



Sailing Approval Letter

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Abstract

The issuance of a Sailing Approval Letter is a process of supervision carried out by the Harbormaster of a ship leaving the port to ensure that the ship, ship crew and cargo have technically fulfilled the requirements of shipping safety and security as well as protection of the maritime environment. The approach method used in this research is juridical empirical and the research specification used is descriptive analytical. Data collection techniques used in this study are through interview and documentation guidelines. The result of this research is that the responsibility of the harbormaster is very heavy in ensuring the safety and security of shipping because the harbormaster is a government official at the port who has the highest authority to carry out and supervise the fulfillment of statutory provisions to ensure shipping safety and security. Understanding of the requirements for safety and security of shipping is a condition where safety and security requirements are met with regard to water transportation, ports, and the maritime environment.

Keywords : Sailing Agreement; Safety; Crew.

1. Introduction

Sea transportation as one of the modes of transportation must be arranged in a unified national transportation system that is integrated and capable of realizing the provision of balanced transportation services according to the level of need and the availability of transportation services that are safe, high accessibility, integrated, sufficient capacity, orderly, smooth and fast, easy to reach, on time, convenient, affordable, orderly, safe, low pollution, and efficient. Sea transportation, which has national transportation characteristics and reaches all areas through waters, needs to develop its potential and increase its role as a link between regions, both nationally and internationally, including across borders, because it is used as a means to support, encourage,⁵ Considering the important and strategic role of sea transportation which controls the lives of many people, its existence is controlled by the state whose guidance is carried out by the Government. One of the efforts to enforce the law at sea

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⁵ AN, Ludiro Madu. (2010). *Mengelola Perbatasan Indonesia di Dunia Tanpa Batas, Isu, Permasalahan dan Pilahan Kebijakan*. Yogyakarta: Graha Ilmu. p.12



is the supervision of ships sailing in Indonesian waters. Ships that meet sea-worthy requirements that can sail in sea areas in Indonesia.

In article 1 number 33 of Act No. 17 of 2008 concerning Shipping, Shipworthiness is the condition of the ship that meets the requirements for ship safety, prevention of water pollution from the ship, crew, load lines, loading, crew welfare and passenger health, legal status of the ship, safety management and prevention of pollution from ships, and management of ship security for sailing in certain waters.⁶

The importance of Sailing Approval Letter is specifically regulated in Act No. 17 of 2008 concerning Shipping. Even though there are regulations governing Sailing Approval Letters, it is not uncommon to find several marine transportation accidents caused by negligence in granting shipping permits. Safety and security issues as well as all activities in shipping are the responsibility of the port. One of the biggest problems in ship accidents during shipping is the issue of a person's ability and expertise in carrying out his or her fatherly duties in providing shipboard marine eligibility, sailing permits, shipping safety and security, as well as all sea transportation shipping activities in Indonesian waters.

Sailing Approval Letter (Port Clearance) is a state document issued by the harbormaster to every ship leaving the port after fulfilling the ship's seaworthiness requirements and other obligations. Without a Sailing Approval Letter, the ship cannot be allowed to sail⁷.

The importance of Sailing Approval Letter is specifically regulated in Act No. 17 of 2008 concerning Shipping

Based on Article 219 Paragraph (1) of Act No. 17 of 2008 concerning Shipping, it is stipulated that every sailing ship must have a Sailing Approval issued by the harbormaster.

A harbormaster is a government official at the port who is appointed by the Minister and has the highest authority to carry out and supervise the compliance with the provisions of laws and regulations to ensure the safety and security of shipping.⁸

And the Issuance of Sailing Permits is regulated in the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM. 82 of 2004 concerning Procedures for Issuance of Sailing Approval Letters, and with the issuance of Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 39 of 2017 concerning Registration and Nationality of Ships, the authority to issue Small Pas and Inland Waterways (River/Lake) Pass which was originally the authority of the Regional/Regency/City Government becomes the authority central government (Mater Harbor), whose implementation is carried out by KSOP/UPP and Sailing Approval Letter must be issued by the Harbormaster.

