

THE SHIPPING ACT, 1998

(Act 8 of 1998)

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SCHEDULES.

JAMAICA

No. 8—1998

Assent.

[L.S.]

H. F. COOKE,
Governor-General.

28th day of July, 1998.

AN ACT to Make better provision in respect of the regulation of merchant shipping generally; and more particularly in respect of the registration of ships, the employment and certification of seafarers, the safety of shipping; to significantly consolidate the law relating thereto, and to make provision for matters connected therewith.

[The date notified by the Minister
bringing the Act into operation]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1. This Act may be cited as the Shipping Act, 1998, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*. Short title
and com-
mencement.

**Interpreta-
tion.****2. In this Act unless the context otherwise requires—**

“agent” in relation to a ship or the owners of a ship, means the person who is acting as such;

“aircraft” means any craft designed for flying, and includes a seaplane or any ship or vessel able to alight upon or hover over water;

“appointed day” means the day appointed by the Minister pursuant to section 1 for the coming into operation of this Act;

“apprentice” means an apprentice to the sea service and includes a trainee officer or trainee seaman;

“Authority” means the Maritime Authority established under section 6;

“bankruptcy” includes insolvency and any other process leading to the liquidation of assets;

“bareboat charter” in relation to a ship means the leasing of the ship for a stipulated period of time, without master and crew, on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew and “bareboat chartered” shall be construed accordingly;

“cargo” includes livestock;

“Caribbean Community” means the Community established under the Treaty done at Chaguramas on 4th July, 1973;

“CARICOM state” means a member state of the Caribbean Community;

“certificate of survey” means a certificate of survey issued by a surveyor of ships pursuant to section 42;

“Certificate of Registry” in relation to a Jamaican ship, means the Certificate of Registry issued pursuant to the provisions of Part VI.

“consular officer” means a person discharging the duties of a consular officer on behalf of the Government of Jamaica and when used in relation to a state other than Jamaica means the officer recognized by the Government of Jamaica as a consular officer of that other state;

“crew” in relation to a ship includes seamen and apprentices;

“crew agreement” means the agreement entered into pursuant to section 116 between the owner or other person having control of a ship and the employment of seamen therefor (whether entered into by an agent on behalf of such person) and each member of the crew thereof;

“Director” means the Director of Maritime Services appointed under section 10, and includes any person lawfully acting under the instructions of or on behalf of the Director;

“duly qualified medical practitioner” means a medical practitioner registered under the Medical Act;

“Exclusive Economic Zone” means the Zone beyond the territorial sea of Jamaica established under the Exclusive Economic Zone Act;

“fishing vessel” means a vessel of whatever size and in whatever way propelled which is used or intended to be used for or in connection with the catching of fish for gain and includes a fishing boat within the meaning of the Fishing Industry Act;

“foreign ship” means a ship which is not a Jamaican ship;

“inland waters” comprise the areas of fresh water which are on the landward side of the low water mark, and which include water which is contained in—

- (a) any spring, river, stream or other water-course, whether natural or artificial, including any estuary thereof; and
- (b) any lake or pond, whether natural or artificial, sustained by underground water or by a spring, river or stream;

“Inspector” includes—

- (a) a person appointed as an Inspector pursuant to section 315;
- (b) a surveyor;

“international voyage” means a voyage from a port in one state to a port in another state;

“Jamaica” includes Jamaican waters;

“Jamaican Government ship” means a ship which is owned or under the operational or control service of the Government of Jamaica but does include a ship which forms part of the Jamaica Defence Force;

“Jamaican ship” means a ship which is—

- (a) registered or licensed under this Act; or
- (b) exempted under this Act from being registered or licensed;

“Jamaican waters” means the inland waters, and—

- (a) internal waters;
- (b) archipelagic waters; and
- (c) territorial sea,

as defined in Maritime Areas Act; and such other waters as may be prescribed under any enactment to be Jamaican waters;

“licensed Jamaican ship” means a ship that is licensed under section 59;

“local authority” means—

- (a) a Parish Council constituted under the Parish Councils Act;
- (b) the Council of the Kingston and St. Andrew Corporation constituted under the Kingston and St. Andrew Corporation Act;

“local trade in Jamaican waters” means the transport locally of passengers or good or the carrying out of any other operation or activity locally, within Jamaican waters, for purposes of trade, profit or reward;

“machinery” includes propulsion systems, steering systems, pressurized containers and systems, pumping systems, windlasses, electrical systems and all similar apparatus required for, or affecting, the safety or operation of a ship or the safety of the personnel on board a ship;

“managing owner” in relation to a ship includes any person, not being an agent, vested with authority by the owner of the ship to manage and operate the ship;

“Maritime Tribunal” means the Maritime Tribunal established under section 411;

“master” means the person, who, for the time being, has lawful command of a ship or other vessel;

“officer” in relation to the crew of a ship includes the master, a deck, engineer, radio or medical officer;

“Organization” or “IMO” means the International Maritime Organization;

“owner” in relation to a ship includes a demise or bare-boat charterer and a managing owner;

“passenger” means any person carried on board a ship except—

- (a) the master, a member of the crew, or any other person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a child under one year of age;
- (c) a person carried on the ship under an obligation imposed upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the owner nor the charterer, if any, could prevent or forestall;

“passenger ship” means a ship which is constructed for, or which is habitually or on any particular occasion used for, carrying more than twelve passengers;

“pleasure craft” means a ship, however propelled, that is used exclusively for pleasure and does not carry passengers or cargo for hire or reward, but does not include a vessel that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house, guest house or other establishment;

“Port Authority” means the Port Authority established under the Port Authority Act;

“port of Jamaica” means any area defined as a port under the Port Authority Act;

“Principal Receiver” means the Principal Receiver of Wreck appointed under section 11;

“proper officer” in relation to any function or activity under this Act means a person authorized by the competent authority to perform that function or activity and includes a consular officer;

“public officer” has the same meaning as in the Constitution of Jamaica;

“receiver” means a receiver of wreck so appointed under section 330;

“registered” in relation to a Jamaican ship means registered under this Act;

“registrar” means a registrar of Jamaican ships appointed under section 11, and includes the Registrar-General;

“Registrar-General” means the Registrar-General of Ships appointed under section 11;

“Registrar of seafarer” means the Registrar of Seafarer appointed under section 11;

“seafarer” includes a master, officer and any other category of a crew of a ship;

“seaman” means every person employed or engaged in any capacity on board any ship except—

- (a) the master;
- (b) a pilot;
- (c) a person temporarily employed on the ship while it is in port;
- (d) an apprentice, other than for the purposes of sections 193 to 216.

