

The Law Amending the Myanmar Lighthouse Act

(The Pyidaungsu Hluttaw Law No.1 , 2016)

The 10th waning Day of Nadaw, 1377 M.E.

(5 January, 2016)

The Pyidaungsu Hluttaw hereby enacts this Law.

1. This Law shall be called **the Law Amending the Myanmar Lighthouse Act.**

2. In this Act, unless there is anything repugnant in the subject or context,-

- (a) Officer assigned duty by Myanma Port Authority means any officer assigned duty by the Myanma Port Authority with the approval of the Ministry of Transport to levy the light –dues , expenses, costs and fines , and to perform the other duty under this Act.
- (b) " general lighthouse" means any lighthouse included in the Schedule or any lighthouse which the Ministry of Transport may, by notification, declare to be a general lighthouse for the purposes of this Act;
- (c) " lighthouse" includes any light-vessel, fog-signal, buoy, beacon or any mark, sign or apparatus exhibited or used for the guidance of ships;
- (d) " local lighthouse" means any lighthouse in the Union of Myanmar which is not a general lighthouse;
- (e) "local lighthouse authority" means a person appointed by the Myanma Port Authority to have the superintendence and management of a local lighthouse;
- (f) " owner " includes any part-owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned;
- (g) "port" means any port to which the Ports Act extends; and
- (h) words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the Myanmar Merchant Shipping Act.

Power to make rules

3. The Ministry of Transport may, with the approval of the Government of the Union make rules consistent with this Act to carry into effect the purposes thereof.

Appointment of the officer of lighthouse

4. The Myanmar Port Authority may, with the approval of the Ministry of Transport, by notification, appoint an officer of lighthouse. In addition, in order to cooperate and coordinate together with the other marine related organizations internal or external for the purpose of channel safety, consistency with the international navigation standard, and implementation national maritime policy, lays the lighthouse Division under the supervision of the Master Attendant.

Appointment of Advisory Committee

5. (1) The Myanmar Port Authority shall appoint an Advisory Committee to advise him generally on matters connected with the administration of this Act, and in particular shall consult it in regard to -
- (a) the erection and position of local lighthouses or of any works appertaining thereto;
 - (b) additions to, or alternations or removal of, local lighthouses;
 - (c) the variation of the character of any local lighthouse or of the mode of use thereof;
 - (d) the cost of any proposals relating to local lighthouses; or
 - (e) the making or alteration of any rules under this Act.
- (2) Such Advisory Committee shall consist of persons representing interests affected by this Act or having special knowledge on the subject-matter thereof.

PART II

GENERAL LIGHTHOUSES

Superintendence and Management

Superintendence and management

6. The superintendence and management of general lighthouses shall vest in the Ministry of Transport with the power to make arrangements it thinks fit, by contract or otherwise, and it may discharge this responsibility through the Myanmar Port Authority.

Light-Dues

Levy and collection of light-dues

7. For the purpose of providing or maintaining or of providing and maintaining general lighthouses in the Union of Myanmar for the benefit of ships voyaging to or from the Union of Myanmar or between ports in the Union of Myanmar. Ministry of Transport shall, subject to the provisions of this Act, cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in the Union of Myanmar.

Rates of light-dues leviable

8. (1) The Ministry of Transport may, with the approval of the Government of the Union, by notification, prescribe rates at which light-dues in respect of general lights shall be payable, and may prescribe different rates for different classes of ships, or for ships of the same class when in use for different purposes or in different circumstances.

(2) Light-dues payable in respect of a ship shall be paid by the owner or master of the ship on its arrival at, and on its departure from, any port in the Union of Myanmar.

Provided that, if light-dues have been paid in accordance with the provisions of this Act in respect of any ship, no further dues shall become payable in respect of that ship for a period of thirty days from the date on which the dues so paid became payable.

(3) An order under sub-section (1) imposing, abolishing or varying light dues shall not take effect till the expiration of thirty days from the day on which the order was notified in the Gazette.

Receipts for light-dues

9. Light-dues shall be paid to the officer assigned duty by Myanma Port Authority with the approval of the Ministry of Transport who shall grant to the person paying the same a receipt in writing specifying -

- (a) the port at which the dues have been paid;
- (b) the amount of the payment;
- (c) the date on which the dues became payable, and

- (d) the name, tonnage and other particulars of the ship in respect of which the payment is made.

