

THE NATIVE PASSENGER SHIPS ACT, 1876.

ACT NO VIII. OF 1876.

[From “Gazette of India” of 1st April 1876.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 28th March 1876, and is hereby promulgated for general information:-

An Act to consolidate and amend the law relating to Native Passenger Ships.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships;

It is hereby enacted as follows:-

CHAPTER I. - PRELIMINARY.

Short title.

1. This Act may be called “**The Native Passenger Ships Act, 1876.**”

Extent and application of Act.

2. It extends to the whole of British India, and applies-

(a)-to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;

(b)-to all Native Indian subjects of Her Majesty without and beyond British India; and

(c)-subject the exceptions mentioned in the subsequent part of this section, to vessels carrying more than thirty passengers, being Natives of Asia
of Africa.

Nothing here contained applies-

(d)- to any ship-of-war or transport belonging to, or in the service of, Her Majesty;

(e)- to any ship-of-war belonging to any Foreign Prince or State;

(f)- to any sailing-vessel not carrying as passengers more than thirty Natives of Asia or Africa;

(g)- to any steamer not carrying as passengers more than sixty of such Natives;

(h)- to any sailing-vessel or steamer not intended to convey passengers to or from any port in British India.

Commencement.

3. This Act shall come into force on such day as the Governor-General in Council directs by notification in the Gazette of India.

Repeal of Acts.

4. On and from that day the Act specified in the Schedule hereto annexed shall be repealed.

But all ports, places, and officers appointed, and all certificates granted, under any of such Acts, shall be deemed to be respectively appointed and granted under this Act;

and the last clause of section one of Act No. II of 1860 (to amend the law relating to the carriage of passengers by sea) shall be read as follows:-

“Voyages from ports in British India to ports in the Red Sea or Persian Gulf, under the Native Passenger Ships Act, 1876.”

Interpretation-clause.

5. In this Act-

“Magistrate.”

the expression “Magistrate” means a person exercising powers not inferior to those of a Magistrate of the second class, and includes a Justice of the Peace, and, at the Port of Aden, the Political Resident and his Assistants:

“Ship.”

the expression “ship” includes every description of vessel used in navigation not propelled by oars:

“Master.”

the expression “Master” includes every person (other than a Pilot) having command or charge of a ship:

“Passenger.”

the expression “Passenger” means a person above the age of twelve years, or two persons between the ages of one year and twelve years; but it does not include a person in attendance on another person who is not a Native of Asia or Africa, nor a child under one year of age:

“Voyage.”

The expression “Voyage” means the whole distance between the ship’s port of departure and her final port of arrival:

“Long voyage.”

the expression “long voyage” means any voyage during which the ship performing it will, under ordinary circumstances, be one hundred and twenty hours or upwards continuously out of port:

“Short voyage.”

the expression “short voyage” means any voyage during which the ship performing it will never, under ordinary circumstances, be one hundred and twenty hours continuously out of port:

Illustration.

A ship starts from port A., and is destined finally to arrive at port B., between which ports the ordinary distance is ten days; but she is to touch at four intermediate ports, no one of which is, under ordinary circumstances, more than five days from the next one. This is a short voyage:

“Chief Officer of Customs.”

The expression "Chief Officer of Customs" means the executive officer of highest rank in the Department of Customs in any port to which this Act applies.

CHAPTER II. - RULES FOR ALL VOYAGES.

Ship to sail only from ports appointed by Government.

6. No ship carrying passengers shall depart or proceed from, or shall discharge passengers at, any port or place within British India other than such ports and places as the local Government may from time to time appoint in this behalf; and after any ship has departed or proceeded upon any voyage from a port or place so appointed, no person shall be received on board as a passenger, except at some other port or place so appointed.

Master to give notice of day of sailing, &c.

7. The master, owner, or agent of every ship so departing or proceeding shall give notice to an officer authorized in this behalf by the local Government that the ship is to carry Native passengers, and of her destination, and of the proposed time of sailing. Such notice shall be given not less than twenty four-hours before such time.

