

## Anchoring within Malaysian waters off Singapore

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Earlier this year we addressed the problems of anchoring in congested areas off Singapore.<sup>1</sup> In this circular we address the problems encountered when anchoring within Malaysian waters off Singapore. So far, three vessels covered by Gard have been arrested and fined for not having notified Malaysian authorities of their arrival and anchoring outside the outer port limits of Tanjung Pelepas and Johor ports and for non-payment of light dues.



It is well known that there are no “international waters” outside Singapore waters; ships are either in Singapore, Malaysia or Indonesia. When anchoring off Malaysia, it should be borne in mind that Malaysian territorial waters extend 12 nautical miles from the baseline, if not limited by other State boundaries.

### Amendments to The Merchant Shipping Ordinance 1952

Section 491B of the Malaysian Merchant Shipping Ordinance 1952<sup>2</sup> stipulates which ships must notify the Director of Marine of activities within Malaysian waters. The Director may impose terms and conditions including fees on the activities permitted. The owner, master or agent of the ship may be found guilty of an offence, as well as risking a fine of MYR 100,000<sup>3</sup> or imprisonment for up to two years, for contravening the ordinance.

The Marine Department of Malaysia has recently 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<sup>4</sup> that notification to the Director of Marine can be made at the nearest port office during normal working hours.

As for the payment of Light Dues, this is regulated by Act 250, Federation Light Dues Act 1953,<sup>5</sup> 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.”<sup>6</sup>

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<sup>1</sup> Gard Loss Prevention Circular No. 11-09: Dangerous anchoring in the Singapore area.

<sup>2</sup> MDC Legal Advisers, “The Merchant Shipping Ordinance 1952”, MDC Publishers Printers, 1996.

<sup>3</sup> MYR = Malaysian Ringgit.

<sup>4</sup> Marine Department Malaysia, Malaysian Shipping Notice MSN 15/2009, dated 13 Oct 2009.

<sup>5</sup> Laws of Malaysia, Act 250, Federation Light Dues Act 1953, reprint 2006.

<sup>6</sup> Additional information can be found at Marine Department Malaysia [www.marine.gov.my/](http://www.marine.gov.my/)

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### **Risk of fines**

It should be noted that once vessels have been arrested for non-payment of light dues, it can be rather expensive to obtain their release. A rate of Registered Net Tonnage x MYR 0.20 X 10 has been levied as a penalty. Authorities may request a bond of MYR 50,000 issued by a local registered bank, prior to releasing the vessel. The Marine Department appears to prefer to deal with a local registered shipping agent rather than with a P&I Club representative, and will only accept a Letter of Undertaking from shipping agents while waiting for security guarantees to be issued by a bank, which may take up to five working days.

### **Recommendations**

Fines for non-payment of harbour dues etc. are not covered by Gard Rule 47 and are therefore outside the P&I cover. Our advice to Members and clients entering Malaysian Territorial Waters is to arrange for notification of arrival and the payment of dues through a Malaysian shipping agent.

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