

MERCHANT SHIPPING (LOAD LINES) DECREE 1970



ARRANGEMENT OF SECTIONS

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SCHEDULE—Repeals.

Decree No. 42

[See section 31 (4)]

Commence-
ment.

WHEREAS for the more effective control of over-loading of ships a convention entitled "the International Convention on Load Lines, 1966" (hereafter in this Decree referred to as "the Convention") was signed in London on 5th April 1966 and thereafter having been duly accepted by or acceded to by the requisite number of contracting governments, it is now in force :

AND WHEREAS the requisite instrument of accession having been duly deposited on behalf of the Federal Military Government as evidence of desire to accede thereto the effective date of the convention for Nigeria is 14th February 1969 :

AND WHEREAS to implement the instrument of accession it is necessary to make other legislative provision so as to replace enactments relating to load lines heretofore made and subsisting immediately before the commencement of this Decree :

NOW THEREFORE THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

*General Provisions*Ships to
which the
Decree
applies and
power to
make rules.

1.—(1) This Decree shall apply to all ships except—

- (a) ships of war ;
- (b) fishing vessels ;
- (c) pleasure yachts not engaged in trade ;

and the Federal Commissioner charged with responsibility for transport (hereafter in this Decree referred to as "the Commissioner") having regard to the convention may make rules prescribing load lines for ships to which this Decree applies (such rules being hereafter in this Decree referred to as "load line rules").

(2) Load line rules made under this section shall provide—

(a) for the surveying and periodical inspection of ships to which this Decree applies ;

(b) for determining freeboards to be assigned from time to time to such ships ;

(c) for determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description prescribed by the rules ; and

(d) for determining, by reference to that mark and the freeboards for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description prescribed by the rules, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the rules.

(3) Load line rules shall provide for the imposition of conditions in respect of assignment of freeboards under the heading "rules as to conditions of assignment of freeboards", and to the following effect that is to say—

(a) provisions specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which this Decree applies as appear to the Commissioner to be relevant to the assignment of freeboards to such ships ;

(b) provisions whereby, at the time when freeboards are assigned to a ship in accordance with the load line rules, such particulars relating to those requirements as may be determined in accordance with the rules are to be recorded in such manner as may be so determined ; and

(c) provisions for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is for the purposes of this Decree to be taken to comply, or not to comply, with the conditions of assignment.

(4) Load line rules made under this section shall, in respect of a ship to which freeboards are assigned, require the furnishing by the assigning authority to the Commissioner of information for the guidance of the master of the ship in respect of—

(a) the stability of the ship ; and

(b) the loading and ballasting of the ship ;

to the extent to which they are determined in accordance with such rules.

(5) Where any matter falls to be prescribed by load line rules, those rules may make different provision by reference to, or to any combination of any of the following, that is to say—

(a) different descriptions of ships ;

(b) different areas ;

(c) different seasons of the year ; and

(d) any other different circumstances.

Ships registered in Nigeria

Ships not to proceed to sea without complying with load line rules.

2.—(1) Where a ship to which this Decree applies is registered in Nigeria (and is not otherwise exempted thereunder) it shall not proceed or attempt to proceed to sea unless—

(a) the ship has been surveyed in accordance with the load line rules ;

(b) the ship is marked with a deckline and with load lines assigned in accordance with those rules ;

(c) the ship complies with the conditions of the assignment ; and

(d) the information relating to its stability where freeboards are assigned and required by those rules to be furnished for the guidance of the master has been duly supplied ;

and if any ship proceeds or attempts to proceed to sea in contravention of this subsection, the owner or master as the case may be, shall be guilty of an offence and liable on conviction to a fine of not less than £50 or more than £200.

(2) Ships as aforesaid not otherwise exempted under this Decree which attempt to proceed to sea without being surveyed and marked as prescribed by subsection (1) above may be detained until so surveyed and marked ; and where a freeboard is assigned ships which do not comply with the conditions of assignment thereof shall be deemed to be unsafe for the purposes of section 148 of the Merchant Shipping Act 1962.

3.—(1) Where a ship registered in Nigeria being one to which this Decree applies is marked with load lines, the ship shall be loaded so as to ensure that—

Submersion
of load lines.

(a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is not submerged ;

(b) if the ship without list is in any other water, the appropriate load line on each side of the ship would not be submerged were the ship without list in salt water ;

and subject to any allowable defence under this section, it shall be an offence punishable on summary conviction as in this section hereafter provided, for the owner or master as the case may be to load the ship in contravention of this subsection.

