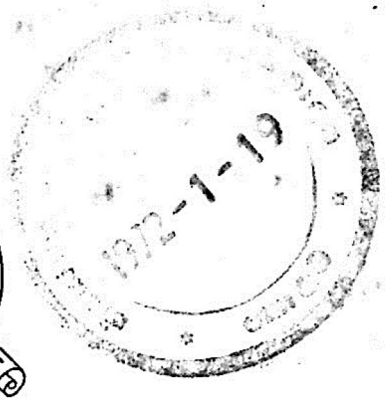
PARLIAMENT OF CEYLON

2nd Session 1971-72





Merchant Shipping Act, No. 52 of 1971

Date of Assent : December 13, 1971

Printed on the Orders of Government

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L. D.—O. 12/70.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO MERCHANT SHIPPING IN FORCE IN CEYLON, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: December 13, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—INTRODUCTORY

Short title and date of operation.

1. This Act may be cited as the Merchant Shipping Act, No. 52 of 1971, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*. Different dates may be so appointed for the purposes of the different Parts or provisions of this Act.

Extension and application of Act.

2. This Act shall extend to the whole of Ceylon, and save as otherwise specifically provided, shall also apply to:—

(*a*) all Ceylon ships wherever they may be;

(*b*) all ships registered or deemed to be registered under this Act wherever they may be;

(*c*) all ships, not being Ceylon ships, licensed under this Act to engage in the coasting trade, while engaged in such trade; and

(*d*) all other ships while in a port or place in, or within the territorial waters of, Ceylon:

Provided, however, that this Act shall not apply to any ships of, or commissioned for service in, the Royal Ceylon Navy or, while employed otherwise than for profit in the service of Government, any other ships belonging to Government.

Appointment of Director of Merchant Shipping.

3. (1) There may be appointed, for the purposes of this Act, a Director of Merchant Shipping who shall have the general superintendence of this Act and

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the general supervision of all matters relating to shipping and seamen throughout Ceylon, and is authorized to carry the provisions of this Act into execution.

(2) Any officer generally or specially authorized in that behalf by the Director may exercise, perform or discharge any power, duty or function vested in, or imposed or conferred upon, the Director under this Act, and any act done by, to or before any such officer shall be as valid for the purposes of this Act as if it were done by, to or before the Director.

Power of Minister to give directions.

4. The Minister may, from time to time, give the Director general directions, not inconsistent with the provisions of this Act or any other written law, on the policy to be pursued in the administration of this Act, and the Director shall forthwith take such steps as are necessary or expedient to give effect thereto.

Appointment of officers and servants.

5. (1) There may be appointed, for the purposes of this Act, such deputies and assistants to the Director, and such other officers as may be necessary.

(2) It shall be lawful for the Director to assign to such deputies or assistants and other officers as are referred to in sub-section (1) the functions and duties to be carried out by them and every such officer discharging and performing any functions and duties under this Act shall be deemed, until the contrary is proved, to be the proper officer for the performance of that function or duty.

(3) All such officers as are referred to in sub-section (1) may exercise, perform or discharge all or any of the powers, duties or functions conferred or imposed on or assigned to them under this Act.

(4) In the exercise, performance and discharge of the powers, duties or functions conferred or imposed on or assigned to them under this Act, the officers referred to in sub-section (1) shall be subject to the directions and control of the Director.

Powers of Minister.

6. The Minister may assign any functions or duties under this Act to any person, by name or by office, and any such person shall, while discharging or performing any such functions or duties so assigned, be deemed to be a proper officer for the purposes of this Act. All such persons in discharging or performing any functions or duties assigned to them under this section shall be subject to the direction and control of the Director.

Appointment and duties of Shipping Officers.

7. (1) There may be appointed, for the purposes of this Act, such number of Shipping Officers (which term shall include Deputy or Assistant Shipping Officers) for each port in Ceylon as may be necessary.

(2) It shall be the duty of a Shipping Officer for a port—

(*a*) to afford facilities for engaging seamen by keeping registers of their names, sea service, and such other particulars as are prescribed by the Director;

(*b*) to supervise and facilitate the engagement and discharge of seamen in the manner required under this Act;

(*c*) to facilitate the making of apprenticeships to the sea service;

(*d*) to perform such other duties relating to seamen, apprentices and ships as under this Act, or any other law for the time being in force relating to merchant shipping, are committed to such Officer.

(3) Any act done by, to or before a Shipping Officer shall be valid and effectual for the purposes of this Act, and shall be deemed to have been done for and on behalf of the Director.

(4) The fees prescribed under this Act shall be payable by the masters, agents or owners of ships to Shipping Officers in respect of the matters so prescribed.

Designation of Shipping Offices.

8. The Minister may, by Notification published in the *Gazette*, designate any place at any port at which a person has been appointed under this Act to be Shipping Officer, to be a Shipping Office for the transaction of business under this Act.

Power of Director to dispense with transaction of certain matters at Shipping Offices.

9. The Director may in his discretion dispense with the transaction in a Shipping Office, or before a Shipping Officer, of any matters required under this Act to be so transacted, and thereupon such matters (if otherwise duly transacted) shall be as valid as if they were transacted in such office or before a Shipping Officer.

Appointment of Surveyors, &c.

10. (1) There may be appointed, for the purposes of this Act, a Chief Surveyor of Ships for Ceylon.

(2) There may be appointed, either generally or for special purposes or on special occasions, any person to be a Surveyor of Ships, an Engineer and Ship Surveyor, a Nautical Surveyor, or a Radio Surveyor.

(3) The Chief Surveyor of Ships and every Surveyor of Ships shall have and perform the powers, functions and duties conferred or imposed under this Act.

(4) The Chief Surveyor of Ships may delegate the exercise of any powers conferred on him under this Act to such persons as he may think fit.

(5) The duties of a Surveyor shall be performed under the direction of the Chief Surveyor of Ships, and in accordance with any rules made under this Act.

Chief Registrar and Registrars of Ceylon Ships.

11. (1) The Director shall be the Chief Registrar of Ceylon Ships.

(2) There may be appointed at any such port as is considered necessary a person to be a Registrar of Ceylon Ships.

(3) A Registrar of Ceylon Ships shall perform his duties under the direction of the Chief Registrar of Ceylon Ships.

(4) A Registrar of Ceylon Ships shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act or omission by him in the exercise of his duties as Registrar.

Minister may delegate certain powers and duties.

12. The Minister may, by Notification published in the *Gazette*, delegate to the Director or the Chief Surveyor of Ships, or any other officer appointed under this Act and specified in such Notification, the exercise of any powers (other than the power to make any subsidiary legislation) or the performance of any duties conferred or imposed on him under this Act, subject to such conditions and restrictions as may be specified in such Notification. No such delegation shall affect the exercise of such power or the performance of such duty by the Minister; and every officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

Appointment of Registrar of Seamen.

13. (1) There may be appointed, for the purposes of this Act, a Registrar of Seamen.

(2) The Registrar of Seamen shall by means of documents transmitted to him in pursuance of this Act and by any other means in his power, keep at his office a register—

(*a*) of all persons who serve in Ceylon ships; and

(*b*) of all seamen (being citizens of Ceylon) who produce continuous discharge certificates in proof of service in foreign or Ceylon ships.

(3) The Registrar of Seamen shall cause copies of the certificates produced under paragraph (*b*) of sub-section (2) to be kept at his office.

PART II—CONTROL OF SHIPPING

Application of this Part.

14. This Part, other than sections 28 and 29, shall apply only to such sea-going ships as the Minister may fix by Notification published in the *Gazette*. Such Notification shall come into force on such date as may be specified therein.

Restriction on chartering of ships.

15. (1) No person shall charter any ship, whether a Ceylon ship or not, or being the owner of any Ceylon ship, or the agent of such owner, give or offer to give on charter any such ship to any other person, except with the previous permission in writing of the Director, or otherwise than in accordance with the conditions subject to which such permission is so granted.

(2) Any person who contravenes or attempts to contravene the provisions of sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding ten thousand rupees, or to both such imprisonment and fine.

Licences to take ships to sea.

16. (1) No Ceylon ship, or ship chartered by any person shall be taken to sea from a port or place within or outside Ceylon except under the authority of a licence granted in that behalf by the Director, or otherwise than in accordance with the conditions of such licence.

(2) A licence granted under sub-section (1) may, in the discretion of the Director, be—

(*a*) a general licence; or

(*b*) a licence for a specified period or a specified voyage.

(3) Subject to the provisions of section 17, a general licence shall remain valid until it is revoked or cancelled, and a licence for a specified period or a specified voyage shall be valid only for the period or voyage for which it is granted, unless the period is extended by the Director.

(4) A licence granted under sub-section (1) may contain such conditions as the Director may think fit to impose with respect to the trades in which the ship may engage and the voyages which it may undertake, and such conditions may be imposed so as to apply to the ship wherever it may be or while in such waters, or engaged in such trades, or on such voyages, as may be specified.

(5) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Revocation, &c., of licence.

17. (1) Any licence granted under this Part may be modified, suspended, revoked or cancelled by the Director, but no such licence shall be revoked or cancelled, unless the licensee has been given an opportunity of making representations against such revocation or cancellation:

Provided that any applicant for registration dissatisfied with the decision of the Director may appeal to the Minister in the prescribed manner.

(2) Where a licence granted under this Part is revoked or cancelled or otherwise ceases to be valid, the licensee shall, within sixty days after such revocation, cancellation or cessation, return it or cause it to be returned to the Director.

(3) Any person who contravenes the provisions of sub-section (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Unlicensed ships.

18. (1) Where, in respect of any such ship as is referred to in section 16 no licence has been granted or is in force, the Director, if satisfied that it is necessary or expedient in the public interest or in the interest of shipping in general so to do, may by order in writing, direct the owner or charterers thereof to operate the ship, on any assigned route on such terms and conditions as may be determined by the Director, and the provisions of this Part shall, so far as may be, apply in relation to such ship as if the direction were a licence issued under this Part.

(2) Any person who fails to comply with an order made under sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

No port clearance until licence is produced.

19. (1) An officer of customs shall not grant a port clearance to a ship required to take a licence under this Part, until the owner or master thereof has produced the requisite licence and a certificate from the Director to the effect that the conditions of the licence have been duly fulfilled.

(2) If a ship attempts to proceed to sea without a port clearance, she may be detained until the licence and certificate are produced as required by sub-section (1).

Power to give directions.

20. (1) The Director may, if satisfied that it is necessary or expedient in the public interest or in the interest of shipping in general so to do, and shall, where so directed by the Minister, by order in writing give, to a ship which has been granted a licence under this Part, directions with respect to all or any of the following matters:—

(i) the ports or places, whether in or outside Ceylon, to which, and the routes by which, the ship shall proceed for any particular purpose;

(ii) the diversion of the ship from one route to another for any particular purpose;

(iii) the dates, if any, of arrival and departure of the ship at or from any port or place;

(iv) the classes of passengers which may be carried in the ship;

(v) the kind of cargo which may be carried in the ship and the quantity in which such cargo may be put on board by any shipper specified in the order;

(vi) the order or priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside Ceylon; and

(vii) the person or persons to whom passages may be given.

(2) Any person who fails to comply with any direction given under sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Shipping Allocation Board.

21. The Minister may, by Notification published in the *Gazette*, constitute a Shipping Allocation Board to advise him on the matters enumerated in section 20.

Powers to fix shipping rates.

22. (1) The Minister may, from time to time, by Order published in the *Gazette*, fix the rates at which any Ceylon ship may be hired, and the rates which

may be charged for carriage of passengers or cargo by any such ship, or by any ship, other than a Ceylon ship, engaged in the coasting trade.

(2) Where an Order fixing the rates to be charged for hire, or for the carriage of passengers or cargo, has been published under sub-section (1), no rates, other than the rates so fixed, shall be charged for such hire or carriage.

(3) The owner, master, or agent of the owner, of a ship in respect of which the provisions of sub-section (2) are contravened shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Shipping Rates Advisory Board.

23. The Minister may, by Notification published in the *Gazette*, constitute a Shipping Rates Advisory Board to advise him on matters referred to in section 22.

Power to call for information.

24. (1) The Director may, by notice served personally or by post, require the master or owner of any ship in respect of which a licence granted under this Part is in force, to furnish within the period specified in the notice, information regarding all or any of the following matters:—

(i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any period specified in that behalf in the notice;

(ii) the rates of passenger fares and freight charges applicable to the ship; and

(iii) any other matter relating to the aforesaid matters which may be specified by rules made by the Minister.

(2) If any person on whom a notice has been served under sub-section (1) fails to furnish the information required within the specified time or in furnishing such information, makes any statement which he knows to be false in any material particular, he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Submission of schedule of fares, &c., in respect of certain ships.

25. (1) The master or the agent in Ceylon of the owner of any ship, not being a ship referred to in section 20, which engages or is engaged in the carriage of passengers or cargo from any port or place in Ceylon to any port or place outside Ceylon shall file a schedule of passenger fares and freight charges applicable to that ship with the Director for the approval of the Minister in so far as the fares and charges relate to such carriage; and in so approving the Minister may fix rates or charges reducing or enhancing any such fares or charges.

(2) No fares and charges other than those approved under sub-section (1), shall be charged in respect of any carriage to which the fares and charges so approved relate.

Power of Director to enter ships.

26. Where in respect of any ship to which a licence has been granted under this Part the Director has reason to suspect that any of the provisions of this Part is not being complied with, he may enter, or authorize any other person to enter, on board the ship and ask for the relevant documents for examination.

Penalty.

27. If any of the conditions contained in a licence granted under this Part is contravened, the master and the owner, or, in the case of a ship other than a Ceylon ship, the agent in Ceylon of the owner, of the ship in respect of which the contravention has taken place, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Restrictive practices in relation to the carriage of goods by sea.

28. (1) The Minister may, in accordance with the provisions of sub-section (2), if he deems fit,—

(*a*) declare it an offence for any person either as principal or agent to enter into a contract or to be or continue to be a member of or engaged in any combination in relation to the carriage of goods by sea to and from Ceylon in restraint of or with intent to restrain such carriage of goods by sea, and prescribe penalties and other punishments for such offence;

(*b*) declare it an offence for any person to monopolise, or to combine or conspire with any other person to monopolise, any part of the trade in relation to the carriage of goods by sea to and from Ceylon, and prescribe penalties and other punishments for such offence;

(*c*) declare it an offence for any person in relation to the carriage of goods by sea to and from Ceylon either as principal or agent, in respect of dealings in respect of such carriage of goods by sea, to offer or promise to any other person any rebate, refund, discount, concession or reward for the reason or upon conditions expressed or implied which the Minister may declare unlawful, and prescribe penalties and other punishments for such offence;

(*d*) declare it an offence for any person to refuse, either absolutely or except upon disadvantageous conditions, to undertake the carriage of goods by sea to and from Ceylon to any other person for any reason declared by the Minister to be unlawful, and prescribe penalties and other punishments for such offence;

(*e*) declare any contracts entered into in contravention of any declarations under the preceding paragraphs (*a*), (*b*), (*c*) and (*d*) as illegal and void.

(2) The Minister may make regulations for giving effect to the provisions of this section and related matters.

Power to make rules.

29. (1) The Minister may make rules for carrying out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters:—

(*a*) the forms of licences;

(*b*) the procedure to be followed by Boards constituted under sections 21 and 23;

(*c*) the manner in which rates shall be fixed under section 22;

(*d*) the matters regarding which information may be required to be furnished under section 24;

(*e*) any other matters relating thereto for which it is necessary to make provision.

PART III—REGISTRY

CHAPTER 1: REGISTRATION OF CEYLON SHIPS.

Qualification for owning Ceylon ship.

30. A ship shall not be deemed to be a Ceylon ship, unless it is owned wholly by—

(*a*) a natural person who is a citizen of Ceylon; or

(*b*) the Ceylon Shipping Corporation established under Act No. 11 of 1971, or any Government-Sponsored Shipping Company or Corporation; or

(*c*) any body corporate as may be determined by the Minister.

Obligation to register Ceylon ships.

31. (1) Every Ceylon ship shall, unless exempted from registration, be registered under this Act.

(2) If a ship required by this Act to be registered is not so registered, such ship shall not be recognized as a Ceylon ship.

(3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces the certificates of the registry of the ship.

(4) The Minister may prescribe the manner in which ships or classes of ships belonging to the Government of Ceylon or any statutory body therein may be registered under this Act.

Exemptions from registry.

32. The following ships are exempted from registration under this Act:—

(*a*) any ship not exceeding fifteen tons net;

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(*b*) any boat licensed under the Boats Ordinance;

(*c*) any ship referred to in any order made under section 46, to such extent as may be specified in such order.

Register book.

33. Every Registrar of Ceylon Ships shall keep a book (to be called the register book) and entries in that book shall be made in accordance with the following provisions:—

(*a*) the property in a ship shall be divided into sixty-four shares;

(*b*) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship:

Provided, however, that the preceding provisions of this paragraph shall not affect the beneficial interest of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;

(*c*) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

(*d*) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered; and

(*e*) a body corporate may be registered as owner by its corporate name.

Application for registry.

34. (1) An application for the registry of a ship shall be made—

(*a*) in the case of natural persons, by the person applying to be registered as owner, or by some one or more persons so applying if more than one, or by his or their agent;

(*b*) in the case of the Ceylon Shipping Corporation established under Act No. 11 of 1971, or any Government-Sponsored Shipping Company or Corporation, by their agent; and

(*c*) in the case of other bodies corporate, by their agent, and the authority of the agent shall be testified by writing, if appointed by natural persons, under the hands of the appointers, and if appointed by a body corporate, under the common seal of that body.

(2) The Registrar may demand proof of ownership to his satisfaction before proceeding with the registry of a ship.

Declaration of ownership.

35. (1) A person shall not be registered as the owner of a Ceylon ship or of a share therein until he, or in the case of the Ceylon Shipping Corporation established under Act No. 11 of 1971, or a Government-Sponsored Shipping Company or Corporation or any other body corporate, the person authorized by this Act to make declarations on its behalf, has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the certificate of a Surveyor and containing the following particulars:—

(*a*) a statement whether he is or is not a citizen of Ceylon, or in the case of the Ceylon Shipping Corporation established under Act No. 11 of 1971, a statement specifying that it was incorporated under that Act, or in the case of a Government-Sponsored Shipping Company or Corporation a statement setting out the interest of the Government and also that it has been incorporated in Ceylon, or in the case of any other body corporate a statement incorporating the Order made by the Minister;

(*b*) a statement of the time when and the place where the ship was built, or if the ship is built outside Ceylon and the time and place of building is not known a statement to that effect; and in addition in the case of a ship previously registered outside Ceylon a statement of the name by which she was so registered, or in the case of a ship condemned a statement of the time, place and Court at and by which she was condemned;

(*c*) a statement of the name of the master and his citizenship;

(*d*) a statement of the number of shares in the ship in respect of which he or the Ceylon Shipping Corporation established under Act No. 11 of 1971, or a Government-Sponsored Shipping Company or Corporation, or any other body corporate, as the case may be, is entitled to be registered as owner; and

(*e*) a declaration that to the best of his knowledge and belief no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

(2) For the purpose of this section, the expression " beneficial interest " has the meaning assigned to it by section 106.

Ship's names.

36. (1) A Ceylon ship shall not be described by any name, other than that by which she is for the time being registered.

(2) A change shall not be made in the name of a Ceylon ship except in the prescribed manner.

(3) A Registrar may, in accordance with the provisions of any regulations made under this Act, refuse the registry of any ship by the name by which it is proposed to register that ship if it is already the name of a registered Ceylon ship or a name so similar as is calculated or likely to deceive.

(4) If the registry of a ship by the name by which it is proposed to register that ship is refused by a Registrar, or if any requirements of the regulations are not complied with in the case of any ship which it is proposed to register, that ship shall not be registered under the name proposed, or until the regulations are complied with, as the case may be.

(5) If any person acts or suffers any other person under his control to act in contravention of this section or omits to do or suffers any other person under his control to omit to do, anything required by this section the ship may be detained, until the provisions of this section are complied with.

Evidence on first registry.

37. On the first registry of a ship the following evidence shall be produced in addition to the declaration of ownership:—

(*a*) in the case of a Ceylon built ship, a builder's certificate, that is to say, a certificate signed by the builder of the ship and containing a true account of the proper denomination and of the tonnage of the ship as estimated by him and of the time when and the place where she was built and of the name of the person, if any, on whose account the ship was built and, if there has been any sale, the bill of sale under which the ship or a share therein has become vested in the applicant for registry;

(*b*) in the case of a foreign built ship, the same evidence as in the case of a Ceylon built ship, unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him or that the builder's certificate cannot be procured, in which case there shall be registered only the bill of sale under which the ship, or a share therein, became vested in the applicant for registry; and

(*c*) in the case of a ship condemned by a competent authority, the official copy of the condemnation.

Survey.

38. (1) Every ship shall before registry be surveyed by a Surveyor and the tonnage of the ship ascertained in accordance with the provisions of any regulations made under this Part.

(2) The Surveyor shall grant a certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Registrar.

(3) The certificate of the Surveyor shall be delivered to the Registrar before registry.

Marking of ship.

39. (1) Every Ceylon ship shall before registry be marked permanently and conspicuously to the satisfaction of the Registrar as follows:—

(*a*) the name of the ship shall be marked on each of the bows of the ship, and the name of the ship and the name of the port of registry of such ship shall be marked on the stern of the ship, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth;

(*b*) the official number and the number denoting the registered tonnage of the ship shall be cut in on the main beam of the ship;

(*c*) a scale of feet denoting the draught of water of the ship shall be marked on each side of the stem and of the stern post of the ship in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those

letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Registrar approves.

(2) The Chief Registrar may exempt any class of ships from all or any of the requirements of this section.

(3) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) If any owner or master of a Ceylon ship neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces or obliterates or suffers any other person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master or other person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees; and on a certificate from a Surveyor that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

Entry of particulars in register book.

40. As soon as the requirements of this Act preliminary to registry of a ship have been complied with, a Registrar shall enter in the register book the following particulars respecting the ship:—

(*a*) the name of the ship and the name of the port to which the ship belongs;

(*b*) the details comprised in the Surveyor's certificate;

(*c*) the particulars respecting the origin of the ship stated in the declaration of ownership; and

(*d*) the name and description of the registered owner or owners of the ship, and if there are more owners than one, the proportions in which they are interested in the ship.

Documents to be retained by Registrar.

41. On the registry of a ship a Registrar shall retain in his possession—

(*a*) the Surveyor's certificate;

(*b*) the builder's certificate;

(*c*) any bill of sale of the ship previously made;

(*d*) the copy of the condemnation, if any; and

(*e*) all declarations of ownership.

Application to Government ships.

42. The Minister may, by Notification published in the *Gazette*, direct that, subject to such rules as may be made in that behalf, ships belonging to the Government, other than ships of the Royal Ceylon Navy, may be registered as Ceylon ships under this Act and thereupon this Act, subject to any exceptions and modifications which may be made in the Notification, either generally or with respect to any class of ships belonging to Government, shall apply to ships belonging to Government registered in accordance with the rules as they apply to Ceylon ships registered in the manner provided by this Act.

Port of registry.

43. The port at which a Ceylon ship is registered for the time being shall be deemed to be the port of registry of the ship and the port to which the ship belongs.

Regulations.

44. (1) The Minister may make regulations to carry out the purposes of this Part.

(2) In particular, but without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:—

(*a*) the manner in which the tonnage of any ship shall be ascertained, whether for the purpose of registration or otherwise, including the mode of measurement;

(*b*) the recognition, for the purpose of ascertaining the tonnage of any ship or for any other purpose, of any tonnage certificate granted in respect of any ship in any country outside Ceylon, the tonnage regulations of which are substantially the same as the tonnage regulations made under this Act, including the conditions and restrictions subject to which such recognition may be granted;

(*c*) the manner in which surveys of ships shall be conducted and the form of certificates of surveying officers;

(*d*) the form in which any document required by this Part shall be prepared and the particulars which it should contain;

(*e*) the persons by whom and the authority before which any declaration required by this Part shall be made and the circumstances in which any such declaration may be waived and other evidence accepted;

(*f*) the procedure for the registration, marking or alteration of the names of Ceylon ships;

(*g*) the fees that may be levied under this Part and the manner in which such fees shall be collected;

(*h*) the manner in which Registrars and other authorities may exercise their powers under this Part or maintain their books and other registers;

(*i*) the manner in which ships belonging to the Government, to which the provisions of this Act may be made applicable under section 42, may be registered;

(*j*) any other matter which may be or is to be prescribed.