“ship” includes every description of vessel used in navigation;

“shipwrecked person” means a person belonging to any ship referred to in section 332;

“Surveyor-General” means the Surveyor-General of Ships appointed pursuant to section 11;

“surveyor” means a person appointed as a surveyor of ships under section 11 and includes the Surveyor-General;

“tackle” means, in relation to a vessel, the tackle, machinery, gear, apparatus, and appliances used on board a ship for loading and unloading;

“tonnage certificate” means a certificate issued by the Registrar-General certifying the tonnage of a ship;

“Unit of Account” means the Special Drawing Right as defined in section 2 of Article XV of the Articles of Agreement of the International Monetary Fund, the text of which is set out in the Schedule to the Bretton Woods Agreements Act;

“vessel” means—

- (a) every description of water craft, however propelled or moored, including a barge, hydrofoil and hovercraft and every other type of non-displacement craft, anything constructed or used to carry persons or goods by water, and a seaplane on or in the water;
- (b) a hulk, store ship or other similar vessel without means of propulsion;
- (c) such other thing constructed or adapted for floating or being submerged in water as the Minister may by order specify as a vessel for the purposes of any provision of this Act;

“wreck” includes flotsam, jetsam, lagan, and derelict found in Jamaican waters or on the shores of Jamaica.

Ship's tonnage.

3. For the purposes of this Act, a ship's tonnage shall be its gross tonnage as defined in the tonnage regulations as may be made under this Act, and shall be measured in accordance with these Regulations.

Application of Act.

4.—(1) This Act shall, except where otherwise provided, apply to Jamaican ships wherever they may be, and to foreign ships in Jamaican waters.

(2) Except as provided by the Minister pursuant to subsection (3) and (4), nothing in this Act applies—

- (a) to Jamaican Government ships operated for non-commercial purposes;
- (b) to ships or aircraft owned by or in the service of and under the operational control of the Jamaica Defence Force.

(3) The Minister may make regulations prescribing the manner and extent to which the provisions of this Act apply to Jamaican Government ships operated for non-commercial purposes.

(4) The Minister may, by notification published in the *Gazette*, direct that, subject to such rules as may be made in that behalf, Jamaican Government ships may be registered as Jamaican ships under this Act, and thereupon, this Act, subject to any exceptions and modifications which may be made in the notification, shall apply either generally or with respect to any class of ships belonging to the Government registered in accordance with the rules as they apply to Jamaican ships registered in the manner provided by this Act, and for the purpose of such application any reference to an owner shall be construed as a reference to the Director.

5. Subject to any other provision of this Act to the contrary, nothing in this Act applies to foreign state-owned ships which are operated for non-commercial purposes.

Non-application to foreign non-commercial ships.

PART II. *The Maritime Authority*

6.—(1) There is hereby established for the purposes of this Act, a body to be called the Maritime Authority which shall be a body corporate to which section 28 of the Interpretation Act applies.

Establishment of Authority.

(2) The provisions of the First Schedule have effect as to the constitution of the Authority and otherwise in relation thereto.

First Schedule.

**Principal
objects of
Authority**

7. The principal objects of the Authority are to pursue the development of shipping and to regulate matters relating to merchant shipping and seafarers.

**Functions of
Authority.**

8.—(1) The functions of the Authority are to carry out such activities as may be necessary to give effect to the objects specified in section 7, and without limiting the generality of the foregoing the Authority shall have the duty to—

- (a) administer the registration of ships;
- (b) regulate the certification of seafarers;
- (c) regulate the safety of shipping as regards the construction of ships and navigation;
- (d) administer policy for the development of shipping in general;
- (e) inspect ships for the purposes of maritime safety and prevention of marine pollution;
- (f) establish maritime training and safety standards;
- (g) make enquiries as to shipwrecks or other casualties affecting ships, or as to charges of incompetence or misconduct on the part of seafarers in relation to such casualties.

(2) For the purpose of the performance of its functions under this Act, the Authority may do anything and enter into any transaction which, in the opinion of the Authority is necessary or incidental to its functions, and in particular and without limiting the generality of the foregoing the Authority may impose fees or charges for the use of any service provided by the Authority.

**Minister's
directions to
Authority.**

9.—(1) Without limiting the effect of subsection (2) the Minister may give the Authority such directions of a general character as to the performance of its functions as he thinks appropriate.

(2) The Minister may give the Authority directions to do a particular thing or refrain from doing a particular thing if the Minister considers it appropriate to give such directions—

- (a) in the interest of national security;
- (b) in connection with any matter appearing to him to affect the relations of Jamaica with another country or territory;
- (c) in order to discharge or facilitate the discharge of an obligation binding on Jamaica by virtue of its being a member of an international organization or a party to an international agreement;
- (d) in order to attain or facilitate the attainment of any other object, the attainment of which is, in the opinion of the Minister, appropriate in view of the fact that Jamaica is a member of an international organization or a party to an international agreement;
- (e) in order to enable Jamaica to become a member of an international organization or a party to an international agreement;
- (f) in order to prevent or deal with pollution such as noise or vibration or any disturbance attributable to ships used for the purpose of maritime transport.

10.—(1) There shall be a Director of Maritime Services who shall be appointed by the Minister.

Appointment
of Director
of Maritime
Services.

(2) The Director of Maritime Services shall be responsible for the day-to-day management and operation of the Authority.

11.—(1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a Registrar-General of Ships, a Registrar of Seafarers, a

Appointment
of other
officers and
employees.

Surveyor-General of Ships, a Principal Receiver of Wreck, surveyors, registrars and such and so many other officers, employees and agents as it thinks necessary for the proper carrying out of the provisions of this Act.

(2) The provisions of the First Schedule shall apply in relation to staff appointed by the Authority.

Appoint-
ment of
Surveyors.

12.—(1) The Minister may appoint duly qualified persons based either within or outside Jamaica as surveyors to survey and measure ships under and for the purposes of this Act.

(2) The Minister may, by order, designate any person within or outside Jamaica to be a classification society for the purposes of this Act and any classification society so appointed may appoint any person as a surveyor to survey and measure ships under and for the purposes of this Act, subject to such conditions as the Minister may impose.

Delegation
of power by
Director.

13.—(1) The Director may delegate the exercise of any powers or the performance of any duties conferred on him by or under this Act to such person or persons as he may think fit, but such delegation shall not affect the exercise of such powers or the performance of such duties by the Director.

(2) Any act done pursuant to a power delegated under subsection (1) shall have the same effect as if done by, to or before the Director.

Minister may
delegate
certain
powers and
duties.

14.—(1) The Minister may, by notice published in the *Gazette* delegate to the Director or any other officer appointed under this Act and specified in such notice, the exercise of any powers (other than the power to make regulations) or the performance of any duties conferred or imposed on him by or under this Act, subject to such conditions and restrictions as may be specified in such notice.

(2) A delegation pursuant to subsection (1) shall not affect the exercise by the Minister of the delegated powers or the performance of the delegated duties.

(3) 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 such delegation.

PART III. *Restriction on Trade*

15.—(1) Subject to subsections (2) and (3), no ship shall be engaged in trade in or from Jamaican waters unless the ship—

Trade in
Jamaican
waters.

- (a) is a Jamaican ship; or
- (b) holds a certificate of foreign registry or other document similar or equivalent to that required by this Act.

