



Office of
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of Maritime Affairs

THE REPUBLIC OF LIBERIA

LIBERIA MARITIME AUTHORITY

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Marine Advisory Note: 04/2021
(Supersedes Marine Advisory Note: 15/2012)

Subject: Risk of Detention for Activities Engaged by a Ship within Malaysian Waters

Ref: a) Section 491B of the Malaysian Merchant Shipping Ordinance 1952 (ORD. 70/1952)
b) Malaysia Shipping Notice MSN 5/2014
c) Act 250, Federation Light Dues Act 1953

Dear Shipowner/Operator/Master:

Your attention is directed to the requirement of the referenced Malaysian Merchant Shipping Ordinance 1952, Section 491B and the Malaysia Shipping Notice (MSN 5/2014).

The Malaysian Maritime Enforcement Agency (MMEA) recently launched an initiative that targets vessels anchoring in Malaysian waters known as “*Ops Jangka Haram*” (which translates operation anchoring illegally) to crack down on foreign vessels that are suspected of anchoring illegally in Malaysian waters and Outside Port Limits (OPL) without their approval.

In most cases, authorities are using helicopters to approach the vessels and warn them to leave the area immediately. If any vessel fails to comply, patrol boats are sent to detain the vessel for further legal action. There have been unverified reports that some vessels were detained without warning. If a vessel is detained in Malaysian waters, a fine is usually imposed and it takes a considerable time to release the vessel.

The MMEA is officially urging shipowners to seek permission when their vessels are intending to anchor within Malaysian waters). Failure to do so, it is reported, will result in significant fines, possible arrest of the Master/Crew, and vessels being ordered out of the area.

The MMEA has stated that it will take action against the owners of vessels which anchor illegally within Malaysian waters. According to a report that we have received, that just recently, many vessels have anchored without the permission of the Malaysian Director of the Marine Department and have consequently been detained. The reason for these detentions, without warning, remains unclear.

When a vessel is anchoring within Malaysian waters, Owners/Masters and Operators are reminded to notify Malaysian authorities of the vessel’s arrival and anchoring within Malaysian waters, or (OPL), and for information of light dues.

When anchoring off Malaysia, it should be borne in mind that Malaysian territorial waters may extend more than 12 nautical miles from the baseline, if not limited by other State boundaries, and these waters are patrolled, and laws are enforced by MMEA.

Amendments to Section 491B of the Malaysian Merchant Shipping Ordinance 1952 stipulate which ships must notify the Director of Marine of activities within Malaysian waters. The Director is authorized by the Ordinance to impose terms and conditions including fees on the activities permitted in accordance with the Ordinance. The shipowner, master or agent of the ship may be found guilty of an offence, as well as risking a fine of MYR 100,000 or imprisonment for up to two years, for contravening the ordinance.

The Marine Department of Malaysia has amended the Merchant Shipping Ordinance to also include vessels engaged in activities such as:

- a. Laying up
- b. Welding and other hot works
- c. Anchoring in non-anchorage areas
- d. Any form of underwater operations

The Marine Department of Malaysia advises that notification to the Director of Marine can be made at the nearest port office during normal working hours.

The marine activity application procedures, marine risk analysis and operating permits can be found and is available in both Malay and English languages at the official web portal of Marine Department Malaysia:

<https://www.marine.gov.my/jlm/admin/assets/uploads/images/contents/20201119082050-6adce-tatacara-permohonan-aktiviti-marin-analisa-risiko-marin-dan-kebenaran-operasi-final.pdf>

As for the payment of Light Dues, this is regulated by Act 250, Federation Light Dues Act 1953, which states that *“every ship which in the course of a voyage enters any port or place within Peninsular Malaysia, other than ships exempted, shall pay light dues as prescribed.”*

Malaysian law requires all vessels to notify Malaysia’s Director of Marine for specific activities in Malaysian waters as specified in Malaysia Shipping Notice (MSN) 5/2014.

A copy of the Malaysia Shipping Notice MSN 5/2014 including the notification form can be found at: <https://www.marine.gov.my/jlm/admin/assets/uploads/files/notis/16405-npm052014.pdf>

Extract of the Malaysian Merchant Shipping Ordinance 1952 Section 491B can be found as attached.

For questions regarding this note please contact LISCR Marine Investigation Department at investigations@liscr.com or the Maritime Security Department at security@liscr.com.

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Section 491B of the Malaysian Merchant Shipping Ordinance 1952

PART XIII A – CONTROL OF SHIPPING

Section 491B. Notification to the Director of Marine of activity engaged by a ship.

(1) Any ship which is engaged or intends to engage in any of the following activities:

(a) dredging;

(b) mining, including exploration and exploitation;

(c) cable and pipe laying;

(d) marine construction, including the construction of jetties and wharves;

(e) dumping of any material;

(f) sports, leisure or recreational activity;

(g) survey;

(h) cleaning, including cleaning of cargo tanks;

(i) transportation, discharging or loading of wastes;

(j) pilotage;

(k) ship-to-ship activity; or

(l) any other activity as determined by the Director of Marine, in Malaysian waters shall be required to notify the Director of Marine, in such form as may be prescribed by him, of such activity.

(2) Subsection (1) shall not apply to -

(a) any boat that is licensed under section 475; or

(b) any ship that is registered under this Ordinance and is solely engaged or intended to be engaged in sports, leisure or recreational activity.

(3) The Director of Marine, upon receiving the notification, may impose such terms and conditions as he thinks fit, including prescribing the fees for anything to be done or permitted to be done under this Ordinance, on the activity.

(4) The owner, master or agent of the ship or any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.