(3) The Director, with the consent of the Minister, may also for the purpose of carrying into effect this Part, give such instructions to his officers as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to himself of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Act as he thinks fit.

Power of Chief Registrar to inquire into title of Ceylon ship to be registered as such.

45. (1) Where it appears to the Chief Registrar that there is any doubt as to the title of any ship registered as a Ceylon ship to be so registered, he may direct the Registrar of the port of registry of the ship to require evidence to his satisfaction that the ship is entitled to be registered as a Ceylon ship.

(2) If within such time, not less than thirty days as the Chief Registrar may fix, satisfactory evidence of the title of the ship to be registered is not given, the ship shall be subject to forfeiture.

Exemption.

46. The Minister may, from time to time, by order and either generally or for any period stated in such order, and subject to such conditions as may be specified in such order, exempt from the provisions of this Part and any regulations made thereunder any person or class of persons or any ship or class or description of ships.

CHAPTER 2: CERTIFICATE OF REGISTRY.

Certificate of registry.

47. On the completion of the registration of a Ceylon ship, a Registrar shall grant a certificate of registry comprising the particulars in respect of the ship entered in the register book.

Provisional certificate.

48. (1) If at any port outside Ceylon a ship becomes the property of a person qualified to own a Ceylon ship, a Ceylon Consular Officer or such other person as may be appointed by the Minister may grant to the master of the ship on his application, a provisional certificate, stating:—

(*a*) the name of the ship;

(*b*) the time and place of her purchase and the names of the purchasers of the ship;

(*c*) the name of the master of the ship;

(*d*) the best particulars regarding her tonnage, build, and description of the ship which he is able to obtain,

and shall forward a copy of the certificate at the first convenient opportunity to the Chief Registrar.

(2) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from the date of its issue or until the ship's arrival at a port where there is a Registrar, whichever is earlier, and if either of these events happens shall cease to have effect.

Custody and use of certificate.

49. (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatsoever had or claimed by any owner, mortgagee or other person to, on or in the ship.

(2) No person, whether interested in a ship or not, who has in his possession or under his control the certificate of registry of the ship, shall refuse or omit

without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any Registrar, officer of customs, or other person entitled by law to require such delivery.

(3) Any person refusing or omitting to deliver the certificate as required by sub-section (2) may by order, be summoned by any Magistrate to appear before him and to be examined touching such refusal, and unless it is proved to the satisfaction of the Magistrate that there was reasonable cause for such refusal the offender shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(4) If the person so refusing is proved to have absconded so that the warrant of a Magistrate or process of a Court cannot be served on him, or if he persists in not delivering up the certificate, the Magistrate shall certify the fact and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit.

Improper use of certificate.

50. If the master or owner of a Ceylon ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of the ship he shall, in respect of each offence, be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine, and the ship shall be subject to forfeiture under this Act.

Grant of new certificate.

51. The Registrar of the port of registry of a Ceylon ship may, with the approval of the Chief Registrar, and on the delivery to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

Provision for loss of certificate.

52. In the event of the certificate of registry of a Ceylon ship being mislaid, lost or destroyed, the Registrar of the port of registry of the ship shall grant a certificate of registry in lieu of the original certificate of such ship.

Change of master.

53. Where the master of a registered Ceylon ship is changed a Registrar or, if there is none, the Ceylon Consular officer at or for the port or the nearest Ceylon Consular officer to the port where the

change occurs shall endorse and sign on the certificate of registry a memorandum of the change, and, in the case of a Consular officer, shall forthwith report the change to the Chief Registrar; and any officer of customs at any port in Ceylon may refuse to admit any person to do any act there as master of a Ceylon ship unless his name is inserted in or endorsed on the certificate of registry of the ship as the last appointed master of such ship.

Change of owner.

54. (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on the certificate of registry of the ship either by—

(*a*) the Registrar of the ship's port of registry; or

(*b*) the Registrar of any port at which the ship arrives who has been advised of the change by the Registrar of the ship's port of registry.

(2) The master shall, for the purpose of such endorsement by the Registrar of the ship's port of registry, deliver the certificate of registry to the Registrar—

(*a*) forthwith after the change, if the change occurs when the ship is at the port of registry of such ship; and

(*b*) if the change occurs during the absence of the ship from the port of registry thereof, and the endorsement under this section is not made before the return of such ship, then, upon the first return of such ship to that port.

(3) The Registrar of any port, not being the ship's port of registry, who is required to make an endorsement under this section may for that purpose require the master of the ship to deliver to him the ship's certificate of registry so that the ship be not thereby detained, and the master shall deliver the same accordingly.

(4) If the master fails to deliver to the Registrar the certificate of registry as required by this section he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

Delivery of certificate of ship lost or ceasing to be Ceylon ship.

55. (1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt, or broken up or ceasing, by reason of a transfer to persons not qualified to be owners of a Ceylon ship, or otherwise, to be a Ceylon ship, every owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to a Registrar, give notice thereof to the Registrar at the port of registry of such ship.

(2) A Registrar shall, on receiving any notice given to him under sub-section (1), make an entry thereof in the register book, and the registry of the ship in that book shall be considered as closed except in so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

(3) In any event referred to in sub-section (1) (except where the ship's certificate of registry is lost or destroyed) the master of the ship shall—

(*a*) if the event occurs in port, immediately;

(*b*) if the event occurs elsewhere, then, within ten days after his arrival in port,

deliver the certificate to the Registrar or, if there is none, to the Ceylon Consular officer there; and the Registrar, if he is not himself the Registrar of the port of registry, or, as the case may be, the Ceylon Consular officer, shall forthwith forward the certificate delivered to him to the Registrar of the port of registry of such ship.

(4) Any owner or master of a ship who fails, without reasonable cause, to comply with this section, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

CHAPTER 3: TRANSFER OF OWNERSHIP.

Transfer of ship or share.

56. (1) A registered ship or a share therein (when disposed of to a person qualified to own a Ceylon ship) shall be transferred by a bill of sale.

(2) The bill of sale shall—

(*a*) be in the prescribed form;

(*b*) contain such description of the ship as is contained in the certificate of registry; and

(*c*) be executed by the transferor in the presence of, and be attested by, two witnesses.

Declaration of transfer.

57. Where a registered ship or a share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a body corporate the person authorized by this Act to make declarations on behalf of the body corporate, has made and signed a declaration (in this Act referred to as a " declaration of transfer ") referring to the ship and containing—

(*a*) a statement of the qualification of the transferee to own a Ceylon ship or, if the transferee is a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Ceylon ship; and

(*b*) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

Registry of transfer.

58. (1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the Registrar of the port of registry of the ship with the declaration of transfer, and the Registrar—

(*a*) shall thereupon enter in the register book the name of the transferee as owner of the ship or share; and

(*b*) shall endorse on the bill of sale the fact of that entry having been made, with the day, date and hour thereof.

(2) Bills of sale of a ship or of a share therein shall be entered in the register book in the order of their production to the Registrar.

Transmission of property in ship on bankruptcy, death, &c.

59. (1) Where the property in a registered ship or share therein is transmitted to a person qualified to own a Ceylon ship on the bankruptcy or death of any registered owner, or by any lawful means, other than by a transfer under this Part,—

(*a*) that person shall authenticate the transmission by making and signing a declaration (in this Act referred to as a " declaration of transmission ") identifying the ship and

containing the several statements hereinbefore required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted;

(*b*) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in Courts of justice as proof of the title of persons claiming under a bankruptcy; and

(*c*) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted and, where there is more than one such person, shall enter the names of all those persons, but those persons, however numerous, shall for the purpose of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale on transmission to an unqualified person.

60. (1) Where the property in a registered ship or share therein is transmitted on bankruptcy, death or otherwise to a person not qualified to own a Ceylon ship the Court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the Court may direct.

(2) The Court may require any evidence in support of the application as it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every such application for sale must be made within four weeks after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the Court may allow.

(4) If such an application is not made within the time aforesaid, or if the Court refuses an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

(5) In this section " Court " includes a District Court having admiralty jurisdiction under section 3 of the Ceylon Courts of Admiralty Ordinance. Cap. 9.

Transfer of ship or sale by order of Court.

61. (1) Where any Court, whether under the preceding sections of this Act or otherwise, orders the sale of any ship or any share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share.

(2) On having been named by the Court, such person shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof.

(3) Every Registrar shall obey the requisition of the person so named by the Court in respect of any such transfer to the same extent as if such person were the registered owner.

Power of Court to prohibit transfer.

62. (1) The Supreme Court may if it thinks fit (without prejudice to the exercise of any other power of the Court), on the application of any interested person, make an order prohibiting for a specified time any dealing with a ship or any share therein.

(2) The Court may make an order under sub-section (1) on any terms or conditions it thinks just, or may refuse to make the order or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.

(3) Every Registrar, without being made a party to the proceedings, shall on being served with the order of the Court or an official copy thereof obey the same.

CHAPTER 4: MORTGAGES.

Rules of English law applicable except where they are inconsistent or in conflict with this Act.

63. The rules of law applicable in the case of mortgages of ships shall be the rules of law applicable in that behalf in the United Kingdom, except in so far as they are inconsistent or in conflict with the express provisions of this Act.

Mortgage of ship or share.

64. (1) A registered ship, or a share therein, may be made a security for a loan or other valuable consideration, and the instrument creating such security (in this Chapter referred to as a ' mortgage ') shall be in the prescribed form, or as near thereto as circumstances permit.

(2) On production to him of an instrument of mortgage, the Registrar of the ship's port of registry shall—

(*a*) record such instrument in the register book;

(*b*) when there are more mortgages than one, record them in the order in time in which they are produced to him for that purpose;

(*c*) by memorandum under his hand notify on each mortgage that it has been recorded by him, stating the day, date and hour of that record.

Entry of discharge of mortgage.

65. (1) Where a registered mortgage is discharged the Registrar shall, on production of the mortgage deed with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged.

(2) On the entry referred to in sub-section (1) being made, the estate (if any) which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested if the mortgage had not been made.

Priority of mortgages.

66. If there are more mortgages than one registered in respect of the same ship or share, the mortgages shall, notwithstanding any express, implied or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register book, and not according to the date of each mortgage itself.

Mortgagee not treated as owner.

67. Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be the owner thereof.

Mortgagee to have power of sale.

68. (1) Every registered mortgagee shall, subject to sub-section (2), have power—

(*a*) absolutely to dispose of the ship or share in respect of which he is registered; and

(*b*) to give effectual receipts for the purchase money.

(2) Where there are more persons than one registered as mortgagees of the same ship or share a subsequent mortgagee shall not, except under the order of a Court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Mortgage not affected by bankruptcy.

69. A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order or disposition, or was reputed owner thereof; and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the bankrupt, or any trustee or assignee on their behalf.

Transfer of mortgages.

70. (1) A registered mortgage of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in the prescribed form, or as near thereto as circumstances permit.

(2) On production to him of an instrument of transfer, the Registrar of the ship's port of registry shall—

(*a*) record such instrument by entering in the register book the name of the transferee as mortgagee of the ship or share; and

(*b*) by memorandum under his hand notify on the instrument of transfer that it has been recorded by him, stating the day, date and hour of that record.

(3) The person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

Transmission of interest in mortgage on bankruptcy, &c.

71. (1) Where the interest of a mortgagee in a ship or share is transmitted by bankruptcy, death, or by any lawful means, other than by a transfer under this Part, the transmission shall—

(*a*) be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted; and

(*b*) be accompanied by the like evidence as is by this Part required in the case of a corresponding transmission of the ownership of a ship or share.

(2) The Registrar, on the receipt of the declaration and the production of the evidence referred to in subsection (1), shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

Powers of mortgage and sale to be exercised outside Ceylon may be conferred by certificate.

72. Where a registered owner of a ship or share wishes to dispose by way of mortgage or sale of such ship or share at any place outside Ceylon, he may apply to the Registrar of the ship's port of registry, and the Registrar shall thereupon enable him to do so by granting a certificate of mortgage or a certificate of sale.

Requisites for certificates of mortgage and sale.

73. Before a certificate of mortgage or sale is granted, the applicant shall state to the Registrar, and the Registrar shall enter in the register book, the following particulars:—

(*a*) the name of the person by whom the power mentioned in the certificate is to be exercised;

(*b*) in the case of a mortgage, the maximum amount of charge to be created, if it is intended to fix any such maximum;

(*c*) in the case of a sale, the minimum price at which a sale is to be made, if it is intended to fix any such minimum;

(*d*) the place where the power is to be exercised or, if no place is specified, a declaration that it may be exercised anywhere, subject to the provisions of this Act; and

(*e*) the limit of time within which the power may be exercised.

Restrictions on certificates of mortgage and sale.

74. A certificate of mortgage or sale, as is referred to in section 72, shall not be granted so as to authorize any mortgage or sale to be made—

(*a*) at any place within Ceylon; or

(*b*) by any person not named in the certificate.

Contents of certificates of mortgage and sale.

75. A certificate of mortgage and a certificate of sale shall contain—

(*a*) a statement of the several particulars directed by this Act to be entered in the register book on the application for the certificate; and

(*b*) an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given.

Rules as to certificates of mortgage.

76. The following rules shall be observed as to certificates of mortgage:—

(*a*) the power shall be exercised in conformity with the directions contained in the certificate;

(*b*) every mortgage made thereunder shall be registered by the endorsement of a record thereof on the certificate by a Registrar or Ceylon Consular officer;

(*c*) a mortgage made in good faith thereunder shall not be impeached by reason of the person by whom the power was given dying before the making of the mortgage;

(*d*) whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given;

(*e*) every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and, if there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied or constructive notice, be

entitled one before the other according to the date at which each mortgage is registered on the certificate, and not according to the date of the mortgage;

(*f*) subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate;

(*g*) the discharge of any mortgage so registered on the certificate may be endorsed on the certificate by any Registrar or Ceylon Consular officer, on the production of such evidence as is by this Act required to be produced to the Registrar on the entry of the discharge of a mortgage in the register book; and on that endorsement being made the interest, if any, which passed to the mortgagee shall vest in the same person or persons in whom it would (having regard to intervening acts and circumstances, if any) have vested, if the mortgage had not been made;

(*h*) on the delivery of any certificate of mortgage to the Registrar by whom it was granted he shall, after recording in the register book, in such manner as to preserve its priority, any unsatisfied mortgage registered thereon, cancel the certificate, and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void to all intents.

Rules as to certificates of sale.

77. The following rules shall be observed as to certificates of sale:—

(*a*) a certificate of sale shall not be granted except for the sale of an entire ship;

(*b*) the power shall be exercised in conformity with the directions contained in the certificate;

(*c*) a sale made in good faith thereunder to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying before the making of such sale;

(*d*) wherever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given;

(*e*) a transfer made to a person qualified to be the owner of a Ceylon ship shall be by a bill of sale in accordance with this Act;

(*f*) if a ship is sold to a person qualified to be the owner of a Ceylon ship, the ship shall be registered anew; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book;

(*g*) before registry anew there shall be produced to the Registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship;

(*h*) the last-mentioned Registrar shall retain the certificates of sale and registry and, after having endorsed on both of those instruments an entry of the fact of a sale having taken place, shall forward them to the Registrar of the port appearing thereon to be the former port of registry of the ship, and the last-mentioned Registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein;

(*i*) on such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee;

(*j*) if a ship is sold to a person not qualified to be the owner of a Ceylon ship, the bill of sale by which the ship is transferred, the certificate

of sale, and the certificate of registry shall be produced to a Registrar or Ceylon Consular officer, and that Registrar or officer shall retain the certificates of sale and registry and, having endorsed thereon the fact of that ship having been sold to a person not qualified to be the owner of a Ceylon ship, shall forward the certificates to the Registrar of the port appearing on the certificate of registry to be the port of registry of that ship; and that Registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein;

(*k*) if, on a sale being made to a person not qualified to be the owner of a Ceylon ship, default is made in the production of such certificates as are mentioned in the last preceding rule, that person shall be considered by the law of Ceylon as having acquired no title to or interest in the ship; and further, the person upon whose application the certificate of sale was granted, and the person exercising the power, shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees;

(*l*) if no sale is made in conformity with the certificate of sale, that certificate shall be delivered to the Registrar by whom the same was granted; and he shall thereupon cancel it and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void for all intents and purposes.

Power of Chief Registrar in case of loss of certificate.

78. On proof at any time to the satisfaction of the Chief Registrar that a certificate of mortgage or sale is lost or destroyed, or so obliterated as to be useless, and that the powers thereby given have never been exercised or, if they have been exercised, then, on proof of the several matters and things that have been done thereunder, the Registrar may, with the sanction of the Chief Registrar, as circumstances require either issue a new certificate or direct such

entries to be made in the register books, or such other things to be done, as might have been made or done if the loss, destruction or obliteration had not taken place.

Revocation of certificates of mortgage and sale.

79. (1) The registered owner of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the places where the power thereby given is to be exercised, may, by an instrument under his hand, authorize the Registrar by whom the certificate was granted to give notice to the Registrar or Ceylon Consular officer at every such place that the certificate is revoked.

(2) Notice shall thereupon be given accordingly, and shall be recorded by the Registrar or Ceylon Consular officer receiving it, and after it is recorded the certificate shall be deemed to be revoked and of no effect so far as respects any mortgage or sale to be thereafter made at that place.

(3) After a notice has been recorded under subsection (2), it shall be exhibited to every person applying for the purpose of effecting or obtaining a mortgage or transfer under the certificate.

(4) A Registrar or Ceylon Consular officer shall, on recording any such notice, state to the Registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

CHAPTER 5: MARITIME LIENS.

Application.

80. The provisions of this Chapter shall apply to all sea-going ships registered under this Part.

Restriction on cancellation of registration.

81. Subject to the provisions of sections 92 and 93, the Registrar, or any Ceylon Consular officer at any port where the ship may be, shall not cancel the registration of a ship without the written consent of the holder of any mortgage or other preferential right in such ship, registered under Chapter 4.

Restriction on registration.

82. A ship which is or has been registered in the territory of any State which has ratified or acceded to the International Convention for the Unification of

Certain Rules relating to Maritime Liens and Mortgages concluded at Brussels on 27th May, 1967, shall not be registered under this Part unless—

(*a*) a certificate has been issued by such State to the effect that the ship has been de-registered; or

(*b*) a certificate has been issued by such State to the effect that the ship will be de-registered on the day when such new registration is effected.

Maritime liens.

83. Maritime liens of a ship shall arise out of—

(*a*) wages and other sums due to the master, officers and other members of the ship's complement, in respect of their employment on the ship;

(*b*) port, canal and other waterway dues and pilotage dues;

(*c*) claims against the owner (which term shall for the purposes of this section also include the charterer, manager or operator of the ship) in respect of loss of life or personal injury occurring, whether on land or water, in direct connection with the operation of the ship;

(*d*) claims against the owner, based on a wrongful act and not capable of being based on contract, in respect of loss of or damage to property occurring, whether on land or on water, in direct connection with the operation of the ship;

(*e*) claims for salvage, wreck removal and contribution in general average.

Priority of liens.

Cap. 96.
Cap. 97.

84. The maritime liens set out in section 83 shall take priority over mortgages and preferential rights registered under Chapter 4, or arising under the Crown Debtors Ordinance or the Insolvency Ordinance, and no other claim shall take priority over them, except as is provided in section 86.

Order of priority of liens.

85. The maritime liens set out in section 83—

(*a*) shall rank in the order in which they are set down in that section, provided however that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other

maritime liens which have attached to the ship prior to the time when the operations giving rise to such liens were performed;

(*b*) shall, in the case of claims arising under paragraphs (*a*), (*b*), (*c*) and (*d*) of section 83, rank *pari passu* among themselves;

(*c*) shall, in the case of claims arising under paragraph (*e*) of section 83, rank in the inverse order of the time when the claim secured thereby accrued; and for this purpose claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated, and claims for general average shall be deemed to have accrued on the day on which the general average act was performed.

Rights of shipbuilders and ship repairers. Cap. 96. Cap. 97.

86. Where a preferential right arises, pursuant to the provisions of the Crown Debtors Ordinance or the Insolvency Ordinance in respect of a ship in the possession of—

(*a*) a shipbuilder, in order to secure claims for the building of the ship, or

(*b*) a ship repairer, in order to secure claims for the repair of the ship, effected during such possession,

such right shall be postponed to all the maritime liens set out in section 83 but may take precedence of any mortgage or other preferential right registered under Chapter 4, so long as the ship is in the possession of the shipbuilder or ship repairer, as the case may be.

Overriding nature of maritime liens.

87. The maritime liens set out in section 83—

(*a*) shall arise whether the claims secured by such liens are against the owner, charterer, manager or operator of the ship;

(*b*) shall (subject to the provisions of section 92) follow the ship, notwithstanding any change of ownership or of registration.

Saving in relation to claims arising from radioactive products, &c.

88. A maritime lien shall not attach to a ship to secure a claim under paragraph (*c*) or (*d*) of section 83 where such claim arises out of or results from the radioactive properties (or a combination of the radioactive properties with toxic, explosive or other hazardous properties) of nuclear fuel or of radioactive products or waste.

89. The maritime liens relating to a ship set out in section 83 shall be barred by prescription after a period of one year from the time when the claims secured thereby arose unless, prior to the expiry of such period— Limitation period.

(*a*) the ship has been arrested; and

(*b*) such arrest has led to a forced sale.

90. The one-year period of prescription referred to in section 89 shall not be subject to interruption or suspension, pursuant to the provisions of any written law for the time being in force relating to prescription or the limitation of actions, but any period in which the person in whose favour a maritime lien exists is legally prevented from arresting the ship shall constitute an interruption of such period. When limitation period is interrupted.

91. Prior to the forced sale of a ship, pursuant to the provisions of the Civil Procedure Code or any other law for the time being in force relating to the sale of property in admiralty proceedings, the executing officer shall give or cause to be given thirty days' written notice of the time and place of such sale to— Notice of sale to be given to mortgagees, Registrar, &c. Cap. 101.

(*a*) all holders of mortgages and other preferential rights registered under Chapter 4 which have not been issued to bearer;

(*b*) such holders of such mortgages and rights as have been issued to bearer, whose claims have been notified to such officer;

(*c*) such holders of maritime liens set out in section 83, whose claims have been notified to such officer;

(*d*) the Registrar of the port of registration of the ship.

92. In the event of the forced sale of a ship in accordance with the provisions of the Civil Procedure Code or any other law for the time being in force relating to the sale of property in admiralty proceedings, and this Chapter— Effect of sale on mortgages, &c.

(*a*) all mortgages and other preferential rights registered under Chapter 4 (except those assumed by the purchaser with the consent of the holders thereof); and

(*b*) all liens and other encumbrances of whatsoever nature (but not including a charter party or contract for the use of the ship),

shall cease to attach to the ship.

Disposition of proceeds of sale.

93. The costs awarded by the Court and arising out of the arrest and subsequent sale of a ship and the distribution of the proceeds thereof shall be paid first out of the proceeds of such sale, and the balance shall be distributed among—

(*a*) the holders of maritime liens under section 83;

(*b*) the holders of preferential rights under section 86; and

(*c*) the holders of mortgages and other preferential rights registered under Chapter 4,

in accordance with the provisions of this Chapter and to the extent necessary to satisfy their claims.

When a certificate that a ship is sold free of mortgages, liens, &c., shall issue.

94. When a ship, registered in the territory of any State which has ratified or acceded to the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages concluded at Brussels on 27th May, 1967, has been the subject of a forced sale in Ceylon the executing officer shall, at the request of the purchaser, and on being satisfied that the provisions of this Chapter have been complied with, issue a certificate that the ship is sold free of all mortgages, liens and other rights (except those assumed by the purchaser), provided that the proceeds of such forced sale have been deposited with the authority competent to distribute such proceeds to the persons entitled thereto.

Action by Registrar on receipt of certificate.

95. On receiving from the competent authority of any State referred to in section 94 any certificate of the nature referred to in such section and relating to any ship registered under this Act, the Registrar shall delete from the register all mortgages and other preferential rights relating to such ship (except those assumed by the purchaser) or, as the case may be, issue a certificate of de-registration for the purpose of re-registration.

CHAPTER 6: ALTERATIONS IN SHIPS AND REGISTRY.

Registry of alterations.

96. (1) When a registered Ceylon ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then,—

(*a*) if the alteration is made at any port having a Registrar, that Registrar; or

(*b*) if the alteration is made elsewhere, the Registrar of the first port having a Registrar at which the ship arrives after the alteration,

shall, on application being made to him and on receipt of a certificate from the proper Surveyor stating the particulars of the alteration, either—

(i) cause the alteration to be registered; or

(ii) direct that the ship be registered anew.