(2) Subject to the provisions of any regulations made under this section or of any international agreement in force in relation to Jamaica, only Jamaican ships may be engaged in local trade in Jamaican waters.

(3) A person not qualified by virtue of section 20 to own a Jamaican ship shall not charter or otherwise engage any Jamaican ship for local trade in Jamaican waters, except under and in accordance with such conditions as the Minister may direct or prescribe.

(4) The owner of any ship trading in or from Jamaican waters, shall provide evidence of financial responsibility against risks of damage to third parties, in such manner as may be prescribed.

(5) The master or owner of any ship who contravenes subsection (1), (2) or (4) or any person who contravenes subsection (3) commits an offence and is liable—

- (a) on conviction on indictment in a Circuit Court to a fine or in default of payment thereof to imprison—

ment for a term not exceeding two years or to both such fine and imprisonment; or

- (b) on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding one million dollars or in default of payment thereof to imprisonment for a term not exceeding one year.

(6) An owner or agent of a ship commits an offence if by any statement, document or other means of communication he supplies to any person exercising functions under this Act information which such agent knows to be misleading, false or deceptive regarding the provision made in respect of the financial responsibility of the ship against the risk of damage to third parties in respect of which evidence is required under subsection (4), and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars, or in default of payment thereof, to imprisonment not exceeding one year.

(7) The Minister may make regulations under this section to provide for the circumstances under which foreign ships may engage in local trade in Jamaican waters.

(8) Subject to the provisions of subsection (1), this section shall not be construed as affecting the operation of Part VII of the Customs Act.

PART IV. *Registration and Licensing of Ships and Proprietary Interests in Ships*

Rights and privileges of Jamaican Ships

Entitlement to rights and privileges of Jamaican ships.

16. A ship required to be registered or licensed, as the case may be, under this Act is neither entitled to be recognized as a Jamaican ship, nor is it entitled to the rights and privileges accorded to Jamaican ships under this Act unless it is so registered or licensed.

Obligations to register Jamaican ships.

17.—(1) A ship is required to be registered pursuant to this Part as a Jamaican ship if, subject to section 4 and the other provisions of this Part, it—

- (a) is, subject to paragraph (b), registered in another state;
- (b) is recognized by the law of a state other than Jamaica as a ship of that state, and is by the law of that state exempted from registration;
- (c) is, pursuant to subsection (2), exempt from registration under this Act;
- (d) is required to be licensed; or
- (e) is exempt from being licensed.

(2) The Minister may by notice exempt generally or specifically, from registration under this Act, a particular licensed Jamaican ship or class thereof or a ship or a class of ship that is required to be licensed when operating outside Jamaican waters.

(3) Any ship which is wholly owned by persons qualified to own a Jamaican ship, and which immediately before the commencement of this Act, is registered in Jamaica in accordance with the existing law, is entitled to be registered under this Act, but subject to such conditions as may be prescribed.

(4) Where the Minister has reason to believe that there is some doubt as to the title of any ship registered under this Act, he may direct the Registrar-General to require that evidence be given to the satisfaction of the Registrar-General that the ship is entitled to be so registered; and where, within such period as may be prescribed by the Minister, not being less than thirty days, evidence to the satisfaction of the Registrar-General of the title of the ship is not given during such period, the ship shall be regarded as being provisionally registered and liable to be de-registered.

(5) In this section "the existing law" means any enactment relating to registration of ships which is in force in relation to Jamaica immediately prior to the commencement of this Act.

Additional provisions for bareboat charter registration.

18.—(1) Where a ship registered in another state, (in this Part known as “the state of primary registration”)—

- (a) has been bareboat chartered to any person qualified to own a Jamaican ship;
- (b) otherwise satisfies the requirements for registration under this Part, it may be registered as a Jamaican ship subject to the provisions of this section,

and the provisions of section 15 shall apply accordingly.

(2) The registration under this part of a bareboat chartered ship shall be on such additional terms as may be prescribed in relation to that category of ship and, subject to the provisions of this Act, such registration shall remain in force for the period of the charter.

(3) The proper officer of the state of primary registration shall be notified, in such manner as may be deemed appropriate or as may be prescribed, of the registration of the ship under this Act.

(4) The provisions of this Act relating to the title and mortgage of a ship and other matters regarding proprietary interests in the ship, shall not, apply to foreign ships registered as Jamaican ships by virtue of bareboat charter.

(5) The obligations imposed by or under this Act upon the owner of a Jamaican ship shall apply to the charterer of a bareboat chartered ship registered under this Act as they apply in relation to such owner.

Jamaican ships bareboat chartered-out.

19.—(1) Subject to such conditions as may be prescribed, a registered Jamaican ship shall, while the circumstances mentioned in subsection (2) subsist, be treated as if it were not a Jamaican ship and accordingly the provisions of this Act, other than those relating to title, mortgage and other matters regarding proprietary interests in ships, shall not apply to the ship.

(2) The circumstances referred to in subsection (1) are that—

- (a) the ship is the subject of a bareboat charter;
- (b) the ship is intended to be registered under the law relating to bareboat charter registration of another state; and
- (c) any registered mortgagee of the ship has consented to such registration;

Registration of Jamaican Ships

20. The following are persons qualified to own a Jamaican ship, namely—

Qualifications for owning a Jamaican ship.

- (a) citizens of Jamaica;
- (b) persons who pursuant to the Immigration Restriction (Commonwealth Citizens) Act are deemed to belong to Jamaica;
- (c) bodies corporate established under and subject to the law of Jamaica and having a place of business or a managing owner or agent in Jamaica;
- (d) such other persons as the Minister may specify by order subject to affirmative resolution of the House of Representatives.

21.—(1) An application for the registration of a ship shall be made to a registrar in the prescribed form and, in accordance with sections 23 and 24—

Application for registration.

- (a) in the case of individuals (whether or not more than one individual is seeking to be registered), by any individual requiring to be registered as owner, or by their or his agent;
- (b) in the case of a body corporate, under its common seal or by its agent,

and the authority of the agent shall be notified in writing pursuant to section 2 by the person making the application.

(2) The registrar to whom an application is submitted may demand proof of ownership to his satisfaction before proceeding with the registration of a ship.

**Declaration
of owner-
ship.**

22. A person shall not be registered as an owner of a Jamaican ship, until he has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the relevant certificate of survey and containing the following particulars of the ship—

- (a) the full name and address of the owner;
- (b) the owner's citizenship or national status, or in the case of a body corporate, the constituent documents and business thereof;
- (c) the time when, and the place where the ship was built, or if the ship has been built outside Jamaica and the time and place of building is not known, a statement to that effect;
- (d) in the case of a ship previously registered outside Jamaica, the name by which it was so registered;
- (e) the name of the master and his citizenship;
- (f) the number of shares in the ship in respect of which such person is entitled to be registered as owner.