Power to enter and inspect ship.

8. After receiving such notice, the officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the ship, and the fittings, provisions, and stores therein.

Not to sail without two certificates.

9. No ship intended to carry passengers shall commence any voyage from any port or place appointed under this Act, unless the master holds two certificates to the effect hereinafter mentioned.

Port-clearance.

And the officer of Government, whose duty it is to grant a port-clearance for such ship, shall not grant the same unless the master holds such certificates.

Contents of certificate A.

10. The first of such certificates (hereinafter called 'certificate A.')
- shall state that the ship is seaworthy and properly equipped, fitted, and ventilated; and the number of passengers that she is capable of carrying.

Contents of certificate B.

11. The second of such certificates (hereinafter called 'certificate B.')
- shall state-

- (a)- the voyage which the ship is intended to make, and the intermediate ports (if any) at which she is intended to touch;
- (b)- that she has the proper complement of officers and seamen;

(c)- that provisions, fuel, and pure water, over and above what is necessary for the crew, and the other things (if any) prescribed for the ship by rule under section forty-six, have been placed on board, of the quality prescribed by rule under the same section, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale for the time being prescribed by rule under the same section;

(d)- that the master holds certificate A.;

(e)- if she is intended to make a short voyage in a season of foul weather, and to carry upper-deck, passengers, that she is furnished with substantial bulwarks and a double awning or other sufficient protection against the weather;

(f)- such other particulars (if any) as may for the time being, be required for such ship under this Act.

Grant of certificate B.

12. The person by whom certificate B. is to be granted shall, in all cases, be the officer referred to in section seven.

Grant of certificate A.

13. The person by whom certificate A. is to be granted, shall be the officer aforesaid, except that, if the master of a ship produce to such officer either of the following certificates (namely)-

(a)- a valid certificate granted by the Board of Trade, or by any British Colonial Government;

(b)- a certificate granted under the authority of any British Indian Government, and dated not more than six months before the proposed day of sailing,

and if the particulars required by section ten are certified thereby,

such officer may take any such certificate as evidence of such particulars, and it shall then be a valid certificate for the purposes of this Act.

Ship may be surveyed.

14. After receiving the notice required by section seven, the Officer aforesaid may, if he think fit, cause the ship to be surveyed at the expense of the master or owner, by competent surveyors, who shall report to him, whether the ship is, in their opinion, seaworthy and properly equipped, fitted, and ventilated for her intended voyage:

Proviso as to ships holding certificate mentioned in section 13.

Provided that he shall not cause any ship, holding any certificate mentioned in section thirteen, clause (a) or clause (b), to be surveyed, unless,

from the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted, or ventilated for her intended voyage.

Expense of survey.

If the Officer aforesaid causes a survey to be made of any vessel holding any such certificate, and if the surveyors report that the vessel is

seaworthy and properly equipped, fitted, and ventilated for her intended voyage, and that there was no reasonable ground why the officer

aforesaid should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted, or ventilated for her intended voyage, the expense of the survey shall be paid by the local Government.

Certificate not to be granted where cargo dangerous or dangerously stowed.

15. The officer authorized to grant a certificate under this Act, in respect of any ship, shall not grant the same, unless he is satisfied that she has not on board any cargo likely from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers.

Discretion of Officer.

But save as aforesaid, and subject to the provisions of section sixteen, the grant or with-holding of a certificate under this chapter shall in all cases be in the discretion of the officer aforesaid.

Discretion to be subject to control of Government.

16. In the exercise of such discretion, such officer shall be subject to the control of the local Government, or of any intermediate authority which that Government may, from time to time, appoint in this behalf.

Copy of certificate to be exhibited.

17. The owner or master shall put up in a conspicuous part of the ship, so as to be visible to persons on board the same, a copy of each of the said certificates granted by an officer appointed under this Act in respect of the ship, and shall keep such copies in such position during the voyage.