(2) If default is made in registering anew a ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees and, in addition, to a fine of one hundred rupees for every day during which the offence continues after conviction.

Regulations for registry of alterations.

97. (1) For the purpose of the registry of an alteration in a Ceylon ship, the ship's certificate shall be produced to the Registrar, and the Registrar shall either—

(*a*) retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered; or

(*b*) endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration so made and the fact of the new certificate having been granted or an endorsement having been made shall be entered by the Registrar of the ship's port of registry in his register book; and for that purpose the Registrar to whom the application for the registry of the alteration has been made (if he is not the Registrar of the ship's port of registry) shall forthwith report to the last-mentioned Registrar the particulars and facts as aforesaid accompanied (where a new certificate of registry has been granted) by the old certificate of registry.

Registry anew on change of ownership.

98. Where the ownership of any Ceylon ship is changed, the Registrar of the port at which the ship is registered may, on the application of the owner of the ship, register the ship anew, although registration anew is not required under this Act.

Procedure for registry anew.

99. (1) Where a ship is to be registered anew, the Registrar—

(*a*) shall proceed as in the case of first registry; and

(*b*) on the delivery up to him of the existing certificate of registry and on the other requisites to registry (or, in the case of a change of ownership, such of them as he thinks material) being duly complied with, shall make such registry anew, and grant a certificate accordingly.

(2) When a ship is registered anew—

(*a*) her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon; but

(*b*) the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the new register, and the registry anew shall not in any way affect the rights of any of those persons.

Provisional certificate and endorsement where a ship is to be registered anew.

100. (1) Where any Registrar, not being the Registrar of the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate describing the ship as altered or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in Ceylon, be delivered to the Registrar thereof and that Registrar shall cause the ship to be registered anew.

(3) The Registrar granting a provisional certificate or provisionally endorsing a certificate under this section shall add to the certificate or endorsement a statement that the same is made provisionally, and shall

send a report of the particulars of the case to the Registrar of the ship's port of registry containing a similar statement as the certificate or endorsement.

Transfer of registry.

101. (1) The registry of any Ceylon ship may be transferred from one port to another on the application to the Registrar of the existing port of registry of the ship, made by declaration in writing of all persons appearing on the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2) On any application made under sub-section (1), the Registrar shall transmit notice thereof to the Registrar of the intended port of registry with—

(*a*) a copy of all documents relating to the ship; and

(*b*) the names of all persons appearing on the register to be interested therein as owners or mortgagees.

(3) The ship's certificate of registry shall be delivered up to the Registrar either of the existing or intended port of registry and, if delivered up to the former, shall be transmitted to the Registrar of the intended port of registry.

(4) On the receipt of the above documents the Registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry, and thereafter such ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

Restriction on re-registration of abandoned ships.

102. Where a ship has ceased to be registered as a Ceylon ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a Ceylon ship, the ship shall not be re-registered until such ship has, at the expense of the applicant for registration, been surveyed by a Surveyor and certified by him to be seaworthy.

CHAPTER 7: MISCELLANEOUS PROVISIONS.

Provision for case of incapacity.

103. Where by reason of infancy, lunacy or any other cause any person interested in any ship, or any share therein, is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connection with the registry of the ship or share, the guardian, if any, of that person, or if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any Court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on behalf of the incapable person; and all things done by the substitute shall be as effectual as if done by the person for whom he is substituted.

Notice of trusts not received.

104. No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the Registrar, and (subject to any rights and powers appearing by the register book to be vested in any other person) the registered owner of a ship or of a share therein shall have power absolutely to dispose in manner by this Act provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

Liability of owners.

105. Where any person has any beneficial interest (otherwise than by way of mortgage) in any ship or share in a ship registered in the name of some other person or owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

Definition of beneficial interest.

106. The expression "beneficial interest", used in sections 35 and 105, includes interests arising under contract, and other equitable interests; and the intention of this Act is that, without prejudice to—

(*a*) the provisions of this Act for the granting of notice of trust from being entered in the register book or received by the Registrar; or

(*b*) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees; or

(*c*) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Ceylon ships,

interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interests therein, in the same manner as in respect of any other personal property.

Managing owner, &c.

107. (1) The name and address of the managing owner for the time being of every ship registered at a port in Ceylon shall be registered at the shipping office of that port.

(2) Where there is no managing owner, there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

(3) If default is made in complying with this section the owner or, if there are more owners than one each owner, shall be guilty of an offence and on conviction thereof shall be liable, in proportion to his interest in the ship, to a fine not exceeding in the whole two thousand rupees each time the ship leaves any port in Ceylon.

Power to dispense with declarations, &c.

108. When, under this Part, any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to a Registrar, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Chief Registrar, on the production of such other evidence, and subject to such terms as he may think fit, dispense with the declaration or evidence.

Mode of making declarations.

109. (1) Declarations required by this Part shall be made before—

(*a*) a Registrar;

(*b*) a Magistrate or Justice of the Peace;

(*c*) any Master Attendant; or

(*d*) a Ceylon Consular officer.

(2) Declarations required by this Part may be made on behalf of a body corporate—

(*a*) by the secretary; or

(*b*) by any other officer of the body corporate, authorized by that body for the purpose.

Returns to be made by Registrars.

110. Every Registrar at a port in Ceylon shall, on or before the first day of February and the first day of August in every year, or on such other days as the Minister may prescribe, transmit to the Chief Registrar—

(*a*) a full return in such form as the Chief Registrar may require, of all registries, transfers, transmissions, mortgages and other dealings with ships which have been registered by or communicated to him in his capacity as Registrar, and of the names of the persons concerned in the same, and of such other particulars as may be required by the Chief Registrar; and

(*b*) a list of all Ceylon ships registered at the port, and also of all such ships whose registries have been transferred or cancelled at that port since the last preceding return.

Evidence of register book, certificate of registry and other documents.

111. (1) Any person may, on payment of a fee of one rupee, or such other fee as the Minister may prescribe, on application to the Registrar at any reasonable time during the hours of his official attendance inspect any register book.

(2) The following documents shall be admissible in evidence in the manner provided by this Act:—

(*a*) any register book under this Part, on its production from the custody of the Registrar or other person having the lawful custody thereof;

(*b*) a certificate of registry under this Act, purporting to be signed by a Registrar or other proper officer;

(*c*) an endorsement on a certificate of registry purporting to be signed by a Registrar or other proper officer;

(*d*) every declaration made in pursuance of this Part in respect of a Ceylon ship.

Forgery of documents.

112. Any person who—

(*a*) forges or fraudulently alters;

(*b*) assists in forging or fraudulently altering; or

(*c*) procures to be forged or fraudulently altered,

any of the following documents, namely, any register book, builder's certificate, Surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage or certificate of sale or mortgage under this Part, or any entry or endorsement required by this Part to be made in or on any such document, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such fine and imprisonment.

False declarations.

113. (1) Any person who, in the case of any declaration made in the presence of or produced to a Registrar under this Part, or in any document or other evidence produced to such Registrar,—

(*a*) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of or the interest existing in any ship or share in a ship; or

(*b*) utters, produces or makes use of any declaration or document containing any such false statement, knowing such declaration or document to be false,

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

(2) Any person who wilfully makes a false declaration concerning the qualification of himself or of any other natural person or of any body corporate to own a Ceylon ship shall (without prejudice to sub-section (3)) be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description

for a term not exceeding one year, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

(3) Any ship or share which is the subject of any false declaration referred to in sub-section (2) shall be subject to forfeiture under this Act, to the extent of the interest of the person making the declaration, unless it is proved that the declaration was made without the authority of any person or body corporate on behalf of whom the declaration was made.

CHAPTER 8: RIGHTS AND OBLIGATIONS OF CEYLON AND OTHER SHIPS.

Trade in Ceylon waters.

114. (1) Subject to the provisions of sub-section (3) and of—

(*a*) any regulations made or exemptions given under this Act; or

(*b*) any treaty or agreement with any foreign Government,

only Ceylon ships may trade in Ceylon waters.

(2) A person or body corporate not qualified to own a Ceylon ship as provided by section 30 shall not charter or otherwise engage any Ceylon ship for trade in Ceylon waters, except under and in accordance with such conditions as the Minister may direct or prescribe.

(3) The provisions of this section shall not apply to any boat licensed under the Boats Ordinance. Cap. 198.

(4) The master, owner or agent of any ship contravening sub-section (1), and any person or body contravening sub-section (2), shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand rupees; and in addition any ship involved in such offence, shall be liable to be detained.

(5) In this section, "trade in Ceylon waters" means—

(*a*) the transport of passengers or goods; or

(*b*) towing,

from one port or place in Ceylon waters to another such port or place, for profit or reward.

National character of ship to be declared on clearance.

115. (1) An officer of customs shall not grant a clearance for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that such ship belongs, and that officer shall thereupon write such name on the clearance.

(2) If a ship attempts to go to sea without such clearance such ship may be detained until the declaration is made.

Penalty for unduly assuming Ceylon character.

116. (1) If a person uses the Ceylon flag and assumes the Ceylon national character on board a ship owned in whole or in part by any person not qualified to own a Ceylon ship, for the purpose of making the ship appear to be a Ceylon ship, the ship shall be subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(2) In any proceeding for enforcing any such forfeiture, the burden of proving a title to use the Ceylon flag and assume the Ceylon national character shall lie upon the person using and assuming the same.

Penalty for concealment of Ceylon or assumption of foreign character.

117. (1) If the master or owner of a Ceylon ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents with intent—

(*a*) to conceal the Ceylon character of the ship from any person entitled by the law of Ceylon to inquire into such matter;

(*b*) to assume a foreign character; or

(*c*) to deceive any person so entitled as aforesaid,

the ship shall be subject to forfeiture under this Act.

(2) If the master of such ship commits or is privy to the commission of the offence in sub-section (1) he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

Penalty for acquiring ownership if unqualified.

118. If an unqualified person acquires as owner (otherwise than by such transmission as is hereinbefore provided) any interest, either legal or beneficial, in a ship using a Ceylon flag and assuming a Ceylon character, that interest shall be subject to forfeiture under this Act.

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Liabilities of ship not recognized as Ceylon ship.

119. Where it is declared by this Act that a Ceylon ship shall not be recognized as a Ceylon ship, that ship shall not be entitled—

(*a*) to any benefits, privileges, advantage or protection usually enjoyed by Ceylon ships; or

(*b*) to use the Ceylon flag or assume the Ceylon national character,

but so far as regards the payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if the ship were a recognized Ceylon ship.

National colours.

120. (1) The Minister may, by Notification published in the *Gazette*, declare what shall be the proper national colours for all ships registered under this Act, and for all ships which are not registered but which are owned by the Government or by any local authority or by any body corporate established by or under any law for the time being in force in Ceylon or by a citizen of Ceylon; and different colours may be so declared for different classes of ships.

(2) If any distinctive national colours, other than the Ceylon national colours declared under sub-section (1), are hoisted on board any Ceylon ship, the owner of the ship, unless he proves that they were hoisted without his knowledge or consent, and the master of the ship and any person hoisting such colours shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five thousand rupees.

(3) Any officer of the Royal Ceylon Navy or any officer of customs, or any Ceylon Consular officer, or a Shipping Officer, may board any ship on which any colours are hoisted contrary to this Act and seize and take away the colours which shall be forfeited to the Government.

Showing of national ensign.

121. (1) A Ceylon ship shall hoist the Ceylon national ensign—

(*a*) on a signal being made to the ship to such effect by a ship of the Royal Ceylon Navy or by a ship in the service of the Government and carrying out the provisions of this Act;

(*b*) on entering or leaving any Ceylon or foreign port;

(*c*) when passing a warship of the Royal Ceylon Navy or any foreign navy; or

(*d*) while in a Ceylon port, from sunrise to sunset.

(2) If default is made on board any such ship in complying with the provisions of this section, the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

(3) This section shall not apply to fishing boats exclusively employed in fishing.

CHAPTER 9 : FORFEITURE OF SHIP.

Proceedings on forfeiture of ship.

122. (1) Where any ship has, either wholly or as to any share therein, become subject to forfeiture under this Part—

(*a*) the Director;

(*b*) any Master Attendant;

(*c*) any Shipping Officer;

(*d*) any officer of customs;

(*e*) any officer in the armed forces of Ceylon;

(*f*) any person specially or generally authorized by the Minister to detain a ship,

may seize and detain the ship in accordance with the provisions of section 294, and bring the ship for adjudication before the Supreme Court, or a District Court having admiralty jurisdiction under section 3 of the Ceylon Courts of Admiralty Ordinance. Cap. 9.

(2) The Court may thereupon—

(*a*) adjudge the ship with her tackle, apparel and furniture to be forfeited to the Government;

(*b*) make such order in the case as to the Court seems just; and

(*c*) award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the Court thinks fit.

Protection of officers.

123. Any officer referred to in sub-section (1) of section 122 shall not be responsible either civilly or criminally to any person in respect of any seizure or detention made under such section, notwithstanding that the ship has not been brought in for adjudication or, if so brought in, is declared not liable to forfeiture, if it is shown to the satisfaction of the Court before whom any trial relating to such ship or seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the Court may award costs and damages to any party aggrieved, and make such other order in the matter as the Court thinks fit.

PART IV—MASTERS AND SEAMEN

CHAPTER 1: PRELIMINARY.

Application.

124. The provisions of this Part shall not, except to such extent and subject to such conditions as the Minister may prescribe, apply—

(*a*) to ships which are not sea-going ships;

(*b*) to masters and seamen employed in ships which are not sea-going ships.

Interpretation.

125. In this Part—

" dying in a ship " includes reference to dying in a ship's boat and to being lost from a ship or a ship's boat;

" proper officer " means, in relation to a port in a country outside Ceylon, a Consular officer, or in the case of a port in a Commonwealth country, any officer exercising in that port functions similar to a Shipping Officer.

CHAPTER 2: QUALIFICATIONS AND MANNING.

Regulations relating to qualifications of officers and seamen, the manning of ships, &c.

126. (1) The Minister may make such regulations as he considers necessary or expedient to provide for the qualifications of officers and seamen of, and the manning requirements for, Ceylon ships and for matters connected therewith, and without prejudice to the generality of such powers, may make regulations making provisions for—

(*a*) requiring officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships to

be holders of certificates of competency, authorization or efficiency or otherwise and to satisfy such other conditions as may be prescribed, and providing for the grant, revocation, extension, validation, suspension, endorsement or variation of such certificates;

(*b*) the holding and conduct of examinations for such certificates, the qualifications of candidates for such examinations and the qualifications of, appointment, removal and reappointment of and remuneration to be paid to examiners, the fees for such examinations, and all such acts as the Minister thinks necessary or expedient for the purpose of such examinations;

(*c*) the issue, form and recording of certificates of competency, authorization and efficiency, and other documents;

(*d*) the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for such certificates;

(*e*) the recognition, subject to such conditions as may be prescribed, of specified certificates of competency, authorization or efficiency issued by other countries, the declaration that such certificates shall have the same force and effect as if they had been granted in Ceylon, and the application to such certificates of all or any of the provisions and regulations relating to certificates of competency, authorization or efficiency issued in Ceylon;

(*f*) the exemption of holders of certificates of competency, authorization or efficiency issued in other specified countries from all or such part or parts as may be prescribed of the examinations for corresponding Ceylon certificates of competency;

(*g*) such ships to be provided with only certificated or qualified officers and seamen, at least to a scale prescribed by the Minister, when going to sea from any place, whether within or outside Ceylon;

(*h*) the minimum number and grades of officers and seamen in possession of valid certificates to be carried on different classes and types of

ships and the procedure to be followed whether within or outside Ceylon when such number is short of an officer or seaman;

(*i*) the manning requirements in relation to such classes or descriptions of ship as may be prescribed;

(*j*) the production and admissibility in evidence of certificates and such other documents as may be prescribed;

(*k*) the refusal of port clearance or the detention of any ship on failure to comply with the provisions of any regulations made under this section.

(2) Regulations made under this section may provide for the imposition of penalties of imprisonment of either description for a term not exceeding two years, or to a fine not exceeding ten thousand rupees, or both such imprisonment and fine.

CHAPTER 3: CONDITIONS OF SERVICE.

Regulations relating to conditions of service, &c.

127. (1) The Minister may make such regulations as he considers necessary or expedient to provide for the conditions of service of those serving in Ceylon ships and matters connected therewith, and without prejudice to the generality of such powers, may make regulations providing for—

(*a*) apprenticeship to the sea service, the exemption from stamp duty of indenture of apprenticeship, the production to such officers as may be prescribed of such indentures, and other matters relating to such apprenticeship;

(*b*) the making of and procedures relating to agreements in writing between each person employed in a ship registered in Ceylon, and the owner or other person so employing him, the procedure to be followed in connection with the engagement of persons employed in ships registered in Ceylon and the maintenance of a list of crews of ships registered in Ceylon;

(*c*) the engagement of citizens of Ceylon as officers and seamen by foreign ships at any port in Ceylon;

(*d*) the engagement of foreign nationals as officers and seamen in Ceylon ships;

(*e*) the employment in ships of persons under the age of eighteen years and the circumstances in which and the conditions subject to which such persons may be employed in different employments and different descriptions of ships and in any other different circumstances;

(*f*) the implementation in whole or in part of any international convention relating to the employment, welfare, security, certification or status of officers and seamen;

(*g*) the master of a ship maintaining a list of persons under the age of eighteen years engaged in the ship, showing their dates of birth and such other details as may be prescribed;

(*h*) prohibiting (except subject to such extent and on such conditions as may be prescribed) the employment of persons under the age of eighteen years as trimmers or stokers in ships;

(*i*) the medical examination of persons employed in ships;

(*j*) the engagement of officers and seamen;

(*k*) the admissibility of documents in evidence and the proof in legal or other proceedings by an officer or seaman of the contents of any agreement with the crew or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof;

(*l*) the particulars to be included in articles of agreement referred to in paragraph (*b*) of this sub-section;

(*m*) the avoidance of agreements made contrary to such regulations as may be prescribed;

(*n*) the fees to be paid on engagement and discharge;

(*o*) the entry on board any foreign ship in which any citizen of Ceylon is engaged and the taking of such records as may be prescribed for ensuring the due protection of such citizens within the terms of any regulation made under this section;

(*p*) the procedure to be followed and the liabilities to be assumed by the owners and masters of ships, and officers and seamen, or termination of employment for any reason;

(*q*) restriction on suits relating to the wages of officers and seamen;

(*r*) the issue, cancellation, production and inspection of continuous discharge certificate books and such other documents as may be prescribed relating to the commencement or termination of employment;

(*s*) the payment of advances, allotments, forfeitures and the recovery of wages and other remuneration of persons employed in ships registered in Ceylon;

(*t*) the protection of the rights and remedies of an officer or seaman in relation to his wages or other remuneration;

(*u*) the adjudication of questions as to wages and other remuneration by such officers or authorities as may be prescribed;

(*v*) the circumstances in which a right or a loss of a right to wages or other remuneration may occur;

(*w*) the right of suing on any note or other document evidencing an allotment of wages;

(*x*) the right to recover wages and salvage not to be subject to forfeiture;

(*y*) the payment of wages on the termination of employment;

(*z*) the recovery of wages, the venue of and procedure relating to actions for such recovery of wages, the damages and expenses caused by or arising out of any breach of contract by an officer or seaman, and the setting off of any claims therefor against arrears of wages;

(*aa*) the payment of interest (not exceeding twenty *per centum per annum*) in respect of arrears of wages;

(*bb*) freezing wages from attachment or arrest from any Court, providing that an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same, providing that a power of attorney or authority for the receipt of wages shall

not be irrevocable, and providing that a payment of wages to an officer or seaman shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment, encumbrance or arrest thereof;

(*cc*) the procedure to be followed in relation to the property of persons dying in a ship, the payment over of such property by such officers as may be prescribed, the restriction of claims upon such property by creditors (including the prescribing of limitation periods in respect thereof) and the disposition of the property of such persons;

(*dd*) the relief, maintenance and repatriation of persons employed in Ceylon ships who are left or in distress abroad, and the recovery from any person or authority of any expenses incurred in connection therewith;

(*ee*) the scale and standards of provisions and water to be provided for crews, complaints relating to provisions and water, and the maintenance on board ships of accurate weights and measures;

(*ff*) the scales of medicines and medical stores to be carried in different classes of ships and on different voyages, the instructions for dispensing medicines and treating injuries and illness, and the expenses of medical attendance and the recovery thereof;

(*gg*) the accommodation to be provided for officers and seamen in a ship of any class prescribed, the position in the ship of such accommodation, the standards to be observed in the construction, equipment and furnishing of such ship, the approval of the plans and specifications thereof, the maintenance, repair and inspection of such accommodation, and the regulation of its use;

(*hh*) the making of complaints against the master or any member of the crew;

(*ii*) disciplinary offences, the discipline of officers and seamen, the imposition of fines and other penalties on persons committing offences against discipline or against laws relating to customs and immigration, the prescribing

of offences which can be dealt with by a master, the procedure to be followed in disciplinary matters, the recovery and disposal of fines imposed therein, the remittance or reduction of any fine or penalty imposed by a master, the arrest and detention on board ship of any person whose arrest and detention is in the opinion of the master necessary or expedient in the interests of safety or for the preservation of good order or discipline, the powers of a master to disrate for incompetence, the making of appeals to such authority as may be prescribed, and the delegation by a master of disciplinary powers vested in him;

(*jj*) the procedure for inquiries into deaths;

(*kk*) a standard uniform for the merchant navy;

(*ll*) the business of Shipping Officers and the fees to be payable in relation to the work performed by such officers;

(*mm*) the form and issue of Ceylon seamen's identity cards, the production, endorsement and withdrawal of such cards and matters connected therewith;

(*nn*) the setting up of ship's disciplinary committees and the procedure and powers of such committees;

(*oo*) the establishment of seamen's employment office;

(*pp*) the refusal of port clearance or the detention of any ship on failure to comply with the provisions of any regulation made under this section.

(2) Subject to the provisions of sub-section (3), regulations made under this section may provide for the imposition of penalties of imprisonment of either description for a term not exceeding two years, or a fine not exceeding three thousand rupees, or both such fine and imprisonment.

(3) Regulations made under this section—

(*a*) relating to offences concerning the property of deceased seamen, may provide for the imposition of fines up to amounts not exceeding three times the value of such property;

(*b*) relating to the civil liability of seamen in relation to offences under laws relating to customs and immigration, may regulate or limit the damages payable or recoverable in respect thereof.

CHAPTER 4: DOCUMENTATION AND RETURNS.

Regulations relating to official log-books.

128. The Minister may make regulations providing for—

(*a*) the form of and the particulars to be entered in official log-books, and requiring such log-books to be kept in such ships as may be prescribed;

(*b*) the persons by whom entries in log-books are to be made, signed or witnessed;

(*c*) the procedure to be followed in the making of such entries and in their correction, amendment or cancellation;

(*d*) requiring the production or delivery of log-books to such persons, in such circumstances and within such times as may be prescribed;

(*e*) the making of copies of or extracts from official log-books, and their admissibility in evidence;

(*f*) exempting ships of any description from any requirements of any regulations made under this section, either generally or in such circumstances as may be prescribed.

Regulations relating to returns of births and deaths in Ceylon ships.

129. The Minister may make regulations providing for the recording of births and deaths occurring in ships registered in Ceylon, and of deaths (wherever occurring) of officers and seamen employed in such ships, and without prejudice to the generality of such powers, may make regulations providing for—

(*a*) requiring the master of any such ship to record any such birth or death and to send a return thereof to a Shipping Officer or other officer or authority;

(*b*) requiring the master of any such ship to notify any such death to such person (if any) as the deceased may have named to him as his next of kin;

(*c*) requiring the transmission of returns by Shipping Officers and other officers and authorities to such authority as may be prescribed;

(*d*) the preservation and filing in a register of such information as may be desirable for the purpose of ensuring the completeness and correctness of a register of such births and deaths;

(*e*) any incidental or supplementary matters for which the Minister may think it expedient to provide for the purposes of the regulations.

Regulations relating to returns of births and deaths of citizens in ships not registered in Ceylon.

