

SHIPPING ORDINANCE 1936-1939.⁽¹⁾

An Ordinance Relating to Shipping.

BE it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1935*, as follows:—

1. This Ordinance may be cited as the *Shipping Ordinance 1936-1939*.⁽¹⁾

Short title.
Amended by
No. 3 of 1934,
s. 50.

2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾

Commencement.

3.—(1.) In this Ordinance, unless the contrary intention appears—

Definitions.

“Board of Reference” means a Board of Reference constituted under this Ordinance;

“local ship” means a ship licensed under this Ordinance to engage in the local trade;

Substituted by
No. 45 of 1936,
s. 3.

“overseas ship” means any ship not being a local ship;

“proclaimed port” means a port proclaimed under section four of this Ordinance;

“ship” includes every vessel used in navigation not ordinarily propelled by oars only.

(2.) For the purposes of this Ordinance, a ship shall be deemed to engage in the local trade, if she takes on board passengers or cargo at any port or place in the Territory, to be carried to, and landed or delivered at, any other port or place in the Territory.

Sub-section (2)
added by No. 45
of 1936, s. 3.

(1) The *Shipping Ordinance 1936-1939* comprises the *Shipping Ordinance 1936*, as amended by the other Ordinances referred to in the following Table:—

ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date of reservation by Administrator.	Date on which assent of Gov.-Gen. in Council published in <i>N.G. Gaz.</i>	Date on which came into operation.
<i>Shipping Ordinance 1936</i> (No. 31 of 1936)	—	28.2.1936	30.5.1936	1.1.1937 (<i>N.G. Gaz.</i> of 30.5.1936)
<i>Shipping Ordinance</i> (No. 2) 1936 (No. 45 of 1936)	—	6.8.1936	30.9.1936	1.1.1937 (Sec. 2, <i>Shipping Ordinance</i> (No. 2) 1936)
<i>Shipping Ordinance 1939</i> (No. 11 of 1939)	5.9.1939	—	—	5.9.1939 (<i>Laws of T.N.G.</i> , Vol. XV, p. 17)

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Proclaimed ports.

4. The Administrator may by proclamation⁽²⁾ declare any port to be a port at which overseas ships may take on board, land, deliver, or discharge passengers or cargo.

Restrictions on overseas ships.

5. An overseas ship shall not—

- (a) take on board, land, deliver, or discharge any passenger or cargo at any port or place other than a proclaimed port; or
- (b) take on board any passenger or cargo at any proclaimed port to be landed or discharged at any other proclaimed port.

Penalty (on master, owner, or agent) : Five hundred pounds.

Licensing of ships to engage in local trade. Section 6 substituted by No. 45 of 1936, s. 4.

6.—(1.) A ship shall not engage in the local trade unless licensed under this section to do so.

Penalty (on master, owner, or agent) : Five hundred pounds.

(2.) The master, owner, or agent of any ship may make application, in writing, to the Administrator for the grant of a licence to the ship to engage in the local trade.

(3.) The Administrator may in his absolute discretion—

- (a) grant, unconditionally or on such conditions as he thinks fit; or
- (b) withhold,

any such licence.

(4.) The Administrator may at any time cancel a licence granted under this section if the ownership of the ship to which the licence was granted is changed during the currency of the licence or if the master, owner, or agent of the ship to which the licence was granted commits any breach of the provisions of this Ordinance or of the conditions on which the licence was granted.

(5.) Subject to the provisions of this section, a licence to a ship to engage in the local trade shall—

- (a) in the case of a ship which carries passengers or cargo solely between ports or places in the Territory, be for a period of three years; and
- (b) in the case of any other ship, be for a period of twelve months.

(6.) The fee for a licence granted under this section shall be One pound for each year or part of a year the licence is in force.

(2) Pursuant to Section 4, the Administrator, by Proclamation dated 12.12.1936 and published in *N.G. Gaz.* of 15.12.1936 declared "the ports of Rabaul, Salamaua, Lae, Kavieng, Madang, Kieta, Wewak, Boram, and Lorengau to be ports at which overseas ships may take on board, land, deliver, or discharge passengers or cargo".