⁶ Santoso, Djohari. (2004). *Pokok-Pokok Hukum Perkapalan*. Yogyakarta: UII Press. p.14

⁷Transportation Agency, [https://dishub.kukarkab.go.id/detailpost/surat-perserdekaan-berlayar-port-clearance-#:~:text=LETTER% 20 APPROVAL% 20BERLAYAR% 20% 5BPORT% 20CLEARANCE, then% 20kapal% 20tidak% 20 is allowed% 20 to pay](https://dishub.kukarkab.go.id/detailpost/surat-perserdekaan-berlayar-port-clearance-#:~:text=LETTER%20APPROVAL%20BERLAYAR%20%5BPORT%20CLEARANCE,then%20kapal%20tidak%20is%20allowed%20to%20pay), accessed on August, 2020.

⁸ Act No. 17 of 2008 concerning Shipping



As stated in Article 219 Paragraph (1) of Act No. 17 of 2008 concerning Sailing, the Sailing Approval Letter is an important and mandatory document issued by the Harbormaster and must be owned by every ship making a voyage leaving the port, and the Sailing Approval Letter is proof authentic that:

- a. The ship has been inspected
- b. Meet the ship's maritime requirements
- c. Has fulfilled obligations in other shipping fields

Apart from the ship having to be seaworthy, other ship obligations that must be fulfilled in order to obtain a sailing approval letter are the obligation to pay for port services, supervision services in the field of shipping safety and security that apply in the field of shipping. Which other proof of obligation is:

- a. Proof of payment for port services
- b. Proof of payment for navigation services
- c. Proof of payment for receipt of shipping fees
- d. Clearance of customs and excise
- e. Immigration clearance
- f. Quarantine clearance

In practice, the impacts/sanctions on violations of sailing without a sailing approval letter (SPB) include detention of ships, suspension of permits or certificates so that they cannot operate within a predetermined time. This is also stated in Act No. 17 of 2008 concerning Sailing in which a skipper who sails without having a Sailing Approval issued by the Harbormaster as referred to in Article 219 paragraph (1) is sentenced to imprisonment of 5 (five) years and a maximum fine of a lot of IDR 600,000,000.00 (six hundred million rupiah).

Act No. 17 of 2008 concerning Shipping was made to coordinate all interests related to sea transportation, and based on the explanation of Act No. 17 of 2008 concerning Shipping, it is intended that the operation of shipping as a system can provide the greatest benefit to all the people, the nation, and the State, fostering and developing a maritime spirit by prioritizing public interests and environmental sustainability, coordination between central and regional levels as well as the defense and security of the State.

2. Research Methods

The approach method used in this research is a juridical empirical approach, which is a procedure used to solve research problems by examining secondary data first and then continuing to conduct research on primary data in the field. Secondary data is obtained by studying and reviewing library materials in the form of legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials. Primary data is direct data obtained from data sources in the field and obtained by using observation and interviews.⁹ The research specification used in this research is descriptive analytical. Descriptive method is problem solving by describing or giving an overview of everything related to the object of

⁹ Soekanto, Soerjono (1986) *Pengantar Penelitian Hukum*. Jakarta: UI Press. p.45



research based on existing facts. Meanwhile, in analysis, it contains the meaning of grouping, connecting, comparing and giving meaning associated with existing legal theories relating to the object to be studied.¹⁰ Data analysis used in this study is qualitative data analysis, namely the process of collecting data obtained from the research results analyzed without using statistical formulas but presented in the form of concepts and descriptions so that in the end it can be drawn to a conclusion.¹¹

3. Results and Discussion

3.1. The Role of Harbormaster in Sea Transportation Shipping Activities in Indonesia Judging from Act No. 17 of 2008 concerning Shipping

Article 207 of Act No. 17 of 2008 concerning Shipping, states that the function of a harbormaster is;¹²

- a. The harbormaster carries out the functions of shipping safety and security which include implementation, supervision and law enforcement in the field of transportation in waters, at ports, and protection of the maritime environment at ports;¹³
- b. In addition to carrying out the functions referred to in paragraph (1) the Harbormaster assists in the implementation of search and rescue (SAR) in accordance with the provisions of laws and regulations; and
- c. A harbormaster is appointed by the Minister after fulfilling the competency requirements in the field of shipping safety and security as well as portability.

As stated in the first paragraph, a harbormaster plays an important role in every maritime shipping activity, both in terms of supervision, law enforcement, ports, maritime environmental protection, and shipping itself. In other words, the success of a voyage carried out by a ship or sea transportation is also the success of a harbormaster in carrying out his harbormaster duties.

