

**Bill No. XLIX of 2013**

THE MERCHANT SHIPPING (SECOND AMENDMENT) BILL, 2013

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BILL

*further to amend the Merchant Shipping Act, 1958.*

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Second Amendment) Act, 2013.

Short title  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

44 of 1958. 5

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), in PART VII, under the heading, for the sub-heading, the following sub-heading shall be substituted, namely:—

Substitution  
of sub-  
heading in  
PART VII.

*“Classification of seamen, seafarer, maritime labour standards and prescription of minimum manning scale”.*

10 3. In the principal Act, after section 88, the following sections shall be inserted, namely:—

Insertion of  
new sections  
88A and 88B.

‘88A. In this Part, unless the context otherwise requires,—

Definitions.

(a) “Declaration of Maritime Labour Compliance” means a declaration issued by the Director-General of Shipping, in respect of a ship that it meets

with the requirements and standards set out in the provisions of the Maritime Labour Convention;

(b) “Maritime Labour Certificate” means the certificate issued by the Director-General of Shipping or by any officer, authority or organisation authorised by him in this behalf, in accordance with the provisions of the Maritime Labour Convention;

(c) “Maritime Labour Convention” means the International Convention on Maritime Labour Standards signed in Geneva on the 23rd February, 2006;

(d) “seafarer” means any person who is employed or engaged or works in any capacity on board a sea going ship, but does not include—

(i) the employment or engagement or works on board in any capacity by any person in a ship of war; or

(ii) any Government ship used for military or non-commercial purposes.

Application of maritime labour standards to seafarers and ships.

88B. (1) The provisions relating to maritime labour standards as contained in the Maritime Labour Convention, shall apply to all seafarers and ships engaged in commercial activities, but does not include—

(a) ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where any law for the time being in force relating to ports apply;

(b) ships engaged in fishing activities;

(c) traditionally built ships such as dhows and junks;

(d) ships of war or naval auxiliaries.

(2) Subject to the provisions of sub-section (1), the Central Government may, on the recommendation of the Director-General of Shipping, by order, extend the provisions of the said sub-section to ships not engaged in commercial activities with such exceptions and modifications as it may consider necessary.?

Amendment of section 91.

4. In section 91 of the principal Act, for the words “boys not under fifteen years of age”, the words “young persons not under the age of sixteen years” shall be substituted.

Amendment of section 92.

5. In section 92 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “any boy”, the words “any young person” shall be substituted;

(ii) for the words “the boy is a minor”, the words “such young person” shall be substituted;

(b) in sub-section (3),—

(i) in clause (a), in sub-clause (iii), for the words “fifteen years”, the words “sixteen years” shall be substituted;

(ii) in clause (b), for the words “a minor”, the words “an young person” shall be substituted.

Amendment of section 95.

6. In section 95 of the principal Act, in the *Explanation*, clause (b) shall be omitted.

Amendment of section 99A.

7. In section 99A of the principal Act, the *Explanation* thereto shall be omitted.

8.	In section 101 of the principal Act, in sub-section (2),—	(i) after clause (c), the following clause shall be inserted, namely:— “(cc) hours of work and rest in a week, as may be prescribed;”;	(ii) after clause (f), the following clause shall be inserted, namely:—	5 “(ff) the entitlement for leave, as may be prescribed;”;	(iii) in clause (j), for the words “arising out of and”, the words “arising out of employment or” shall be substituted.	Amendment of section 101.	
9.	For section 109 of the principal Act, the following section shall be substituted, namely:—	10 “109. (1) No person under the age of sixteen years shall be engaged or carried to sea to work in any capacity in any ship.	(2) (a) No young person shall be engaged in night work.	(b) The period of night work shall be such, as may be prescribed.”.	Substitution of new section for section 109.	Prohibition of engagement of underage persons in certain cases.	
10.	Section 110 of the principal Act shall be omitted.					Omission of section 110.	
11.	For section 113 of the principal Act, the following section shall be substituted, namely:—	15 “113. The Central Government may make rules for the purposes of employment of young persons, prescribing—	(a) the authorities, whose certificates of physical fitness shall be accepted for the purposes of section 111;	20 (b) the form of register of young persons to be maintained in ships where there is no agreement with the crew.”.	Substitution of new section for section 113.	Power to make rules respecting employment of young persons.	
12.	In section 132 of the principal Act, in sub-section (1), in clause (a), for the words “three thousand rupees”, the words “three lakh rupees” shall be substituted.					Amendment of section 132.	
13.	In section 168 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—	25 “(7) The master of the ship or any person having charge over the ship shall maintain such standards, in accordance with the provisions of the Maritime Labour Convention, for the quantity and quality of food and drinking water, and the catering standards applicable to food provided to the seamen on ships, as may be prescribed.	30 (8) The master of the ship or any person having charge over the ship shall undertake educational activities to promote awareness and implementation of the standards referred to in sub-section (7).”.			Amendment of section 168.	
14.	In section 173 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—	35 “(1) Every foreign-going ship carrying—	(a) more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications; and	40 (b) less than the prescribed number of persons shall have such medical facilities, as may be prescribed, in accordance with the provisions of the Maritime Labour Convention.”.			Amendment of section 173.