Ascertainment of tonnage

- 10. (1) For the purpose of the levy of light-dues, a ship's tonnage shall be reckoned [as prescribed by rules made under this Act].
- (2) In order to ascertain the tonnage of any ship for the purpose of levying light-dues, the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport may -
 - (a) if the ship is registered under any law for the time being in force in the Union of Myanmar or under the law of any foreign country [in respect of which the President of the Union has, by notification, declared] that ships of that country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers (any such ship being hereafter in this section referred to a registered ship), require. the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other person refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained; or
 - (b) if the ship is not a registered ship and the owner or master fails to satisfy the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to such mode.

- (3) If any person refuses or neglects to produce any register or other papers or otherwise to satisfy the officer as to the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage. Such person shall, on the reasonable ground of willful commission, further be liable to pay a fine from a minimum of fifty thousand to a maximum of one hundred thousand kyats, under the order passed by the Master Attendant or any officer with the approval of the Chief Executive Officer of the Myanmar Port Authority
- (4) The person who dissatisfies with the order passed by the Master Attendant or any officer under sub-section (3) may appeal to the Ministry of Transport within 60 days from the date of such order.

Recovery of Dues

Recovery of light-dues, expenses and costs

11. (1) If the owner or master of any ship refuses or neglects to pay to the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport on demand the amount of any light-dues or expenses payable under this Part of this Act in respect of the ship, the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport may seize the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of the dues or expenses, together with the costs of the seizure and detention, is paid.
- (2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

Refusal of port-clearance

12. The officer whose duty it is to grant a port-clearance for any ship shall not grant the port-clearance until the amount of all light-dues, expenses and costs payable in respect of the ship under this Part of this Act and of any fines imposed there under has been paid, or until security for the payment thereof has been given to his satisfaction.

Determination of disputes as to liability for payment

13. If any dispute arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Part of this Act, or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by the Master Attendant or any officer Assigned duty by the Myanmar Port Authority with the approval of the Chief Executive Officer of Myanmar Port Authority, and such decision shall be final.

Light-dues payable at one port recoverable at another

14. (1) If the master of any ship in respect of which any light-dues are payable under this Part of this Act at any port causes the ship to leave such port without having paid the same, the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport at that port may by writing require the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport at any other port in the Union of Myanmar to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

(2) Any officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Part of this Act at the port at which he is the officer assigned duty by Myanmar Port Authority with the approval of the Ministry of Transport, and a certificate by the officer assigned duty by Myanmar Port

Authority with the approval of the Ministry of Transport at the port at which the light-dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under section 11 or section 13 that such amount is payable.

Penalty for evading payment of light-dues

15.(1) If the owner or master of a ship willfully evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Part of this Act, such person shall, on the maximum of five times the amount of the sum payable, under the order passed by the Master reasonable ground of willful commission, be liable to pay a fine from a minimum of three times to an Attendant or any officer with the approval of the Chief Executive Officer of the Myanma Port Authority.

(2) The person who dissatisfies with such order passed under sub-section(1) may appeal to the Ministry of Transport within 60 days from the date of such order.”

Exemption

Exemption from payment of light-dues

16. The following ships shall be exempted from the payment of light-dues under this Act, namely:-

- (a) any ship belonging to the Government or to a foreign Prince or State and not carrying cargo or passengers for freight or fares, and
- (b) any ship of a tonnage of less than fifty tons; and the Ministry of Transport may, with the approval of the Government of the Union, by notification, exempt any other ships, or classes of ships, or ships performing specified voyages, from such payment either wholly or to such extent only as may be specified in the notification.

Accounts.

Accounts

18. The Ministry of Transport shall cause to be maintained a separate account of all amounts received by way of light-dues, expenses, costs and fines under this Part of

this Act and of all expenditure incurred for the purposes of this Act, as soon as possible after the close of each financial year.

PART III

LOCAL LIGHTHOUSES

LOCAL LIGHTHOUSE AUTHORITY

Local lighthouse authority

19. The Myanma Port Authority may appoint any person to be the local lighthouse authority as respects any local lighthouse.