(2) If a ship is loaded in contravention of subsection (1) above the owner or master of the ship shall, subject to subsection (5) below, be guilty of an offence and liable on summary conviction—

(a) to a fine of not less than £100 or more than £400 ; and

(b) such additional fine, not exceeding an amount calculated in accordance with subsection (3) of this section as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) The additional fine which may be imposed under subsection (2) (b) of this section shall not exceed £400 for every complete inch, and for any fraction of an inch over and above one or more complete inches, by which—

(a) in a case falling within paragraph (a) of subsection (1) of this section, the appropriate load line on each side of the ship was submerged ; or

(b) in a case falling within paragraph (b) of that subsection, the appropriate load line on each side of the ship would have been submerged ;

so however that if the amount by which that load line was or would have been submerged was less than a complete inch, any such additional fine shall not exceed £400.

(4) If the master of a ship takes the ship to sea when she is loaded in contravention of subsection (1) of this section, or if any other person, having reason to believe that the ship is so loaded, sends or is party to sending her to sea when she is loaded in contravention of that subsection, then (without prejudice to any fine to which he may be liable in respect of an offence under subsection (2) above) he shall be guilty of an offence under this subsection and liable on summary conviction to a fine of not less than £100 or more than £400.

(5) Where a person is charged with an offence under subsection (2) above, it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which in any event could not have been prevented or forestalled by the master, owner or charterer (if any).

(6) Without prejudice to any proceedings under the preceding provisions of this section, any ship which is loaded in contravention of subsection (1) above may be detained until she ceases to be so loaded.

(7) In the application of this section "the appropriate load line" means the load line which, in accordance with rules made under this Decree, and in any circumstances there prescribed, indicates the maximum depth to which the ship may be loaded in salt water in the prescribed circumstances.

Miscellaneous offences in relation to marks.

4. Where a ship registered in Nigeria, being one to which this Decree applies, is marked in accordance with any marking requirements imposed pursuant to this Decree, then if—

(a) the owner or master of the ship fails without reasonable cause to keep the ship so marked ; or

(b) any person conceals, removes, alters, defaces or obliterates any mark with which the ship is so marked except where he does so under the authority of a person empowered under the load line rules to authorise him in that behalf ;

he shall be guilty of an offence and liable on conviction to a fine of not less than £100 or more than £200.

Issue of load line certificates.

5.—(1) Where a ship registered in Nigeria being one to which this Decree applies, is surveyed and marked in accordance with the load line rules, the appropriate certificate (as hereafter defined in this section) shall be issued to the owner of the ship on his application.

(2) For the purposes of this section “appropriate certificate”—

(a) in the case of an existing ship of not less than 150 tons gross tonnage, and in the case of a new ship of not less than 24 metres (or 78.74 feet) in length, means a certificate called an International Load Line Certificate (1966) ; and

(b) in the case of any other ship, means a certificate called a Nigerian Load Line Certificate.

(3) Subject to subsection (4) of this section, any certificate required by subsection (1) above to be issued, shall—

(a) be issued by the Commissioner or a person authorised in that behalf by the Commissioner ; and

(b) be in such form, and be issued in such manner, as may be prescribed by the load line rules.

(4) The Commissioner may request the Contracting Government to issue an International Load Line Certificate (1966) in respect of any ship to which this Decree applies which is a ship registered in Nigeria and falling within subsection (2) (a) of this section ; and the following provisions of this Decree shall have effect in relation to such a certificate so issued, which contains a statement that it has been issued at the request of the Federal Military Government of Nigeria, as they have effect in relation to an International Load Line Certificate (1966) issued by the Federal Ministry of Transport.

Effect of load line certificates.

6. Where the appropriate certificate as defined in section 5 above has been issued under that section and for the time being is in force, is produced in respect of the ship to which the certificate relates—

(a) the ship shall be deemed to have been surveyed in accordance with the load line rules ; and

(b) if lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by the load line rules, and the positions of those lines so marked correspond to the positions of the deck-line and load line as specified in the certificate, the ship shall be deemed to be marked as required by those rules.

7.—(1) In addition to any other requirement of this Decree as to load line rules the rules shall provide for determining the period during which any certificate issued under section 5 of this Decree is to remain in force, including provision—

Duration,
etc. of
certificates.

(a) for enabling the period for which any such certificate is originally issued to be extended within the limits and in the circumstances prescribed by the rules; and

(b) for cancelling any such certificate in circumstances likewise so prescribed.

(2) While any such certificate is in force in respect of a ship and to the extent to which load line rules so require, there shall be endorsed on the certificate all necessary information relating to—

(a) periodical inspections of the ship in accordance with the load line rules; and

(b) any extension of the period for which the certificate was issued.

8.—(1) If a certificate issued under section 5 of this Decree in respect of a ship registered in Nigeria is received by the owner—

Publication
of load line
certificate
and entry in
log-book.

(a) he shall forthwith notify the master and frame and post up the certificate in some conspicuous place on board the ship, and thereafter the certificate shall be kept so posted up and legible so long as it remains in force and the ship is in use; and

(b) the master of the ship when so notified shall, before making any other entry in any official log-book relating to the ship, enter in that log-book the particulars as to the positions of the deck-line and the load lines as specified in the certificate.