The duties of a harbormaster in carrying out the safety and security functions referred to above are regulated in Article 208 of the Republic of Indonesia Act No. 17 of 2008 concerning Shipping, namely:

- a. Overseeing the maritime affairs of the ship, safety, security and order at the port;
- b. To supervise orderly ship traffic in port waters and shipping lanes;
- c. To supervise loading and unloading activities in port waters;
- d. Supervise salvage activities and underwater work;
- e. Oversee ship delay activities;
- f. Supervise the scout;

¹⁰ Sukardi. (2003). *Metodologi Penelitian Pendidikan Kompetensi dan Praktiknya*. Jakarta: Bumi Aksara. p.14

¹¹ Meleong, Lexy J. (2006). *Metode Penelitian Kualitatif*. Bandung: Youth Rosda Karya. p.20

¹² See more in Article 207 of Act No. 17 of 2008 concerning Shipping.

¹³ Utari, Siti. (1994). *Pengangkutan Laut Di Indonesia (Suatu Tinjauan Yuridis)*. Jakarta: Balai Pustaka.p.16



- g. Oversee the loading and unloading of dangerous goods as well as hazardous and toxic waste;
- h. Supervise refueling;
- i. Supervise passenger embarkation and debarkation activities;
- j. Overseeing dredging and reclamation;
- k. To supervise the activities of building port facilities;
- l. Carry out search and rescue assistance;
- m. Leading pollution prevention and fire fighting in ports; and
- n. Oversee the implementation of maritime environmental protection¹⁴

The harbormaster carries out safety and security functions including implementation, supervision and law enforcement in the fields of shipping, navigation, ports, and protection of the maritime environment at the port.

Based on the supervisory function stated in the provisions of the law above, the harbormaster is divided into several sections to carry out supervision. As stipulated in the Regulation of the Minister of Transportation KM.64 of 2010 concerning Organization and Administration of the Office of the Harbormaster, the supervision section in the harbormaster is divided into:

- a. Screen-worthy Section;
- b. Pollution Rescue and Prevention Section; and
- c. Maritime Section.

The sailing section has the task of conducting orderly supervision of the port and orderly sailing, ship traffic, foreign ships, ship movement, guidance, delays, ship activities in port waters, fulfillment of vessel maritime requirements, as well as preparing materials for issuing SPB (Sailing Approval Letter). The Pollution Rescue and Control Section has the task of preparing coordination materials and providing search and rescue assistance (SAR), overcoming marine pollution and preventing and suppressing fires in the port waters, handling ship frames and salvage activities, and underwater work, and preliminary inspection of ship accidents and handling of marine disasters. The maritime section has the task of preparing materials for the issuance of seafarers' documents, seafarers' work agreements and crew inspections¹⁵.

According to the laws and regulations above, the task of carrying out supervision by the harbormaster is not only focused on shipping activities, but on all activities within the port, including salvage activities and underwater work, dredging and expansion of the port area or reclamation, pollution prevention, protection of maritime environment around the port, as well as carry out search and rescue assistance for ships that experience accidents.

The second paragraph of Article 207 of Act No. 17 of 2008 also explains that a harbormaster also takes part in the search or rescue of a sea transportation if the sea transportation experiences an accident or disturbance while carrying out shipping activities. As in the case of the PAUS ship accident that occurred in the Thousand Islands on 27 August 2014, the ship

¹⁴ Article 208 of Law of the Republic of Indonesia Number 17 of 2008 concerning Shipping. Accessed on August, 2020

¹⁵ Reynaldo, [https://www.reynaldosyahbandar.blogspot.com/2011/04/aah-staff-section-screenworthy.html? M = 1](https://www.reynaldosyahbandar.blogspot.com/2011/04/aah-staff-section-screenworthy.html?M=1). Accessed on August, 2020.



exploded and caught fire resulting in 36 people injured. At that time, the deputy governor of DKI Jakarta, Basuki Tjahja Purnama, who also represented the Minister of Transportation, immediately asked the DKI Jakarta harbormaster office to carry out a search and evacuation process for PAUS ships sailing in the Thousand Islands.¹⁶

In the third paragraph of the provisions of the law, it is also clear that a harbormaster is chosen by the Minister (Minister of Transportation) by observing the ability and fulfillment of one's requirements in terms of managing activities at the port in order to realize safety and security in shipping as well as safety and security at the port itself.