**Evidence on
first regis-
tration.**

23.—(1) On application for the first registration of a ship the following shall be produced in addition to the declaration of ownership—

- (a) a builder's certificate signed by the builder of the ship shall be produced containing a true account of—
 - (i) the proper denomination and the tonnage of the ship as estimated by the builder;

- (ii) the time when and the place where it was built; and
 - (iii) 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 registration unless the declarant who makes the declaration of ownership declares that the time and place of its 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 registration; and
- (b) in the case of a ship condemned by a competent authority, the official copy of the condemnation order.

(2) In the case of every ship built in Jamaica, the builder shall, if requested by an owner to do so, deliver to the owner a signed certificate containing the particulars specified in paragraph (a) of subsection (1).

(3) Any builder who fails to comply with subsection (1) or (2) or who wilfully makes a false statement in a certificate given thereunder, commits an offence and is liable—

- (a) on conviction on indictment in a Circuit Court to a fine or imprisonment for a term not exceeding seven years; or
- (b) on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or imprisonment for a term not exceeding five years or to both such fine and imprisonment.

24. A ship which has previously been registered in a foreign registry is not eligible for registration under this Act unless evidence has been supplied to the satisfaction of the Director that—

**Restriction
on registra-
tion.**

- (a) the ship has been de-registered on the day that the new registration under this Act is to be effected or the ship's foreign registration has been cancelled or will be cancelled on the day that the new registration is effected; and
- (b) no mortgages are outstanding against the ship or where there are mortgages outstanding against the ship, the holders of such mortgages have consented in writing to the de-registration or cancellation of the ship's foreign registration.

**Registers
and effect of
registration.**

25.—(1) For the purposes of this Part only those individual owners, joint owners and bodies corporate recorded as owners in the register shall be regarded as owners of the ship or a share thereof.

(2) Each registrar shall keep such registers as may be deemed necessary including the following—

- (a) a register of ships;
- (b) a register of fishing vessels;
- (c) a register of pleasure craft;
- (d) a register of vessels provisionally registered.

(3) Entries in the registers shall be made in accordance with the following provisions—

- (a) the property in a ship is deemed to be divided into sixty-four shares;
- (b) subject to the provisions of this Part with respect to joint owners or owners by transmission, at no time shall more than sixty-four persons be registered as owners of any one ship; but this provision shall not affect the beneficial title of any number of individuals or bodies corporate represented by or claiming under or through any registered or joint owner;

- (c) although a person may not be registered as the owner of a fractional part of a share in a ship, any number of persons not exceeding five may be registered as joint owners of any share therein;
- (d) joint owners shall be regarded 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.

(4) As soon as the requirements of this Act preliminary to the registration of a ship have been satisfactorily complied with the registrar shall issue to the owners of the ship or its agent, as the case may be, the Certificate of Registry and shall enter in the register the following particulars respecting the ship—

- (a) the name of the ship, and her previous name and registry, if any;
- (b) the details contained in the certificate of survey;
- (c) details as stated in the declaration of ownership;
- (d) the name, address, occupation and nationality of its owners, and where there is more than one owner, the share in the ship held by each;
- (e) port of registry and the official number of indentify mark;
- (f) the international call sign where one is assigned;
- (g) the name of its builders, and the place and year of construction;
- (h) the description of the main technical characteristics;
- (i) details with respect to any mortgages.

(5) The registrar shall not register any ship purchased or otherwise acquired where any bill of sale or other document under or by virtue of which the ship became vested in the applicant for registry contains any provision,

express, implied or constructive, restricting the use of the vessel or imputing any measure of continued control thereof by the government of a foreign state.

(6) The Registrar-General shall keep a record in the prescribed manner in relation to each ship registered under this Act of—

- (a) the date of termination of the previous registration of the ship;
- (b) the name, address and, as appropriate, the nationality of any bareboat charterer (where applicable);
- (c) encumbrances or other charges of which he has received notice in writing.

Documents
to be
retained
by the
Registrar.

26. On the registration of a ship the registrar shall retain in his possession—

- (a) the certificate of survey;
- (b) the builder's certificate;
- (c) any previously made bill of sale of the ship;
- (d) the copy of the condemnation order, if any;
- (e) all declarations of ownership;
- (f) the notice of name of the ship; and
- (g) the application for registration.

Registration
of Manag-
ing owner,
etc.

27.—(1) The name and address of the managing owner for the time being of every ship registered in Jamaica shall be entered in the register of ships.

(2) Where there is no managing owner, there shall be so registered the name of such 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) Where the owners of a ship decide that a person other than the person registered should be registered as managing owner they shall so notify registrar within fourteen days of such change.

(4) If default is made in complying with the provisions of this section each owner of the ship shall be guilty of an offence and on conviction thereof shall be liable, in proportion to his interest in the ship, on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding one hundred thousand dollars and the registration of the ship is liable to be suspended until the default is rectified.

28.—(1) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Director may direct the Registrar-General not to register a ship if the Director is satisfied that having regard to—

Refusal of registration.

- (a) the condition of the ship so far as is relevant to safety or to any risk of pollution; or
- (b) the safety, health and welfare of persons employed or engaged in any capacity on board the ship; or
- (c) the possibility that the ship is being used for criminal purposes,

it would be detrimental to the interests of Jamaica or of international shipping for the ship to be registered.

(2) If the Director decides to issue a direction to the Registrar-General pursuant to subsection (1), he shall forthwith inform the applicant, or agent of the ship, and the Registrar-General shall not register the ship.

29.—(1) The Registrar-General may, subject to subsection (3), cancel a ship's registration in the following circumstances—

Cancellation of Registration.

- (a) where the Director informs the Registrar-General that the Director is satisfied that—

- (i) having regard to the matters mentioned in paragraph (a), (b) or (c) of section 28(1), it would be detrimental to the interests of Jamaica or of international shipping for a registered ship to continue to be registered; or
 - (ii) any penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than 3 months and no appeal against the penalty is pending; or
 - (iii) any summons for any such contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than 3 months has elapsed since that time;
- (b) if the annual tonnage fees of a registered ship have remained unpaid for a period of more than 2 years;
 - (c) if a registered ship is no longer entitled to remain registered;
 - (d) on application by the registered owner stating that he wishes the registration of the ship to be terminated; or
 - (e) upon a registered ship becoming a total loss or being otherwise destroyed such as by shipwreck, demolition, fire or sinking;

(2) In the event of a registered ship being in any condition referred to in subsection (1) (e), every registered owner of the ship or any share therein shall, immediately upon obtaining knowledge of the event, inform the Registrar-General who shall make an entry thereof in the register.

(3) **Where—**

- (a) any circumstance referred to in subsection (1)(a) applies, and it appears to a Registrar-General that subsection (1)(b) or (c) also apply, he may serve notice on the owner or on any representative person for the time being appointed in relation to that ship to produce, within 21 days, evidence sufficient to satisfy the Director or the Registrar-General, as the case may be, that the ship is eligible to remain on the register; and if at the expiry of that period the Director or the Registrar-General, as the case may be, is not so satisfied, the Registrar may—
 - (i) extend the notice and ask for further information or evidence; or
 - (ii) serve a final notice informing the owner or the representative person of the termination of the ship's registry, and such termination shall take effect 7 days after the service of that notice;
- (b) the Registrar-General serves a notice under this subsection on the owner of a ship in respect of which a mortgage is registered, the Registrar-General shall send a copy of that notice to the mortgagee at the address recorded for him in the register.

