

NAVAL ARMAMENT ACT, 1923

7 of 1923

[5th March, 1923]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Restriction on building or equipment vessels of war
4. Licences
5. Offences against the Act
6. Liability of ships to forfeiture
7. Seizure, detention and search of ships
8. Procedure in forfeiture of ships
9. Disposal of forfeit
10. Special proof of relevant facts
11. Penalties for proceeding to sea after seizure
12. Power to enter dockyards, etc.
13. Courts by which and conditions subject to which offences may be tried
14. Indemnity

SCHEDULE 1 :-ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT

NAVAL ARMAMENT ACT, 1923

7 of 1923

[5th March, 1923]

"On the 6th February, 1922 a Treaty for the Limitation of Naval Armaments was signed at Washington on behalf of His Majesty. This treaty contained, inter alia, the provisions set out in the Schedule to this Bill. An Act enabling effect to be given to the Treaty has been passed by the British Parliament, but, as India is not included in that Act, it is necessary for the Indian Legislature to pass separate legislation for British India. The object of this Bill, therefore, is to give effect to the provisions of the Treaty, so far as British India is concerned, by restricting, subject to certain limitations and conditions, the building of vessels of war and the altering, arming or equipping of any ship so as to adapt her for use

as a vessel of war." - GaZ. of India, 1922, Part V, page 348.

1. Short title, extent and commencement :-

(1) This Act may be called The Indian Naval Armament Act, 1923.

1

[(2) It extends to the whole of India except ²[the territories which, immediately before the 1st November, 1956, were comprised in Part B States].]

(3) It shall come into force on such date ³as the ⁴[Central Government] may, by notification in the ⁴ [Official Gazette], appoint.

1. Substituted for the former sub-section by A.L.O., 1950(26-1-1950).

2. Substituted for the words "Part B States" by 3 A. L. O., 1956(w.r.e.f. 1-11-1956).

3. The Act came into force on 10-11-1923-Vide Notification No. 49, General Statutory Rules and Orders, Vol. V, p. 258.

4. Substituted respectively for the words "Governor-General in Council" and "Gazette of India", by A. O.. 1937.

2. Definitions :-

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

(a) "competent Court" means the High Court or such other Court having unlimited original civil jurisdiction as the ¹[Central Government] may declare to be a competent Court for the purposes of this Act;

(b) "ship" means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating, on water, and includes all equipment belonging to any ship; ²[(bb) "States" denote all the territories ³[to which this Act extends]]; and

⁴ [(c) "the Treaty" means the Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of His Majesty on the twenty-fifth day of March, 1936.]

1. Substituted for the words "Governor-General in Council" by A. O., 1937.

2. Inserted by A.L.O., 1950(26-1-1950).

3. Substituted for the words "for the time being comprised within Part A States and Part C States" by 3 A.L.O., 1956 (1-11-1956)

4. Substituted for the original clause by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), S. 3.

3. Restriction on building or equipment vessels of war :-

No person shall, except under and in accordance with the conditions of a licence granted under this Act,-

(a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war; or

(b) despatch or deliver, or allow to be despatched or delivered, from any place in the ¹[States] any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or ²[of India] otherwise than under, and in accordance with any law for the time being in force in that part ³ [* * * *],

1. Substituted for the word "Provinces" by A. L. O., 1950.

2. Substituted for the words "in a State of India", by A. L. O., 1950 (26-1-1950).

3. Words "or State" were omitted by A. L. O., 1950,

4. Licences :-

(1) A licence under this Act for any of the purposes specified in section 3 may be granted by the ¹[Central Government], and shall not be refused unless it appears to the ¹[Central Government] that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty; and, where a licence is granted subject to conditions, the conditions shall be such only as the ¹[Central Government] may think necessary for the purpose aforesaid.

(2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the ¹[Central Government] may, by general or special order, require. -

⁵[(S) Any person who, in pursuance of a licence granted under subsection (1) before the commencement of the Indian Naval Armament (Amendment) Act, 1937, is engaged in building any vessel of war or in altering, arming or equipping any ship so as to adapt her for use as a vessel of war, or is about to despatch or deliver, or allow to be despatched or delivered, from any place

within the ⁶[States] any ship which has been so built, altered, armed or equipped, either entirely or partly within the ³[States], shall, upon written demand, furnish to the ¹[Central Government] such designs and particulars as may be required by the ¹ [Central Government] for the purpose of securing the observance of the obligations imposed by the Treaty.]