(2) Before any ship registered in Nigeria being one to which this Decree applies, leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master—

(a) shall enter in the ship's official log-book such particulars relating to the depth to which the ship is for the time being loaded as may be prescribed by regulations made under this Decree; and

(b) shall unless exempted under the regulations hereinafter referred to, cause a notice, in such form and containing such of those particulars as may be specified in regulations made under this Decree for the purposes of this paragraph, to be posted up in some conspicuous place on board the ship;

and, where such a notice has been posted up, the master of the ship shall cause it to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place.

(3) If the owner or master of a ship fails to comply with any requirement imposed on him by the preceding provisions of this section, he shall be guilty of an offence and liable on conviction to a fine of £50.

9.—(1) Unless otherwise exempted under this Decree, if a ship is registered in Nigeria and she is one to which this Decree applies, she shall not proceed or attempt to proceed to sea unless there is in force an appropriate certificate which the master shall produce to the officer of customs from whom a clearance for the ship is demanded; and a clearance shall not be granted, and the ship may be detained, until the certificate is so produced.

Effect of no
load line
certificate.

(2) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master of the ship shall be guilty of an offence and liable on conviction to a fine of not less than £100 or more than £200.

(3) In this section "appropriate certificate" in relation to a ship within this section has the same meaning as it has where defined in section 5 (2) of this Decree.

Inspection
of Nigerian
ships.

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10. Any person duly authorised or qualified as a ship surveyor or engineer surveyor, as the case may be, may inspect a ship to which this Decree applies, being a ship registered in Nigeria, for the purposes of seeing that the provisions of this Decree applicable to the ship have been duly complied with; and for such purposes a surveyor in either category shall have all the powers of an inspector under section 419 of the Merchant Shipping Act 1962.

Ships not registered in Nigeria

Valid
convention
certificates.

11.—(1) Where a ship to which this Decree applies is registered in a convention country other than Nigeria, or if not so registered there or elsewhere it flies the flag of any convention country, and the ship is—

- (a) an existing ship of not less than 150 tons gross tonnage; or
- (b) a new ship of not less than 24 metres (or 78.74 feet) in length;

the Commissioner may, at the request of the Government of the parent country of a ship within this section, issue in respect of the ship a certificate in such form as may be prescribed by the load line rules, if he is satisfied that were the ship one registered in Nigeria, he could properly issue a certificate in respect of the ship under section 5 of this Decree.

(2) Load line rules under this Decree shall include provisions appearing to the Commissioner to be appropriate for securing recognition for the purposes of this Decree of certificates in respect of ships to which this section applies, issued in circumstances such as may be prescribed by the rules aforesaid as International Load Line Certificates (1966), by Governments other than the Government of the Federation of Nigeria.

(3) Where a certificate is issued pursuant to subsection (1) of this section or is one within subsection (2) thereof it shall be included among the certificates to be called International Load Line Certificates (1966).

Ships not to
proceed to
sea without
load line
certificate.

12.—(1) Unless otherwise exempted under this Decree, or a valid convention certificate is produced on request for customs clearance, a ship to which this Decree applies which is registered elsewhere than in Nigeria shall not proceed or attempt to proceed to sea from any port in the Federation unless the ship—

- (a) has been surveyed in accordance with the load line rules;
- (b) is marked with a deck-line and with load lines in accordance with those rules;
- (c) complies with the conditions of assignment;

and in addition, there has been furnished for the guidance of the master of the ship, information in respect of the stability, loading and ballasting thereof as directed by section 1 (4) of this Decree.

(2) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master of the ship, as the case may be, shall be guilty of an offence and liable on summary conviction to a fine of not less

than £100 or more than £200; and in addition, any ship required to be surveyed and marked and not so surveyed and marked which attempts to proceed to sea may be detained until she complies with the requirement of paragraphs (a) and (b) of subsection (1) of this section.

(3) Where a ship within subsection (1) above (not being a ship in respect of which a valid convention certificate is produced) does not comply with the conditions of assignment, then—

(a) if the ship is a Nigerian ship, she shall be deemed to be unsafe for the purposes of section 260 of the Merchant Shipping Act 1962; or

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(b) if the ship is a foreign ship, section 263 of that Act shall have effect in relation to the ship as if she were unsafe by reason of one of the matters specified in that section.

13.—(1) Where a ship to which this Decree applies, being a ship registered elsewhere than in Nigeria, is within any port in Nigeria, and is marked with load lines, the ship shall be so loaded that—

Submersion
of load
lines.

(a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is not submerged; or

(b) if the ship without list is in any other water, the appropriate load line on each side of the ship would not be submerged were the ship without list in salt water.