130. The Minister may make regulations providing for the recording of births and deaths of citizens of Ceylon occurring in ships not registered in Ceylon, and without prejudice to the generality of such powers, may make regulations providing for—

(*a*) requiring the master of any such ship which calls at a port in Ceylon in the course of or at the end of a voyage to make a return to such authority as may be prescribed of any such birth or death which has occurred in the ship during the voyage;

(*b*) the preservation and filing in any register kept under any regulations made under paragraph (*d*) of section 129 of any information desirable for the purpose of ensuring the completeness and correctness of a register of such births and deaths;

(*c*) authorizing the registration of any birth or death of a citizen of Ceylon which occurs outside Ceylon in a ship not registered in Ceylon and of which no return may be required pursuant to any regulations made under paragraph (*a*) of this section;

(*d*) any incidental or supplementary matters for which the Minister may think it expedient to provide for the purpose of the regulations.

Handing over of documents on change of master.

131. If a person ceases to be the master of a ship registered in Ceylon during a voyage of the ship, he shall deliver or cause to be delivered to his successor the documents relating to the ship or its crew which are in his custody; and if he fails without reasonable cause to do so he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

CHAPTER 5: GENERAL.

Stowaways.

132. (1) If a person, without the consent of the master or of any other person authorized to give it, goes to sea or attempts to go to sea (whether within or outside Ceylon) in a ship registered in Ceylon he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(2) Nothing in section 290 shall be taken to limit the jurisdiction of any Court in Ceylon to deal with an offence under sub-section (1) which has been committed in a country outside Ceylon by a person who is not a citizen of Ceylon.

Unauthorized presence on board ship.

133. Where a ship registered in Ceylon or any other country is in a port in Ceylon and a person who is neither a public officer nor authorized by law to do so—

(*a*) goes on board the ship without the consent of the master thereof, or of any other person authorized to give consent; or

(*b*) remains on board the ship after being requested to leave by the master, a Shipping Officer, a police officer or an officer of customs,

such person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Master's power of arrest.

134. The master of any ship registered in Ceylon may cause any person on board the ship to be put under restraint if and for so long as it appears to him to be necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Unregistered Ceylon ship.

135. The Minister may make regulations specifying any description of Ceylon ships which are not registered in Ceylon or elsewhere and directing that such of the provisions of this Part and of any regulations and rules made thereunder as may be prescribed shall extend to ships of that description and to masters and seamen employed in them with such exceptions, adaptations and modifications as may be prescribed.

National Welfare Board for seamen.

136. (1) The Minister may, by Notification published in the *Gazette*, constitute an advisory board to be called the National Welfare Board for seamen (hereinafter referred to as " the Board ") for the purpose of advising the Minister on the measures to be taken for promoting the welfare of seamen (whether ashore or on board ships) generally, and particularly the following:—

(*a*) the establishment of hostels or boarding and lodging houses for seamen;

(*b*) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seamen;

(*c*) the establishment of hospitals for seamen or the provision of medical treatment for seamen;

(*d*) the provision of educational and other facilities for seamen.

(2) The Minister may make rules providing for—

(*a*) the composition of the Board and the term of office of members thereof;

(*b*) the procedure to be followed in the conduct of business by the Board;

(*c*) the travelling and other allowances payable to members of the Board;

(*d*) the levy of fees payable by owners of ships at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seamen and for taking other measures for the welfare of seamen;

(*e*) the procedure by which any such fees may be collected or recovered and the manner in which the proceeds of such fees, after deduction of the cost of collection, shall be utilized for the purpose specified in paragraph (*d*) of this sub-section.

Prohibition of the maintenance of a seamen's lodging house without a licence.

137. (1) No person shall maintain a seamen's lodging house, except under the authority of a licence issued in that behalf by the Director and in accordance with such terms and conditions as may be prescribed.

(2) Any person acting in contravention of subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one thousand rupees.

PART V—CONSTRUCTION, EQUIPMENT AND SURVEY

CHAPTER 1: PRELIMINARY.

138. (1) In this Part,— Interpretation.

" cargo ship " means any ship which is not a passenger ship;

" certificate " means, unless the context otherwise requires, the appropriate certificate issued under section 143 or section 144, as the case may be;

" Convention certificate " means a certificate issued in accordance with the Convention;

" Convention " means the International Convention for the Safety of Life at Sea signed at London on 17th June, 1960, being Annex A to the Final Act of the International Conference on Safety of Life at Sea, 1960, and other Annexes thereto;

" country to which the Convention applies " means—

(*a*) a country the Government of which has been declared by the Minister, by Notification published in the *Gazette*, to have accepted the Convention, and which has not been so declared to have denounced the Convention; and

(*b*) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend;

" fishing vessel " means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;

" international voyage " means a voyage from a port or place in Ceylon to a port or place outside Ceylon, or a voyage to Ceylon from a port or place outside Ceylon;

" passenger " means any person carried in a ship, other than—

(*a*) the master and the members of the crew or other persons employed or engaged in any capacity on board the ship on the business of the ship;

(*b*) a person on board the ship, either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner could have prevented or forestalled; or

(*c*) a child under one year of age;

" passenger ship " means a ship which carries more than twelve passengers;

" Surveyor " includes any person duly acting as a Surveyor on behalf of any organization approved by the Minister under section 149.

(2) In relation to the definition of " international voyage " in sub-section (1), no account shall be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

CHAPTER 2: POWERS OF MINISTER.

Regulations relating to safety at sea.

139. (1) The Minister may make such regulations as he considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for safety at sea and for carrying out the Convention, any Annex thereto and any amendments or replacements of such Convention and Annexes, and without prejudice to the generality of such powers, may make regulations making provision for—

(*a*) the inspection and survey of ships, their equipment and installations, and the form, issue and duration of certificates relating thereto;

(*b*) the validity of certificates issued by countries to which the Convention applies;

(*c*) the investigation of shipping casualties;

(*d*) the construction, sub-division and stability of ships, their equipment, machinery and electrical installations, fire protection, fire detection and extinction in passenger and cargo ships, the general fire precautions to be taken on such ships and special fire safety measures for passenger ships;

(*e*) life-saving appliances and procedures;

(*f*) radiotelegraphy and radiotelephony;

(*g*) safety of navigation;

(*h*) the carriage of grain;

(*i*) the carriage of dangerous goods;

(*j*) nuclear ships;

(*k*) the form of certificates to be issued under the regulations;

(*l*) such matters as are to be prescribed under this Part;

(*m*) generally giving effect to the provisions of the Convention and any amendments of such Convention.

(2) Every omission or neglect to comply with and every act done or attempted to be done without reasonable cause and contrary to the provisions of any regulations made under this section shall be an offence and in respect of any such offence the offender shall (subject to any other provision in this Act or in such regulations) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

140. Nothing in this Part or in any regulations made thereunder shall, unless it is expressly otherwise provided by such regulations, apply to— **Saving.**

(*a*) ships of war and troopships;

(*b*) cargo ships of less than five hundred tons gross tonnage;

(*c*) ships not propelled by mechanical means;

(*d*) wooden ships of primitive build;

(*e*) pleasure yachts not engaged in trade;

(*f*) fishing vessels.

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Power of Minister to exempt.

141. (1) The Minister may by order exempt any ship or classes of ships from any requirements of any regulations made under this Part, either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to the powers conferred on him by sub-section (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister may, if he considers that the ship complies with safety requirements adequate for the voyage, exempt the ship from any of the safety requirements imposed under this Part.

(3) The owner, agent or master of a Ceylon ship which is exempt from any of the safety provisions or requirements imposed under this Part shall, on application to any person appointed in such behalf by the Minister, receive a certificate in the prescribed form, to be called an " exemption certificate ".

Saving relating to ships taking refuge from weather, &c.

142. Notwithstanding that any provision of this Part or of any regulations made hereunder is expressed to apply to ships which are not Ceylon ships while they are within any port in Ceylon, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any such other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

CHAPTER 3: CERTIFICATES AND SURVEY.

Prohibition on passenger ship sailing without certificates.

143. (1) A passenger ship shall not go to sea on a voyage to or from any port or place in Ceylon, unless there is in force in respect of the ship either—

(*a*) a passenger ship safety certificate; or

(*b*) a qualified passenger ship safety certificate and an exemption certificate,

being certificates which by the terms thereof are applicable to the voyages on which the ship is about to proceed and to the trade in which such ship is for the time being engaged.

(2) If any passenger ship goes or attempts to go to sea in contravention of sub-section (1), the owner or the master of the ship shall be guilty of an offence and

on conviction thereof shall be liable to a fine not exceeding two hundred rupees for every passenger carried on board the ship.

Prohibition on cargo ship sailing without certificates.

144. (1) A cargo ship of five hundred tons gross or more shall not go to sea on a voyage to or from any port or place in Ceylon, unless there is in force in respect of the ship either—

(*a*) a cargo ship safety construction certificate, a cargo ship safety equipment certificate and a cargo ship safety radiotelegraphy certificate or a cargo ship safety radiotelephony certificate; or

(*b*) a qualified cargo ship safety equipment certificate and a qualified cargo ship safety radiotelegraphy certificate or, as the case may be, a qualified cargo ship safety radiotelephony certificate.

(2) A cargo ship of less than five hundred tons gross shall not go to sea on a voyage from any port or place in Ceylon, unless there is in force in respect of such ship—

(*a*) such certificate as may be prescribed; or

(*b*) in the case of foreign ships such equivalent certificates as are acceptable to the Director.

(3) If any cargo ship goes or attempts to go to sea in contravention of sub-section (1) or (2), the owner or the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Variation of certificates on amendment, &c., of Convention.

145. In the event of any amendment or replacement of any provisions of the Convention affecting the nature or number of the certificates referred to in sub-section (1) of section 143 and section 144, the Minister may by order direct that such sub-sections shall have effect as if there were substituted therefor references to such other certificate, appropriate to the Convention as so amended, as the Minister may by such order prescribe.

Production of certificates.

146. The master of every passenger or cargo ship shall produce to the Shipping Officer, at the time a clearance for the ship is demanded for an international voyage, the certificate or certificates required by section 143 or section 144 as the case may be, to be in

force when the ship goes to sea; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

Surveys and declarations of survey.

147. (1) The owner, the master or the agent of a ship requiring the issue of any certificate referred to in section 143 or section 144 shall apply for the ship to be surveyed.

(2) The Surveyor conducting the survey shall, if he is satisfied that the ship complies with the relevant prescribed conditions, complete a declaration of survey in a form approved by the Minister.

(3) The declaration of survey shall be sent forthwith by the Surveyor to the Director.

Issue of certificates.

148. Upon receipt of the declaration of survey of a ship referred to in section 147 the Director shall, if satisfied that the relevant provisions of this Part and the regulations made thereunder have been complied with, issue such certificate, of the kind referred to in section 143 or section 144, as may be appropriate to such ship.

Minister may approve organizations to survey ships and issue certificates.

149. (1) The Minister may also approve any organization for the purpose of surveying ships and issuing certificates referred to in sections 143 and 144 of this Act and may prescribe the conditions under which such organization shall be so approved.

(2) Every certificate issued by an organization approved under sub-section (1) shall have effect for the purposes of this Act as if it had been issued under section 148.

Period of validity of certificate.

150. A certificate shall not remain in force—

(*a*) for longer than such period as may be specified in the certificate, or as may be prescribed; or

(*b*) after notice has been given to the owner, agent or master that the Minister has cancelled the certificate under section 151;

and shall not remain in force during the period of any suspension made under such section.

Cancellation or suspension of certificates.

151. (1) The Minister may cancel or suspend a certificate relating to any ship where he has reason to believe that—

(*a*) any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously;

(*b*) the certificate has been issued on false or erroneous information; or

(*c*) since the making of the declaration of survey the hull, equipment or machinery of the ship has sustained any injury, or is otherwise insufficient.

(2) In every such case the Minister may require the owner to have the ship again surveyed, and to obtain a further declaration of survey before the re-issue of the certificate or the grant of a fresh one in lieu thereof.

Surrender of certificates.

152. (1) The Minister may order that a certificate which has expired or been cancelled or suspended shall be delivered to such person or authority as he may direct.

(2) Any owner or master who, without reasonable cause, fails to comply with an order issued under sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

Recognition of certificates issued outside Ceylon.

153. A valid Convention certificate issued in respect of a ship, other than a Ceylon ship, by the Government of the country to which the ship belongs shall, subject to such requirements or provisions as may be prescribed, have the same effect in Ceylon as the corresponding certificate issued in respect of a Ceylon ship under this Part.

Issue of certificates to foreign ships in Ceylon, and to Ceylon ships in foreign countries.

154. (1) The Minister may, at the request of the Government of a country to which the Convention applies, cause an appropriate Convention certificate to be issued in respect of a ship registered in that country, if he is satisfied that such certificate can properly be issued; and where the certificate is issued at such request, it shall contain a statement that it has been so issued.

(2) The Minister may request the Government of a country to which the Convention applies to issue an appropriate Convention certificate in respect of a Ceylon ship; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister.

Penalty for alteration in ship after certificate has been issued.

155. Any owner, master or agent of a ship in respect of which a certificate has been issued who, knowingly or negligently, without reasonable cause does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship or other matters to which the certificate relates shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Penalty for forgery of certificate or declaration.

156. Any person who—

(*a*) knowingly and wilfully makes or assists in making or procures to be made a false or fraudulent certificate or declaration of survey issued under section 147; or

(*b*) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered any such certificate or declaration,

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

CHAPTER 4: GENERAL.

Information about ship's stability.

157. (1) There shall be carried on board every Ceylon ship whose keel is laid after the appointed date such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The information required by sub-section (1) shall be in such form as may be approved by the Minister, and the Minister may approve the provision of such information in the form of a diagram or drawing only.

(3) When any information under this section is provided for any ship, the owner thereof shall send a copy to the Minister:

Provided, however, that the owner shall not be required to send a copy of any information to the Minister if a previous copy of the same information has been sent to the Minister.

(4) Any owner or master of any ship referred to in sub-section (1) which goes or attempts to go to sea without the information required by that sub-section on board shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Signalling lamps.

158. (1) No Ceylon ship, being a ship of over one hundred and fifty tons gross tonnage, shall go to sea on an international voyage, unless the ship is provided with an efficient signalling lamp.

(2) If a ship goes or attempts to go to sea in contravention of sub-section (1), the owner or master thereof shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

PART VI—LOAD LINES

CHAPTER 1: PRELIMINARY.

Interpretation.

159. In this Part—

" Convention certificate " means a certificate issued in accordance with the Convention of 1966;

" Convention of 1966 " means the International Convention on Load Lines signed in London on 5th April, 1966;

" Convention country " means—

(*a*) a country the Government of which has been declared by the Minister, by Notification published in the *Gazette*, to have accepted the Convention of 1966; and which has not been so declared to have denounced that Convention; and

(*b*) a territory to which it has been so declared that the Convention of 1966 extends, not being a territory in which it has been so declared that such Convention has ceased to extend;

" existing ship " means a ship which is not a new ship as defined by section 162;

" Load Line Regulations " means regulations made under section 164.

Application.

160. This Part applies to all ships except—

(*a*) ships of war;

(*b*) new ships of less than 79 feet;

(*c*) existing ships of not less than 150 tons gross;

(*d*) pleasure yachts not engaged in trade;

(*e*) fishing vessels.

Definition of "international voyage".

161. In this Part, " international voyage " means a voyage between—

(*a*) a port or place in Ceylon and a port or place outside Ceylon; or

(*b*) a port in a Convention country (other than Ceylon) and a port in any other country or territory (whether or not a Convention country) which is outside Ceylon:

Provided, however, that in determining the ports between which a voyage is made no account shall be taken of any deviation by a ship from her intended voyage which is due solely to such stress of weather or such other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

Definition of " new ship ".

162. In this Part, " new ship " means a ship whose keel is laid, or which is at a similar stage of construction, on or after,—

(*a*) in the case of a ship registered in or flying the flag of a country which is a Convention country (other than Ceylon), the date from which it is declared that the Government of that country has accepted or acceded to the Convention of 1966, or that it is a country to which that Convention extends; or

(*b*) in the case of any other ship, the date of the coming into force of this Part.

Definition of " valid Convention certificate ".

163. In this Part, " valid Convention certificate " means a certificate which has been issued—

(*a*) under section 173 and is for the time being in force; or

(*b*) by a Government, other than the Government of Ceylon, in circumstances in which it is recognized as a valid certificate for the purpose of this Part.

Regulations relating to load lines, &c.

164. (1) The Minister may make such regulations as he considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for load lines and for carrying out the Convention of 1966, any Annex thereto and any amendments of such Convention and Annexes and, without prejudice to the generality of such powers, may make regulations making provision for—

(*a*) the survey and periodical inspection of ships;

(*b*) the determination of freeboards;

(*c*) the determination of freeboard decks and the marking of such decks on each side of the ship by a mark or description (in this Part called a " deck line ");

(*d*) the various maximum depths to which a ship may be loaded (in this Part called " load lines ");

(*e*) the conditions of assignment of freeboards;

(*f*) the stability, loading and ballast of ships;

(*g*) the issue of load line and other certificates issued under this Part, the periods for and the conditions under which such certificates shall remain in force, and the cancellation of such certificates;

(*h*) the validity of certificates issued under the Convention of 1966 by Governments, other than the Government of Ceylon;

(*i*) such matters as are to be prescribed under this Part; and

(*j*) generally for giving effect to the provisions of the Convention and any amendments of such Convention.

(2) Every omission or neglect to comply with and every act done or attempted to be done without reasonable cause and contrary to the provisions of any regulations made under this section shall be an offence and in respect of any such offence the offender shall (subject to any other provision in such regulations) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Regulations relating to deck cargo.

165. The Minister may make regulations providing for the cargo to be carried on the decks of ships.

CHAPTER 2: SHIPS REGISTERED IN CEYLON.

Prohibition on sailing without certificates.

166. (1) Subject to any exemption granted under this Part, a ship registered in Ceylon shall not go or attempt to go to sea, unless—

(*a*) the ship has been surveyed in accordance with the Load Line Regulations;

(*b*) the ship is marked with a deck line and a load line in accordance with those Regulations; and

(*c*) the ship complies with those Regulations.

(2) If any ship goes or attempts to go to sea in contravention of sub-section (1), the owner or the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Prohibition in excess loading.

167. (1) When a ship registered in Ceylon is marked with load lines, the ship shall not be so loaded that—

(*a*) if the ship is in salt water, and has no list, the appropriate load line on each side of the ship is submerged;

(*b*) in any other case, such load line would be submerged, if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of sub-section (1), the owner or the master of the ship shall (subject to sub-section (3)) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees, and to an additional fine (not exceeding ten rupees for each complete centimetre by which the load line is submerged) as the court may think fit to impose.

(3) Where a person is charged with an offence under sub-section (1), it shall be a defence for him to prove that the contravention was due solely to deviation or delay which was caused by such stress of weather or such other circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(4) Any ship which is loaded in contravention of sub-section (1) may be detained until such ship ceases to be so loaded.

Penalties concerning marking of ships.

168. Where a ship registered in Ceylon is marked in accordance with the requirements of this Part, then, if—

(*a*) the owner or master of the ship fails without reasonable cause to keep the ship so marked; or

(*b*) any person conceals, removes, alters, defaces or permits any person under his control to conceal, remove, alter, deface or obliterate any mark with which the ship is so marked (except where he does so under the authority of a person empowered under the Load Line Regulations to authorize him in that behalf),

he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Issue of certificates

169. (1) Where a ship registered in Ceylon has been surveyed and marked in accordance with the Load Line Regulations, the appropriate certificate shall be issued to the owner of the ship on his application.

(2) For the purposes of this section, the appropriate certificate shall be called—

(*a*) in the case of an existing ship of not less than one hundred and fifty tons gross tonnage, and in the case of a new ship of not less than twenty-four metres in length, an " International Load Line Certificate (1966) ";

(*b*) in the case of any other ship, a " Ceylon Load Line Certificate ".

(3) The appropriate certificate to be issued under this section—

(*a*) shall be issued by the Director, or by such person or authority as may be authorized by the Director in that behalf;

(*b*) shall be in such form and shall be issued in such manner as may be approved by the Director or as may be prescribed;

(*c*) may at the request of the Director be issued by the Government of any Convention country.

Presumptions arising on issue of certificates.

170. Where a certificate issued under section 169, and for the time being in force is produced in respect of the ship to which it relates—

(*a*) the ship shall be deemed to have been surveyed in accordance with the Load Line Regulations; and

(*b*) if lines are marked on the ship corresponding in number and description to the deck line and load line required by such Regulations, and the positions of those lines correspond to the position of the deck line and load lines as specified in the certificate, the ship shall be deemed to be marked as required by such Regulations.

Certificate to be produced prior to clearance.

171. (1) Subject to any exemption conferred by or under this Part, no ship registered in Ceylon shall go or attempt to go to sea or be used in any port or place, unless the appropriate certificate issued under section 169 is in force in respect of such ship.

(2) Before any such ship goes to sea the master thereof shall produce the appropriate certificate to the proper officer of customs from whom a clearance for the ship is demanded; and clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(3) If any ship goes or attempts to go to sea or is used in contravention of this section, the master thereof shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Duties of owner and master on issue of certificate.

172. (1) When an appropriate certificate has been issued under section 169 in respect of any ship, the owner or master of the ship shall cause it to be put up in some conspicuous place on board the ship, so as to be legible to all persons on board, so long as it remains in force.

(2) The owner or master of any ship who fails to comply with the requirement imposed on him by subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty rupees.

CHAPTER 3: SHIPS NOT REGISTERED IN CEYLON.

Issue of certificate to ship not registered in Ceylon.

173. The Director may, at the request of the Government of the parent country of a ship which is—

(*a*) not registered in Ceylon;

(*b*) registered in a Convention country or, although not so registered, flies the flag of a Convention country; and

(*c*) either an existing ship of not less than one hundred and fifty tons gross tonnage, or a new ship of not less than twenty-four metres in length,

if he is satisfied that he could properly issue a certificate in respect of the ship under section 169 if the ship were registered in Ceylon, issue in respect of such ship a certificate; and such certificate shall for the purposes of this Part be an " International Load Line Certificate (1966).".

Prohibition on sailing without survey, &c.

174. (1) Subject to sub-section (2) and to any exemption granted under this Part, a ship which is not registered in Ceylon shall not go or attempt to go to sea, unless—

(*a*) the ship has been surveyed in accordance with the Load Line Regulations ;

(*b*) the ship is marked with a deck line and a load line in accordance with those Regulations;

(*c*) the ship complies with those Regulations.

(2) The provisions of sub-section (1) shall not apply to any ship in respect of which a valid Convention certificate is produced.

(3) If any ship goes or attempts to go to sea in contravention of sub-section (1), the owner or master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

(4) Any ship which in contravention of this section attempts to go to sea without being surveyed and marked as mentioned in sub-section (1) may be detained until it has been so surveyed and marked.

Prohibition on excess loading.

175. (1) When a ship not registered in Ceylon is within any port or place in Ceylon and is marked with load lines, the ship shall not be so loaded that—

(*a*) if the ship is in salt water, and has no list, the appropriate load line on each side of the ship is submerged; and

(*b*) in any other case, such load line would be submerged if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of sub-section (1) the owner or master of the ship shall, subject to sub-section (3), be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees, and to an additional fine (not exceeding ten rupees for each complete centimetre whereby the load line is submerged) as the court may think fit to impose.

(3) Where a person is charged with an offence under sub-section (1), it shall be a defence for that person to prove that the contravention was due solely to deviation or delay which was caused by such stress of weather or such other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(4) Any ship which is loaded in contravention of sub-section (1) may, if it has been surveyed by a Surveyor be detained until it ceases to be so loaded.

Issue of Ceylon Load Line Certificate.

176. (1) Where a ship not registered in Ceylon has been surveyed and marked in accordance with the Load Line Regulations, then, on the application of the owner of the ship a Ceylon Load Line Certificate shall be issued to him by the Director or by a person so authorized by the Director.

(2) Any certificate issued under this section in respect of a ship to which section 173 applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Minister if he has reason to believe that the ship is plying on international voyages.

Certificates to be produced prior to clearance.

177. Subject to any exemption conferred under this Part, before a ship not registered in Ceylon goes to sea from any port or place in Ceylon, the master of the ship shall produce to the proper officer of customs from whom a clearance for such ship is demanded—

(*a*) in the case of a ship to which section 173 applies, where a clearance for the ship is demanded in respect of an international voyage, a valid Convention certificate;

(*b*) in the case of any such ship, where a clearance for the ship is demanded in respect of any other voyage, either a valid Convention certificate or a valid Ceylon Load Line Certificate: and

(*c*) in any other case, a valid Ceylon Load Line Certificate;

and if such certificate is not produced, a clearance shall not be granted and the ship may be detained.

Power of inspection.

178. (1) Subject to the provisions of this section, a Surveyor may inspect any ship which is not registered in Ceylon while the ship is at any port or place in Ceylon, and shall be entitled to inspect any certificate referred to in section 177, for the time being in force in respect of the ship.