All powers conferred on such authority by or under any enactment enabling such authority to maintain such lighthouse shall be exercised subject to this Act.

Inspection

Power to inspect local lighthouses

20. (1) The Master Attendant, at any time, and any officer of Lighthouse Division, if authorized in this behalf by a general or special order in writing of the Myanma Port Authority **may** enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit. thereof or of the management thereof as he thinks fit.
- (2) Every person having the charge of, or concerned in the management of, any local lighthouse shall be bound to furnish to any officer authorized by or under sub-section (1) to inspect the lighthouse all such information regarding the same as the officer may require.
- (3) Every local lighthouse authority shall furnish all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as the Myanma Port Authority may require.

Control

Control of local light-houses by the President

21. (1) If, after an inspection under section 20 or such other inquiry as he thinks fit, the Myanma Port Authority is satisfied that a direction under this

sub-section is necessary or expedient for the safety, or otherwise in the interests, of shipping, he may direct any local lighthouse authority-

- (a) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such lighthouse, or
- (b) to erect, place or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within which the local lighthouse authority exercises its powers.

- (2) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the Myanmar Port Authority at least one month's notice in writing of its intention so to do:

immediate notice of the same to the Myanmar Port Authority and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse.

- (3) If a local lighthouse authority –
- (a) fails to comply with any direction made under sub-section (1), or
 - (b) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or
 - (c) fails to make adequate financial provision for the performance of any such duty the Myanmar Port Authority may, by order in writing, require the local lighthouse authority to comply with the direction, or to make arrangements to his satisfaction for the proper exercise of the power or performance of the duty, or to make financial provision to his satisfaction for the performance of the duty, as the case may be, within such period as he may specify.

- (4) If the local lighthouse authority fails to comply with an order made under sub-section (3) within the specified period or within such further time as the Myanmar Port Authority may allow, the Myanmar Port Authority may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the Government any expenditure incurred in so doing.

Management by Government

Management of local lighthouses by the Government

22. The President of the Union may, at the request of a local lighthouse authority, undertake the superintendence and management of any local light-house on its behalf, and the local lighthouse authority shall pay to the Government such sums to defray the cost of superintendence and management as may be agreed.

23 (1) The Myanmar Port Authority has, with the approval of the Ministry of Transport, within port limit area or not, the power to issue order and notification any land or reef or sea within the 100 meters from the centre of light beacon or light tower as the lighthouse area

(2) The person who dissatisfies with such order passed by sub-section (1) may appeal to the Ministry of Transport with the credible document of ownership within 60 days from the date of such order and the decision of the Ministry of Transport shall be final.

24. The Myanmar Port Authority has the power to make Prohibition to erecting the buildings or growing the trees, not to become obstacle to high and luminous range of lighthouse within 1 kilometer from lighthouse. Moreover, the trees ordinarily grown which is likely to be obstacle to such high and luminous range of the lighthouse shall be cut and cleaned by the power given to the Myanmar Port Authority.

25. Any Person who takes any material of the lighthouse without permission or destroys it or makes anything to disturb the lighthouse services shall be punished under the existing law.

SCHEDULE

(1) Lighthouse

- (a) Kyauk Phyu Kyun Island.
- (b) Meepya Kyun (Dawei) Island.
- (c) Malisoon Island.
- (d) Kalwin.
- (e) Myeik Seik Kan Thar.
- (f) Palaw Palin.
- (g) Kyaik Kha Mi Island.
- (h) Kyun Nyi Naung Island.
- (i) May Yu Island.
- (j) Sittwe
- (k) Myae Pone Island.
- (l) Thantar Island.
- (m) Phaung Net Gyi Island.
- (n) Man Aung Island.
- (o) Man Aung Chaung Wa.
- (p) Kyauk Ne Maw.
- (q) Sin Gaung Island.
- (r) Ohan Ta Bin Island.
- (s) Lone Thar.
- (t) Nan Thar Kyun Island.
- (u) Thante
- (v) Minglar Island .
- (w) Pathein Reef
- (x) Thamee Hla Island.

(y) Chaug Gyi.

(z) Pyi Taw Thar.

2. Any other Lighthouse in the Republic of the Union of Myanmar with the Ministry of Transport may declare to be a general lighthouse.