

Marine (4099) Department.

G.O., No. 472-73 Marine

DATED 31st May 1899.

[Despatch Abstract.]

Regulations for preventing collisions
at sea, 1896.

Ordered that a reference be made to the Govt
of ~~India~~ Bombay as to whether Articles 5 and 7 of
the —, are in force in that Presidency.

Addressed accordingly.

[M.-6.
250-27-4-99.]

Indexed. 876799

BACK PAPERS.

FURTHER PAPERS.

Gravine DEPARTMENT.

READ the following:—

Circulated to

ORDER.

Ordered that a reference be made to the Government of Bombay as to whether Articles 5 and 7 of the Regulations for preventing Collision at Sea, 1896, are in force in that Presidency.

To The Mexy: post officer
a Collector of Malabar

To
The Secretary to the Government of Rome
Marine Department

Sir,

the Madras Government, whether Articles 5 and 7 of the Regulations for preventing Collisions at Sea, 1896, sent out by the Secretary of State with his despatch to the Government of India, No. 166 Revenue, dated 14th December, 1896, are in operation in the Bombay Presidency; and, if so, whether they are applied to all native craft of 20 tons and upwards, i.e. whether all such vessels are, when navigating the open sea, required to carry the side lights prescribed for such vessels in the Regulations.

I have &c.

R.S.

[Signature]
M 24-5-97

Sept 31/5

Read the following:-

Letter from the Collector of Malabar, No. 143 R. dated 2nd April 1899
S.C.D.
Letter from the Presidency Port Officer, Madras, No. 428 G, dated 14th March 1899.
102

Side light for Laccative boats.

Circulated to

The Governor
The Hon. Mr. A. J. A. W. S. I.
The Hon. Mr. H. W. W. S. I.

FOR ORDERS

G.O. 120 Marine, 1/12 February 1897. para 5
Flag 2

Flag 2.

In para 3 of his letter read above the Collector of Malabar says that the Regulations for preventing Collisions at Sea (1896) were simply ordered by the Madras Government to be supplied to all masters of vessels including native craft. He assumes that this does not mean that they were to be considered applicable to native craft.

2. It is quite clear from the letter of the Board of Trade transmitting the Regulations to the Secretary of State for India that the Regulations are international, that they have been accepted by the principal maritime Powers, that they came into operation from the 1st of July 1897, and that they are applicable to all "British vessels". They were published in the Port St George

and

and all Coast district Gazettes for information and guidance and copies of the Regulations were, in addition, printed in pamphlet form, both in English and in the vernaculars, for free distribution to all masters of vessels. The only question, therefore, is whether the "native Craft" referred to by the Collector are "British vessels" within the meaning of the law.

3. The Advocate General who was consulted has declared the Regulations to be "applicable to fishing boats and other open boats of 20 tons and upwards which, being owned by native Indian Subjects, are British Ships". The Collector seems to dispute this opinion of the Advocate General on the ground that in the previous year the same Officer declared it to be "impossible to recognise a ship not registered under the Merchant Shipping Act of 1894, as a British Ship" (G.O. 532 Marine, dated 14th June 1897). It is submitted that the Collector by isolating this passage from the lengthy opinion of the Advocate General misinterprets

Re

G.O. 152 Marine 3rd March 1898

Page V

Page R.

the meaning. The Advocate General, ^{on that occasion} was dealing with the question of the Registration of vessels, and he had occasion to point out that these native Craft had not been registered under the English Act though such registration was compulsory in law, and that the vessels in question thereby debarred themselves from the rights and privileges appertaining to British ships. It does not follow from this that they are not ipso facto British ships, and thus ^{exempted} ~~excluded~~ from the penalties involved in the disobedience of the Regulations for preventing collisions at sea. 4. In para 7 the Collector makes the following statement: "The fact really was that the amended Regulations could be made applicable to native Craft, if the Government order them to be registered under the Merchant Shipping Act of 1894, but not otherwise". It is submitted that there is no foundation for this statement and that it is directly opposed to the opinion of the Advocate General.

for General who expressly states that
copy "Registration under the Merchant Shipping
Act of 1894 is Compulsory". No execu-

tion order of ^{the} Government is necessary.