As the head of the port, in carrying out each of his duties and responsibilities the harbormaster has various powers to govern and determine what to do and not to do in shipping activities or in all activities at the port itself.

The harbormaster's authority as a port head is regulated by Article 209 of Act No. 17 of 2008 concerning Shipping. In shipping in Indonesia, the harbormaster has eight powers, namely:

- a. Coordinating all government activities at the port;
- b. Checking and keeping letters, documents and ship reports;
- c. Issue approval for ship activities at the port;
- d. Perform ship inspection;
- e. Issue Sailing Approval Letter (SPB);
- f. Perform ship accident inspection;
- g. Hold the ship by court order; and
- h. Implement crew certificate¹⁷.

Based on the above provisions, we can see one of the important roles of a harbormaster from his authority in examining, storing, and issuing documents needed for sea transportation (ships) in order to carry out shipping and loading and unloading activities of cargo. The documents or letters referred to above are in the form of shipworthiness certificates, sailing approval letters, anchoring approval letters, cargo goods certificates, ship registration certificates, international cargo line certificates, safety equipment certificates, radio and telegraph safety certificates, receipts for receiving duties. the Indonesian lighthouse on the last voyage, and the permit to enter and exit the port last visited.¹⁸

One important document which is also the determining document for a ship (sea transportation) to carry out a voyage is the Sailing/Anchoring Approval Letter (SPB). As stated in Article 219 of Act No. 17 of 2008 concerning Shipping, namely:

- a. Every ship sailing must have a Sailing Approval Letter issued by the harbormaster; and

¹⁶ Keteng, Andi Muttya. Jurnal Liputan 6, <https://www.liputan6.com/news/read/2097242/ah-ok-instructed-dishub-check-ships-burned-in-the-thousand-islands>, accessed on August, 2020.

¹⁷ See in full in Article 208 of Law of the Republic of Indonesia Number 17 of 2008 concerning Shipping.

¹⁸ Eko Putri, Normal. (2016). *Implementation of Harbormaster Duties and Authorities in Issuance of Fishery Ship Sailing Approval*. Diponegoro Law Journal, Volume 5, Figure 3.



- b. The sailing approval letter is not valid if the ship within 24 (twenty four) hours after the sailing approval is given, the ship does not depart from the port¹⁹.

In accordance with the provisions in paragraph 5 Article 209 above, the harbormaster has the right and authority to issue a Sailing Approval Letter (SPB) for the ship.

The issuance of an SPB can be given to a ship after the shipping company that handles the ship or the owner of the ship carries out a series of management mechanisms which include filing an application for the issuance of the SPB.

A sailing approval letter (SPB) can be obtained by a ship that will sail by applying for a sailing permit in writing to the harbormaster by attaching:

- a. Statement letter of ship readiness (Master Sailing Declaration);
- b. Cargo documents and evidence of fulfillment of other ship obligations²⁰.

Fulfillment of the ship obligations referred to above are proof of payment for port services, proof of payment for navigation services, proof of payment of shipping fees, approval of customs and excise, approval of immigration, approval of health quarantine, and approval of animal and plant quarantine.²¹

The harbormaster official verifies/checks the ship's certificate and documents before the SPB or clearance out, and verifies/checks the vision of the ship which is declared fit for sailing²². After that, a ship permit can be issued to a ship that has completed loading and unloading of goods as well as loading and unloading passengers and is in a position to depart/sail from the port.

Before granting a Sailing Permit (SIB)/Sailing Approval Letter (SPB), a harbormaster must ensure that a ship that is going to sail must fulfill several important elements for the implementation of the safety and security functions of shipping.

Activities in the form of service services can also be found within the port, port service activities can be differentiated according to status as;

- a. Public ports, namely ports to be operated and ports to be cultivated non-commercial; and
- b. Specialized terminals and terminals for industrial use²³.

The provision of port services based on institutional aspects can be differentiated according to government functions, namely Harbormaster and Port Authority. The harbormaster institution was formed as a government agency that carries out the safety and security functions of

¹⁹ See details in Article 219 of Act No. 17 of 2008 concerning Shipping

²⁰ See in full Article 3 Regulation of the Minister of Transportation KM 01/2010.