30. Subject to subsection (5) of section 69, the Registrar shall not permit the de-registration of a ship, except after giving the prior notification in writing thereof to all registered holders of mortgages that ship registered under this Act.

Restriction
on de-regis-
tration of
ships.

31.—(1) Upon the de-registration of a ship the Registrar shall issue to the owners thereof as shown in the register a certificate of de-registration in the prescribed form.

Certificate
of de-regis-
tration.

(2) On receipt of the certificate of de-registration referred to in subsection (1), the owners shall immediately

surrender the ship's certificate of registry to the Registrar-General for cancellation.

(3) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so under this Part, shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two hundred thousand dollars.

Port of
Registry.

32.—(1) Subject to subsection (2) the port of Kingston shall be the port of registry for the registration of ships.

(2) The Minister may by order declare any other port of Jamaica as a port of registry.

Name of Ship

Name of
ships.

33.—(1) Every ship registered in the register of ships shall have a name; and no two ships shall bear the same name.

(2) A Jamaican ship shall not be described by any name other than that by which it is for the time being registered.

(3) A registrar may, in accordance with the provisions of any regulations made under this Act, refuse to register any ship—

- (a) by a name which is identical to the name of a registered Jamaican ship; or
- (b) by a name that is similar to the name of a registered Jamaican ship or so otherwise undesirable as is calculated to or likely to deceive or to offend the public interest.

(4) If the registrar in pursuance of subsection (3), refuses to register a ship, that ship shall not be registered under the name proposed, or shall not be so registered until the regulations are complied with, as the case may be.

(5) Any person who contravenes the provisions of subsection (2) commits an offence is liable on summary conviction in a Resident Magistrate's Court, to a fine not exceeding one hundred thousand dollars and in addition, the ship may be detained until there is compliance with the provisions of this section.

34.—(1) Subject to subsection (2), application for a change of name of a Jamaican ship shall be made to the Director in such manner as may be prescribed.

Change of
name of
ship.

(2) The Director shall not grant permission to change the name of a Jamaican ship, unless he is satisfied that all registered holders of mortgages therein have been notified of the proposed change of name.

35.—(1) On the registration of a fishing vessel the registrar shall allocate to it a combination and sequence of letters and numerals (hereinafter called the "identity mark") which he shall cause to be entered in the appropriate register.

Identity
marks for
fishing
vessels.

(2) A registrar may, in accordance with the provisions of any regulations made under this Act, refuse to register any fishing vessel—

- (a) by a name which is identical to the name of a registered Jamaican ship; or
- (b) by a name that is so similar to the name of a registered Jamaican ship or so otherwise undesirable as is calculated to or likely to deceive or to offend the public interest.

(3) Every registered fishing vessel shall display on each side of its bow the identity mark allocated to it under this section and shall have the name of its port of registry marked on its stern.

(4) Any master or owner of a fishing vessel which displays an identity mark not allocated to such vessel under this section commits an offence.

Call sign.

36. Where a Jamaican ship or Jamaican fishing vessel is equipped either with a wireless radio transmitting station or with a radiotelephony installation it shall also have an internationally registered code designation, that is to say, international call letters or numbers as appropriate to Jamaican and assigned to the ship.

Certificate of Registry

Certificate of Registry

37. The Certificate of Registry of a Jamaican ship shall be in such form as may be prescribed and shall include—

- (a) the name and address of each owner of the ship, and, in the case of an individual, his occupation, and if there is more than one owner the proportion of interest in the ship held by each;
- (b) the name of the master;
- (c) the date and place where the ship was built; and
- (d) the details given in the certificate of survey.

Power to make regulations in relation to Certificate of Registry

38. The Minister may make regulations relating to—

- (a) the issue of a Certificate of Registry on first registration;
- (b) the loss and replacement of a Certificate of Registry;
- (c) the keeping of a record of masters;
- (d) the registration of alterations in a ship including the endorsement of a change of ownership on a Certificate of Registry;
- (e) the surrender of the Certificate of Registry of a ship that is lost or broken up or that has ceased to be a Jamaican ship.

Custody and delivery of Certificate of Registry.

39.—(1) The Certificate of Registry shall be kept on Board the ship concerned and shall be used only in connection with the lawful navigation of the ship and shall not be subject to retention by reason of any title, lien, charge or other interest of any owner, mortgage holder or other person.

(2) No person who has in his possession or under his control, the Certificate of Registry of a ship shall refuse or omit, without reasonable cause, to deliver the 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, ship surveyor, Customs Officer or other person entitled by law to require its surrender.

(3) Any person who contravenes subsection (2) commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars.

(4) If, in any proceedings in respect of an offence under this section, the court is satisfied that the certificate is lost, the court shall so advise the Minister in writing.

40. A master or owner of a Jamaican ship who uses for the purposes of the navigation of such ship, a Certificate of Registry not validly in force in respect of the ship, commits an offence, and on conviction thereof is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

Improper
use of Certi-
ficate of
Registry.

41.—(1) Where the owner of a ship, which is outside of Jamaica and is entitled to be registered as a Jamaican ship, intends to apply to have the ship registered as a Jamaican ship but there is no registrar available, a customs officer or proper officer designated to act on behalf of the Government may on application, grant to its owner, a provisional Certificate of Registry stating—

Provisional
Certificate
of Registry.

- (a) the name of the ship;
- (b) the time and place of its purchase and the names of its purchasers;
- (c) the name of its master;

- (d) the best particulars respecting its tonnage, the time and place of its construction and other particulars which he is able to obtain,

and shall forward a copy of the provisional Certificate at the first convenient opportunity to the Registrar-General.

(2) The application under subsection (1) shall contain particulars evidencing entitlement to registration as a Jamaican ship and shall be accompanied by a statutory declaration which shall include—

- (a) a declaration as to ownership; and
- (b) a declaration as to seaworthiness; and
- (c) a declaration that the foreign registry of the ship, if any, has been closed.

(3) A provisional Certificate under this section has effect as a Certificate of Registry until—

- (a) a Certificate of Registry is issued for the ship;
- (b) the expiration of six months after the date of issue of the provisional Certificate of Registry; or
- (c) until the arrival of the ship at a port in Jamaica,

whichever first occurs, and, on the occurrence of any of those events, shall cease to have effect.

(4) The owner or master of every ship in respect of which a provisional Certificate is granted under this section shall, immediately upon the Certificate ceasing to have effect surrender it to a registrar; and any owner or master who fails to comply with this subsection commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars.

Temporary
pass in lieu
of Certifi-
cate of
Registry.

