

ACT No. VI OF 1928.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 27th March, 1928.)

An Act further to amend the Indian Merchant Shipping Act, 1923, in order to vest in the Governor General in Council the control of matters covered by that Act.

WHEREAS, by the Devolution Rules, made under section 45A of the Government of India Act, subjects, in relation to the functions of government, have been classified as central and provincial subjects, for the purpose of distinguishing the functions of Local Governments and the functions of the Governor General in Council;

AND WHEREAS the Indian Merchant Shipping Act, 1923, relates to matters falling within the scope of subjects classified as central, but vests the control of many of the said matters in Local Governments;

AND WHEREAS it is expedient to vest the control of all such matters in the Governor General in Council;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1928. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In the sections, sub-sections and clauses of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act), which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the words "the Local Government", or "a Local Government", or "any Local Government", as the case may be, wherever they occur, the words "the Governor General in Council" shall be substituted. Substitution of the Governor General in Council for the Local Governments.

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Substitution of "he" signifying the Governor General in Council for "it" signifying a Local Government.

3. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the word "it" wherever it occurs signifying a Local Government, the word "he" shall be substituted.

Omission of phrases relating to the sanction, approval or control of the Governor General in Council.

4. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, the words "with the previous sanction of the Governor General in Council," or "and the sanction of the Governor General in Council", or "subject to the control of the Governor General in Council", or "with the previous approval of the Governor General in Council", or "with the approval of the Governor General in Council", as the case may be, shall be omitted.

Substitution of "Gazette of India" for "local official Gazette."

5. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the words "local official Gazette" wherever they occur, the words "Gazette of India" shall be substituted.

Further amendments to be made.

6. In addition to the amendments to be made under sections 2, 3, 4 and 5, the amendments shown in the fourth column of the Schedule shall be made in the sections, sub-sections or clauses of the said Act shown against them in the first two columns of the Schedule.

Insertion of new section 4-A in Act XXI of 1923.

7. After section 4 of the said Act the following section shall be inserted, namely:—

Power of the Governor General in Council to delegate his powers to Local Governments.

"4A. The Governor General in Council may, by notification in the Gazette of India, delegate to any Local Government any or all of his powers under this Act, either absolutely or subject to such conditions or restrictions as he may think fit."

Insertion of new section 294A in Act XXI of 1923.

8. After section 294 of the said Act, the following section shall be inserted, namely:—

Power to appoint committees to advise on rules and scales.

"294A. (1) The Governor General in Council may, if he thinks fit, appoint Committees for the purpose of advising him when considering the making or alteration of any rules or scales under this Act, consisting of such persons as he may appoint representing the interests principally affected, or having special knowledge of the subject-matter.

(2) There

(2) There shall be paid to the members of any such Committee such travelling and other allowances as the Governor General in Council may fix.

(3) Committees may be appointed under this section to advise the Governor General in Council especially as regards any special rules or scales, or, generally, as regards any class or classes of rules or scales which the Governor General in Council may assign to them."

9. Where anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended.

Saving of things done under Act XXI of 1923.

THE SCHEDULE.

(See sections 2, 3, 4, 5 and 6.)

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
6	(2) (3)	2 2, 3	(i) The word "respectively" shall be omitted. (ii) For the words "the control of that Government or" the words "his control or to the control" shall be substituted.
7	(1)	2	
9	(1)	2	
15	..	2	
16	..	2, 3	
17	(3)	2	
18	..	2	
19	..	2	
20	..	2	(i) The words "by or under the authority of which his certificate was granted" shall be omitted. (ii) After the word "him", where it first occurs, the words "under this Act" shall be inserted.
21	..	2, 4	
24	(1) & (2)	2	
28	(2), clause (f)	2, 4, 5	
40	(1)	2, 3	For the words "the territories subject to the said Government" and for the words "such territories", the words "British India" shall be substituted.
48	(1)	2	

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SCHEDULE—contd.