(2) If on demand a valid Convention certificate is produced to a Surveyor in respect of any ship, then, the powers of the Surveyor shall be limited to seeing—

(*a*) that the ship is not loaded beyond the limits allowed by the certificate;

(*b*) that lines are marked on the ship in the position of the load lines specified in the certificate;

(*c*) that no material alterations have taken place in the hull or superstructure of the ship which affect the position in which any of those lines ought to be marked; and

(*d*) that the fittings and appliances for the protected openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were when the certificate was issued.

(3) If on an inspection of a ship under this section, the ship is found to have been so materially altered in respect of the matters referred to in paragraph (*c*) or (*d*) of sub-section (2) that the ship is manifestly unfit to go to sea without danger to human life, then the ship shall be deemed to be unsafe for the purposes of section 207.

(4) Where a ship is detained pursuant to the provisions of sub-section (3), the Director shall order the ship to be released as soon as he is satisfied that the ship is fit to go to sea without danger to human life.

CHAPTER 4: EXEMPTIONS.

Power of exemption in relation to ships on certain international voyages.

179. If in the opinion of the Minister the sheltered nature and conditions of international voyages—

(*a*) between near neighbouring ports in Ceylon and in another Convention country; or

(*b*) between near neighbouring ports in any two or more countries or territories outside Ceylon,

make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages, and the Minister is satisfied that the Government of the other country or territory or, as the case may be, other countries or territories agrees with that opinion, he may by order direct that ships plying on international voyages between those ports (as specified in the order), or any class of such ships as may be specified in such order, shall be exempt from the provisions of this Part.

Power of exemption in relation to ships under eighty tons, &c.

180. The Minister may by order direct that—

(*a*) ships under eighty tons register engaged solely in the coasting trade; or

(*b*) any class of ships specified in the order,

shall be exempt from the provisions of this Part while not carrying cargo or (if the order so provides) whether carrying cargo, or not.

Power of exemption in relation to ships with novel features.

181. On the application of the owner of a ship which is—

(*a*) registered in Ceylon, and

(*b*) an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length,

the Minister may exempt the ship from all or any of the provisions of this Part or of any regulations made hereunder, if in his opinion the ship has such features, of a novel kind, that if the ship had to comply with such provisions the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

Power of exemption in relation to ships in Ceylon.

182. On the application of the owner of a ship which is—

(*a*) registered in Ceylon; and

(*b*) an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length; or

(*c*) a ship which does not ply on international voyages,

the Minister may, subject to the provisions of sections 184 and 185, by order exempt the ship from all or any of the provisions of this Part or of any regulations made hereunder.

Power of exemption in relation to single voyage.

183. Without prejudice to the provisions of section 182, where a ship which is—

(*a*) registered in Ceylon; and

(*b*) an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length,

does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Minister, on the application of the owner of the ship, subject to the provisions of sections 184 and 185, by order specifying the international voyage in question exempt the ship from all or any of the provisions of this Part or of any regulations made hereunder.

Power to impose conditions.

184. An order made under section 182 or section 183, may be made subject to such conditions as the Minister may think fit, and in such event the exemption conferred by the order shall not apply in relation to a ship unless the ship complies with such conditions.

Exemption certificates.

185. Where the Minister exempts a ship under section 181, section 182, or section 183, he shall issue the appropriate certificate to the owner of the ship, in such form and manner as may be prescribed by the Load Line Regulations; and when such exemption is made under—

(*a*) section 181 or section 183, the certificate shall be called an "International Load Line Exemption Certificate";

(*b*) section 182, shall be called a "Ceylon Load Line Exemption Certificate".

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PART VII—SAFETY OF NAVIGATION

CHAPTER 1: PREVENTION OF COLLISIONS.

Collision regulations.

186. (1) The Minister may (without prejudice to the powers conferred on him by section 139) make regulations for preventing collisions at sea (in this Act referred to as " collision regulations "), and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed by all Ceylon ships wherever they may be.

(2) The power of the Minister under sub-section (1) shall include power to make regulations for the prevention of collisions at sea—

(*a*) between seaplanes on the surface of the water; and

(*b*) between ships and seaplanes on the surface of the water.

(3) Regulations made under sub-section (1) together with the provisions of this Part relative thereto or otherwise relating to collisions shall be observed by all ships and seaplanes of foreign registry within Ceylon waters, and in any case before a Court in Ceylon concerning an infringement of the collision regulations arising within Ceylon waters, foreign ships and seaplanes shall be treated as if they were ships and seaplanes registered in Ceylon.

Observance of collision regulations.

187. (1) All owners and masters of Ceylon ships shall obey the collision regulations, and shall not carry or exhibit any other lights or use any other fog signals than such as are prescribed by those regulations.

(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

(4) Sub-sections (1) and (2) shall apply to the owners and pilots of seaplanes on the surface of water as they apply to the owners and masters of ships, and sub-section (3) shall apply to the pilot or other person in charge of a seaplane as it applies to the person in charge of the deck of a ship.

Local rules for navigation in ports, &c.

188. (1) Rules made, whether before or after the coming into operation of this Act, under any other Act or Ordinance concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by ships navigating the waters of any port, river or other area of inland navigation, shall, as regards such ships, have full force and effect notwithstanding anything in this Act.

(2) Where there are no rules referred to in sub-section (1) in force in respect of any matters specified therein, then, the Minister may make rules under this Act in respect of such matters, and any rules so made shall have force and effect as though they were part of the collision regulations.

Inspection as to lights and fog signals.

189. (1) A Surveyor may inspect any Ceylon or foreign ship for the purpose of seeing that the ship is properly provided with lights and the means of making fog signals, in conformity with the collision regulations.

(2) If a Surveyor finds that a ship is not provided with lights and the means of making fog signals in conformity with the collision regulations he shall give to the master or owner thereof a notice in writing specifying—

(*a*) the deficiency; and

(*b*) what is in his opinion necessary in order to remedy the deficiency.

(3) A Surveyor shall give details of every notice given by him under sub-section (2) to the chief officer of customs at any port at which the ship to which such notice relates seeks clearance, and the ship shall be detained until a certificate under the hand of the Surveyor is produced, to the effect that the ship is properly provided with lights and with the means of making fog signals, in conformity with the collision regulations.

(4) For the purpose of an inspection under this section, a Surveyor shall have all the powers of an inspector under section 314.

(5) Where the certificate as to lights and signals in a ship is refused, an owner may appeal to the Court of Survey constituted under section 217 for the port where the ship for the time being is, in such manner as may be directed by the rules of that Court.

(6) On any appeal under sub-section (5), the judge of the Court of Survey shall report to the Director on the question raised by the appeal and the Director, when satisfied that the requirements of the report and this Act as to lights and fog signals have been complied with, may grant or direct a Surveyor or other person appointed by him to grant the certificate referred to in sub-section (3).

(7) Subject to any order made by the judge of a Court of Survey, the costs of and incidental to an appeal under sub-section (5) shall follow the event.

(8) A Surveyor shall, in making an inspection of a ship under this section, if the owner of the ship so requires, be accompanied on the inspection by some person appointed by the owner, and if in that case the Surveyor and the person so appointed agree there shall be no appeal under this section to a Court of Survey.

(9) The Minister may by regulations prescribe the fees to be paid in respect of an inspection of lights and fog signals under this section.

Method of giving helm orders.

190. (1) A person on a Ceylon ship shall not, when the ship is going ahead, give a helm or steering order—

(*a*) containing the word " starboard " or " right ", or any equivalent thereof, unless he intends that the head of the ship shall move to the right;

(*b*) containing the word " port " or " left ", or any equivalent thereof, unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

CHAPTER 2: REPORTS OF ACCIDENTS AND LOSSES OF SHIPS.

Reports of accidents to ships.

191. (1) When a ship—

(*a*) has sustained or caused any accident occasioning loss of life or any serious injury to any person ; or

(*b*) has received any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery,

the owner or master thereof shall, within twenty-four hours after the happening of the accident or damage or as soon as possible thereafter, transmit to the Shipping Officer, if the ship is in a port, or otherwise to the Director, a report of the accident or damage.

(2) Every report of accident or damage to a ship made under sub-section (1) shall be signed by the owner or master of the ship, and shall state—

(*a*) the name of the ship, the port to which the ship belongs, the official number (if any) of the ship and the place where the ship is;

(*b*) the circumstances in which the accident or damage occurred; and

(*c*) the probable cause of the accident or damage.

(3) Any owner or master of a ship who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(4) This section shall apply to all Ceylon ships and to all foreign ships carrying passengers between places in Ceylon.

Notice of loss of Ceylon ship to be given to the Director.

192. (1) If the managing owner or agent of any Ceylon ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been wholly lost, he shall cause a reasonable search to be made for the ship and shall, as soon as conveniently may be, send to the Director a notice in writing signed by him and stating—

(*a*) the name of the ship, the port to which the ship belongs and the official number (if any) of the ship; and

(*b*) a report of the loss of the ship and the circumstances and probable cause of such loss.

(2) Any managing owner or agent of a ship who fails, without reasonable cause, to comply with this section within a reasonable period from the time when he has reason to believe such ship to have been lost, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

CHAPTER 3: LIGHTHOUSES.

Interpretation.

193. In this Part, unless the context otherwise requires—

"buoy" and "beacon" include all other marks and signals of the sea;

"lighthouse", in addition to the ordinary meaning of the word, includes any floating and other light exhibited for the guidance of ships, and also any apparatus for transmitting fog signals, and any radiobeacon, and also any addition to a lighthouse of any improved light, apparatus for transmitting fog signals, or radiobeacon.

Injury to lighthouses.

194. Any person who wilfully or negligently—

(*a*) damages or obscures any lighthouse or the lights exhibited therein, or any buoy, beacon or other aid to navigation;

(*b*) removes, alters, destroys or damages any lightship, buoy, beacon or other aid to navigation, or any cable, wire or other apparatus used in connection therewith; or

(*c*) rides by, makes fast to, or runs foul of, any lightship, buoy, beacon or other aid to navigation,

shall (in addition to the expenses of making good any damage so occasioned) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees; and the Court trying the case may (notwithstanding any limitation of its ordinary jurisdiction) make an order for the payment by such person of the expenses of making good any

damage occasioned by such contravention, and the sum payable by such person under such order shall be deemed to be a fine imposed by the Court.

Prevention of false lights.

195. (1) Whenever any fire or light is burnt or exhibited at such a place or in such a manner—

(*a*) as to be liable to be mistaken for a light from a lighthouse; or

(*b*) as to affect the visibility of the light proceeding from a lighthouse,

any authorized officer may serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person in charge of the fire or light, directing that owner or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing for the future any similar fire or light.

(2) For the purposes of sub-section (1), the expression " authorized officer ", in relation to any lighthouse, means the officer-in-charge of the lighthouse, or, where such lighthouse has no officer-in-charge, any Master Attendant, Government Agent, Assistant Government Agent, Shipping Officer, Superintendent or Assistant Superintendent of Police, a Divisional Revenue Officer or officer of the armed forces of Ceylon.

Notice under section 195.

196. A notice under section 195 may be served either—

(*a*) personally; or

(*b*) by delivery of the notice at the place of abode of the person to be served; or

(*c*) by affixing the notice in some conspicuous spot near to the fire or light to which the notice relates.

Penalty.

197. Any person on whom a notice is served under section 195 (read with section 196) who fails, without reasonable cause, to comply with the directions contained therein shall, (in addition to any expenses to which he may be liable under this Chapter) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Powers of Director and others on failure to extinguish false light, &c.

198. If the owner or person on whom a notice is served under section 195 (read with section 196) fails to extinguish or effectually screen the fire or light mentioned in the notice, any authorized officer within the meaning of that section may—

(*a*) by his servants or workmen enter the place where the fire or light is and forthwith extinguish the same, doing no unnecessary damage;

(*b*) recover the expenses incurred by him in so doing from the owner or person on whom the notice has been served in the manner provided in the Civil Procedure Code for actions by summary procedure on liquid claims.

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CHAPTER 4: ASSISTANCE.

Obligation to assist ships, &c., in distress.

199. (1) The master of a Ceylon ship on receiving at sea a signal from any source that a ship or aircraft or survival craft thereof is in distress, shall go with all speed to the assistance of the persons in distress, informing them if possible that he is doing so, and if—

(*a*) he is unable; or

(*b*) in the special circumstances of the case he considers it unreasonable or unnecessary to proceed to their assistance,

he shall enter in the log of the ship the reason for failing to proceed to the assistance of the persons in distress.

(2) The master of a ship shall be released from the obligation imposed by sub-section (1) pursuant to the provisions of sub-section (2) of section 200, or when he learns that one or more ships, other than his own, have been requisitioned under section 200, and are complying with the requisition.

(3) If a master fails to comply with the provisions of this section he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

Right to requisition ships when in distress.

200. (1) The master of a ship in distress, after consultation, so far as may be possible, with the masters of the ships which answer his call for assistance, has the right to requisition such one or more of those ships as he considers best able to render assistance; and it shall be the duty of the master or masters of the ship or ships requisitioned to comply with the requisition, by continuing to go with all speed to the assistance of persons in distress.

(2) The master of a ship shall be released from the obligation imposed by sub-section (1) of section 199 and, if his ship has been requisitioned, from the obligation imposed by sub-section (1) of this section, if he is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer necessary.

General duty to render assistance to persons in danger at sea.

201. (1) The master of a ship shall, so far as he can do so without serious danger to his own ship and the crew and passengers (if any) of such ship, render assistance to every person (even an enemy) who is found at sea in danger of being lost.

(2) If the master of a ship fails to comply with the provisions of sub-section (1), he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Duty of ship to assist the other in case of collision.

202. (1) After a collision between ships, the master of each ship shall, if and so far as he can do so without danger to his own ship, crew and passengers (if any),—

(*a*) make his best efforts to give to the other ship, the master, crew and passengers (if any) thereof such assistance as may be practicable and as may be necessary to save them from any danger caused by the collision;

(*b*) stand by the other ship, until he has ascertained that such ship has no need of further assistance;

(*c*) give the master of the other ship the name and port of registry of his ship, and the names of the ports from which his ship sailed and to which his ship is bound.

(2) If the master of a ship fails, without reasonable cause, to comply with any provision of sub-section (1), he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Assistance to persons in danger.

203. Where the Director, for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives, has permitted more persons to be carried on board a ship than are permitted under this Act or any regulations made thereunder, the carriage of those persons shall not be an offence.

Salvage rights not affected.

204. Compliance by a master with any of the provisions of this Chapter shall not affect his right or the right of any other person to salvage.

CHAPTER 5: UNSEAWORTHY SHIPS.

Sending unseaworthy ship to sea an offence.

205. (1) Any person who sends or attempts to send any ship, Ceylon or foreign, to sea from any port in Ceylon in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves either—

(*a*) that he used all reasonable means to ensure such ship being sent to sea in a seaworthy state; or

(*b*) that the going to sea of such ship in such an unseaworthy state was in the circumstances reasonable and justifiable.

(2) Any master of a ship, Ceylon or foreign, who knowingly takes such ship to sea from any port in Ceylon in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of an offence, unless he proves that the going to sea of such ship in such an unseaworthy state was in the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted except with the consent of the Director.

(4) An offence under this section shall be punishable on conviction with imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Obligation of shipowner to crew with respect to seaworthiness.

206. (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, or in any instrument of apprenticeship whereby any person is bound to serve on board a ship, there shall be implied (notwithstanding any agreement to the contrary) an obligation on the owner of the ship that the owner of the ship and the master and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means—

(*a*) to ensure the seaworthiness of the ship at the time when the voyage commences; and

(*b*) to keep the ship in a seaworthy condition during the voyage.

(2) Nothing in sub-section (1) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

Power to detain unsafe ships.

207. (1) Where any ship, being in any port in Ceylon, is an unsafe ship, that is to say, is, by reason of the defective condition of her hull, equipment, machinery, undermanning, overloading or improper loading, unfit to proceed to sea without serious damage to human life having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed or ascertaining the sufficiency of her crew, and either finally detained or released under section 208.

(2) Nothing in this section shall affect any foreign ship not bound to a port in Ceylon, which comes into any port in Ceylon for any purpose, other than the purpose—

(*a*) of embarking or landing passengers; or

(*b*) taking in or discharging coal or taking in bunkers.

Method of detention of unsafe ships.

208. (1) The Director, if he has reason to believe (whether on a complaint or otherwise) that a ship in any port in Ceylon is an unsafe ship, may order the provisional detention of the ship as an unsafe ship for the purpose of being surveyed.

(2) Where a ship has been provisionally detained by order under sub-section (1)—

(*a*) a written statement of the grounds of the detention of such ship shall forthwith be served on the master of the ship;

(*b*) in the case of a foreign ship, a copy of such order shall forthwith be served on the Consular officer for the country to which the ship belongs at or nearest to the port in which the ship may be;

(*c*) the Director may, if he thinks fit, appoint some competent person or persons to survey the ship and report thereon to him;

(*d*) the owner or master of the ship may, at any time before any person or persons appointed under paragraph (*c*) to survey the ship make such a survey, require such person or persons to be accompanied by such person as the owner or master may select from the list of assessors for the Court of Survey for the port referred to in section 217, and in that case, if all such persons agree the Director shall cause the ship to be detained or released accordingly as the circumstances may require (but without prejudice to any appeal under sub-section (4)) or, if they do not agree, shall act as if such requisition had not been made;

(*e*) in the case of a foreign ship, the Consular officer referred to in paragraph (*b*) may, on the request of the owner or master of the ship, require that any person or persons appointed under paragraph (*c*) shall be accompanied by such person as the Consular officer selects and, if all such persons agree, the Director shall cause the ship to be detained or released as the circumstances may require (but without prejudice to any appeal under sub-section (4)) or, if they do not agree, shall act as if such requisition had not been made.

(3) The Director, on receiving the report, on a ship referred to in sub-section (2), may either—

(*a*) order the ship to be released; or

(*b*) if in his opinion the ship is unsafe, (and subject to sub-section (4)) order her to be finally detained, either absolutely or until the

compliance with such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship, as he thinks necessary for the protection of human life,

and may vary or add to any such order.

(4) Before an order for the final detention of a ship under sub-section (3) is made, a copy of the report on the ship referred to in paragraph (*c*) of sub-section (2) shall be served upon the master of the ship and within seven days of such service the owner or master of the ship may appeal in the prescribed manner to a Court of Survey constituted under Part VIII.

(5) Where a ship has been provisionally detained under sub-section (1), the Director may at any time, if he thinks it expedient, refer the matter to the Court of Survey constituted under Part VIII.

(6) The Director may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

Supplementary provisions relating to detention.

209. (1) An order for the detention of a ship, whether provisional or final, and any order varying such order, shall be served as soon as may be on the master of the ship.

(2) A ship detained under this Act shall not be released by reason of the Ceylon registry of such ship being closed.

Exercise of powers.

210. (1) Every Shipping Officer and Surveyor shall have the same power as the Director has under section 208 of ordering the provisional detention of a ship for the purpose of survey or for ascertaining the sufficiency of her crew, and of appointing a person or persons to survey the ship; and if he thinks that a ship so detained by him is not unsafe he may order such ship to be released.

(2) Any officer detaining a ship under sub-section (1) shall forthwith report to the Director any order made by him for the detention or release of a ship.

(3) Any person surveying a ship under paragraph (*c*) of sub-section (2) of section 208, and any officer detaining a ship under sub-section (1) of this section,

shall, for the purpose of such survey and detention, have the same power as a person appointed by a Court of Survey constituted under Part VIII to survey a ship, and the provisions of this Act with respect to a person so appointed shall apply accordingly; and the powers exercisable by such person or officer shall include power to muster the crew of the ship.

Liability for costs and damages.

211. (1) If it appears that there was no reasonable and probable cause, by reason of the condition of a ship or the act or default of the owner thereof, for the provisional detention under this Chapter of a ship as an unsafe ship, the Government shall be liable to pay to the owner of the ship—

(*a*) his costs of and incidental to the detention and survey of the ship; and

(*b*) compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(3) For the purposes of this Act,—

(*a*) the costs of and incidental to any proceeding before a Court of Survey constituted under Part VIII; and

(*b*) a reasonable amount in respect of the remuneration of the persons appointed as Surveyors under paragraph (*c*) of sub-section (2) of section 208, or any person appointed to represent the Government,

shall be part of the costs of the detention and survey of the ship.

(4) Any dispute as to the amount of the costs of the detention and survey of a ship may be referred to a Judge of the Supreme Court who shall, on the request of the Minister, ascertain and certify the proper amount of those costs.

(5) An action for any costs or compensation payable by the Government under this section may be brought against the Attorney-General under Chapter XXXI of the Civil Procedure Code.

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Power to require complainant to give security for costs.

212. (1) Where a complaint is made to the Director, a Shipping Officer or a Surveyor, that a Ceylon ship is unsafe, such officer may require the complainant to give security to the satisfaction of such officer, for any costs and compensation which he may become liable to pay as mentioned in sub-section (3).

(2) The security referred to in sub-section (1) shall not be required where the complaint relating to a ship—

(*a*) is made by one-fourth, being not less than three, of the seamen belonging to the ship; and

(*b*) is not in the opinion of the Director, Shipping Officer or Surveyor, as the case may be, frivolous or vexatious,

but in such case such officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint under sub-section (1), and the circumstances are such that the Government is liable under section 211 to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

Survey of ship alleged by seamen to be unseaworthy.

213. (1) Whenever in any proceedings against any seaman belonging to any ship for the offence of desertion or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship—

(*a*) that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or any other reason not in a fit condition to go to sea; or

(*b*) that the crew accommodation in the ship is insufficient or does not comply with the requirements imposed by any regulations made under section 127.

the Court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of the allegation, and for that purpose,—

(i) shall receive the evidence of the person making the allegation;

(ii) may summon any other witnesses whose evidence it thinks it desirable to hear;

(iii) shall, if satisfied that the allegation is groundless, adjudicate in the case; and

(iv) shall, if not satisfied that the allegation is groundless, before adjudication cause the ship to be surveyed.

(2) A seaman charged with desertion or with quitting his ship without leave shall not have a right to apply for a survey under this section, unless he has before quitting the ship complained to the master of the circumstances alleged by him to justify a survey of the ship.

Appointment of Surveyor.

214. (1) For the purpose of section 213, the Court shall require—

(*a*) any Surveyor; or

(*b*) if a Surveyor cannot be obtained without unreasonable expense or delay or is not in the opinion of the Court competent to deal with the special circumstances of the case, then, any other impartial Surveyor appointed by the Court and having no interest in the ship, her freight or cargo,

to survey the ship which is the subject of an allegation under such section, and to answer any question concerning such ship which the Court thinks fit to ask.

(2) A Surveyor appointed under sub-section (1) to survey any ship shall—

(*a*) survey such ship;

(*b*) make a written report thereon to the Court; and

(*c*) include in his written report an answer to every question put to him by the Court.

(3) On receiving a report under sub-section (2), the Court shall—

(*a*) communicate the report to the parties; and

(*b*) unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, determine the question before it in accordance with those opinions.

(4) Any person making a survey of a ship under this section shall have for the purposes thereof all the powers conferred on an inspector by section 314.

Costs of survey.

215. (1) The costs, if any, of a survey of a ship made under section 214 shall be determined by the Chief Surveyor according to a scale of fees to be prescribed.

(2) If it is proved that the ship is in a fit condition to go to sea; or that the accommodation therein is sufficient or complies with such requirements as may be prescribed, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of which allegation the survey was made; and such costs may be deducted by the master or owner of the ship from the wages due or to become due to that person, and shall be paid to the Government.

(3) If it is proved that the ship is not in a fit condition to go to sea, or that the accommodation therein is not sufficient or does not comply with such requirements as may be prescribed, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Government, and shall be liable to pay to the seaman who has been detained in consequence of the proceeding before the Court under section 213 such compensation as the Court may award.

PART VIII—COURTS OF SURVEY

Interpretation.

216. In this Part, " Court of Survey " means a Court of Survey constituted under section 217.

Constitution of Court of Survey.

217. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

(2) The Judge shall be such person as is summoned for the case in accordance with rules made under section 220 out of a list approved by the Minister of Magistrates and other fit persons; but in any special case in which the Minister thinks it expedient, after consultation with the Chief Justice, to appoint a Judge of the Supreme Court, such Judge shall be Judge of the Court of Survey.

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(3) The assessors shall be persons of nautical, engineering or other special skill and experience.