Para 5. Para 8 of the Collector's letter is
unintelligible. He says "If only one
is in per cent of such vessels is required

to use them (the new side lights), will the
danger of collisions be lessened?" It

is submitted that under existing orders
all native craft of over 20 tons must
to use such lights at sea. It is of

course understood that all these
vessels have not yet provided themselves
with such lights. But unless they now
do so, they will come under the penal
clauses of the English Merchant Shipping
act.

Para 6. In para 10 the Collector says that
over a dozen of the Laccadive trading
vessels have been cut down from 30 and

Ships 40 to under 20 tons, as they cannot
afford to buy the new lights. It is
submitted that this seems a very serious

matter to the islanders, but the
Government is apparently powerless.

The line must be drawn somewhere
and the International Regulations
draw

* Page 4 of G.O. 532 dated 14 June 1897

Flag R.

* Para 1 of letter from the Collector
of Malabar printed in G.O. 89 dated
27 Feb 1898. Flag L.

* G.O. 152 dated 3 March 1898
Flag V

* Page 82 of Instructions to Port
officials. Flag N.

* Page 52 of Notifications & Rules under the
Sea Customs Act. Flag M.

draw it at 20 tons. The cost of the
new lights is Rs 43-8-0 per pair.

7. Para 11 of the Collector's letter -
The Government has been advised

by the Advocate General that the
Regulations in question are ap-
plicable to native craft.

8. In the Presidency Port Officer's
letter read above, he brings to
notice that the Collector of Malabar
has overruled the Port Officer
of Calicut in the matter of the
grant of port clearance to
Laccadive boats. The Collector's
action seems to be ultra vires.

No port clearance can be granted
by the Customs Authorities unless
a certificate is produced from
the Conservator of the port that the
master "has complied with all the
regulations of the port", and this

clause is embodied in the form
of port clearance signed by the
Collector of Sea Customs. If, therefore,
the Conservator refuses to certify
that the master has so complied
with the regulations of the port, it is
not clear how the Collector of
Customs can grant port
clearance

clearance and sign the prescribed form.

W.A.

In para 9 of his letter the Collector says that the Bombay Govt. does not approve of the new lights. Further enquiry on this point seems necessary as the P.P.O. in his letter pointed out G.O. No 953 Marine dated 22-10-1897 says

"I have ascertained from the Port Officer at Bombay that the new regulations are in force at his port."

We are apparently bound by the opinion of the Advocate General but the new rule is certain to bear heavily on the smaller owners of native craft.

W.A.
26/4/99

A reference may be made to Bombay as to the practice there.

A.94
19.5.99

I agree & will postpone examining the legal question till reply is received.

W.A.

20.5.99

20.5.99

Doubt seems to be felt as to the legal obligation to carry these lights. Perhaps the local Marine Dept. might be asked again.

A.94
9.7.99

W.A. 26/4/99

C. A. W.

"The Collector in para 9 of his letter says 'The Bombay Govt. does not approve of the new lights' - have we any information of or this point."

"The opinion of the Advocate General may be set aside by superior opinion. It will certainly be a serious matter if all native craft are forced to use the new lights & run the risk of accident. So his Govt. bound to accept the Advocate General's opinion?"

W.A.

W.A.
26/4/99

"The statement is at variance with that of the P.P.O. in his letter pointed out G.O. No 953 Marine, of 23 Nov 97. The fact that vessels coming from Bombay carry on inferior class of lights does not show that the Bombay Govt. have not adopted the regulations. It only shows that the

Inspector of lights is
failing in his duty.

(2) The Advocate General
is the constituted adviser
of Govt. There is no higher
legal authority from whom
advice can be asked.

The Govt. would incur
a serious responsibility
if it takes advice from
any other source than
the Advocate General, and there is
nothing to show that they
desire to do so.

As regards the hardship
involved, it is submitted
that men's lives are
involved - and these are
of more consequence than
a few Rupees. It may
be said on the other side
that if a man is too
poor to build a regular
a safe boat, he has no
right to a boat at all.
The Islanders are doubtless
poor, but they can combine
and become joint owners
of a properly equipped
boat.

A. J.

26 Apr 99