competency, or a copy thereof, which has been forged, altered, cancelled or suspended, or to which he is not entitled, or

(d) fraudulently lends his Certificate of Competency or allows it to be used by any other person,

he shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one lac taka, or with both.

Explanation:—In this section “Certificate of Competency” includes a Continuous Discharge Certificate Book issued under this Ordinance.

95. Power to make rules.—(1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) classification of Certificate of Competency of different grades;

(b) syllabus and courses of examinations or tests for Certificates of Competency;

(c) eligibility for appearing in examinations or tests for various grades of Certificate of Competency and manner of holding such examinations or tests.”।

৩। Ord. XXVI of 1983 এর section 374 এর বিলুপ্তি।—উক্ত Ordinance এর section 374 বিলুপ্ত হইবে।

ঢাকা: ১ই জানুয়ারী, ১৯৮৮
২৪শে শেখ, ১০৯৪

হুসেইন মুহাম্মদ এরশাদ
রাষ্ট্রপতি।

মুহাম্মদ আব্দুল বাশার ছুইরা
উপ-সচিব।