(2) Subsections (2), (3) and (5) and the provision for penalties in subsection (1) of section 3 of this Decree shall have effect for the purposes of this section as if any reference by necessary intendment in those subsections to loading as prescribed in subsection (1) of that section, or to paragraph (a) or paragraph (b) of the said subsection (1), or (as the case may be) were a reference to the corresponding paragraph of subsection (1), of this section:

Provided that, in the case of a ship to which section 11 of this Decree applies, the ship shall not be detained and proceedings shall not be brought by virtue of this subsection unless the ship has been inspected by a ship surveyor or engineer surveyor in pursuance of section 16 of this Decree.

(3) In relation to a ship in respect of which a valid convention certificate is produced, "load line" in subsection (1) of this section means a line marked on the ship in the position of a load line specified in that certificate and for the purposes of the application of the relevant provisions to which a ship in any circumstances for which a particular load line is specified in the certificate, "appropriate load line" means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(4) Where a valid convention certificate is not produced in respect of a ship, then, for the purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the load line rules in accordance with paragraph (d) of section 1 (2) of this Decree, "appropriate load line" means the load line which in accordance with those rules, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(5) (Where used in subsections (3) and (4) of this section the expression "the relevant provisions" means the provisions of subsection (1) of this section and any provision of section 3 of this Decree to the extent applied by subsection (2) of this section.

Nigerian
load line
certificates.

14.—(1) Where the owner of a ship to which this Decree applies, not being a ship registered in Nigeria, which has been surveyed and marked in accordance with the load line rules makes application therefor, a Nigerian load line certificate shall be issued to him by the Commissioner or by a person authorised in that behalf by the Commissioner.

(2) Subject to subsection (3) of this section, the provisions of sections 6 and 7 of this Decree shall have effect in relation to a certificate issued under the preceding subsection as they have effect in relation to a certificate issued under section 5 of this Decree.

(3) Any certificate issued under subsection (1) of this section in respect of a ship to which section 11 of this Decree applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Commissioner if he has reason to believe that the ship is plying on international voyages.

Production
of
certificate
to customs
officer.

15.—(1) Nothing in this section shall apply to a Nigerian ship, and subject thereto unless a ship is otherwise exempted under this Decree, the master shall before proceeding to sea from a port in Nigeria produce the appropriate certificate (as hereafter defined in this section) to the officer of customs from whom a clearance for the ship is demanded; and until so produced, a clearance shall not be granted, and the ship may be detained.

(2) For the purposes of this section "the appropriate certificate"—

(a) in the case of a ship to which section 11 of this Decree applies, and the clearance—

(i) is in respect of an international voyage, means a valid convention certificate;

(ii) is in respect of any other voyage means a valid convention certificate and includes a Nigerian load line certificate for the time being in force in respect of the ship; and

(b) in the case of any other foreign ship means a Nigerian load line certificate for the time being in force in respect of the ship.

Provisions as
to inspection.

16.—(1) Subject to the following provisions of this section, any person duly authorised or qualified as a ship surveyor or engineer surveyor, as the case may be, may inspect a ship to which this Decree applies, not being a ship registered in Nigeria, while the ship is within any port in Nigeria; and for such purposes any such surveyor shall have all the powers of an inspector under section 419 of the Merchant Shipping Act 1962.

(2) Any such surveyor may go on board any ship to which section 11 of this Decree applies, while the ship is within any port in Nigeria, for the purposes of demanding production of any International Load Line Certificate (1966) or Nigerian load line certificate for the time being in force in respect of the ship.

(3) If on any such demand a valid convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) of this section shall be limited to seeing—

(a) that the ship is not loaded beyond the limits allowed by the certificate;

(b) that lines are marked on the ship in the positions of the load line specified in the certificate;

(c) that no material alterations have taken place in the hull or super-structures of the ship which affect the position in which any of those lines ought to be marked ; and

(d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crews' quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) If on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in paragraph (c) or paragraph (d) of subsection (3) of this section, that the ship is manifestly unfit to proceed to sea without danger to human life, then—

(a) if the ship is a Nigerian ship, she shall be deemed to be unsafe for the purposes of section 260 of the Merchant Shipping Act 1962; or

(b) if the ship is a foreign ship, section 263 of that Act shall have effect in relation to the ship as if she were unsafe by reason of one of the matters specified in that section.

(5) Where a ship is detained under the provisions of the Merchant Shipping Act 1962 by reason of the application to it of subsection (4) above, the Commissioner shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

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Exemptions

17.—(1) If the Commissioner is of opinion that by reason of the sheltered nature and conditions of any international voyage it would be unreasonable or impracticable to apply the provisions of this Decree to ships plying on any such voyage and he is satisfied that the Government of the other country (or, as the case may be, of each of the other countries) concurs in that opinion, the Commissioner may by order published in the Federal Gazette exempt from the provisions of this Decree, ships plying on international voyage between ports mentioned in the order, or any class of ships specified in the order plying between those ports.