42. Where the Minister is satisfied that a ship is intended to be registered as a Jamaican ship and it appears to the Minister that by reason of special circumstances it is desirable that permission be granted to a ship to pass, without

being registered, on a voyage from any port in Jamaica to any other port within or outside Jamaica, the Minister may direct the Registrar-General to issue a pass in respect of the voyage, and that pass, for the time and within the geographical limits therein mentioned, shall have the same effect as a Certificate of Registry.

Tonnage Measurement

43.—(1) Every ship shall before registration under this **Survey.** Act be surveyed by a surveyor and the tonnage of the ship be thereby ascertained in accordance with the provisions of regulations made under this Part.

(2) The surveyor shall, upon completion to his satisfaction of the survey, grant a certificate of survey 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-General.

(3) The certificate of survey shall be delivered to the Registrar-General before registration of the ship may be effected.

44.—(1) The Minister may make regulations (hereinafter referred to as "tonnage regulations") with respect to ascertaining the tonnage of ships. **Tonnage regulations.**

(2) Regulations under this section may make provision for the issue of documents certifying the registered tonnage of any ship or the tonnage that is to be taken for any purpose specified as the tonnage of a ship not registered in Jamaica.

(3) In making the tonnage regulations the Minister shall have due regard to the International Convention on Tonnage Measurement of Ships 1969, as amended from time to time.

(4) Regulations under this section may make different provisions for different descriptions of ships or

Registration of Alterations and Registration Anew

Registration
of altera-
tions.

49.—(1) Where any alteration or reconstruction of a Jamaican ship is made that is likely to affect the ship's classification, measurement, tonnage or load lines, the owner or master of the ship shall, within thirty days after the completion of the alteration or reconstruction, submit to the Registrar-General written notification of the alteration or reconstruction, and the notice shall be accompanied by a Certificate of Survey stating the particulars of the alteration.

(2) Upon receipt of a notice of alteration of a Jamaican ship under subsection (1), the Registrar-General shall either cause the alteration to be registered or direct that the ship be registered anew.

(3) Where there is a failure to comply with the requirements of subsection (1) or with a direction under subsection (2), the Registrar-General may suspend the Certificate of Registry of the ship in respect of which the failure occurs.

(4) If default is made in registering anew a ship that has been altered or in registering the alteration, the owner of the ship is guilty of an offence and on summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding one hundred thousand dollars and, where the offence is continued after conviction, he shall be guilty of a further offence and shall be liable on conviction to a fine of ten thousand dollars for every day during which the offence is so continued.

Rules of
registra-
tion of
alterations.

50.—(1) For the purposes of the registration of an alteration in a Jamaican ship, the ship's Certificate of Registry shall be produced to the Registrar-General within sixty days after the alteration, and he shall either—

- (a) retain the Certificate 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 and the fact of the new certificate having been issued or on endorsement having been made shall be entered by the Registrar-General in the register.

51.—(1) Where a Jamaican ship is outside of Jamaica, and consequent upon notification as to alterations in the ship, the Registrar-General directs that the ship be registered anew, a proper officer shall grant to the master on his application in the prescribed manner, either a Provisional Certificate of Registry, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing Certificate of registry.

Provisional
Certificate
where ship
registered
anew.

(2) Where the proper officer grants a Provisional Certificate or provisionally endorses a certificate under this section, he shall add to the certificate or endorsement a statement that the same is made provisionally.

(3) The master of every ship in respect of which a Provisional Certificate has been granted or a Certificate has been endorsed under this section shall, within ten days of the ship's arrival thereafter at a port in Jamaica or within six months of the date of issue or endorsement of the Certificate, whichever is the sooner, deliver that Certificate to the Registrar-General and any master who fails to comply with this subsection commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars.

(4) Where any ship in respect of which a Provisional Certificate is granted or a Certificate is endorsed under this section first arrives thereafter at a port in Jamaica, application for registration of that ship anew shall be made to the Registrar-General and the other requirements requisite for registration shall be complied with.

(5) If, in respect of any such ship, there is failure to comply with subsection (4), the owner of the ship commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars and, if the offence is continued after conviction he commits a further offence and shall be liable to a further fine of ten thousand dollars for every day during which the offence is so continued.

Registration
anew on
change of
ownership.

52. Where the ownership of any Jamaican ship is changed the Registrar-General may, on the application of the owner of the ship, direct that the ship be registered anew, notwithstanding that registration anew is not required under this Act.

Procedure
for regis-
tration
anew.

53.—(1) Where a ship is to be registered anew under this Part, the Registrar-General shall proceed as in the case of first registration and on the receipt of the existing Certificate of Registry and upon compliance with other prerequisites to first registration (or such of them as the Registrar-General thinks material) he shall complete such new registration and grant a new Certificate of Registry accordingly.

(2) When a ship is registered anew its former register shall be considered closed, except so far as it relates to any unsatisfied mortgage entered in it.

(3) The names of all persons on the former register appearing to be interested in the ship as owners or holders of mortgages or other interests in the ship registered anew shall be entered in the new entry in the register, and the new registration shall not in any way affect the rights of any of those persons.

Restriction
on re-regis-
tration of
abandoned
ships.

54. Where a ship has ceased to be registered as a Jamaican ship by reason of having been wrecked or abandoned, the ship shall not be re-registered until such ship has been surveyed by a surveyor and certified to be seaworthy.

Licensing of Small Vessels

55.—(1) Subject to subsections (2) and (3) and the other provisions of this Act, a ship which is—

Ships to be licensed.

- (a) under twenty-four metres in length;
- (b) wholly owned by persons qualified to own a Jamaican ship;
- (c) not required to be registered under this Act; and
- (d) operating in or from Jamaican waters,

is required to be licensed under this Act.

(2) The following ships are exempt from being licensed under this section—

- (a) pleasure craft of less than five metres in length not equipped with propulsion machinery;
- (b) pleasure craft of less than three metres in length equipped with propulsion machinery of not more than five horse power;
- (c) ships registered under this Act.

(3) The Minister may in writing exempt, either generally or specifically, ships from compliance with subsection (1), subject to such conditions as he may stipulate.

56.—(1) Subject to subsection (2), a licensed Jamaican ship shall comply with such conditions as may be endorsed on the licence.

Operation of licensed ship.

(2) The Minister may in writing exempt a licensed Jamaican ship from any of the provisions of subsection (1).

57. No more than eight persons may be recorded as joint owners of a licensed Jamaican Ship.

Maximum owners of licensed Jamaican ship.

58.—(1) Within seven days, or such further time as may be allowed by the Minister, after a change of ownership of a licensed Jamaican ship, the subsequent owner shall in writing notify the Registrar-General of such change.

Registration on change of owner-ship.

(2) Where the owner of a licensed Jamaican ship fails to comply with subsection (1), the licence of the ship shall be deemed to have been cancelled.

Regulations
for licensing
ships.

59. The Minister may make regulations regarding the licensing of Jamaican ships, respectively, and without limiting the generality of the foregoing those regulations may provide for the following matters—

- (a) surveys and inspections;
- (b) the keeping of records; and
- (c) fees.