(4) Subject to sub-section (5), one of the assessors shall be appointed by the Minister, either generally or for the particular case, and the other shall be summoned by the Registrar of the Court of Survey from a list of persons periodically nominated for the purpose by the Chambers of Commerce of such port, in accordance with such rules as aforesaid, or, if there is no such list, shall be appointed by the Judge.

(5) Where the owner or master of a foreign ship appeals to a Court of Survey, the Consular officer for the country to which the ship belongs, acting on the request of such owner or master, or if there is no such Consular officer available the owner or master of such ship, may appoint a competent person to be a member of the Court of Survey in lieu of such person as would (had the ship been a Ceylon ship) have otherwise been summoned by the Registrar or appointed by the Judge under sub-section (4).

(6) The Registrar of the Court of Survey shall be appointed by the Minister, and shall, on receiving notice of an appeal or reference under section 208, immediately summon the Court to meet forthwith, in such manner as may be prescribed by such rules as aforesaid.

(7) The name of the Registrar and his office, together with the rules made as aforesaid relating to Courts of Survey, shall be published in such manner as may be prescribed by such rules.

Power and procedure of Courts of Survey.

218. (1) The following provisions shall have effect in relation to a Court of Survey concerning any ship:—

(*a*) the case shall be heard in open Court;

(*b*) the Judge, each assessor, and any person appointed by the Judge may survey the ship and may go on board the ship and inspect the ship and every part thereof and the machinery, equipment and cargo, and may require the unloading and removal of any cargo, ballast or tackle, and shall for such purpose have all the powers of an inspector under section 314;

(*c*) the Court may order the ship to be surveyed, and may appoint any competent person or persons to survey the ship and report thereon to the Court;

(*d*) the Judge shall have the same power as the Director has to order the ship to be released or finally detained but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released; and

(*e*) the owner and the master of the ship, and any person appointed by the owner or master, may attend at any inspection or survey made in pursuance of this section.

(2) The Court may make such order with respect to the costs of any inquiry or investigation under this Act as it may think fit, and such costs shall be recoverable in the same manner as a civil debt.

(3) Any person who wilfully impedes the Judge of the Court of Survey, or any assessor or other person, in the execution of any survey under this section, or fails to comply with any requisition made by him shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Report of the Court of Survey.

219. The Judge of a Court of Survey shall send to the Minister such report as is directed by rules made under section 220, and each assessor shall either sign the report, or report to the Minister the reasons for his dissent.

Rules of procedure. Cap. 6.

220. Rules may be made in the manner provided by section 49 of the Courts Ordinance to carry into effect the provisions of this Act relating to Courts of Survey and, without prejudice to the generality of such powers, such rules may be made with respect to the summoning of and procedure before the Court, the form and sending of reports to the Minister, the requiring on an appeal of security for costs and damages, and the amount of fees.

Reference in difficult cases to scientific referees.

221. (1) If the Minister is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty or important principle, he may refer the matter to such

one or more out of a list of scientific referees from time to time approved by the Minister as appear to possess the special qualifications necessary for the particular case and may be selected by agreement between the Minister and the appellant or, in default of any such agreement, by the Governor-General; and thereupon the appeal shall be determined by the referee or referees, instead of by the Court of Survey.

(2) The Minister, if the appellant in any appeal so requires and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, shall refer the appeal to the referee or referees selected under sub-section (1).

(3) A referee or referees selected under sub-section (1) shall have the same powers as a Judge of a Court of Survey.

Payments to officers of Courts, &c.

222. Such remuneration, if any, as the Minister may direct shall be paid by the Government to any Judge or assessor of a Court of Survey, any Registrar of a Court of Survey, any scientific referee, and any other officer or person appointed for the purpose of a Court of Survey, or any inquiries or investigations held under Part IV of this Act, or any formal inquiry under this Act.

Indemnity.

223. No action, suit or other proceeding shall be brought against any person for anything done or omitted to be done by him as a member of a Court of Survey.

PART IX—WRECK AND SALVAGE

CHAPTER 1: PRELIMINARY.

Interpretation.

224. In this Part, unless the context otherwise requires—

"receiver" means a receiver of wreck, and includes a deputy receiver;

"salvage" includes all expenses properly incurred by a salvor in the performance of salvage services;

"shipwrecked persons" means persons belonging to any ship referred to in section 227;

" vehicle " includes any vehicle of any description, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise;

" wreck " includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

Appointment of Principal Receiver of Wrecks and receivers.

225. (1) The Director shall be the Principal Receiver of Wrecks for Ceylon and shall have all the powers of a receiver of wrecks throughout Ceylon.

(2) The Principal Receiver of Wrecks shall exercise general direction and supervision over all matters relating to receivers, wreck and salvage.

(3) There may be appointed in any district any person to be a receiver of wrecks and to perform the duties of a receiver under this Part.

Fees of receiver of wrecks.

226. (1) There shall be paid to every receiver of wrecks the expenses properly incurred by him in the performance of his duties, and also in respect of such other matters as may be prescribed such fees as may be prescribed; and such receiver shall not be entitled to any remuneration other than such payments.

(2) A receiver of wrecks shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in sub-section (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any receiver of wrecks in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final.

(4) All fees received by a receiver of wrecks in respect of any services performed by him as such receiver shall be accounted for to the Government, and shall be applied in defraying any expenses duly incurred in carrying this Act into effect and, subject to such application, shall be paid into the Consolidated Fund of Ceylon.

CHAPTER 2: VESSELS IN DISTRESS.

Duty of receiver where vessel is in distress.

227. (1) Where a Ceylon or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Ceylon or in any tidal water within Ceylon waters, the receiver of wrecks for the district in which that place is situated shall, upon being made acquainted with the circumstances,—

(*a*) forthwith go to such place;

(*b*) upon his arrival at such place take command of all persons present;

(*c*) assign such duties and give such directions to each person present as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel, and of the cargo and apparel of the vessel.

(2) Any person who, without reasonable excuse, wilfully disobeys the direction of the receiver shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees; but the receiver shall not interfere between the master and the crew of the ship in reference to the management thereof, unless he is requested to do so by the master.

Power of receiver in case of vessels in distress.

228. (1) A receiver of wrecks may, with a view to the preservation of shipwrecked persons, or of a vessel, her cargo or apparel—

(*a*) require such persons as he thinks necessary to assist him;

(*b*) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel as is in his power;

(*c*) demand the use of any vehicle or draught animal that may be near at hand.

(2) Any person who refuses, without reasonable excuse, to comply with any requisition or demand made under sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

Powers to pass over adjoining lands.

229. (1) Whenever a Ceylon or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Ceylon, or any tidal water within Ceylon waters, all persons may, for the purpose of—

(*a*) rendering assistance to the vessel;

(*b*) saving the lives of shipwrecked persons;

(*c*) saving the cargo and apparel of the vessel,

unless there is some public road equally convenient, pass and repass (either with or without vehicles or draught animals) over any adjoining lands, without being subject to interruption by the owner or occupier thereof, so however that they do as little damage as possible; and they may also (subject to the same conditions) deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by the owner or occupier of any land in consequence of the exercise of the rights given by sub-section (1) shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) Any owner or occupier of any land who—

(*a*) impedes or hinders any person in the exercise of the rights given by this section, whether by locking his gates or refusing upon request to open such gates, or otherwise;

(*b*) impedes or hinders the deposit of any cargo or other articles recovered from a vessel as aforesaid on the land; or

(*c*) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be recovered to a safe place of public deposit,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

Power of receiver to suppress plunder and disorder by force.

230. (1) Whenever a Ceylon or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Ceylon, or any tidal water within Ceylon waters, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, a receiver of wrecks may cause such person to be apprehended.

(2) A receiver of wrecks may use force for the suppression of any plundering, disorder or obstruction referred to in sub-section (1), and may order any person to assist him in so using force.

(3) If any person loses his life, limb or sustains injury by reason of his resisting the receiver or any person acting under the orders of a receiver of wrecks in the execution of the duties entrusted to the receiver by this Part, neither the receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person losing his life, limb or sustaining any injury.

Exercise of powers of receiver in his absence.

231. (1) Where a receiver of wrecks is not present, the following officers or persons in succession, each in the absence of the others, and in the order in which they are named, may do anything by this Part authorized to be done by such receiver, namely—

(*a*) any chief officer of customs;

(*b*) any Master Attendant;

(*c*) any Government Agent;

(*d*) any Magistrate;

(*e*) any Superintendent or Assistant Superintendent of Police;

(*f*) any Divisional Revenue Officer;

(*g*) any officer of the armed forces of Ceylon.

(2) An officer acting under sub-section (1)—

(*a*) shall, with respect to any goods or articles belonging to a vessel, the delivery of which to a receiver of wrecks is required by this Part, be considered the agent of the receiver;

(*b*) shall place such goods and articles in the custody of the receiver;

(*c*) shall not be entitled to any fees payable to receivers;

(*d*) shall not be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Examination in respect of ships in distress.

232. (1) Where any Ceylon or foreign ship is or has been in distress on the coasts of Ceylon, a receiver or, in his absence, a Magistrate, shall, as soon as conveniently may be, examine on oath (which he is hereby empowered to administer) any person belonging to the ship, or any other person who is able to give any account thereof or of the cargo or stores thereof, as to the following matters:—

(*a*) the name and description of the ship;

(*b*) the name of the master and of the owners;

(*c*) the names of the owners of the cargo;

(*d*) the ports, from and to which the ship was bound;

(*e*) the occasion of the distress of the ship;

(*f*) the services rendered; and

(*g*) such other matters or circumstances relating to the ship or to the cargo on board the ship as the person holding the examination thinks necessary.

(2) The person holding the examination under subsection (1) in relation to any ship shall make a record thereof in writing, and shall send one copy to the Minister and another to the Director; and the Director shall if he shall think fit cause a copy of such record to be placed in a conspicuous place in the office of the Shipping Officer for the area in which such ship was in distress.

(3) The person holding an examination under subsection (1) shall for the purposes thereof have all the powers conferred on an inspector by section 314.

CHAPTER 3: DEALING WITH WRECK.

Rules to be observed by persons finding wreck.

233. (1) Where any person finds or takes possession of any wreck within Ceylon, or of any wreck found or taken possession of outside Ceylon and brought within Ceylon, he shall—

(*a*) if he is the owner thereof, give notice to the receiver of the district in which such wreck may be stating that he has found or taken

possession of such wreck and describing the marks by which the wreck may be recognized; or

(*b*) if he is not the owner thereof, as soon as possible deliver the wreck to the receiver of such district.

(2) Any person who fails, without reasonable cause, to comply with the provisions of sub-section (1) relating to any wreck shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees, and in addition shall, if he is not the owner thereof,—

(*a*) forfeit any claim to salvage in respect thereof;

(*b*) be liable to pay to the owner of the wreck, if it is claimed, or if it is unclaimed to the person entitled thereto, double the value of wreck, to be recovered in the same way as a fine of like amount under this Act.

Penalty for taking wreck at the time of casualty.

234. (1) Where a ship is wrecked, stranded or in distress at any place on or near the coasts of Ceylon, or any tidal water within Ceylon, any cargo or other articles belonging to or separated from the ship which are washed on shore or otherwise lost or taken from the ship shall be delivered to a receiver of wrecks.

(2) Any person (whether or not the owner of any cargo or article) referred to in the preceding sub-section, who—

(*a*) conceals or keeps possession of any such cargo or article; or

(*b*) refuses to deliver any such cargo or article to a receiver of wrecks or any person authorized by the receiver to demand such cargo or article,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

(3) A receiver of wrecks, or any person authorized by the receiver to demand the delivery to him of any cargo or article referred to in sub-section (1), may take such cargo or article by force from any person refusing to deliver it to him.

Notice of wreck to be given by receiver.

235. Where a receiver of wrecks takes possession of any wreck, he shall within forty-eight hours—

(*a*) cause to be posted at the nearest police station, and otherwise publish in such manner as he may deem fit, a description of the wreck and of any marks by which it is distinguished; and

(*b*) if in his opinion the value of the wreck exceeds two hundred rupees, send a copy of such description to the Director.

Claims of owners to wreck.

236. (1) The owner of any wreck in the possession of a receiver upon establishing his claim thereto to the satisfaction of the receiver within one year from the time when the wreck came into the possession of the receiver shall, on paying the salvage, fees and other expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any wreck or other article belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of Ceylon, or belonging to and forming part of the cargo thereof, is found on or near those coasts or is brought into any port in Ceylon, the Consular officer of the country to which the ship or, in the case of cargo, to which the owners of the cargo may have belonged, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the wreck or such article.

Immediate sale of wreck by receiver in certain cases.

237. (1) A receiver of wrecks may at any time sell any wreck in his custody, if in his opinion—

(*a*) it is under the value of two hundred rupees;

(*b*) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(*c*) it is not of sufficient value to pay for warehousing.

(2) The proceeds of any sale made under subsection (1) shall, after defraying the expenses thereof, be held by the receiver for the same purposes, and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Provisions as to duties, &c., on wrecked goods.

238. (1) All wreck, being foreign goods brought or coming into Ceylon, shall be subject to the same duties as those to which such goods would be subject if they were imported into Ceylon.

(2) If any question arises as to the origin of any goods referred to in sub-section (1), they shall be deemed to be the produce of such country as the Principal Collector of Customs may on investigation determine.

(3) The Principal Collector of Customs shall permit—

(*a*) all goods, wares or merchandise saved from any ship stranded or wrecked on her homeward voyage to be forwarded to the port of her original destination; and

(*b*) all goods, wares or merchandise saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped,

but the Principal Collector of Customs shall take security for the due protection of the Consolidated Fund of Ceylon in respect of those goods.

CHAPTER 4: UNCLAIMED WRECK.

Right to unclaimed wreck.

239. The Crown is entitled to all unclaimed wreck within any part of Ceylon or found or taken possession of outside Ceylon and brought within Ceylon, except in any place where the Crown has granted to any person the right to any such wreck.

Disposal of unclaimed wreck.

240. Where no owner establishes a claim to any wreck which—

(*a*) has been found in Ceylon or found or taken possession of outside Ceylon and brought into Ceylon; and

(*b*) has been in the possession of a receiver of wrecks for one year,

the receiver shall sell such wreck and shall pay to the Government the proceeds of the sale, after deducting therefrom the expense of sale and any other expenses incurred by, and the fees payable to him, in respect thereof and paying thereout to the salvors such amount of salvage as the Minister in each case or by any general rule may determine.

Delivery of unclaimed wreck by receiver not to prejudice title.

241. Upon delivery of any wreck or payment of the proceeds of sale of any wreck by a receiver of wrecks in pursuance of this Part, the receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck.

CHAPTER 5: REMOVAL OF WRECKS.

Removal of wreck by harbour or conservancy authority.

242. (1) Where any vessel is sunk, stranded or abandoned in any harbour or tidal water under the control of a harbour or conservancy authority, or in any approach thereto in such manner as in the opinion of the authority to be or likely to be an obstruction or danger to navigation, or to life boats engaged in life boat service, in that harbour or water or in any approach thereto, that authority may—

(*a*) take possession of, and raise, remove or destroy the whole or any part of the vessel;

(*b*) light or buoy any vessel or part of such vessel until the raising, removal or destruction thereof;

(*c*) subject to sub-sections (2) and (3), sell in such manner as that authority thinks fit any vessel or part so raised or removed, and also any other property recovered in the exercise of the powers of that authority under this section, and out of the proceeds of the sale reimburse itself for the expenses incurred by that authority in relation thereto under this section; and that authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto:

Provided, however, that such surplus shall be paid into the Consolidated Fund of Ceylon, unless such person establishes a claim thereto within three years of such sale.

(2) A sale shall not, except in the case of property which—

(*a*) is of a perishable nature; or

(*b*) would deteriorate in value by delay,

be made under this section, until at least seven clear days' notice of the intended sale has been given, either by advertisement in some local newspaper circulating in or near the district over which the authority referred to in sub-section (1) has control, or in such other manner as that authority shall think fit.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have such property delivered to him on payment to the authority referred to in sub-section (1) of the fair market value thereof; and such value shall be ascertained by agreement between that authority and such owner or, failing such agreement, by some person to be named for the purpose by the Director.

(4) Any sum received by the authority referred to in sub-section (1) in respect of any property under sub-section (3) shall, for the purposes of sub-section (1), be deemed to be the proceeds of sale of such property.

(5) If the proceeds of sale of any property sold under this section are less than the costs incurred by the authority referred to in sub-section (1) when acting under this section, that authority may recover such difference from the owner of the vessel concerned by civil action.

Prohibition of the receipt &c., of wrecks by certain courts.

243. The Colonial Court of Admiralty, or any other Court exercising admiralty jurisdiction, shall not, by itself or its agents, receive, take, or interfere with, any wreck except under the authority of, and in accordance with, the provisions of this Act.

Breaking and removal of wrecks.

244. (1) If any person, being the owner of any vessel or any wrecked, submerged, sunken or stranded vessel or the agent or servant of such owner, wishes to break up such vessel prior to the removal thereof from Ceylon, such person shall before commencing salvage or breaking up operations, obtain the written permission of a receiver of wrecks.

(2) On receiving any application for permission for the breaking up of any vessel under this section, a receiver of wrecks shall, in his discretion, be entitled—

(*a*) to grant such permission; and

(*b*) to require security in such reasonable amount as he may consider necessary to ensure the effective removal of the vessel, or any portion thereof, from Ceylon.

(3) Any person who, without the previous written permission of a receiver of wrecks, does or causes to be done any salvage or breaking-up operations on any vessel or any wrecked, submerged, sunken or stranded vessel lying within Ceylon shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

Powers of removal to extend to tackle, cargo, &c.

245. (1) The provisions of this Chapter relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, in the same manner as if it were included in the term " vessel ".

(2) For the purpose of this Chapter, all proceeds of sale arising from a vessel and from the cargo thereof or any other property recovered therefrom, shall be regarded as a common fund.

Powers to be cumulative.

246. The powers conferred by this Part on a harbour or conservancy authority for the removal of wrecks shall be in addition to, and not in derogation of, any other powers conferred by any other written law.

CHAPTER 6: OFFENCES IN RESPECT OF WRECK.

Taking wreck to a foreign port.

247. Any person who takes into any foreign port and there sells any vessel, whether stranded, derelict or otherwise in distress, found in Ceylon or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found in Ceylon shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding four thousand rupees, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Boarding wreck, &c.

248. (1) A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress, unless he acts under the authority of a receiver of wrecks or a person lawfully acting as such.

(2) Any person who contravenes sub-section (1) may be repelled by the master of the vessel by force, and shall also be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Interfering with wreck, &c.

249. (1) A person shall not—

(*a*) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded or otherwise in distress, on or near any coast or tidal water, or of any part of the cargo or apparel thereof, or of any wreck;

(*b*) conceal any wreck, or deface, or obliterate any marks thereon; or

(*c*) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or any part of the cargo or apparel thereof, or any wreck.

(2) Any person who contravenes sub-section (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Summary procedure for concealment of wreck.

250. (1) Where a receiver of wrecks suspects or receives information—

(*a*) that any wreck is secreted or in the possession of some person who is not the owner thereof; or

(*b*) that any wreck is otherwise improperly dealt with,

he may apply to any Magistrate for a search warrant.

(2) On receiving an application from a receiver of wrecks under sub-section (1), a Magistrate may grant a warrant to the receiver and the receiver may, by virtue thereof,—

(*a*) enter any house or other place wherever situate, and also any vessel, to search for any wreck referred to in sub-section (1); and

(*b*) seize and detain any such wreck.

(3) If any seizure of a wreck is made by a receiver of wrecks under sub-section (2) in consequence of any information given by any person to the receiver, such

person shall be entitled by way of salvage to such sum, not exceeding in any case one hundred rupees, as the receiver may allow.

Salvage of life.

251. (1) Where services are rendered—

(*a*) wholly or in part in Ceylon waters in saving life from any Ceylon or foreign wreck; or

(*b*) outside Ceylon waters, in saving life from any Ceylon vessel,

there shall be payable to the salvor by the owner of the vessel, cargo or apparel saved a reasonable amount of salvage, to be determined in case of dispute in the manner set out in this Chapter.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel, shall be payable in priority to all other claims for salvage.

(3) Where a vessel, cargo and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister of Finance may in his discretion award to the salvor out of the Consolidated Fund of Ceylon such sum as he, with the concurrence of the Minister, may determine, in whole or part satisfaction of any amount of salvage left unpaid.

Salvage of cargo.

252. (1) Where any vessel is wrecked, stranded or in distress at any place in, on or near the coasts of Ceylon or in any tidal water within Ceylon waters, and services are rendered—

(*a*) by any person in assisting the vessel or saving the cargo or apparel of the vessel, or any part thereof; or

(*b*) by any person (other than a receiver of wrecks) in saving any wreck,

there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck a reasonable amount of salvage, to be determined in case of dispute in the manner set out in this Chapter.

Services to which sections 251 and 252 do not apply.

253. Nothing in section 251 or 252 shall entitle any person to remuneration—

(*a*) in respect of services rendered contrary to an express and reasonable prohibition of such services on that part of the vessel to which such services are rendered;

(*b*) in respect of services rendered by a tug to or in respect of the vessel which she is towing, or the cargo thereof, except where such services are of an exceptional character such as are outside the scope of the contract of towage;

(*c*) if he has caused the distress giving rise to the salvage, either intentionally or through negligence;

(*d*) if and to such extent as it appears that he has concealed or unlawfully disposed of any property salvaged.

Where both vessels belong to the same owner.

254. Remuneration shall be payable under sections 251 and 252 in respect of services rendered, in spite of the fact that such services have been rendered by or to vessels in the same ownership.

Determination of salvage disputes.

255. (1) Disputes as to the amounts of salvage, whether of life or property and whether rendered within or outside Ceylon arising between the salvor and the owners of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise be determined summarily by a local Court in any case where—

(*a*) the parties to the dispute consent; or

(*b*) the value of the property saved does not exceed five thousand rupees; or

(*c*) the amount claimed does not exceed one thousand rupees.

(2) Subject to sub-section (1), disputes as to salvage shall be determined by the Supreme Court, but if the claimant does not recover in the Supreme Court more than one thousand rupees, he shall not be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim, unless the Court certifies that the case is a fit one to be tried by the Supreme Court.

(3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or their respective agents.

Power of Supreme Court in relation to salvage agreements.

256. Every agreement relating to salvage entered into urgently and under the influence of danger may, at the request of either party thereto, be annulled or modified by the Supreme Court, if the Supreme Court considers that the conditions of such agreement are not reasonable.

Summary determination of salvage disputes.

257. (1) Disputes relating to salvage which are to be determined summarily as set out in section 255 shall,—

(*a*) where the dispute relates to the salvage of a wreck, be referred to the District Court having jurisdiction at or near the place where the wreck is found; or

(*b*) where the dispute relates to salvage in the case of services rendered to any ship or to the cargo or apparel thereof or in saving life therefrom, be referred to the District Court having jurisdiction at or near the port in Ceylon into which the ship is first brought after the occurrence by reason whereof the claim for salvage arises.

(2) A District Court may, for the purpose of determining any such dispute, call in to its assistance any person conversant with maritime affairs as assessor, and there shall be paid to every such assessor in respect of his services and as part of the costs of the proceedings, such sum as the Minister may direct.

Appeal in case of salvage disputes.

258. Where a dispute relating to salvage has been determined by a District Court or the Supreme Court, any party aggrieved by the decision may appeal therefrom, in accordance with rules of Court, in like manner as in the case of any other judgment of the Court:

Provided that no such appeal shall be allowed unless the sum in dispute exceeds five hundred rupees.

Valuation of property by receiver.

259. (1) Where any dispute relating to salvage arises, the receiver of wrecks of the district where the property is in respect of which the salvage claim is made may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

(2) Any copy of a valuation made under sub-section (1) purporting to be signed by the valuer and to be certified as a true copy by the receiver shall be admissible in evidence in any subsequent proceedings.

(3) Such fee as the Minister may direct shall be paid in respect of any valuation made under this section, by the person applying for such valuation.

Detention of property liable to salvage by receiver.

260. (1) Where salvage is due to any person under this Act, a receiver of wrecks shall,—

(*a*) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and

(*b*) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Subject as hereinafter mentioned, the receiver shall detain the vessel and the cargo or apparel, or the wreck, until payment is made for salvage, or process is issued for the arrest or detention by a Court.

(3) A receiver may release any vessel, cargo, apparel or wreck detained under this section, if security is given—

(*a*) to his satisfaction; or

(*b*) if the claim for salvage exceeds one thousand rupees, and any question is raised as to the sufficiency of the security, to the satisfaction of a Judge of the Supreme Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding one thousand rupees may be enforced by a competent Court in the same manner as if bail had been given in that Court.