Insertion of new section 176A.	<p><b>15.</b> After section 176 of the principal Act, the following section shall be inserted, namely:—</p> <p>“176A. (1) All ships of five hundred tons gross or more and engaged in international voyage or operating from a port, or between ports, in another country, shall possess a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance. 5</p> <p>(2) Ships not covered under sub-section (1) shall, unless exempted by the Central Government, possess such certificate in such manner and form, as may be prescribed.</p> <p>(3) The shipping master, surveyor, seamen’s welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government, may inspect any ship, in such manner as may be prescribed, and the master of the ship or any person having charge over the ship shall make available to such inspecting officer, the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance.”. 10 15</p>
Ships to possess Maritime Labour Certificate and Declaration of Maritime Labour Compliance.	
Insertion of new section 218A.	<p><b>16.</b> After section 218 of the principal Act, the following section shall be inserted, namely:—</p> <p>“218A. (1) The Central Government may, having regard to the provisions of the Maritime Labour Convention, make rules for carrying out the purposes of this Part.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 20</p> <p>(i) the hours of work and rest in a week under clause (cc) of sub-section (2) of section 101;</p> <p>(ii) the entitlement for leave under clause (ff) of sub-section (2) of section 101; 25</p> <p>(iii) the period of night work under clause (b) of sub-section (2) of section 109;</p> <p>(iv) standards for the quantity and quality of food and drinking water, including the catering standards that apply to food provided to the seamen on ships, under sub-section (7) of section 168; 30</p> <p>(v) the qualifications of medical officer under clause (a) and the medical facilities under clause (b) of sub-section (1) of section 173;</p> <p>(vi) the manner and form of certificate to be provided to ships under sub-section (2) of section 176A;</p> <p>(vii) the manner of conducting inspection in a ship to verify possession of the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance under sub-section (3) of section 176A; 35</p> <p>(viii) any other matter which may be or is to be prescribed relating to the Maritime Labour Convention.”.</p>
Power to make rules for purposes of Maritime Labour Convention.	
Amendment of section 436.	<p><b>17.</b> In section 436 of the principal Act, in sub-section (2), in the Table, against serial number 25,— 40</p> <p>(a) in column (2), the word and figures “,section 110”, occurring at both the places shall be omitted; and</p> <p>(b) in column (3), the figures “110”, shall be omitted.</p>

## STATEMENT OF OBJECTS AND REASONS

The Merchant Shipping Act, 1958, as amended from time to time, provides for matters relating to merchant shipping in India. The objective of the said Act is to ensure the development and efficient maintenance of the Indian mercantile marine in a manner best suited to serve the national interests.

2. India is a member of International Labour Organisation (ILO), Geneva. India has acceded to various ILO Conventions. Now, India intends to accede to the International Labour Organisation's instrument C-186, known as the Maritime Labour Convention, 2006 (herein referred to as the MLC). This Convention is considered as the 'Bill of Rights' for the seafarers across the world, given that shipping, as an industry, is, intrinsically, global in nature. The MLC provides for international standards for the living and working conditions, of seafarers, including their food, accommodation, medical care, repatriation, social security, and recruitment.