Special Provisions for cruising craft

Cruising
craft.

60. Any pleasure craft which—

- (a) is engaged in cruising in Jamaican waters;
- (b) has complied with the requirements of law pertaining to arrival of ships in Jamaican waters and the reporting thereof; and
- (c) departs from the port or place of arrival to any other place within Jamaican waters,

shall, for the purposes of section 51 of the Customs Act, be deemed to have complied with the requirements of paragraph (d) of that section if, immediately before leaving Jamaican waters, it complies with the requirements of Part VI of the Customs Act (relating to the departure and clearance of craft).

Transfers and Transmissions

Reference
to ship
include
share.

61. In sections 62 to 78 references to a registered ship include a reference to a share in such ship.

Transfer of
ship.

62. Every transfer of a registered ship to a person qualified to own a Jamaican ship shall be by a bill of sale which shall be completed in the prescribed form.

63. Where a registered ship is transferred, a transferee shall not be entitled to be registered as an 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 Part referred to as a declaration of transfer) referring to the ship and containing a statement of the qualification of the transferee to own a Jamaican ship, or if the transferee is a body corporate, of the circumstances of its constitution and business as proof of its qualification to own a Jamaican ship.

Declaration
of transfer.

64.—(1) Every bill of sale for the transfer of a registered ship shall, when duly executed, be produced to a registrar and shall be accompanied by the declaration of transfer, and the registrar—

Registration
of transfer.

- (a) shall thereupon enter in the register of ships the name of the transferee as owner of the ship;
- (b) shall endorse on the bill of sale the fact of such entry and the date and time at which the entry was made.

(2) Bills of sale of a ship shall be entered in the register in the order of their production to the registrar.

65.—(1) Where the property in a registered ship is transmitted to a person qualified to own a Jamaican ship—

Transmis-
sion of
property in
ship on
bankruptcy,
death, etc.

- (a) on the bankruptcy or death of the registered owner;
or
- (b) by any lawful means, other than by a transfer under this Part,

that person shall authenticate the transmission by making and signing a declaration (in this Part referred to as a declaration of transmission) identifying the ship and containing, with such modifications as may be necessary, the statements required to be contained in a declaration of transfer and

also a statement of the manner in which, and the person (hereinafter referred to as the transmittee) to whom the property has been transmitted.

(2) The transmittee shall forward the documents to a registrar, and

- (a) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being admissible in any court in Jamaica as proof of the title of persons claiming under a bankruptcy; and
- (b) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or in the case of death of a joint owner, by proof of survivorship to the satisfaction of the Registrar-General.

(3) The Registrar-General shall, on receipt of the declaration of transmission, enter in the appropriate register the name of the person entitled under the transmission, as owner of the ship, and, where there is more than one such person, they shall, for the purposes of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be regarded as one person.

Order for
sale on
transmission
to an un-
qualified
person.

66.—(1) Where the property in a registered Jamaican ship is transmitted on bankruptcy, death or otherwise to a person not qualified to own a Jamaican ship, the Supreme 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 therefrom the expenses incurred on the sale, be paid to the person entitled under the 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 for sale subject to such terms and conditions as it thinks just, or may refuse to make the order, and generally may make any other order as the case requires.

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

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

67.—(1) Where the Supreme Court, whether under this Part or otherwise, orders the sale of any ship, the order of the Court shall contain a declaration vesting in a person named by the Court, the right to transfer that ship, and that person shall be entitled to transfer the ship in the same manner and to the same extent as if he were the registered owner thereof.

Transfer of
ship by
order of
Court.

(2) The Registrar-General and every registrar shall comply with any direction made by 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.

68.—(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 the transfer of a ship.

Power of
Court to
prohibit
transfer.

(2) The Court may make an order under subsection (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 make any other order as the case requires.

(3) The Registrar-General without being made a party to the proceedings, shall be served with the order of the court or a certified copy thereof, with which order the Registrar-General shall comply.

Mortgages

**Mortgages
of ship.**

69.—(1) A Jamaican ship may be made a security for a loan or other valuable consideration, and the instrument creating such security (in this Part referred to as a mortgage and in relation to which “mortgagor” and “mortgagee” shall be construed accordingly) shall be completed in the prescribed form.

(2) Mortgages shall be recorded by a registrar in the appropriate register in the order in time in which they are produced to him for that purpose, and the registrar shall endorse and sign a memorandum on each mortgage indicating that it has been recorded by him and stating the date and time that it was recorded.

(3) The Registrar-General may, on the advice of a proper officer, record a mortgage executed outside Jamaica and produce before such proper officer.

(4) Where a mortgage prohibits the creation of further mortgages over a ship without the prior written consent of every mortgagee, the Registrar-General shall make an entry in the Register of Ships to that effect, and shall not register any further mortgage over the vessel in the absence of such consent.

(5) Where a mortgage prohibits the transfer of the ownership of a ship or its de-registration without the prior written consent of the mortgagee, the Registrar-General shall make an entry in the register of ships to that effect and shall not record a transfer of the ownership of the ship or its de-registration in the absence of such consent.

(6) The registration of a transaction without the consent required under subsection (4) or (5), as the case may be, shall be of no effect.

**Protection
of undis-
charged
mortgages.**

70.—(1) Where the registration of a ship is terminated under this Act, then subject to subsection (2), such termination shall not affect any entry in the Register of Ships

relating to any undischarged mortgage of the ship and a competent court in Jamaica may enforce such interest.

(2) Subsection (1) does not apply in the case where a registered mortgagee has consented in writing to the entry being cancelled.

71.—(1) Before executing any mortgage the mortgagor shall disclose in writing to the mortgagee the existence of any maritime lien, or prior mortgage in respect of the ship to be mortgaged and of which the mortgagor is reasonably presumed to be aware.

Obligation of mortgagor to disclose existing liabilities.

(2) If the mortgagor fails to comply with this section the mortgage debt, at the election of the mortgagee, becomes immediately due and payable, notwithstanding anything to the contrary in the mortgage.

72.—(1) When a registered mortgage is discharged the Registrar-General shall, on production to him of the mortgage with a receipt for the mortgage money or other release endorsed thereon make an entry in the register of ships to the effect that the mortgage has been discharged.

Entry of discharge of mortgage.

(2) For the avoidance of any doubt it is hereby declared that when the entry referred to in subsection (1) has been made, any estate in the ship which has 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.

(3) If it is impracticable for the registered mortgage to be produced to the Registrar-General and he is satisfied that the mortgage has been properly discharged, he may make an entry to the effect that the mortgage has been discharged.

73.—(1) If there are several mortgages registered in respect of the same ship, the mortgages shall, subject to subsection (2), notwithstanding any express, implied or con-

Priority of mortgages.

structive notice, be regarded as ranking in priority, according to the date on which each mortgage is recorded in the register, and not by reference to any other matter.

(2) Registration regulations may provide for the giving to the Registrar of Ships by intending mortgagees of "priority notices" in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

Mortgagee
not treated
as owner.