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
44	(1)	2	
48	(1)	2	
53	(3)	2	
70	(2)	2	
71	(1)	2	
74	(2)	2, 4	
78	(2)	2	
81	(1)	2, 3, 5	
86	(1)	2	
87	(1)	2, 4, 5	
106	(1)	2	
110	(1), clause (a)	2, 3	
	(1), „ (b)	2, 3	
119	(1)	2	
120	(1)	2	
120	..	2, 4, 5	
129	..	2, 3	For the words "within the territories under its administration" the words "in British India" shall be substituted.
131	..	2, 5	
132	..	2	
135	(1)	2	
136	(1), (3) & (4)	2	
137	(1)	2	
138	Clause (c)	2	
139	..	2, 3	
140	(1)	2, 3	
141	..	..	This section shall be omitted.
143	..	2	
144	(1)	2, 3	
	(2)	2, 3, 5	
	(3)	2	
145	(1)	2, 4	
	(2), clause (d)		The words "within the territories under its administration" shall be omitted.
147	(3)	2, 4	
148	(1)	2, 3, 4	
	(2)	2	

SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
150	(1)	2	
151	(1)	2	
156	..	2	
159	(2)	..	The words "the Local" shall be omitted.
160	(3)	2	For the words "that Government appoints" the words "he may appoint" shall be substituted.
167	(2)	2	
170	(1) & (2)	2	
173	..	2, 3	
178	..	2	
188	(1)	2	For the words "that Government" the word "him" shall be substituted.
191	(1)	..	(i) In clause (i) the word "and" shall be omitted. (ii) After clause (i) the following two clauses shall be inserted, namely:— "(j) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf; (k) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board; and" (iii) clause (j) shall be re-lettered as clause (l).
191	(2)	..	This sub-section shall be omitted.
191	(3)	..	This sub-section shall be re-numbered as sub-section (2); and for the words "authority making it" the words "Governor-General in Council" shall be substituted.
191	(4)	..	This sub-section shall be re-numbered as sub-section (3).
208	(1)	2	
206	(1) & (3)	2	
207	(1)	2	
208A	..	2	
209A	(1)	2	
209C	(3)	2	
213	(1)	..	(i) The clauses from (a) to (r) shall be re-lettered serially from (a) to (u); and in clause (u) as so re-lettered [being the present clause (r)] the word "and" shall be omitted.

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SCHEDULE—contd.

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
213	(1)	..	(ii) After clause (u) as so re-lettered, the following two clauses shall be inserted, namely:— “(v) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; (w) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board; and” (iii) clause (s) shall be re-lettered as clause (x).
218	(2)	..	This sub-section shall be omitted.
213	(3)	..	This sub-section shall be re-numbered as sub-section (2); and for the words “authority making it” the words “Governor General in Council” shall be substituted.
213	(4)	..	This sub-section shall be re-numbered as sub-section (3).
214	(1)	2	
216	..	2	
218	(2)	2	
	(3)	2, 4	
221	(2)	2	
223	..	2, 4	For the word “its” the word “his” shall be substituted.
224	(1)	2, 4	
228	(1)	2, 4, 5	
229	(4)	2	
232	(1)	2	
232	(1), clause (a)	2, 3	(i) For the word “his” the word “the” shall be substituted. (ii) For the word “its” the word “his” shall be substituted.
232	(1), „ (o)	2, 3	
232	(1), clause (e)	2	
232	(1), „ (f)	2, 3	
232	(1), „ (g)	2	
232	(2) & (3)	2	
235	..	2	
236	..	2	For the words “such Government or officer” where they occur four times, the words “the Governor General in Council or the detaining officer” shall be substituted.
238	Clauses (ii) & (iii).	2	
239	(1)	2, 3, 5	

SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
246	(3)	..	For the words "or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port", the words "and also to the officer appointed in this behalf by the Governor General in Council" shall be substituted.
247	(1)	..	(i) For the words "Magistrate or any officer, appointed by the Local Government in this behalf", the words "such officer" shall be substituted. (ii) For the words "Local Government" where they occur for the second time, the following words shall be substituted, namely :— "Governor General in Council, and also to the Local Government on or near whose coasts the casualty occurred, or within whose territories any witness resides, or evidence can be obtained as the case may be; and may proceed to make a preliminary inquiry into the casualty."
247	(2)	..	The words "Magistrate or" shall be omitted. After sub-section (2) the following sub-section shall be added, namely :— "(3) An officer making a preliminary inquiry under this section shall send a report thereof to the Governor General in Council and shall send a copy thereof to the Local Government."
248	..	..	For this section the following section shall be substituted, namely :— "248. The officer appointed under sub-section (3) of section 246, whether he has made a preliminary inquiry or not, may and where the Governor General in Council so directs, shall, make an application to a Court empowered under section 249, requesting it to make a formal investigation into any shipping casualty; and the Court shall thereupon make such investigation."
249	..	..	For this section the following section shall be substituted, namely :— "249. Magistrate of the first class specially empowered in this behalf by the Local Government and Presidency Magistrates, shall have jurisdiction to make formal investigations into shipping casualties under this Part."
251	(1) & (2)	2	
253	For the words "shall have—" and clauses (a) and (b), the words "shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction" shall be substituted.

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SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
254	(1)	..	<p>For this sub-section, the following sub-section shall be substituted, namely:—</p> <p>“(1) A Court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs:</p> <p>Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.”</p> <p>After sub-section (2) the following sub-section shall be added, namely:—</p> <p>“(3) The assessors shall be chosen from a list to be prepared from time to time by the Governor General in Council.”</p>
255	(1)	2	
256	..	..	For the words “the powers of a Magistrate of the first class or of a Presidency Magistrate”, the words “its powers as a Criminal Court” shall be substituted.
257	(1)	2	At the end of this sub-section the words “and shall also send a copy thereof to the Local Government”, shall be added.
	(2)	2	For the word “section” the word “sub-section” shall be substituted.
259	(1)	2, 3 (where the word ‘it’ first occurs).	For the words “and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but” the word “grant” shall be substituted.
	(3)	2	
260	(1)	2	For the words “that or any other Local Government” the words “the Governor General in Council” shall be substituted.
260	(2)	2	For the word “it” the word “him” and for the word “its” the word “his” shall be substituted.
261	..	..	This section shall be omitted.
262	..	..	(i) For the words “Every Local Government cancelling or suspending” the words “When the Governor General in Council cancels or suspends” shall be substituted. (ii) After the word “engineer” the word “he” shall be inserted.
263	(1)	2, 3	
264	(1)	2	
264	(3)	2	For the words “that Government” the word “him” shall be substituted.
264	(5)	2	(i) The figures “261” shall be omitted.

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SCHEDULE—*concl'd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
264	(5)	2	(ii) The words "which cancels or suspends a certificate" shall be omitted. (iii) For the words "Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself" the words "Governor General in Council as if he had himself" shall be substituted.
266	(1)	2	In clause (b), for the words "that Local Government" where they occur twice, the word "him" shall be substituted.
267	(1)	3	For the words "Local Government" the words "Governor General in Council or a person duly appointed by him in this behalf" shall be substituted.
267	(2)	..	For the words "Local Government" the words "Governor General in Council or such authorised person" shall be substituted.
268	(2)	2	
268	(4)	2, 5	
269	(1), (5), (6), (7).	2	
270	..	2	
271	(1)	2, 3	For the words "the Port-officer" the words "a person duly appointed by the Governor General in Council in this behalf" shall be substituted.
271	(2)	2	For the word "its" the word "his" shall be substituted.
273	(1)	2, 3, 5	
276	..	2	
200	..	2	For the words "the territories administered by such Government, and, subject to the control of the Governor General in Council," the words "British India, and may" shall be substituted.
291	..	2	
294	..	..	The words "or the local official Gazette, as the case may be," shall be omitted.