²¹ *Ibid.*

²² Sarsono, Herman Budi. (2012). *Manajemen Pelabuhan dan Realisasi Ekspor Impor*. Yogyakarta: Andi. p.42

²³ Lasse, DA. (2011). *Manajemen Kepelabuhanan*. Jakarta: Raja Grafindo Persada. p.64.



shipping, headed by the Harbormaster along with elements of ship-marine, maritime and seaworthy and order and patrol.

The highest authority to coordinate between non-transportation government sectors is carried out by the harbormaster, including customs, immigration, quarantine, other government activities that are not permanent, and security units of the POLRI or TNI elements including the port security committee (Port Security Committee)²⁴. The Port Security Committee is regulated in Article 212 of Act No. 17/2008. The coordination carried out by the Harbormaster is to achieve the implementation of law enforcement in ports. With an increase in the security function in the port, it is certainly one of the factors for the implementation of sea transportation.

Activities carrying out government functions at the port include:

- a. The sub-function of regulation and financing, sub-function of control and supervision; and
- b. Safety and shipping sub function²⁵.

Specifically for activities (1) which consist of regulatory and guidance functions, including the function of controlling and supervising port activities based on Article 38 of the Government Regulation on Ports, organized in port management institutions, namely:

- a. Port authority at ports that are operated commercially; and
- b. Port management unit at ports that are operated commercially²⁶.

The role of the harbormaster in carrying out its functions, duties and authorities is a huge responsibility. The harbormaster is the head of government within the port who plays an important role in a system at the port, both in the shipping itself, law enforcement, and all activities that take place within the port. In other words, the harbormaster is a motor in a system that functions to drive all activities that take place at the port.

3.2 The Effect of Providing Sailing Approval Letter on Fulfillment Aspects of Sailing Safety

Safety and security of shipping based on Article 116 of Act No. 17 of 2008 concerning Shipping includes safety and security of transportation in waters, ports, as well as protection of maritime law. The safety and security of water transportation if it meets the ship's marine worthiness and navigation requirements. The maritime rights of ships must be fulfilled by every ship which includes:²⁷

- a. Ship safety;
- b. Prevention of ship pollution;
- c. Manning the ship;
- d. Line of loading and loading;

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ See more in Article 38 of Government Regulation Number 61 of 2009 concerning Ports.

²⁷ Njatrijani, Rinitami. (2015). *Hukum Transportasi*. UNDIP LAW PRESS FACULTY OF LAW, DIPONEGORO UNIVERSITY: Semarang.



- e. Crew welfare and passenger health;
- f. Legal status of the ship;
- g. Safety management and prevention of pollution from ships; and
- h. Ship safety management.

While navigation consists of:

- a. Sailing-Navigation Supporting Facilities;
- b. Telecommunication-Shipping;
- c. Hydrography and meteorology;
- d. Grooves and crossings;
- e. Dredging and reclamation;
- f. Scouting;
- g. Handling of the ship's frame; and
- h. Salvage and underwater work

Based on article 1 number 34 Act No. 17 of 2008 concerning Shipping, ship safety can be proven by a certificate after inspection and testing. Safety certificates are issued to all types of ships measuring more than 7 GT, except for warships and state ships.

In accordance with Government Regulation Number 51 of 2002 concerning Shipping, ships that have obtained a certificate are checked continuously until the ship is no longer used, meaning that the ship's certificates are not valid when the certificate validity period has ended. The ship certificate can also be canceled if the information in the ship document used for the issuance of the certificate turns out to be not in accordance with the actual situation or the ship does not meet the ship safety requirements, or the certificate is obtained illegally. Based on Act No. 17 of 2008 concerning Shipping, this certificate is in the form of a passenger ship safety certificate and a cargo ship safety certificate.

4. Conclusion

The harbormaster plays an important role in the port system both in shipping, law enforcement, and in coordinating activities that take place within the port. The responsibility of a harbormaster is very important because the safety and security of sailing is the duty of the harbormaster. Actions taken by the Harbormaster are/in order to increase security and safety supervision of matters relating to shipping. The issuance of a Sailing Approval Letter is a process of supervision carried out by the Harbormaster of a ship leaving the port to ensure that the ship, crew, and cargo have technically-administratively fulfilled the safety and security requirements of shipping.

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- 4) Act No. 17 of 2008 concerning Shipping
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