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7. A person shall not charge for the carriage of any passenger or cargo between ports or places in the Territory any fare or freight in excess of the prescribed fare or freight, as the case may be.

Fares and freights.

Penalty: One hundred pounds.

8. The master, owner, or agent of a local ship shall not, without reasonable cause (proof whereof shall lie on him), refuse, either absolutely or except on disadvantageous conditions, to take on board the ship at any port or place any passenger or cargo to be landed, delivered, or discharged at any other port or place in the Territory.

Local ship not to refuse to carry passengers or cargo.

Penalty (on master, owner, or agent): One hundred pounds.

9. No proceeding under this Ordinance shall be instituted except by the Administrator or some person thereto authorized in writing by the Administrator.

Institution of proceedings.

10. If any dispute arises between a passenger or shipper and the master, owner, or agent of a local ship as to the fare or freight payable in respect of the carriage of the passenger or any cargo, the dispute shall on the application of either party be determined by a Board of Reference.

Disputes as to fares or freights.

11.—(1.) A Board of Reference for the purpose of determining any dispute referred to in the last preceding section shall consist of a Chairman appointed by the Administrator and a representative of each party.

Boards of Reference.

(2.) The representative of a party shall be nominated by that party.

12.—(1.) For the purpose of determining any dispute, the Chairman of a Board of Reference may by notice in writing require any person to attend before the Board of Reference to answer, on oath, questions put to him by any member of the Board of Reference and to produce books and documents to the Board of Reference in relation to the dispute.

Power to require persons to answer questions and produce documents.

(2.) The Chairman shall for the purposes of this section have power to administer oaths.

(3.) No person shall refuse or fail to answer questions or produce documents when required to do so in pursuance of this section.

Penalty: Fifty pounds.

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Sub-section (4) omitted by No. 45 of 1936, s. 5.

(5.) No person shall be excused from answering any question or producing any document when required to do so under this

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section on the ground that the answer to the question or the production of the document might tend to criminate him or make him liable to a penalty, but his answer shall not be admissible in evidence against him in any civil or criminal proceeding other than a proceeding for an offence against this Ordinance.

Power of Board and effect of determination.

13.—(1.) A Board of Reference after considering such evidence as is given before it or produced to it and after making such other inquiries as it thinks necessary or desirable, may determine the dispute submitted to it.

(2.) The determination of a Board of Reference in relation to a dispute shall bind the parties to the dispute and shall be enforceable in any court of competent jurisdiction.

Exemption of certain ships.
Section 13A inserted by No. 11 of 1939, s. 2.

13A.—(1.) Where the Administrator is satisfied that any ship or class of ships is not ordinarily used for the carriage of passengers or cargo for valuable consideration, he may by notice⁽³⁾ in the *New Guinea Gazette* suspend the operation of all or any of the provisions of this Ordinance in relation to that ship or class of ships, and thereupon the provisions of this Ordinance specified in the notice shall not, while the notice is in force, apply to that ship or class of ships.

(2.) The Administrator may, at any time, by notice in the *New Guinea Gazette*, revoke or vary any such notice.

(3.) For the purposes of this section “ship” means a ship not exceeding one hundred tons gross tonnage.

Regulations.

14. The Administrator in Council may make regulations,⁽⁴⁾ not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

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(b) the regulation of the proceedings of any Board of Reference; and

(c) the fares and freights to be charged in respect of the carriage of passengers and cargo by local ships.

(3) Pursuant to Section 13A, the Administrator, by notice dated 5.1.1940 and published in *N.G. Gaz.* of 15.1.1940, suspended the operation of all the provisions of the *Shipping Ordinance 1936-1939* in relation to the following classes of ships:

“(a) Ships not exceeding one hundred tons gross tonnage licensed under the *Fisheries Ordinance 1922-1938* to be employed in fishery;

(b) Ships not exceeding one hundred tons gross tonnage owned or chartered by any missionary society, or any person carrying on the work of a religious mission; and

(c) Ships not exceeding one hundred tons gross tonnage ordinarily used only for carrying the goods of the owner or charterer of the ship and of his employees and the owner or charterer of the ship and his employees.”

(4) See the *Shipping Regulations*, printed on p. 4371.

Paragraph (a) omitted by No. 45 of 1936, s. 6.