Power to make exemption orders.

(2) The Commissioner may by order published in the Federal Gazette exempt from the requirements of this Decree ships (or any specified class thereof) under 80 tons register engaged solely in the coastal trade—

(a) while not carrying cargo ; or

(b) whether or not carrying cargo.

(3) An order under this section shall be subject to such conditions as the Commissioner thinks fit to impose ; and, where an order is made subject to conditions, the exemption conferred by the order shall not have effect in relation to a ship unless the ship complies with those conditions.

18.—(1) In this section any reference to exempting a ship is a reference to exempting the ship by means of the appropriate certificate either—

Special powers to exempt ships and issue exemption certificates.

(a) from all the provisions of this Decree and of the load line rules ; or

(b) from such of those provisions as are specified in the instrument conferring the exemption.

(2) The Commissioner may, on the application of the owner of a ship registered in Nigeria to which this Decree applies, and the ship is either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres (or 78.74 feet) in length, exempt the ship if of opinion

that the ship embodies features of a novel kind such that the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded, were due compliance with this Decree and the load line rules required.

(3) The Commissioner may also, on the application of the owner of a ship registered in Nigeria to which this Decree applies, exempt the ship if—

(a) it is an existing ship of less than 150 tons gross tonnage or a new ship of less than 24 metres (or 78.74 feet) in length; or

(b) it is a ship (other than one within paragraph (a) above) which does not ply on international voyages.

(4) Without prejudice to subsection (3) of this section, where a ship registered in Nigeria is one to which this Decree applies, and the ship being either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres (or 78.74 feet) in length, does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Commissioner after consideration of an application by the owner of the ship specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(5) An exemption under this section may be subject to such conditions as the Commissioner thinks fit to impose; and, where the exemption is granted subject to conditions, those conditions must be complied with before the exemption has effect.

(6) Exemption granted by the Commissioner under this section shall be evidenced by the issue of the appropriate certificate to the owner of the ship; and for the purposes of this section "the appropriate certificate"—

(a) where the exemption is conferred under subsection (2) or subsection (4) means a certificate to be called an "International Load Line Exemption Certificate", and

(b) where the exemption is conferred under subsection (3), means a certificate to be called "Nigerian Load Line Exemption Certificate".

(7) Any certificate issued under this section shall be in such form, and be issued in such manner, as may be prescribed by the load line rules.

Duration and termination of exemptions, and duration, endorsement and cancellation of exemption certificates.

19.—(1) Provision shall be made in the load line rules for determining the period during which any exemption conferred or certificate issued under section 18 of this Decree, is to remain in force, including—

(a) provisions enabling the period for which any such exemption or certificate is originally conferred or issued to be extended within such limits and in such circumstances as may be prescribed by the load line rules; and

(b) provision for terminating any such exemption, and for cancelling any such certificate, in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall, to the extent necessary to give effect to the load line rules, be endorsed on the certificate, information relating to—

(a) periodical inspections of the ship in accordance with the load line rules; and

(b) any extension of the period for which the certificate was issued.

20.—(1) Load line rules under this Decree shall to any extent necessary in the opinion of the Commissioner, make provision for securing that exemption certificates issued in accordance with the convention, by Governments other than the Federal Military Government in Nigeria in respect of ships to which section 11 of this Decree applies shall, in such circumstances as may be prescribed by the load line rules, have the like effect for the purposes of this Decree as if they were valid convention certificates.

International
Load Line
Exemption
Certificates.

(2) Certificates within the category of those mentioned in subsection (1) above when so issued shall be included among the certificates to be called "International Load Line Exemption Certificates".

Subdivision load lines and deck cargo

21.—(1) Where in pursuance of construction rules for the time being deemed to have been made and in force by virtue of sections 144 and 428 of the Merchant Shipping Act 1962, a passenger ship to which this Decree applies, being a ship registered in Nigeria, is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 3 of this Decree, the said section 3 shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

Subdivision
load lines.
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(2) Where in pursuance of the construction rules aforesaid or rules to implement the Safety Convention as referred to in section 144 of the Merchant Shipping Act 1962 or in pursuance of any law of any country made for the purpose of giving effect to that convention, a passenger ship to which this Decree applies, not being a ship registered in Nigeria, is marked with subdivision load lines, and the lowest of those load lines is lower than the line which apart from this subsection, would be the appropriate load line for the purposes of section 13 of this Decree, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

(3) Where used in this section "passenger" in relation to a ship has the meaning assigned to it by section 2 (1) of the Merchant Shipping Act 1962, and "passenger ship" has the corresponding meaning assigned by that section.

22.—(1) The Commissioner may make regulations to be known as deck cargo regulations prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which this Decree applies; and different requirements may be so prescribed in relation to description of ships, or cargo, or of voyages or classes thereof, and for different seasons of the year and other different circumstances.