1. Substituted for the words "Local Government", by A. O., 1937.
5. Inserted by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), Section 4.
6. Substituted for the word 'Provinces' by A. L. O., 1950.

5. Offences against the Act :-

(1) If any person contravenes any of the provisions of section 3 ¹ [or fails to comply with the provisions of sub-section (2) of section 4], he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(2) Where an offence punishable under sub-section (1) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

(3) Nothing contained in S.517 of Code Of Criminal Procedure, 1898, shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

1. Inserted by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), S. 4.

6. Liability of ships to forfeiture :-

Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in the ¹[States] in contravention, of section 3 , or in any ²[*] part of His Majesty's Dominions or ³[of India] in contravention of any like provision of law in force in that part ⁴[*], shall, if found in the ¹ [States], be liable to forfeiture under this Act.

1. Substituted for the word 'Provinces' by A.L. O., 1950.
2. Word "other" was omitted by A. L. O., 1950 (26-1-1950).
3. Substituted for the words "any State in India", by A. L. O., 1950.
4. Words "or State" were omitted, by A. L. O., 1950.

7. Seizure, detention and search of ships :-

(1) Where a ship is liable to forfeiture under this Act,-

(a) any Presidency Magistrate or Magistrate of the first class, or

(b) any commissioned officer on full pay in the a [Armed Forces of the Union], ¹[* * * *] or

(c) any officer of customs or police officer not below such rank ²as may be designated in this behalf by the ³[CeDtral Government], may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of the ⁴[States], may bring it to any convenient port in the ⁴[States].

(2) Any officer taking any action under sub-section (1) shall forthwith report the same through his official superiors to the ³[Central Government],

(3) The ³ [Central Government] shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable.

1. The words "or any Gazetted Officer of the Royal Indian Marine Service" were omitted by A. O., 1937 (1-4- 1937).

2. For notifications designating the rank of such officers, see General Statutory Rules and Orders, 1962, Ed., Vol. V, p. 258.

3. Substituted for the words "Governor-General in Council" by A. O., 1937.

4. Substituted for the word "Provinces" by A. L. O.. 1950.

8. Procedure in forfeiture of ships :-

(1) An application for the forfeiture of a ship Under this Act may be made by, or under authority from, the ¹[Central Government] to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this

section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure, 1908, and any order made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to Government : Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof: Provided, further that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the ¹[Central Government], to such condition as not to render it liable to forfeiture under this Act.

(5) The ¹ [Central Government] or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of such order, appeal to the High Court.

1. Substituted for the words "Local Government" by A.O., 1937.

9. Disposal of forfeit :-

Where a ship has been forfeited to ¹[Government] under section 8 , it may be disposed of in such manner as the ²[Central Government] ³ [* *] directs : Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

1. Substituted for the words 'His Majesty' by A.L.O., 1950.

2. Substituted for the words 'Local Government' by A.O., 1937.

3. The words "subject to the control of the Governor-General in Council" were omitted by A.O.. 1937 (1-4-1937).

10. Special proof of relevant facts :-

If, in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question

shall be referred to and determined by the ¹ [Central Government], whose decision shall be final and shall not be questioned in any Court.

1. Substituted for the words "Governor-General in Council" by A,0" 1937.

11. Penalties for proceeding to sea after seizure :-

(1) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise punishable unless such -owner or. person proves that the offence was committed without his knowledge and consent.

(2) Where any ship so proceeding to sea takes to sea, when oil board thereof in the execution of his duty, any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the post from which he was taken.

(3) Any expenses ordered to be paid under sub-section (2) may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of a fine.

12. Power to enter dockyards, etc. :-

(1) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

(2) The provisions of S.101 of Code Of Criminal Procedure, 1898,

shall apply in the case of all searches made under this section.

13. Courts by which and conditions subject to which offences may be tried :-

No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the ¹ [Central Government].

1. Substituted for the words "Local Government" by A.O., 1937.

14. Indemnity :-

No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

SCHEDULE 1

ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT

- [Repealed by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), S. 6.]