3. The main purposes of the said Convention are:

(i) to bring the system of seamen's protection contained in the existing labour standards closer to the workers concerned, in a form consistent with the rapidly developing and globalised sector; and

(ii) to improve the applicability of the system so that ship owners and governments interested in providing decent conditions of work to their respective national seafarers do not have to bear an unequal burden in ensuring their protection.

4. Paragraph 4 of Article II of the said Convention provides that except as expressly provided for otherwise, the provisions of the said Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and traditionally built dhows and junks, but does not apply to warships or naval auxiliaries.

5. On ratification of the MLC, India will ensure an improvement in the working and living conditions, and employment rights of Indian national seafarers, and provide, *inter alia*, the following benefits to them:

(a) safe and secure workplace on a ship;

(b) fair terms of employment;

(c) decent working and living conditions on a ship; and

(d) right to health protection, medical care and other social protection.

6. The Central Government has approved the ratification of the MLC. Therefore, it is proposed to amend the Merchant Shipping Act, 1958, to make enabling provisions for implementation and enforcement of the MLC; and thereby making it mandatory for Indian flag vessels to comply with the provisions of the said Convention and to obtain a Maritime Labour Certificate to that effect for the Indian flag vessels.

7. Under the provisions of the Merchant Shipping (Second Amendment) Bill, 2013, every Indian flag vessel of 500 gross tonnage or more and engaged in international voyage(s), would be issued with a Maritime Labour Certificate after an inspection of the ship concerned. This will enable them to get preferential treatment and exemption from their inspection for this purpose at foreign ports thereby reducing operational time and transaction costs for them. Further, India will be to ensure that all foreign flag vessels

entering the territorial waters of India, or any marine areas adjacent thereto, over which India has, or may hereafter have an exclusive jurisdiction, are subject to an inspection under the MLC, by which the rights of all seafarers regardless of their nationality are protected.

8. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 12th July, 2013.*

G. K. VASAN

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill seeks to insert a new section 218A relating to power to make rules for the purposes of Maritime Labour Convention in the Merchant Shipping Act, 1958. Sub-clause (1) of the said new section 218A empowers the Central Government, having regard to the provisions of the Maritime Labour Convention, 2006, to make rules for carrying out the purposes of Part VII relating to seamen and apprentices. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include : (i) the hours of work and rest in a week under clause (cc) of sub-section (2) of section 101; (ii) the entitlement for leave under clause (ff) of sub-section (2) of section 101; (iii) the period of night work under clause (b) of sub-section (2) of section 109; (iv) the standards for the quantity and quality of food and drinking water, including the catering standards that apply to food provided to the seamen on ships, under sub-section (7) of section 168; (v) the qualifications of medical officer under clause (a) and the medical facilities under clause (b) of sub-section (1) of section 173; (vi) the manner and form of certificate to be provided to ships under sub-section (2) of section 176A; (vii) the manner of conducting inspection in a ship to verify possession of the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance under sub-section (3) of section 176A; and (viii) any other matter, which may be or is to be prescribed relating to the Maritime Labour Convention.

2. The matters in respect of which rules may be made are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE MERCHANT SHIPPING ACT, 1958

(44 OF 1958)

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PART VII

SEAMEN AND APPRENTICES

*Classification of seamen and prescription of minimum manning scale*

\* \* \* \* \*

*Apprenticeship to the sea service*

Assistance for apprenticeship to sea service.

91. All shipping masters shall give to persons desirous of apprenticing boys not under fifteen years of age to the sea service or requiring apprentices not under that age for the sea service such assistance as may be in their power, and may receive from those persons such fees as the Central Government may fix.

Special provisions as to apprenticeship to the sea service.

92. (1) The apprenticeship of any boy to the sea service shall be by contract in writing between the apprentice or on his behalf by his guardian, if the boy is a minor, and the master or owner of the ship requiring the apprentice.