Deck cargo
regulations.

(2) If load line rules provide (either generally or in particular cases or classes of cases) for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then (without prejudice to the generality of the preceding subsection) regulations under this section may prescribe requirements to be complied with in circumstances where any such special freeboard has effect.

(3) The Commissioner shall when prescribing any special requirements within subsection (2) above, have regard in particular to the provisions of Chapter IV of the Convention (which relates to cases where ships are assigned freeboards).

(4) Subject to the provisions of subsection (5) below, where there is a contravention of regulations made under this section in the case of—

(a) any ship registered in Nigeria ; or

(b) any other ship while the ship is within any part of Nigeria ;

the master of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(5) It shall be a defence to any charge under subsection (4) above to prove that the contravention was due solely to deviation or delay, and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

1962 No. 30.

(6) For the purpose of securing compliance with deck cargo regulations made under this section persons authorised in that behalf by the Commissioner may inspect any ship to which this Decree applies which is carrying cargo in any uncovered space on her deck ; and for such purposes, persons authorised shall have all the powers of an inspector under section 419 of the Merchant Shipping Act 1962.

Miscellaneous and supplementary provisions

Fees.
L.N. 25 of
1965.

23. Fees prescribed by the Merchant Shipping (Fees) Regulations 1965 shall be the fees payable for surveys and inspections under the load line rules and certificates under this Decree, so however that where a survey or inspection is carried out otherwise than by a surveyor of ships appointed under the Merchant Shipping Act 1962 or a certificate is issued otherwise than on behalf of the Commissioner nothing in this section shall be construed to require payment of the fee into the Consolidated Revenue Fund.

Miscellaneous
supplementary
provisions.

24.—(1) Without prejudice to the operation of section 30 (2) of this Decree, section 406 of the Merchant Shipping Act 1962 (which requires notice to be given to consular officers in respect of proceedings against foreign ships) shall have effect as if any reference therein to that Act included a reference to this Decree.

(2) Where a ship is detained under any provision of this Decree which provides for the detention of a ship until an event specified in that provision occurs, section 407 of the Merchant Shipping Act 1962 (which relates to costs of detention) shall apply as if the ship had been finally detained under that Act.

(3) The provisions of section 175 of the Act of 1962 aforesaid (which relates to delivery up of expired etc. certificates) and of section 179 of that Act (which imposes penalties for forgery of certificates) shall have effect in relation to any certificate which may be issued under this Decree as they have effect in relation to a certificate of survey.

(4) Any certificate issued under this Decree shall be admissible in evidence.

25.—(1) If in the case of any country outside Nigeria it appears to the Federal Executive Council—

Application of Decree to a foreign country.

(a) that the provisions which, as part of the law of that country have effect for marking ships with load lines and for the issue of certificates in respect of ships so marked, are based on the same principles as the corresponding provisions of this Decree (including rules or regulations made thereunder) and are equally effective; and

(b) that provision has been, or in pursuance of any agreement will be, made by the law of that country for recognising Nigerian load line certificates as having the like effect in ports of that country as certificates issued under the provisions referred to in paragraph (a) above;

the Federal Executive Council may authorise the Commissioner to issue an order directing (but subject to subsection (3) of this section) that certificates issued under those provisions shall have the like effect for the purposes of this Decree as if they were Nigerian load line certificates.

(2) For the avoidance of doubt it is declared that any order under subsection (1) above may at any time be varied or revoked.

(3) An order under subsection (1) above shall not have effect in relation to any ship which—

(a) plies on international voyages; and

(b) is a ship of a convention country; and

(c) is either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres (or 78.74 feet) in length.

26.—(1) The Commissioner in addition to any other of his powers under this Decree, may make any regulations generally and necessary in his opinion for the purposes of this Decree.

Regulations etc.

(2) Where a power is conferred on the Commissioner to make regulations, rules and orders for the purposes of this Decree, the power shall have effect so as to authorise exemption of home trade ships or any class thereof from the requirement as to notices under section 8 (2) (b) of this Decree, and to include any provisions as may appear to him to be appropriate.

27.—(1) The Commissioner may by order published in the Federal Gazette specify a class of ships to which this section applies, and direct that in such circumstances as may be specified in the order, the provisions of this Decree relating to ships registered in Nigeria shall have effect in relation to ships of that class as if they were registered in Nigeria.

Application of Decree to certain unregistered Nigerian ships.

(2) This section applies to any ships which are Nigerian ships to which this Decree applies, but which are not registered in Nigeria.

28.—(1) Where the Federal Executive Council is satisfied that the Government of a convention country (in this Decree referred to as a "Contracting Government") has accepted or acceded to the convention or, as the case may be, has denounced that convention it may direct the Commissioner to make a declaration to that effect.

Convention countries.

(2) For the avoidance of doubt it is declared that this section shall extend and apply to any particular territory of a Contracting Government in so far as the convention has been extended thereto or has ceased to be so extended.