Contract by passengers for supply of their own provisions.

18. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who has contracted to furnish his own provisions, and who has, in the opinion of such officers as the local Government appoints in this behalf, actually furnished such provisions of the quality, and to the amount for the time being prescribed by rules made under section forty-six.

CHAPTER III. - RULES FOR SHORT VOYAGES.

Space to be provided for intermediate or between-decks passengers.

19. For seasons of fair weather, every ship performing a short voyage shall contain in the between-decks at least six superficial feet and thirty-six cubic feet of space for every intermediate or between-decks passenger, and shall contain on the upper-deck at least four superficial feet for each such passenger and six superficial feet for each upper-deck passenger.

For seasons of foul weather, every ship propelled by sails, and performing a short voyage, shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space for every intermediate or between-decks passenger, and shall contain on the upper-deck at least four superficial feet for each such passenger and twelve superficial feet for each upper-deck passenger.

For seasons of foul weather, every ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space for every intermediate or between-decks passenger, and shall contain on the upper-deck at least four superficial feet for each such passenger and nine superficial feet for each upper-deck passenger.

But in such seasons no ship shall carry upper-deck passengers, unless she is furnished with substantial bulwarks and a double awning or other sufficient protection against the weather.

Ship taking additional passengers at intermediate part.

20. If any ship performing a short voyage takes any additional passengers on board at any intermediate port or place, the master shall obtain a supplementary certificate from the proper officer at such port, stating-

(a)- the number of passengers so taken on board ; and

(b)- that provisions, fuel, and pure water (over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by rule under section forty-six) have been placed on board, of the quality prescribed by rule under the same section, properly packed, and sufficient to supply the total number of passengers on board during the declared duration of the intended voyage, according to the scale for the time being prescribed by rule under the same section.

Provided that, if the certificate B. held by the master of such ship states that provisions, fuel, and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for her by rule under section forty-six, have been placed on board, of the quality prescribed by rule under the same section, properly packed, and sufficient to supply the full number of passengers that she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

Report of deaths on the voyage.

21. When the ship reaches her final port of arrival, the master shall notify to such officer as the Governor-General in Council may appoint in this behalf, the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV. - RULES FOR LONG VOYAGES.

Space to be provided for passengers.

22. Every ship propelled by sails and performing a long voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space for every passenger.

Every ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space for every passenger.

Statement of passengers.

23. The master of every such ship, before departing or proceeding on any long voyage from any port or place in British India, shall sign two statements, specifying the number and the respective sexes of all the passengers, and stating the number of the crew; and shall deliver them to the officer last aforesaid, who shall thereupon (after having first satisfied himself that the numbers are correct) countersign and return to the master one of such statements.

Deaths on voyage. Procedure on arrival.

24. The master shall note in writing on such last-mentioned statement, and no any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall forth-with, on the arrival of the ship at her destination or at any port at which it may be intended to land passengers, and before any passengers are landed, produce the statement with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the port of arrival, if it be a foreign port, or to the Chief Officer of Customs, or the Officer (if any) appointed under this Act to receive such statements, at any port or place at which it is intended to land the passengers, or any of them.

Ship taking additional passengers and touching at intermediate port.

25. If, after the ship has departed or proceeded on any long voyage, any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or if such ship upon her voyage touch or arrive at any such port, having previously received on board additional passengers at any place without British India, the master shall obtain a fresh certificate to the effect of certificate B. from the proper officer at such port, and shall make additional statements specifying the number and the respective sexes of all such additional passengers; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate granted or statement made under this section.

Bond when ship clears for port in Red Sea.