\* \* \* \* \*

(3) Every such contract shall be executed in the presence of, and shall be attested by, the shipping master of the port, who shall, before the execution of the contract, satisfy himself—

(a) that the intended apprentice—

\* \* \* \* \*

(iii) has attained the age of fifteen years; and

\* \* \* \* \*

(b) if the intended apprentice is a minor, that his guardian's consent has been obtained to his being bound as an apprentice.

\* \* \* \* \*

*Seamen's employment Offices*

Business of seamen's employment offices.

95. (1) It shall be the business of the seamen's employment offices—

\* \* \* \* \*

*Explanation.*—For the purposes of this section,—

\* \* \* \* \*

(b) "seafarer" means any person who fulfils the conditions to be employed or engaged in any capacity on board a sea-going ship other than a government ship used for military or non-commercial purposes.

\* \* \* \* \*



**99A.** (1) No person shall engage or carry to sea any seafarer in any ship, unless the seafarer is in possession of seafarer's identity document. Prohibition of engagement of seafarer without seafarer's identity document.

(2) The seafarer's identity document under sub-section (1) shall be issued in such form and manner and on payment of such fees as may be prescribed.

*Explanation.*—For the purposes of this section, “seafarer” means any person who is employed or engaged or works in any capacity on board a sea going ship ordinarily engaged in maritime navigation, other than a ship of war.

\* \* \* \* \*

**101.** (1) \* \* \* \* \*

Form and contents of the agreement.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

\* \* \* \* \*

(j) payment of compensation for personal injury or death caused by accident arising out of and in the course of employment;

\* \* \* \* \*

**109.** No person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship, except— Employment of children.

(a) in a school ship, or training ship, in accordance with the prescribed conditions; or

(b) in a ship in which all persons employed are members of one family; or

(c) in a home-trade ship of less than two hundred tons gross; or

(d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

**110.** (1) Save as otherwise provided in sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship. Engagement of young persons as trimmers or stokers.

(2) Sub-section (1) shall not apply—

(a) to any work of trimming or stoking done by a young person in a school ship or training ship in accordance with the prescribed conditions; or

(b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or

(c) to the engagement or carrying to sea of a person over sixteen years of age to work as a trimmer or stoker on a coasting ship, provided he is employed in accordance with the prescribed conditions.

(3) Where in any port a trimmer or stoker is required for any ship other than a coasting ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(4) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

\* \* \* \* \*

**113.** (1) The Central Government may make rules prescribing—

Power to make rules respecting employment of young persons.

(a) the conditions of employment of young persons in any capacity in school ships and training ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;

(b) the conditions of employment of young persons as trimmers or stokers in coasting ships;

(c) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 111; and

(d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(2) Rules under clause (b) of sub-section (1) shall be made after consultation with such organisations in India as the Central Government may consider to be most representative of the employers of seamen and of seamen.

\* \* \* \* \*

Decision of questions by shipping masters.

**132.** (1) Where under the agreement with the crew any dispute arises at any port in India between the master, owner or agent of a ship and any of the crew of the ship, it shall be submitted to the shipping master,—

(a) where the amount in dispute does not exceed three thousand rupees, at the instance of either party to the dispute;

\* \* \* \* \*

Certain ships to carry medical officer.

**173.** (1) Every foreign-going ship carrying more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications as may be prescribed.

\* \* \* \* \*

PART XVI  
PENALTIES AND PROCEDURE  
*Penalties*

Penalties.

**436.** (1) \* \* \* \* \*

(2) The offences mentioned in the second column of the following table shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
25	<p>* * *</p> <p>If any person—</p> <p>(a) is carried to sea to work in contravention of section 109, section 110 or section 111;</p> <p>or</p> <p>(b) is engaged to work in any capacity in a ship in contravention of section 109, section 110 or section 111 on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections.</p>	<p>* * *</p> <p>109, 110, 111.</p>	<p>* * *</p> <p>The master shall be liable to a fine which may extend to fifty rupees;</p> <p>The parent or guardian shall be liable to a fine which may extend to fifty rupees.</p>
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RAJYA SABHA

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further to amend the Merchant Shipping Act, 1958.

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*(Shri G.K. Vasan, Minister of Shipping)*