Interpretation.

29.—(1) In this Decree unless the context otherwise requires—

“alteration” includes deterioration ;

“clearance” includes a transire ;

“Commissioner” means the Federal Commissioner charged with responsibility for transport ;

“the Convention” means the International Convention on Load Lines, 1966 ;

“Contracting Government” has the meaning assigned by section 28 (1) ;

“convention country” means a country which has accepted or acceded to the Convention and has not been declared under this Decree to have denounced the Convention ;

“country” includes (but subject as hereinafter appears) colony, protectorate or dependency of a convention country and also any territory for whose international relations a government is separately responsible for which the United Nations are administering authority, so however that in respect of international voyages, any such colony, protectorate, dependency or territory as aforesaid shall be deemed to be a separate territorial area ;

“deck line” means the line of the freeboard deck determined in accordance with rules made for the purpose of this Decree and marked in the prescribed manner on the sides of the ship ;

“existing ship” means a ship which is not a new ship as herein defined

“fishing vessels” means ships used for catching fish, whales, seals, walrus, and other living resources of the sea ;

“international voyage” means a voyage between—

(a) a port in Nigeria and a port outside Nigeria, or

(b) a port in a convention country (other than Nigeria) and a port in any other country or territory (whether a convention country or not) which is outside Nigeria, so however that in determining what are ports between which a voyage is made, account shall not be taken of any deviation by a ship from her intended voyage which is due solely to stress of weather or other circumstances which neither the master nor the owner or charterer (if any) of the ship could have prevented or forestalled ;

“length” in relation to a ship means the linear measurement ascertained in accordance with regulations made under this Decree ;

“load lines” means lines determined in accordance with rules made for the purposes of section 1 (2) (d) of this Decree marked in the prescribed manner on the sides of a ship to indicate maximum depths for loading ;

“material date” means in relation to a ship, the date upon which the parent country (other than Nigeria) of a ship declares or has declared its acceptance of the Convention or has acceded thereto, and in any other case means the date of commencement of this Decree ;

“new ship” means a ship whose keel is laid or one which is at a similar stage of construction on or after the material date ;

“port” in respect of Nigeria includes any river berth or anchorage, and any off-shore berth under effective Nigerian control ;

“valid Convention certificate” means a certificate for the time being in force and issued—

(a) by the Commissioner under section 11 (1) ; or

(b) for the purposes of section 11 (2) and produced in circumstances requiring its recognition under this Decree.

(2) References in this Decree—

(a) to gross tonnage shall be construed as references to the tonnage of the ship as ascertained in accordance with the tonnage regulations made under the Merchant Shipping Act 1962, and where in accordance with those regulations alternative tonnages are assigned to a ship, the gross tonnage of a ship shall in the application of this Decree be taken to be the larger of those tonnages ;

1962 No. 30

(b) to provisions of the Convention shall, in relation to any time after that Convention has been amended in pursuance of Article 29 of that Convention, be construed as a reference to that Convention as so amended.

30.—(1) Subject to the provisions of this section, the enactment specified in the Schedule to this Decree is hereby repealed to the extent specified in the second column of that Schedule.

Repeals and transitional provisions.

(2) Without prejudice to the operation of section 6 of the Interpretation Act 1964 (which relates to the effect of repeals) for the purposes of the transition from the law in force immediately before the commencement of this Decree to the provisions of this Decree, the Commissioner may by regulations provide that those provisions shall have effect subject to such transitional provisions as may be contained in the regulations.

1964 No. 1.

31.—(1) This Decree may be cited as the Merchant Shipping (Load Lines) Decree 1970 and shall apply throughout the Federation.

Citation, application and commencement.

(2) This Decree shall be construed as one with the Merchant Shipping Act 1962 and the Merchant Shipping (Amendment) Decree 1970, and references in those enactments and this Decree to any merchant shipping enactment shall be construed as including references to this Decree.

(3) This Decree and the other enactments mentioned in subsection (2) above may be cited together as the Merchant Shipping Acts 1962 to 1970.

(4) This Decree shall come into operation immediately after the commencement of the Merchant Shipping (Amendment) Decree 1970.

SCHEDULE

Section 30 (1)

REPEALS

Enactment affected
1962 No. 30—
Merchant Shipping Act 1962

Extent
Sections 185, 187 and also
Part V comprising sections
200 to 229, and in sub-
section (1) of section 194,
paragraph (c) and the words
from "unless in the case of"
to "the Commissioner other-
wise orders"

MADE at Lagos this 17th day of July 1970.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

**THE MERCHANT SHIPPING ACT (AMENDMENT)
DECREE 1970**



Decree No. 43

[14th February 1969]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1.—(1) There shall be substituted for section 366 of the Merchant Shipping Act 1962 (hereafter in this Decree referred to as “the Act”) the following new section—

“Power for
Commis-
sioner to
make
tonnage
regulations.

