

Repeal of the Sindh Steam-Vessels Act, 1864.

The Sindh Steam-Vessels Act, 1864, hereinafter referred to as the said Act was enacted to provide the periodical survey of steam vessels in the ports, harbours, rivers or waters of Sindh. The said Act was adapted by the Sindh Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sindh 5 of 1955) and is still applicable over the Sindh Province. When the said Act had been enacted, it contained only 17 sections and schedule A and B, but later on in the year 1884, section Nos. 1 to 14, which were dealing with the survey of steam-vessels and section Nos. 16 and 17 which were dealing with the trial of offenders, recovery of penalties and fees including schedule A and B of the said Act were repealed by the repealing Act VI of 1884, resultantly, today only section 15 of the said Act is holding the field. The alone existing section 15 of the said Act is reproduced hereunder:-

15. It is hereby declared that sections 292, 293, and 294 of the Merchant Shipping Act (17 and 18 Vict, cap, 104), and Schedule S of that Act are and shall be applicable to all steam-vessels proceeding to sea from any port or place in Sindh and that, in calculating the penalties mentioned in the said section 293, ten rupees be taken as the equivalent for one pound sterling.

Under Section 15 of the said Act, sections 292, 293, 294 and Schedule S of the Merchant Shipping Act (17 and 18 Vict, cap, 104) are applicable over those steam-vessels which are proceeding to sea from any port or place in Sindh and in case of calculation of the penalties, ten rupees be taken as the equivalent for one pound sterling. Later on Merchant Shipping Act (17 and 18 Vict, cap, 104) as referred in the alone existing section 15 of the said Act was replaced and substituted with the Merchant Shipping Act, 1894 (57 and 58, Vict, cap, 60). Sections 292, 293 and 294 of the Merchant Shipping Act, 1894 (57 and 58, Vict, c.60) are reproduced hereunder:-

Number of, and Accommodation for, Passengers

292. (1) The number of steerage passengers carried in an emigrant ship shall not exceed the number limited by the regulations in the Tenth schedule to this Act.

(2) If there is on board any emigrant ship at or after the time of clearance a greater number of steerage passengers than the number so limited (except as increased by births at sea), the master of the ship shall be liable to a fine not exceeding twenty pounds for each steerage passenger constituting such excess.

293. (1) The regulations as to the accommodation for steerage passengers in the Eleventh Schedule to this Act, relating to the construction of passenger decks, to berths, to hospitals, to privies, and to the supply of light and ventilation, shall be observed in the case of all emigrant ships as if they were contained in this section.

(2) If any requirement of this section is not complied with in the case of any emigrant ship, the owner, charterer or master of the ship or any of them shall for each offence be liable to a fine not exceeding fifty pounds, except that the master shall alone be liable to the fine where he is in any such regulation expressed to be alone liable.

294. (1) No part of the cargo, of the steerage passengers' luggage, or of the provisions, water or stores, whether for the use of the steerage passengers or of the crew, shall be carried on the upper deck or on the passenger decks, unless, in the opinion of the emigration officer at the port of clearance, the same is so placed as not to impede light or ventilation or to interfere with the comfort of the steerage passengers, nor unless the same is stowed and secured to the satisfaction of the emigration officer; and the space thereby occupied are rendered in the opinion of such officer unavailable for the accommodation of the steerage passengers, shall (unless occupied by the said steerage passengers' luggage) be deducted in calculating the space by which the number or steerage passengers is regulated.

(2) If any requirement of this section is not complied with in the case of any emigrant ship, the owner, charterer or master or any of them shall for each offence be liable to a fine not exceeding three hundred pounds.

(3) Section 292, 293 and 294 of the Merchant Shipping Act, 1894, (57 and 58 Vict. C. 60) were provided the provisions for the limits of numbers of steerage passengers to be carried on emigrant ships, regulations as to accommodation of steerage passengers, storage of goods and imposition of the penalties, but, later on in the year 2001, the Pakistan Merchant Shipping Ordinance, 2001, was promulgated an extended to the whole of Pakistan and schedule B part II of the

Pakistan Merchant Shipping Ordinance, 2001 has repealed the Merchant Shipping Act, 1894 (57 and 58. Vic. C. 60).

(4) Sections 248 and 267 of the Pakistan Merchant Shipping Ordinance, 2001, has provided the parallel but more strict provisions for the same causes or purposes as were provided in sections 292, 293 and 294 of the Merchant Shipping Act (17 and 18 Vic, cap, 104) like the restrictions for not to carry and take on board passengers without certificate, carry no passengers between the ports or places in Pakistan and in case of violation or contravention of such provision the owner, agent and master of the ship each shall be liable to a fine which may extend upto one hundred thousand rupees. Section 248 and 267 of the Pakistan Merchant Shipping Ordinance, 2001 are reproduced below:-

248. No ship to carry passengers without a certificate of survey.- Ship shall take on board, or carry between ports or places in Pakistan or to any port or place outside Pakistan, more than twelve passengers unless she has a certificate of survey in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

267. Ship not to carry passengers in contravention of the Ordinance.- (1) No ship of any voyage shall carry or attempt to carry any passengers in contravention of section 248, or shall have on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate or survey as the number of passengers which the ship or the part thereof is fit to carry on that voyage.

(2) The owner, agent and master of a ship in respect of which the provisions of sub-section (1) or contravened shall each be liable to a fine which may extend to one hundred thousand rupees.

Conclusion: The said Act after enactment of the repealing Act VI of 1884 has lost its name, commencement, application, procedure for trial of the offender, procedure for the recovery of the penalties and fees and particularly after promulgation of the Pakistan Merchant Shipping Ordinance, 2001 and repeal of the Merchant Shipping Act, 1894 (57 and 58. Vic. C. 60), and more particularly, after enforcement of sections 248 and 267 of the Pakistan Merchant Shipping Ordinance, 2001, which provides the more effective and strict provisions, as were provided in sections 292, 293 and 294 of the repealed Merchant Shipping Act, 1894 (57 and 58, Vict, c, 60), the

said Act has lost its efficacy and necessity, hence, the said Act has become redundant.

Therefore, in the light of the foregoing discussion, it is submitted that the Commission may recommend for repeal of the Sindh Steam-Vessels Act, 1864.

Commission's Deliberations on 05 December, 2009

The Commission considered the proposal for repealing of the Sindh Steam-vessels Act, 1864 which has, due to subsequent amendments, lost its name, commencement, application, procedure for trial of the offender, procedure for the recovery of the penalties and fees. It has lost its efficacy and become obsolete, particularly after the promulgation of the Pakistan Merchant Shipping Ordinance 2001. The Commission directed to refer the recommendation to the Sindh Government for consideration and appropriate action.