26. In the case of every ship sailing from any port within British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant such clearance unless and until the owner, agent, or master of such ship and two sureties resident in British India have by a joint and several bond become bound unto the Secretary of State for India in Council in the penal sum of five thousand rupees for the purpose of binding the ship to touch at Aden on the outward voyage, and there to obtain a clean bill of health, and to do the same on the homeward voyage if she continue (being propelled by sails) to carry more than thirty passengers, or (being propelled by steam or partly by steam and partly by sails) to carry more than sixty passengers.

Ships sailing to or from port in Red Sea to touch at Aden.

27. Every ship carrying more than thirty passengers being Natives of Asia or Africa, and sailing from any port in British India to any port in the Red Sea, or sailing from any port in the Red Sea to any port in British India, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Bill of health.

28. No bill of health shall be granted under section twenty-six or section twenty-seven in case the ship has on board a greater number of passengers than in the proportion prescribed for her by this Act.

CHAPTER V. - PENALTIES.

Penalty for ship unlawfully departing.

29. If any ship departs or proceeds upon a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section six or section nine, or if any person is received as a passenger on board a ship in contravention of the provisions of the second clause of section six,
- the owner or master shall, for every passenger conveyed in such ship, or for every passenger so discharged or received on board, be liable to a penalty not exceeding one hundred rupees, or to imprisonment not exceeding one month, or to both ;
- and the ship, if found within two years in any port within British India, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act by her owner or master have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions hereinafter contained.

Penalty for opposing entry on, or inspection of, ships.

30. Any person impeding or refusing to allow the entry or inspection authorized under this Act shall be liable to a fine not exceeding five hundred rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

Penalty for not exhibiting copy of certificate.

31. Any owner or master wilfully failing to comply with the requirements of section seventeen, as to copies of certificates, shall, for every such failure, be liable to fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.

Penalty for non-compliance with requirements as to list of passengers.

32. Any master failing to comply with any of the requirements of section twenty-three or section twenty-four, as to the statement of passengers, or wilfully making any false entry or note in or on any such statement,

Penalty for failing to obtain fresh certificate for additional passengers taken.

or wilfully failing to obtain any such supplementary certificate as is mentioned in section twenty, or to report deaths as required by section twenty-one, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section twenty-five,

shall be liable to a fine not exceeding five hundred rupees for every such offence, or to imprisonment for a term not exceeding three months, or to both.

Penalty for fraudulent alteration in ship after certificate obtained.

33. Any master who, after having obtained any of the certificates mentioned in section nine or section twenty, or section twenty-five, fraudulently does or suffers to be done anything whereby such certificate becomes inapplicable to the altered state of the ship, her passengers, or other matters to which such certificate relates, shall be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.

Penalty for failing to supply passengers with prescribed provisions.

34. Any master wilfully, and without satisfactory excuse, omitting to supply to any passenger the allowance of food, fuel, and water prescribed by rule made under this Act and for the time being in force, shall be liable to a fine not exceeding twenty rupees for every passenger who has sustained detriment by such omission.

Penalty for not obtaining bill of health.

35. The master of any ship described in section twenty-seven, who wilfully fails to touch at Aden, or leaves that port without having obtained the bill of health therein mentioned, shall, for every such offence, be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.

Penalty for excess of number specified in certificate.

36. If any ship has on board any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, or, if arriving from a port where no certificate could be procured, has on board a number of passengers exceeding the number allowed by this Act for such ship, the owner and master shall, for every passenger over and above the number allowed by the certificate be each liable to a fine not exceeding twenty rupees, and the master shall further be liable for each of such passengers to imprisonment not exceeding one week : provided that the total term of imprisonment awarded under this section shall in no case exceed six months.

Any officer authorized in this behalf by the local Government may cause all passengers over and above such number to disembark, and may forward them to any port of British India, and may recover the cost of so forwarding them from the owner or master of the ship, as if such cost was a fine imposed under this Act, and a certificate under the hand of such Officer shall be conclusive evidence of the amount of the cost aforesaid.

Penalty for bringing Native passengers from Eastern port in excess of authorized proportion.