Sale of detained property.

261. (1) A receiver of wrecks may sell any vessel, cargo, apparel or wreck detained by him under section 260, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases:—

(*a*) where the amount is not disputed and payment of the amount due is not made, within twenty days after the amount is due;

(*b*) where the amount is disputed but no appeal lies from the decision of the first Court to which the dispute is referred, and payment is not made, within twenty days after the decision of the first Court;

(*c*) where the amount is disputed and an appeal lies from the decision of the first Court to which the dispute is referred to some other

Court, and within thirty days after the decision of the first Court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal or of obtaining leave to appeal.

(2) The proceeds of sale of any vessel, cargo, apparel or wreck shall, after payment of the expenses of the sale, be applied by a receiver of wrecks in payment of the expenses, fees and salvage and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled thereto and in the absence of such persons to the Consolidated Fund of Ceylon.

Apportionment of salvage amongst owners, &c., of foreign vessel.

262. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew and other persons in the service of any foreign vessel, the amount shall be apportioned by the Court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

Apportionment of salvage not exceeding two thousand rupees by receiver.

263. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Ceylon has been finally determined, either summarily in the manner provided by this Chapter or by agreement, and does not exceed two thousand rupees, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to a receiver of wrecks for liberty to pay such amount to him.

(2) The receiver shall, if he thinks fit, receive the amount referred to in sub-section (1) accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid.

(3) A certificate granted under sub-section (2) in respect of any amount shall be a full discharge and indemnity to the person by whom the amount is paid and to his vessel, cargo, apparel and effects, against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(4) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled thereto on such evidence and in such shares and proportions as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(5) A distribution of any amount made by a receiver of wrecks in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

Apportionment of salvage by Supreme Court.

264. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Ceylon has been finally ascertained and exceeds two thousand rupees, and whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Ceylon has been finally ascertained (whatever that amount may be), then, if any delay or dispute arises as to the apportionment thereof, the Supreme Court—

(*a*) may cause such amount to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect;

(*b*) may compel any person in whose hands or under whose control the amount may be to distribute such amount or to bring it into Court, to be there dealt with as the Court directs; and

(*c*) may for the purposes aforesaid issue such processes as it thinks fit.

Application to the Government.

265. (1) Where civil salvage services are rendered by any ship of the Royal Ceylon Navy, any aircraft of the Royal Ceylon Air Force, or any other ship or aircraft belonging to or chartered by the Government, the Government shall (subject to any regulations made under this section) be entitled to claim salvage in respect of those services to the same extent, and shall have the same rights and remedies, as any other salvor.

(2) Subject to the provisions of any law for the time being in force relating to proceedings against the Government, and of any regulations made under this section, the provisions of this Chapter (except and to such extent as may be prescribed) shall apply in relation to salvage services rendered in assisting any ships of the Royal Ceylon Navy or any aircraft of the Royal Ceylon Air Force, or in saving life

therefrom, or in saving any cargo or equipment belonging to the Government, in the same manner as if the ship or aircraft or cargo or equipment belonged to a private person.

(3) No claim shall by virtue of this section lie against the Government in respect of anything done or suffered in relation to any postal article, as defined by section 88 of the Post Office Ordinance. Cap. 190.

(4) The Minister may make regulations providing for the application or modification of the provisions of this Chapter to ships and aircraft referred to in sub-section (1), and in relation to the services referred to in sub-section (2).

PART X—LEGAL PROCEEDINGS

CHAPTER 1: CASUALTIES.

Shipping casualties.

266. For the purpose of investigations and formal inquiries under this Part, a shipping casualty shall be deemed to occur—

(*a*) when on or near the coast of Ceylon any ship is lost, abandoned or materially damaged;

(*b*) when on or near the coast of Ceylon any ship has been stranded or damaged, and any witness is found in Ceylon;

(*c*) when any ship causes loss or material damage to any other ship on or near the coast of Ceylon;

(*d*) when any loss of life occurs by reason of any casualty happening to or on board any ship on or near the coast of Ceylon;

(*e*) when in any place any such loss, abandonment or material damage or any casualty as last aforesaid occurs and any witness is found in Ceylon;

(*f*) when in any place any ship registered in Ceylon is stranded or damaged and any witness is found in Ceylon; or

(*g*) when some members of the crew of a ship which has been wrecked or to which a casualty has occurred, who are competent witnesses to the fact are found in Ceylon.

Preliminary inquiry into shipping casualties.

267. (1) When a shipping casualty occurs, a preliminary inquiry may be held by the receiver of wrecks residing at or nearest to the place at which the casualty occurs or by any person appointed in that behalf by the Director.

(2) For the purpose of any investigation under sub-section (1), the person holding the same shall have all the powers of an inspector under this Act.

Formal investigation as to shipping casualties.

268. (1) A person authorized under section 267 to make a preliminary inquiry shall in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation should be made, and in any case where the Director so directs, apply to a District Court to make a formal investigation, and such District Court shall thereupon make a formal investigation.

(2) The District Court making any such formal investigation shall make the same with the assistance of one or more assessors of nautical, engineering or other special skill or knowledge to be appointed out of a list of persons appointed from time to time for the purpose by the Minister, in such manner as may be laid down by the rules made under section 280 with regard thereto.

(3) Where a formal investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of the master, mate or engineer, the District Court shall make the formal investigation with the assistance of not less than two assessors having experience in the merchant service.

(4) It shall be the duty of the person who has applied to the District Court to make a formal investigation to supervise the management of the case and to render such assistance to the District Court as is in his power.

(5) The Court, after hearing the case, shall make a report to the Director containing a full statement of the case and of the opinion of the Court thereon, accompanied by such report of, or extracts from, the evidence, and such observations as the Court thinks fit.

(6) Where the investigation or inquiry affects a master or an officer of a ship who holds a certificate under the law of any country outside Ceylon, the Director may transmit a copy of the report of the Court to the proper authority in that country.

(7) Each assessor shall either sign the report or state in writing to the Director his dissent therefrom and the reasons for that dissent.

(8) The Court may make such order as the Court thinks fit respecting the costs of the investigation or any part thereof and such order shall be enforced by the Court as an order for costs in its ordinary jurisdiction.

(9) The Director may, if in any case he thinks fit so to do, pay the costs of any such formal investigation.

(10) For the purposes of this section, the Court holding a formal investigation shall have all the powers it has when acting as a Court in the exercise of its ordinary jurisdiction.

(11) Every formal investigation into a shipping casualty shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence.

(12) A formal investigation made by a District Court as to a shipping casualty shall be made at the place appointed by the Minister of Justice by order under section 52 of the Courts Ordinance as the place at which such District Court is to be holden. Cap. 6.

Power of Court of investigation to inquire into charges against masters, mates and engineers.

269. (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate, or engineer as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

Power of Director to direct inquiry into charges of incompetency or misconduct.

270. (1) If the Director has reason to believe that there are grounds for charging any master, mate or engineer, with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Director—

(*a*) if the master, mate or engineer holds a certificate under this Act, in any case;

(*b*) if the master, mate or engineer holds a certificate under the law of any country outside Ceylon, in any case where the incompetency or misconduct has occurred on board a Ceylon ship,

may transmit a statement of the case to any Court having jurisdiction under section 269, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend and may direct that Court to make an inquiry into that charge and the Court holding an inquiry under this section will have the same powers and be subject to the same rules as the Court holding a formal investigation under section 268.

(2) Before commencing the inquiry the Court shall cause the master, mate or engineer, so charged to be furnished with a copy of the statement transmitted by the Director.

Power to arrest witnesses and enter ships.

271. If any Court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest and may for the purpose of effecting the arrest authorize any officer, subject, nevertheless to any general or special instructions from the Director, to enter any vessel, and any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officer of police or customs or any other person.

Power to commit for trial and bind over witnesses.

272. Whenever in the course of any such investigation or inquiry it appears that any person has committed in Ceylon an offence punishable under any law in force in Ceylon, the Court making the investigation or inquiry may (subject to such rules consistent with this Act as the Supreme Court may from time to time make) cause him to be arrested or commit him or hold him to bail to take his trial before the proper Court and may bind over any person to give evidence at the trial, and may, for the purposes of this section exercise all its powers as a criminal Court.

Power of Courts as to certificates.

273. (1) The certificate of a master, mate or engineer of a ship may be cancelled or suspended—

(*a*) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss or abandonment of, or serious damage to, any ship or loss of life has been caused by his wrongful act or default, so however that the Court shall not cancel or suspend a certificate unless at least one of the assessors concurs in the finding of the Court; or

(*b*) by a Court holding an inquiry under this Part into the conduct of a master, mate or engineer of a ship if the Court finds that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny or that in a case of collision he has failed to render such assistance or give such information as is required by Part VII.

(2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.

(3) Where the Court cancels or suspends a certificate, the Court shall forward it to the Director together with the report which it is required by this Part to transmit to him.

Power of Court to censure master, mate or engineer of a ship.

274. Where it appears to the Court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under section 273 is not justified, the Court may pass an order censuring the master, mate or engineer in respect of his conduct.

Power of Court to remove master of a ship and appoint new master.

275. (1) The Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court, if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

(2) The removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated officer, or one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

The delivery of certificate cancelled or suspended.

276. (1) A master, mate, or engineer of a ship whose certificate is cancelled or suspended by any Court or by the Director shall deliver his certificate—

(*a*) if cancelled or suspended by a Court to that Court on demand; or

(*b*) if not so demanded, or if it is cancelled or suspended by the Director, to the Director.

(2) If a master, mate, or engineer of a ship fails to comply with the provisions of this section, he shall, for each offence be liable to a fine not exceeding five hundred rupees.

Effect of cancellation or suspension of certificates.

277. The cancellation or suspension of a certificate by the Director or by a Court shall—

(*a*) if the certificate was issued under this Act be effective everywhere and in respect of all ships;

(*b*) if the certificate was issued outside Ceylon be effective—

(i) within Ceylon and the territorial waters of Ceylon in respect of all ships; and

(ii) outside Ceylon in respect of Ceylon ships only.

Suspended certificate not to be endorsed.

278. If the certificate of a master, mate, or engineer of a ship is suspended under this Part by the Director or by a Court, no endorsement shall be made to that effect on the said certificate.

Rehearing of an appeal from inquiries and investigations.

279. (1) The Minister of Justice, acting on the recommendation of the Minister, may, in any case where under this Part a formal investigation into a shipping casualty or an inquiry into the conduct of a master, mate or engineer of a ship has been held, order the case to be reheard either generally or as to any part thereof, and shall do so—

(*a*) if new and important evidence which could not be produced at the investigation or inquiry has been discovered; or

(*b*) if for any other reason there has in his opinion been ground for suspecting that a miscarriage of justice has occurred.

(2) The Minister of Justice may order the case to be reheard either by the Court by whom the case was heard in the first instance or by the Supreme Court.

(3) Where on any such investigation or inquiry a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer of a ship and an application for a rehearing under this section has not been made or has been refused, an appeal shall lie from that decision to the Supreme Court.

(4) Any rehearing or appeal under this section shall be made in accordance with the provisions of the rules relating thereto referred to in this Part.

Rules relating to inquiries and investigations. Cap. 6.

280. (1) Rules may be made in the manner provided by section 49 of the Courts Ordinance for carrying into effect the enactments relating to formal investigations, and to the rehearing of or an appeal from any investigation or inquiry held under this Part, and in particular with respect to the appointment and summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees and the place in which formal investigations are to be held.

(2) Any rule made under this section while in force shall have effect as if it were enacted in this Act.

Powers of Director to cancel, suspend, &c., certificate of master, mate, or engineer of a ship.

281. Any certificate which has been granted under this Act to any master, mate, or engineer of a ship may be cancelled or suspended for any specified period, by the Director in the following cases:—

(*a*) if, on any investigation or inquiry made by any Court, tribunal or other authority for the time being authorized by the legislative authority in any country outside Ceylon, the Court, tribunal, or other authority reports that the master, mate, or engineer of the ship is incompetent or has been guilty of any gross act of misconduct or drunkenness or tyranny, or in a case of collision has failed to render assistance or to give such information as is referred to in Part VII of this Act, or that the loss, stranding or abandonment or damage to any ship, or loss of life, has been caused by his wrongful act or default;

(*b*) if the master, mate, or engineer of the ship is proved to have been convicted—

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in Ceylon; or

(ii) of an offence committed outside Ceylon, which if committed in Ceylon would be a non-bailable offence, or

(*c*) if (in the case of a master of a Ceylon ship) he has been superseded by the order of any Court of competent jurisdiction in Ceylon or outside Ceylon.

Limitation of time for summary proceedings.

Cap. 101.

282. (1) Neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceedings instituted in any Magistrate's Court, or in any District Court or Court of Requests under the provisions of the Civil Procedure Code relating to summary procedure on liquid claims,—

(*a*) unless such proceedings are commenced within six months after the commission of the offence or after the cause of complaint arises, as the case may be; or

(*b*) if both, or either of, the parties to the proceedings happen or happens during that time to be out of Ceylon, unless the proceedings are commenced, in the case of—

(i) a conviction, within two months, and

(ii) an order, within six months after they both first happen to arrive, or to be at one time, in Ceylon.

(2) No written law for the time being in force which limits the time within which proceedings may be instituted in any Magistrate's Court, or in any District Court or Court of Requests as aforesaid, shall affect any proceedings under this Act.

Liability of shipowners.

283. (1) Where any person is beneficially interested (otherwise than by way of mortgage) in any ship or share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, shall be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein.

(2) Proceedings may be taken for the enforcement of any penalties referred to in sub-section (1) against both or either of the parties referred to therein, with or without joining the other of them.

Offences by bodies of persons, servants and agents.

284. (1) Where any body corporate, firm, society or other body of persons is charged with an offence under this Act, every person who at the time of the alleged offence was a director, manager, secretary or other similar officer or a partner of the body corporate, firm, society or body, or was purporting to act in such capacity, shall be liable to the penalties provided for such offence as if he himself were guilty thereof, unless he proves—

(*a*) that the offence was committed without his knowledge and that such ignorance was not caused by his wilful default or neglect; or

(*b*) that having regard to the nature of his functions in that capacity and to all the circumstances, he exercised all due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act to any penalty for any act, omission, neglect or default, he shall be liable to the same penalty for every

such act, omission, neglect or default of any clerk, servant or agent, or of the clerk or servant of such agent, provided that such act, omission, neglect or default was committed—

(*a*) by such clerk or servant in the course of his employment;

(*b*) by such agent when acting on behalf of such person; or

(*c*) by the clerk or servant of such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Who may prosecute.

285. Prosecutions in respect of offences under this Act may (without prejudice to the provisions of any other written law relating to prosecutions) be conducted by a Shipping Officer or by any other officer appointed under this Act and specially authorized in writing in that behalf by the Director.

Compounding of offences.

286. (1) The Director may compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one thousand rupees.

(2) A Shipping Officer may compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one hundred rupees.

(3) On the payment of any sum of money under sub-section (1) or sub-section (2),—

(*a*) the person reasonably suspected of having committed the offence in respect of which the payment has been made shall, if in custody, be discharged;

(*b*) any ship detained in respect of such offence shall be released; and

(*c*) no further proceedings shall be taken against such person or ship in respect of such offence.

CHAPTER 2: JURISDICTION.

Jurisdiction of Magistrates' Courts, &c.

287. Subject to any express provision of this Act to the contrary, any offence under this Act shall be and is hereby declared to be fully cognizable and punishable by Magistrates' Courts, and all sums becoming due by reason of any provisions of this Act or any subsidiary legislation made hereunder shall be and are hereby declared to be recoverable before Courts of Requests, although such offences and sums should exceed the ordinary jurisdiction of such Courts.

Provision as to jurisdiction over offences.

288. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either—

(*a*) in the place in which such offence or cause of complaint was committed or arose; or

(*b*) in any place in which the alleged offender or person complained against may be.

Jurisdiction over ships lying off the coast.

289. Where any district within which any Court has jurisdiction under this Act or any other Act or law for any purpose whatsoever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such Court shall have jurisdiction—

(*a*) over any ship, whether a Ceylon or a foreign ship, being on or lying or passing off that coast or being in or near that bay, channel, lake, river or navigable water; and

(*b*) over all persons on board such ship or for the time being belonging thereto,

in the same manner as if such ship or persons were within the limits of the original jurisdiction of the Court.

Jurisdiction in case of offences on board ship.

290. Where any person—

(*a*) being a citizen of Ceylon, is charged with having committed any offence—

(i) on board any Ceylon ship on the high seas; or

(ii) in any foreign port or harbour; or

(iii) on board any foreign ship to which he does not belong; or

(*b*) not being a citizen of Ceylon, is charged with having committed any offence on board any Ceylon ship on the high seas,

and that person is found within the jurisdiction of any Court in Ceylon which would have had cognizance of the offence if it had been committed on board a Ceylon ship within the limits of its ordinary jurisdiction, that Court shall have power to try the offence as if it had been so committed.

Application of fines.

291. (1) Where any Court imposes a fine under this Act for which no specific application is provided herein, the Court may if it thinks fit direct the whole or any part of the fine—

(*a*) to be applied in compensating any person for any wrong or damage which he has sustained by the act or default in respect of which the fine is imposed; or

(*b*) to be applied in or towards payment of the costs and expenses of the proceedings.

(2) Subject to any direction under sub-section (1) or any specific application provided under this Act, every fine referred to in sub-section (1) shall be paid into the Consolidated Fund of Ceylon.

Conviction under other law.

292. Nothing in this Act shall be deemed to prevent the prosecution, conviction and punishment of any person according to any other written law for the time being in force in Ceylon or any part thereof, so however that no person shall be punished more than once for the same offence.

CHAPTER 3: DETENTION OF AND DISTRESS ON SHIP.

Power to arrest foreign ship that has occasioned damage.

293. (1) Without prejudice to the provisions of any other written law, whenever any injury has, in any part of the world, been caused—

(*a*) by any foreign ship; and

(*b*) to any property belonging to the Government or to any local authority, or to any statutory authority exercising powers vested in it by any written law, or any citizen of Ceylon,

and thereafter that ship is found in Ceylon, a Judge of the Supreme Court may, upon its being shown to him by any person applying summarily that the injury

was probably caused by the misconduct or want of skill of the master, pilot or mariners of such ship, issue an order under this section.

(2) An order under this section shall be addressed to any Shipping Officer, or such other officer as may be named by the Judge in such order, and shall require such officer to detain the ship named or identified therein, until such time as the owner, master or consignee thereof—

(*a*) has made satisfaction in respect of the injury referred to in sub-section (1); or

(*b*) has given security, to be approved by the Judge, to abide the event of any action, suit or other legal proceeding that may be instituted in respect of such injury, and to pay all costs and damages that may be awarded,

and any Shipping Officer or other officer to whom such order is addressed shall detain the ship accordingly.

(3) Where it appears that, before an application can be made under sub-section (1), the ship in respect of which the application is made will have departed from Ceylon, such ship may be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship; and that officer shall not be liable for any costs or damages in respect of the detention, unless such detention is proved to have been made without reasonable grounds.

(4) In any legal proceedings relating to any injury referred to in sub-section (1), the person giving security shall be made defendant, and shall be stated to be the owner of the ship that has caused the injury.

(5) The production of an order of a Judge, made in relation to any security referred to in this section, shall be conclusive evidence of the liability of the defendant to the proceedings.

Enforcing detention of ship.

294. (1) Where under this Act or any other written law in force in Ceylon or any part thereof a ship is to be or may be detained, an authorized officer (as defined in sub-section (7)) may detain the ship.

(2) If, after the detention of a ship or after service on the master of a ship of any notice of or order for the detention of the ship, such ship goes to sea before it is released by the competent authority,—

(*a*) the master of the ship; and

(*b*) the owner and any person who sends the ship to sea, if that owner or person is party or privy to the offence,

shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

(3) An authorized officer may if he thinks it necessary to do so place a police guard on any ship detained under this section.

(4) Where a ship going to sea takes to sea when any authorized officer, police guard or Surveyor is on board thereof in the execution of his duties, the owner and master of the ship shall each be liable—

(*a*) to pay all expenses of and incidental to such officer, guard or Surveyor being so taken to sea; and

(*b*) on conviction, to a fine of two hundred rupees for every day until such officer, guard or Surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken,

and the expenses ordered to be paid may be recovered in like manner as the fine.

(5) Any police guard placed on board a ship under sub-section (2) is hereby authorized to take such steps as are necessary to prevent the ship from leaving port.

(6) Any person who opposes or in any way obstructs any authorized officer, police guard or Surveyor shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(7) In this section " authorized officer " means the Director, a Master Attendant, a Shipping Officer, an officer of customs, a Ship Surveyor, any commissioned officer of the armed forces, and any person specially or generally authorized by the Director to detain a ship.

Proper officer of customs to be informed of detention of ship.

295. (1) Where under this Act or any other written law a ship is to be detained, a Shipping Officer shall, and where under this Act or any other written law a ship may be detained a Shipping Officer may, notify the proper officer of customs that such ship is liable to be detained.

(2) Where a notification under sub-section (1) has been made to any officer of customs in respect of any ship, such officer shall refuse to clear that ship outward and to grant such ship a clearance under section 63 of the Customs Ordinance. Cap. 235.

(3) In this section " proper officer " has the meaning assigned thereto by the Customs Ordinance.

Cost of detaining ship.

296. Where a ship is detained in pursuance of any provisions of this Act which provides for the detention of a ship until a certain event occurs, sub-section (2) of section 211 shall apply as if the ship had finally been detained within the meaning of that section.

Notice to Consular officer on detention of foreign ship.

297. (1) Whenever—

(*a*) any foreign ship is detained under this Act; and

(*b*) any proceedings are taken under this Act against the master or owner of such ship,

notice shall forthwith be served on the Consular officer for the country to which the ship belongs at or nearest the port where the ship is for the time being.

(2) The notice to be served under sub-section (1) shall specify the grounds on which the ship has been detained or on which the proceedings have been taken.

Sums ordered to be paid leviable by distress on ship.

298. Where any Court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if—

(*a*) the party directed to make such payment is the master or owner of a ship; and

(*b*) such wages, fine or sum is not paid at the time and in the manner prescribed in the order,

the Court which made the order may (in addition to any other powers which it has for the purpose of compelling payment) direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

CHAPTER 4: INQUIRIES INTO DEATHS.

Inquiries into deaths of crew members and others.

299. (1) Subject to sub-section (4), where—

(*a*) any person dies in a ship registered in Ceylon; or

(*b*) the master or a seaman employed in such a ship dies in a country outside Ceylon,

an inquiry into the cause of death shall be held by the Shipping Officer or the proper officer at the next port where the ship calls after the death and where there is a Shipping Officer or proper officer, or at such other port as the Director may direct.

(2) The Shipping Officer or proper officer holding an inquiry under sub-section (1) shall for the purposes of the inquiry have the powers conferred on an inspector by section 314.

(3) The officer holding the inquiry under sub-section (1) shall make a report of his findings to the Director, and the Director shall, on request, make a copy of the report available to the next of kin of the deceased person or to any other person who appears to the Director to be interested.

(4) No inquiry shall be held under sub-section (1) in a case where an inquest or inquiry into death is to be held or made under any law for the time being in force relating to inquests or criminal procedure.

(5) In this section "proper officer" means, in relation to a port outside Ceylon, a Consular officer of Ceylon.

CHAPTER 5: EVIDENCE AND SERVICE OF DOCUMENTS.

Depositions to be received in evidence where witness cannot be produced.

300. (1) Whenever in the course of any legal proceedings instituted under this Act before any Court or before any person authorized by law or by the consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of that proceeding, then, upon due proof that the witness cannot be found in Ceylon, any deposition that the witness has previously made on oath or affirmation in relation to the same subject-matter before any Judge or Magistrate in any part of

the Commonwealth other than Ceylon, or before any Consular officer of Ceylon in any place not within the Commonwealth, shall be admissible in evidence:

Provided that—

(*a*) if the proceedings are criminal, a deposition so made shall not be admissible, unless it was made in the presence of the person accused; and

(*b*) no deposition so made shall be admissible, unless it is authenticated by the signature of the Judge, Magistrate or Consular officer before whom it was made, and unless such Judge, Magistrate or Consular officer has certified (if the fact is so) that the accused was present at the taking thereof.

(2) A deposition made in the manner referred to in sub-section (1) shall be deemed to be duly authenticated if it purports to have been signed by the Judge, Magistrate or Consular officer before whom it was made; and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition.