366.—(1) The Commissioner may make regulations (in this Act referred to as “the tonnage regulations”) with respect to the tonnage of ships now or hereafter registered in Nigeria, and without prejudice to the generality hereof, tonnage regulations may provide—

(a) for the making of allowance and deduction from the tonnage of a ship in ascertaining the register tonnage of the ship;

(b) for the payment of fees in respect of tonnage measurement;

(c) for any subsequent measurement of a ship;

(d) for ascertaining the components of gross tonnage, underdeck tonnage and tonnage of hatchways;

(e) for modified and alternative gross and register tonnage.

(2) Penalties may be prescribed for offences in contravention of the regulations not exceeding £100 or imprisonment for 12 months or both; and if the offence is a continuing one for a further penalty not exceeding £10 for every day or part of a day.”

(2) Accordingly—

(a) sections 367 to 370 inclusive and the Third Schedule to the Act shall cease to have effect and they are hereby repealed; and

(b) in section 373 (3) of the Act there shall be substituted for the words “rule I in the Third Schedule” the words “the tonnage regulations”.

2. Section 396 of the Act (jurisdiction in respect of offences) is amended by renumbering the section as subsection (1) and inserting thereafter the following new subsection—

“(2) Where an offence may be tried in a summary manner under this Act, the provisions of section 3 (2) of the Criminal Procedure (Northern Region) Act 1960 (which allows for the special exercise of summary jurisdiction in certain States of Nigeria) shall have effect, and subject thereto the offence shall be triable by any court of competent jurisdiction.”

Sundry
amendments
to Merchant
Shipping
Act 1962.
1962 No. 30.

Section 396
of the Act
amended.

Citation,
application
and
commence-
ment.

3.—(1) This Decree may be cited as the Merchant Shipping Act (Amendment) Decree 1970 and shall be read as one with the Merchant Shipping Act 1962.

(2) This Decree shall apply throughout the Federation and shall be deemed to have come into force on 14th February 1969.

MADE at Lagos this 17th day of July 1970.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

CRIMINAL PROCEDURE (AMENDMENT) DECREE 1970



Decree No. 44

[21st July 1970]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. In section 271 of the Criminal Procedure Act the words "officer of the Central Bank of Nigeria designated by the Bank to receive the same" shall be substituted for the words "officer of the department of the Accountant-General of the Federation, not below the grade of an assistant accountant".

Amendment
of s. 271 of
Criminal
Procedure
Act.
Cap. 43.

2. In section 272 of the Criminal Procedure Act—

(a) the words "officer of the Central Bank of Nigeria designated by the Bank to receive the same" shall be substituted for the words "officer of the department of the Accountant-General of the Federation, not below the grade of an assistant accountant", and

Amendment
of s. 272 of
Criminal
Procedure
Act.

(b) the words "such administrative officer, officer of the Central Bank of Nigeria" shall be substituted for the words "such administrative officer, officer of the department of the Accountant-General of the Federation" in both places where those words occur.

3. This Decree may be cited as the Criminal Procedure (Amendment) Decree 1970 and shall apply throughout the Federation.

Citation
and extent.

MADE at Lagos this 21st day of July 1970.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

**THE NIGERIAN INDUSTRIAL DEVELOPMENT BANK
(GUARANTEE) DECREE 1970**



Decree No. 45

[1st June 1970]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The Federal Executive Council may, subject to this section, guarantee in such a manner and on such conditions as it thinks fit the repayment of, and the payment of any interest on or other charges in respect of, the loan of an amount equivalent to ten million dollars proposed to be made by the International Bank for Reconstruction and Development to the Nigerian Industrial Development Bank Limited (that is to say, the company of that name formed and registered in Nigeria.

Power to
give
guarantee
in respect
of proposed
loan to
N.I.D.B.

(2) Subsections (2), (5) and (7) of section 3 of the Borrowing by Public Bodies Act 1965 shall apply in relation to a guarantee under this section as they apply in relation to a guarantee given under the said section 3.

1965 No. 35.

2.—(1) This Decree may be cited as the Nigerian Industrial Development Bank (Guarantee) Decree 1970 and shall apply throughout the Federation.

Citation,
extent and
commence-
ment.

(2) This Decree shall be deemed to have come into force on 1st June 1970.

DATED at Lagos this 21st day of July 1970.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This Note does not form part of the above Decree but is
intended to explain its purposes)*

This Decree authorises the Federal Executive Council to give a guarantee in respect of the loan of some £3.57 million which the World Bank is to give to the Nigerian Industrial Development Bank. Section 1 (2) applies various provisions of the Borrowing by Public Bodies Act 1965, and in particular section 3 (5) of that Act—thereby charging on the Consolidated Revenue Fund of the Federation any sums required for fulfilling the guarantee.