37. If any ship bringing Native passengers from any port or place beyond British India, into any port or place in British India, has on board a greater number of passengers than in the proportion prescribed by section nineteen, section twenty-two, or section forty-nine (as the case may be), or than the number allowed by the license or certificate (if any) granted in respect of such ship at her port or place of departure, the owner and master shall, for every passenger in excess of such proportion or of the number so allowed, be each liable to a fine not exceeding twenty rupees.

Penalty for landing passenger at a place other than that at which he has contracted to land.

38. If the master of any ship to which this Act applies lands any passenger at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for every such offence, be liable to a penalty not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.

Procedure.

Adjudication of offences.

39. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Fine leviable by distress on ship.

If the person on whom any fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Jurisdiction.

40. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

By whom proceedings for penalties to be instituted.

41. The penalties to which masters and owners of ships are made liable by this Act, shall be enforced only by information laid at the instance of the officers appointed to grant certificates under this Act; or, at any port or place where there is no such officer, at the instance of the Chief officer of Customs.

Application of fines.

42. Any Magistrate imposing any fine under this Act may, if he thinks fit, direct the whole or any part thereof, to be applied in compensating any person for any detriment which he may have sustained by the act, or default in respect of which such fine is imposed, or in or towards payment of the expenses of the proceedings.

Depositions receivable when witnesses cannot be produced.

43. Whenever, in the course of any legal proceeding under this Act, the testimony of any witness is required in relation to the subject-matter of such proceeding, any deposition that he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India, other than those subject to the same local Government as the port or place where such proceedings are instituted), or any British Consular Officer elsewhere, shall be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceeding is instituted :

Provided that such deposition shall not be admissible unless-

- (a)- it is authenticated by the signature of the Justice, Magistrate, or Consular Officer ;
- (b)- it was made in the presence of the person accused ; and
- (c)- the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI. - MISCELLANEOUS.

Information to be sent to ports of embarkation.

44. The Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any port or place within British India, at which any ship to which this Act applies touches or arrives, shall, with advertence to the provisions herein contained, send any particulars which he may deem important respecting the ship and the passengers conveyed therein, to the Officer at the port from which the ship commenced her voyage, and also to the Officer at any other port within British India where the passengers or any of them embarked.
- and any officer appointed under this Act may at any port or place in British India at which any ship to which this Act applies touches, board such ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and otherwise have been complied with.

Report of Consul.

45. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like documents purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if the same appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Power to make rules as to provisions, stores, boats, &c.

46. The Governor-General in Council may from time to time make rules consistent with this Act, to regulate, in the case of any ship or class of ships to which this Act applies, all or any of the following matters:-
- (a)- the scale on which provisions, fuel, and water are to be supplied to the passengers, and the quality of such provisions, fuel, and water;
 - (b)- the medical stores and other appliances and fittings for maintaining health, cleanliness, and decency to be provided on board;
 - (c)- the boats, anchors, and cables to be provided on board;
 - (d)- the instruments for purposes of navigation to be supplied;
 - (e)- the apparatus for the purpose of extinguishing fires on board, and the precautions to be taken to prevent such fires;
 - (f)- and generally, to carry out the provisions of this Act.

All such rules shall be published in the Gazette of India, and shall thereupon have the force of law.

Appointment of officers.

47. The local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties conferred and imposed by this Act.

Power to declare what shall be deemed 'seasons of fair weather' and 'long voyages'.

48. The Governor-General in Council may from time to time declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather," and for sailing vessels and steamers respectively, a "long voyage" and a "short voyage."

Power to Governor-General to prescribe space to be contained for passengers.

49. The Governor-General in Council may from time to time direct, in the case of any ship or class of ships, and for all or any voyages to which this Act applies, the number of superficial or of cubic feet of space to be contained for the passengers; and such direction shall override the provisions of sections nineteen and twenty-two, so far as they apply to such ship or class of ships.

[ATTACH LIST 1] 01 SCHEDULE. (See section 4).