(3) In any criminal proceedings, a certificate purporting to have been signed by the Judge, Magistrate or Consular officer before whom a deposition was made that the accused was present at the taking of the deposition shall, unless the contrary is proved, be sufficient evidence of the accused having been present in the manner thereby certified.

(4) Nothing in this section shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other written law.

Proof of attestation not required.

301. Where any document is required by this Act to be executed in the presence of, or to be attested by, any witness or witnesses, such document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses, or any of them.

Admissibility of documents in evidence.

302. (1) Where any document is by this Act declared to be admissible in evidence, such document shall,—

(*a*) on its production from proper custody, be admissible in evidence in any Court before any person having by law or consent of parties authority to receive evidence; and

(*b*) subject to all just exceptions, be evidence of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

(2) A copy of any document referred to in subsection (1), or any extract therefrom, shall also be admissible in evidence—

(*a*) if it is proved to be an examined copy or extract; or

(*b*) if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer shall provide such a certified copy or extract to any person applying therefor at a reasonable time, upon payment of the prescribed fee.

(3) Any person having by law or consent of parties authority to receive evidence shall have the same powers as a Court to impound any document referred to in this section which has a false or counterfeit seal, stamp or signature affixed thereto.

Notices, &c., to be in writing.

303. Where by or under this Act any notice, authority, order, direction or other communication is required or authorized to be given or made by the Director to any person (not being an officer appointed under this Act), the same shall be made or given in writing.

Service of documents.

304. (1) Where for the purposes of this Act any document is to be served on any person, that document may be served—

(*a*) in any case, by delivering a copy thereof personally to the person to be served, or by leaving such copy at his last known place of abode or by transmitting or sending such copy by post;

(*b*) if the document is to be served on the master of a ship (where there is a master), or on a person belonging to a ship, by leaving such document for him on board that ship with the person being or appearing to be in command or charge of the ship; and

(*c*) if the document is to be served on the master of a ship, and there is no master and the ship is in Ceylon, on the managing owner of the ship or, if there is no managing owner in Ceylon, on some agent of the owner residing in Ceylon or, where no such agent is known or can be found, by affixing a copy thereof in some conspicuous place in the ship.

(2) Any person who obstructs the service on the master of a ship of any document under this Act relating to the detention of the ship as unseaworthy shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

(3) Any owner or master of a ship who is party or privy to any obstruction referred to in sub-section (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five thousand rupees, or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

CHAPTER 6: PROTECTION OF OFFICERS.

All officers, &c., to be public servants.

305. Every officer appointed under this Act and every person appointed or authorized under this Act, for any purpose of this Act, when acting in any area in pursuance of such purpose shall be deemed to be a public servant within the meaning of the Penal Code. **Cap. 19.**

Protection of public servants.

306. A suit shall not be maintained against any public servant within the meaning of the Penal Code for or in respect of anything done or omitted to be done by him in good faith in the exercise or performance, of any power, authority or duty conferred or imposed on him by or under this Act.

PART XI—SUPPLEMENTAL

CHAPTER 1: ENFORCEMENT OF ACT.

Interpretation of certain terms in this Chapter.

307. In this Chapter, "authorized officer" means—

(*a*) the Director;

(*b*) a Master Attendant;

(*c*) a Shipping Officer;

(*d*) the Chief Surveyor;

(*e*) a Surveyor;

(*f*) a radio Surveyor;

(*g*) any person appointed by the Director, either generally or in a particular case, to exercise powers under this Act.

Powers of authorized officers to board ships.

308. (1) Any authorized officer, either alone or with any other person, may go on board any ship in Ceylon whenever—

(*a*) he suspects that any offence under this Act has been or is about to be committed in any ship; or

(*b*) he considers it necessary for him to do so in the discharge of any duty imposed on him by this Act or any other written law.

(2) If a ship is registered in Ceylon, the powers conferred by this section may also be exercised outside Ceylon by a Consular officer of Ceylon, in addition to an authorized officer.

(3) Any master of a ship who, without reasonable excuse, refuses to allow any officer to board such ship in the exercise of the powers conferred on him by subsection (1) or (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Power of requiring production of documents, &c.

309. (1) Where an authorized officer has reason to suspect that any provision of this Act or any law for the time being in force relating to merchant shipping, merchant seamen or navigation is not being complied with, he may—

(*a*) require the owner, master or any of the crew of any Ceylon ship to produce any official log-books or other documents relating to the crew or any member thereof in their respective possession or control;

(*b*) require any such master to produce a list of all persons on board his ship, and to take copies of the official log-books or documents, or any part thereof;

(*c*) muster the crew of such ship;

(*d*) summon the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.

(2) If any person, on being duly required by an authorized officer under this section,—

(*a*) fails without reasonable cause to produce to that officer any such official log-book or document as he is required to produce under this section;

(*b*) refuses to allow such book or document to be inspected or copied;

(*c*) impedes any muster of the crew required under this section;

(*d*) refuses or neglects to give any explanation which he is required under this section to give; or

(*e*) knowingly misleads or deceives any officer authorized under this section to demand any explanation,

he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

Inspections.

310. (1) For the purpose of seeing that the provisions of this Act and any subsidiary legislation made thereunder are duly complied with, an authorized officer may at all reasonable times inspect any ship and its equipment or any part thereof, any articles on board the ship and any document carried in the ship in pursuance of this Act or any international convention relating to merchant shipping to which Ceylon is a party; and if the ship is registered in Ceylon the powers conferred by this section may also be exercised outside Ceylon by a Consular officer of Ceylon, in addition to an authorized officer.

(2) A person exercising powers under this section—

(*a*) shall not unnecessarily detain or delay a ship;

(*b*) may, if he considers it necessary in consequence of an accident, or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(3) Where an authorized officer has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship registered or licensed in Ceylon which, if provided on such ship would not be in accordance with any regulations made under section 127, he may enter such premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with such regulations.

(4) Any person who—

(*a*) obstructs an authorized officer in the exercise of his powers under this section;

(*b*) fails without reasonable cause to comply with any requirement made under sub-section (2); or

(*c*) refuses or fails to give an authorized officer reasonable facilities for the exercise of his powers under this section,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

Power of arrest.

311. (1) Any Shipping Officer, officer of customs, Surveyor or police officer may arrest without warrant any person offending in his view against any provision of this Act or any subsidiary legislation made thereunder and take him before a Court, to be dealt with according to law.

(2) Any article in respect of which, any offence referred to in sub-section (1) is believed to have been committed may be seized and taken to a police station, unless sooner given up by order of a Court, until the charge relating to such offence is disposed of in due course of law.

Returns by Surveyors.

312. (1) Surveyors shall, in relation to ships surveyed by them, make such returns to the Chief Surveyor of Ships as the latter requires with respect to—

(*a*) the build, dimensions, draught, burden, rate of sailing and room for fuel of such ships;

(*b*) the nature and particulars of machinery and the equipment of such ships; and

(*c*) such other details of such ships as may be prescribed by the Minister.

(2) Every owner, master and engineer of any ship surveyed by a Surveyor shall, on demand, give to the Surveyor such information and assistance within his power as the Surveyor may require for the purpose of making any return under sub-section (1).

(3) Any owner, master, or engineer of a ship who, after demand by a Surveyor, fails without reasonable cause to give information or assistance pursuant to sub-section (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred rupees.

CHAPTER 2: INSPECTORS.

Appointment of inspectors.

313. The Minister may as and when he thinks fit appoint any person as an inspector to report to him—

(*a*) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused; or

(*b*) whether the provisions of this Act or any subsidiary legislation made thereunder have been complied with; or

(*c*) whether the hull and machinery of any ship are sufficient and in good condition.

Powers of inspectors.

314. An inspector, or any person having the powers of an inspector, may—

(*a*) go on board any ship, Ceylon or foreign, and inspect such ship or any part thereof, or any of the machinery, boats, equipment or articles on board thereof to which the provisions of this Act or any subsidiary legislation made thereunder apply, not unnecessarily detaining or delaying such ship from sailing on any voyage;

(*b*) enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(*c*) by summons under his hand require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report;

(*d*) require answers or returns to any inquiries which he thinks fit to make;

(*e*) require and enforce the production of all books, papers and documents which he considers important for the purpose of his report;

(*f*) administer oaths or, in lieu of requiring or administering an oath, require a person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Witnesses.

315. (1) Every witness summoned under paragraph (*c*) of section 314 shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the Supreme Court.

(2) In case of any dispute as to the amount of the expenses of any witness referred to in sub-section (1), such dispute shall be referred to the Registrar of the Supreme Court who shall, on a request for that purpose made to him under the hand of the inspector or person having the powers of an inspector, ascertain and certify the proper amount of those expenses.

(3) Any person who—

(*a*) refuses to attend as a witness before an inspector or a person having the powers of an inspector, after having been required to do so in the manner provided by section 314 and having had a tender made to him to the expenses (if any) to which he is entitled under this section; or

(*b*) refuses or neglects to make any answer, or to give any return or to produce any document in his possession, or to make or subscribe any declaration which an inspector or person having the powers of an inspector is empowered to give under section 314,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Obstruction of inspector.

316. (1) Any person who wilfully impedes an inspector or person having the powers of an inspector in the execution of his duty under this Act, whether on board a ship or elsewhere,—

(*a*) may be seized or detained by such inspector or person, or by any other person or persons whom that inspector or person may call to his assistance, until he can conveniently be taken before a Magistrate;

(*b*) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

CHAPTER 3: DOCUMENTS AND FORMS.

Power of Director to prescribe forms.

317. (1) Subject to any special provisions of this Act, the Director may prepare and sanction forms for any book, instrument or paper required under this Act, other than under Part II, and may from time to time make such alterations in those forms as he thinks fit.

(2) The Director shall cause every such form to be sealed with his seal or marked with some other distinguishing mark, and before finally issuing any form or making any alteration in a form shall cause public notice thereof to be given in such manner as he thinks requisite to prevent inconvenience.

(3) The Director may cause all such forms to be supplied to all customs houses and shipping offices in Ceylon, either free of charge or at such moderate prices as he may fix.

(4) Every such book, instrument or paper required under this Act shall be made in the form (if any) approved by the Director, or as near thereto as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(5) Every such book, instrument or paper, if made in a form purporting to be the proper form and to be sealed in accordance with this section, shall be deemed to be in the form required by this Act, unless the contrary is proved.

Exemption from stamp duty.

318. The following instruments shall be exempt from stamp duty :—

(*a*) any instrument used by or under the direction of the Director in carrying into effect the provisions of this Act;

(*b*) any instruments which are by any provisions of this Act or any regulations made thereunder required to be in a form approved by the Director, if made in that form.

Offences in respect of use of forms.

319. If any person—

(*a*) when a form approved by the Director is, under this Act, required to be used without reasonable cause uses a form, not purporting to be a form so approved; or

(*b*) prints, sells or uses any document purporting to be a form approved by the Director under this Act, knowing the same not to be the form approved for the time being, or not to have been prepared or issued by the Director,

that person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred rupees.

CHAPTER 4: GENERAL.

Power to apply Act to ships of other countries, and to exempt such ships.

320. (1) Where the Minister is satisfied that any provisions of the law of any Commonwealth country (other than Ceylon) or of any other foreign country, which apply with respect to ships registered in or belonging to that country while they are at any port in Ceylon are substantially the same as, or equally effective as any of the provisions of this Act or any subsidiary legislation made thereunder, he may by order direct that all or any of such provisions shall not apply with respect to ships registered in or belonging to that country while they are at any port in Ceylon, if it is proved that those ships comply with the corresponding provisions of the law of the country in which they are registered or to which they belong:

Provided, however, that no such order shall be made unless the Minister is satisfied that the Government of the Commonwealth or foreign country concerned (as the case may be) has provided or undertaken to provide for the exemption of Ceylon ships while they are at any port in that country, from the corresponding provisions of the law of that country.

(2) Where the Minister is satisfied that the Government of any Commonwealth country (other than Ceylon) or of any other foreign country desires that any of the provisions of this Act or any subsidiary legislation made thereunder which do not apply to ships registered in or belonging to that country, or to any class or description of those ships, should so apply either generally or in specified circumstances, and no special provision for that application is made elsewhere in this Act, he may by order declare that such provisions of this Act or any subsidiary legislation made thereunder shall (subject to any limitation prescribed in such order) apply to ships registered in or belonging to that country or, as the case may be, to any class or description of such ships and to the owners, masters and crews and other persons in the service of such ships when not locally in the jurisdiction of such country, in the same manner as if those ships were Ceylon ships.

(3) Any order made under sub-section (1) or (2) shall, subject to any limitation therein, have effect according to its tenor.

General power to make regulations.

321. (1) Without prejudice to any other power to make regulations conferred upon him by this Act, the Minister may make regulations generally for carrying this Act into effect, and may by such regulations provide for—

(*a*) anything which is to be or may be prescribed under this Act;

(*b*) the fees to be charged for any services rendered or acts performed under this Act;

(*c*) the offences which and the officers by whom offences under this Act may be compounded;

(*d*) the admissibility in evidence and the exemption from stamp duty of documents and forms used under this Act;

(*e*) the control of ships within Ceylon waters, to the extent that no other provision has been made therefor by this Act or any other written law;

(*f*) the definition of home-trade and foreign trade limits, the classification of ships authorized to ply within such limits (whether in relation to their manning standards, general seaworthiness or otherwise), the regulation of

traffic within any such limits, and the modification of any provisions of this Act in relation to any such ships;

(*g*) requiring the complement of a Ceylon ship, or of any ship trading in Ceylon waters, and subject to such conditions as may be prescribed, to consist of citizens of Ceylon, in such proportion or percentage as may be so prescribed;

(*h*) prescribing the hours for the transaction of business by owners, masters and agents of ships at shipping offices at any port or ports within Ceylon;

(*i*) the enforcement of any international convention relating to the subject-matter of this Act and generally to all maritime matters;

(*j*) the implementation in whole or in part of any international convention relating to merchant shipping, or any matter incidental thereto or connected therewith; and

(*k*) extending to aircraft, with such modifications as may be prescribed, the provisions of this Act relating to salvage and wreck.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Indemnity to Government.

322. The Government shall not be responsible for any act or default of any person appointed under, or for the purposes of, this Act, except to such extent as may be provided by this Act.

General power of exemption.

323. Without prejudice to any other powers conferred on him by the provisions of this Act or by

any subsidiary legislation made thereunder, the Minister may, subject to such conditions (if any) as he thinks fit to impose, by order—

(*a*) modify the provisions of this Act in their application to such ship or class or description of ship as may be specified in such order in such manner and to such extent as the Minister may by such order prescribe;

(*b*) exempt such ship or class or description of ship as may be specified in such order from any specified requirement contained in or prescribed under this Act, if he is satisfied that the requirement has been substantially complied with or that compliance is unnecessary in the circumstances of the case.

Interpretation.

324. (1) In this Act, unless the context otherwise requires—

" Ceylon " includes Ceylon waters;

" Ceylon ship " means a ship which is owned wholly by the persons or bodies referred to in section 30;

" Ceylon waters " means the territorial waters of Ceylon;

" cargo " includes livestock;

" Chief Registrar " means the Chief Registrar of Ceylon Ships;

" Chief Surveyor " means the Chief Surveyor of Ships for Ceylon appointed for the purposes of this Act;

" crew ", in relation to a ship, includes seamen and apprentices;

" Director " means the Director of Merchant Shipping or Director of Shipping, appointed for the purposes of this Act, and includes any deputy or assistant of, or person lawfully acting under the instructions or on behalf of, the Director;

" distressed seaman " means a seaman engaged under this Act who, by reason of having been discharged or left behind from, or shipwrecked in, any ship at any port or place outside Ceylon, is in distress there;

" fishing boat " means a ship, of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing for profit;

" foreign ship " means a ship which is not a Ceylon ship;

" Government-Sponsored Shipping Company or Corporation " means any Company or Corporation in which the shares are wholly or partly owned by the Government;

" go to sea " includes getting under way for the purpose of going to sea;

" master " includes every person (except a pilot or harbour master) having for the time being command, control or charge of a ship, or lawfully acting as the master thereof;

" Master Attendant " means a Master Attendant within the meaning of the Masters Attendant Ordinance, and includes any person lawfully acting for a Master Attendant; Cap. 369.

" officer " includes a master, mate or engineer;

" officer of customs " has the same meaning as in the Customs Ordinance; Cap. 235.

" offence under this Act " includes an offence against any subsidiary legislation made under this Act;

" owner ", in relation to a ship, includes a charterer and an agent or agents of the owner or charterer;

" Part ", in relation to this Act, means the Part of this Act in which that term occurs;

" police officer " means a member of an established Police Force, and includes the Inspector-General and any Deputy Inspector-General, Superintendent, Assistant Superintendent, Inspector, Sub-Inspector, Sergeant or Constable;

" port " means a port or place declared or deemed to be a port under section 111 of the Customs Ordinance;

" proper return port ", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged or the port agreed to as such by the master, seaman or apprentice, as the case may be;

" Registrar " means a Registrar of Ceylon Ships, and includes the Chief Registrar;

" Registrar of the Supreme Court " includes any person acting as Registrar of the Supreme Court and any Deputy Registrar of the Supreme Court;

" sea-going ship " means a ship that in fact goes to sea;

" seaman " includes every person (except an officer or a pilot or a person temporarily employed on a ship while in port) employed or engaged in any capacity on board any ship;

" ship " means every description of ship or vessel or boat, or any other description of vessel used in navigation and not exclusively propelled by oars, paddles or poles, and includes all equipment, apparel and appurtenances (excluding supplies for sustenance) which are necessary for the navigation and conduct of the business of the ship;

" Shipping Officer " includes any Deputy or Assistant Shipping Officer, and any person lawfully acting for any Shipping Officer, Deputy or Assistant Shipping Officer;

" subsidiary legislation " means regulations or rules made under this Act;

" Surveyor " means a Ship Surveyor appointed for the purposes of this Act, and includes an Engineer and Ship Surveyor, or a Nautical Surveyor, or a Radio Surveyor, so appointed;

" tidal water " means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides;

" voyage ", in relation to a ship, means the whole distance between the ship's port or place of departure and her final port or place of arrival.

(2) Any reference in this Act—

(*a*) to failure to do any act or thing shall be deemed to include a reference to a refusal to do that act or thing;

(*b*) to the requirements of or to any matter prescribed by this Act shall be deemed to include a reference to the requirements of or to do any matter prescribed by any subsidiary legislation made under this Act.

PART XII—REPEAL AND TRANSITIONAL

Repeal.

325. (1) The written laws specified in Column 1 of the Schedule are, subject to the provisions of this Part, hereby repealed to the extent specified in Column II of that Schedule, and replaced by the provisions of this Act.

(2) Any instrument which was issued, served or granted under any law which is repealed or ceases to have effect by virtue of this Act shall (without prejudice to any power to amend such instrument, and subject to such modifications as may be necessary to bring it into conformity with this Act) continue in force until superseded, revoked or otherwise terminated, and shall be deemed to have been issued, served or granted under this Act, and this Act and any subsidiary legislation made hereunder shall apply to or in relation to such instrument accordingly:

Provided that no such instrument which is expressed to continue in force for a definite period shall continue in force after the expiration of that period unless it is renewed or extended in accordance with this Act and any subsidiary legislation made or continued in force hereunder.

(3) In this section "instrument" means any licence, certificate, validation, exemption, notice or other authority, or any instruction or other requirement, as the circumstances may require.

(4) Reference in any written law to the Merchant Shipping Acts of the United Kingdom shall, unless the context otherwise requires, be construed as a reference to this Act.

Transitional provisions relating to registered ships.

326. Any ship registered in relation to Ceylon under Part I of the Merchant Shipping Act, 1894, of the United Kingdom immediately before the commencement of Part III of this Act shall be deemed to be duly registered under this Act and the Chief Registrar may, on application, issue a certificate of registry for such ship free of charge, and free of payment of any initial registration fee.

Provisions relating to tonnage measurement.

327. Until other provision therefor is made by regulations made under section 44, the tonnage of every ship to be registered under Part III shall, prior to such ship being registered, be ascertained by a Surveyor in accordance with the law in force at the

time of such ascertainment for the measurement of the tonnage of merchant shipping of such maritime nation as the Chief Surveyor may direct.

Provisions relating to ships' names, &c.

328. Until other provision therefor is made by regulations made under section 44, the regulations made under section 50 of the Merchant Shipping Act, 1906 by the Board of Trade of the United Kingdom in conjunction with the Commissioners of Customs on 28th August, 1907 (relating to the registration of ships) shall remain in force, subject to such modifications as may be necessary to bring them into accord with the provisions of this Act.

Provisions relating to forms of bills of sale, &c.

329. Until other provision therefor is made by regulations made under section 44, the forms of bill of sale, mortgage and transfer of mortgage of a ship shall be in the forms marked respectively A, B and C in the first part of the First Schedule to the Merchant Shipping Act, 1894 of the United Kingdom, or as near thereto as circumstances may admit; and for such purpose, for any reference therein to a British ship there shall be substituted a reference to a Ceylon ship.

Application of safety and load line regulations.

330. Until other provision is made therefor by regulations made under this Act,—

(*a*) the regulations annexed to the International Convention for the Safety of Life at Sea signed at London on 17th June, 1960 shall have effect as regulations made under section 139, and shall take effect with such modifications as may be necessary to adapt them to the circumstances of Ceylon; and any reference therein to the " Administration " shall be construed as a reference to the Director, or to such other person or officer as the Director may for such purposes appoint;

(*b*) the following rules and regulations of the United Kingdom, namely, the Merchant Shipping (Load Line) Rules, 1968, the Merchant Shipping (Length of Ship) Regulations, 1968, the Merchant Shipping (Dock Cargo) Regulations, 1968, and the Merchant Shipping (Load Lines) (Exemption) Order, 1968, together with all other subsidiary legislation of an ancillary nature thereto made under the Merchant Shipping (Load

Lines) Act, 1967, as amended from time to time, shall have effect as regulations made under Part VI of this Act, and shall have effect subject to such modifications as may be necessary to adapt them to the circumstances of Ceylon.

Act to override certain other legislation.

Cap. 198.
Cap. 369.

331. For the avoidance of doubts, it is hereby declared that in the event of any conflict between the provisions of this Act and any subsidiary legislation made thereunder and the provisions of the Boats Ordinance and the Masters' Attendant Ordinance and any rules or regulations made under such Ordinances, the provisions of this Act and the subsidiary legislation made or deemed to be made thereunder shall, to the extent of any inconsistency, prevail.

Temporary continuance of certain rules.

332. The Shipping Casualties Rules, 1899, made under section 13 of the Shipping Inquiries Ordinance, 1899, shall—

(*a*) in so far as such rules are not inconsistent with the provisions of this Act, be deemed to be rules made under section 280;

(*b*) continue in force until other provision is made therefor under such section;

(*c*) be construed as if for references therein to the Principal Collector of Customs there were substituted references to the Director.

Regulations for resolving transitional difficulties.

333. The Minister may make regulations to provide for—

(*a*) resolving any difficulties that may arise out of the repeal by this Act of any written law;

(*b*) the amendment or revocation of any subsidiary legislation, or any part thereof, made under any law repealed by this Act and remaining in force pursuant to this Part;

(*c*) the continuance in force, subject to such conditions as may be prescribed, of any exemptions (whether or not based upon reciprocity with any other territory) from the operation of any written law repealed by this Act;

(*d*) generally effecting a due and orderly assimilation of the law relating to merchant shipping throughout Ceylon in conformity with the purposes of this Act.

SCHEDULE

(Section 325)

Laws Repealed by this Act

A. *Legislation of Ceylon*

I *Written Laws*	II *Extent of Repeal*
Merchant Shipping Ordinance, 1863 ..	The whole
Shipping Inquiries Ordinance, 1899 ..	„
Wrecks and Salvage Ordinance, 1861 ..	„
Coastwise Passenger Traffic Ordinance, 1886 ..	„
Passenger Ships Ordinance, 1906	„
Merchant Shipping (War Service) Ordinance (Chapter 368)	„
Colonial Seamen Repatriation Ordinance (Chapter 373)	„
Merchant Shipping Act (Chapter 367) ..	„

B. *United Kingdom Legislation*

57 and 58 Vict. c. 60	Merchant Shipping Act, 1894	Insofar as such Acts are in force in Ceylon.
6 Edw. 7. c. 48	Merchant Shipping Act, 1906	
7 Edw. 7. c. 52	Merchant Shipping Act, 1907	
22 Geo. 5. c. 9	Merchant Shipping (Safety and Load Line Conventions) Act, 1932.	