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

Mortgagee
to have
power of
disposal.

75.—(1) Subject to subsection (2), a registered mortgagee to whom mortgage money is due and payable has absolute power—

- (a) to dispose of the ship in respect of which he is registered as mortgagee; and
- (b) to give effectual receipts for the purchase money.

(2) Where two or more persons are registered as mortgagees of the same ship a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship without the written consent of every prior mortgagee.

Mortgage
not affected
by bank-
ruptcy.

76. A registered mortgage of a ship is not affected by any act of bankruptcy committed by the mortgagor after the date on which the mortgage is recorded, notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship in his possession, or was the 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.

77.—(1) A registered mortgage of a ship may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form.

Transfer of mortgage.

(2) On production of such instrument, the Registrar-General shall record the transfer by entering in the register the name of the transferee as mortgagee of the ship and shall endorse and sign on the instrument of transfer a memorandum that the transfer has been recorded by him stating the date and time that the transfer was recorded.

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

78.—(1) Where the interest of a mortgagee in a Jamaican ship is transmitted on the death or bankruptcy of the mortgagee, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.

Transmission of interest in mortgage in certain circumstances.

(2) A declaration made under this section shall contain a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by the like evidence as is required by this Act in the case of a corresponding transmission of the ownership of a Jamaican ship.

(3) The Registrar-General on receipt of the declaration and production of the evidence referred to in subsection (2), shall enter the name of the person entitled under the transmission in the register as mortgage holder of the ship.

Maritime Liens

79. For the purposes of sections 80 to 89, unless the context otherwise requires “forced sale” means sale by order of a competent court exercising admiralty injunction.

Meaning of forced sale.

**Sources of
Maritime
Liens.**

80. Subject to the provisions of this Act, the following claims in relation to the operation of a ship shall be secured by a maritime lien—

- (a) claims for:
 - (i) wages and other sums due to the master, officers and other members of the ship's crew in respect of their employment on the ship, including cost of repatriation and social security contributions payable on their behalf;
 - (ii) master's disbursements or liabilities made or incurred on account of the ship.
- (b) claims for reward for the salvage of the ship;
- (c) claims for port, canal, and other waterway dues and pilotage dues;
- (d) claims based on tort arising out of physical loss or damage to property caused by the operation of the vessel, other than loss of or damage to cargo, containers or passengers' effects carried on the ship.

**Claims not
recognized
maritime
liens.**

81. No maritime lien shall attach to a vessel to secure claims set out in paragraphs (d) and (e) of section 80 which arise out of or result as from—

- (a) damage in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimant pursuant to any law providing for strict liability and the compulsory insurance or other means of securing such claims; or
- (b) the radio-active properties of a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or radioactive products or waste.

82. The maritime liens set out in section 80 shall take priority over mortgages registered under this Act or any preferential rights arising under the law of bankruptcy, and except as provided in section 84 and subsection (2) (b) of section 89, no other claim shall take priority over them.

Priority of
Maritime
Liens in
general.

83. The maritime liens set out in section 80 shall—

- (a) rank in the order in which they are listed therein, so however that liens securing claims arising under paragraph (c) of section 80 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) in the case of liens securing claims arising under paragraphs (a), (b), (d) and (e) of section 80, rank *pari passu* as among themselves;
- (c) in the case of liens securing claims arising under paragraph (c) of section 80, rank in the inverse order of the time when the claims secured thereby accrued; and for this purpose each claim shall be deemed to have been accrued on the date on which the salvage operation was terminated.

Order of
Priority of
Maritime
Liens.

84.—(1) Subject to subsection (2), where a lien or right of retention arises 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, including reconstruction of the ship, effected during such possession,

Rights of
Shipbuilders
and Ship
Repairers.

such rights shall be postponed to all maritime liens set out in section 80 but may take precedence over any registered mortgage or other preferential rights so long as the ship is in the possession of the ship builder or ship repairer, as the case may be.

(2) If at the time of a forced sale referred to in sections 89 and 90 the ship is in the possession of a shipbuilder or ship repairer, such shipbuilder or ship repairer shall surrender possession of the ship to the purchaser, but shall be entitled to obtain satisfaction of his claim out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens referred to in section 80.

Attachment
of Maritime
Liens and
Extinction
by Lapse
of Time.

85.—(1) Except in the case of a forced sale of a ship, the maritime liens set out in section 80 shall, subject to subsection (2), remain attached to the ship, notwithstanding any change of ownership or of registration.

(2) The maritime liens relating to a ship set out in section 80 shall be extinguished after a period of one (1) year from the time when the claims secured thereby arose unless, prior to the expiry of such period proceedings in rem have been instituted against the ship.

(3) The one (1) year period referred to in subsection (2) shall commence—

- (a) with respect to the maritime lien set out in paragraph (a) of section 80, upon the claimant's discharge from the ship;
- (b) with respect to the maritime liens set out in paragraphs (b) to (e) of section 80, when the claims secured thereby arise.

and shall not be subject to interruption or suspension except that time shall not run during the period the lien holder is legally prevented from arresting the ship.

Extinction
of lien not
to affect
other
claims.

86. The extinction of a lien pursuant to section 85 shall not be treated as affecting the claimant's cause of action.

Assignment
and subro-
gation.

87.—(1) The assignment of or subrogation to a claim secured by a maritime lien shall result in the simultaneous assignment of or subrogation to such maritime lien.

(2) Claimants holding maritime liens shall not be entitled to the compensation payable to the owner of the ship under a contract of marine insurance.

88.—(1) Prior to the forced sale of a ship, the executing officer shall give or cause to be given thirty (30) days written notice of the time and place of such sale to—

Notice of forced sale to be given.

- (a) all holders of mortgages and other preferential rights registered under this Part which have not been issued to bearer;
- (b) the holders of such mortgages and rights as have been issued to bearer whose claims have been notified to the officer;
- (c) the holders of maritime liens set out in section 80 whose claims have been notified to the officer;
- (d) the holders of liens or rights under section 84;
- (e) the registered owner of the ship; and
- (f) the registrar of ships.

(2) The notice referred to in subsection (1) shall be in writing and may be given by registered mail or by electronic or other appropriate means which provide for confirmation of receipt of the notice by the persons specified in subsection (1), if known, and the notice shall also be published in a daily newspaper of islandwide circulation in Jamaica.

89.—(1) In the event of the forced sale of a ship, all registered mortgages except those assumed by the purchaser with the consent of the mortgagees, and all liens and other encumbrances of whatsoever nature, shall cease to attach to the vessel, provided that at the time of the sale, the vessel is within Jamaica.

Effect of forced sale and disposition of proceeds of sale.

(2) In the event of a forced sale of a ship, the proceeds of sale shall be distributed as follows—

- (a) any sum awarded by a Court as costs and expenses arising out of the arrest or seizure and subsequent

sale of the vessel shall be paid out first; such costs and expenses to include the costs for the upkeep of the vessel and the crew as well as wages and other sums and costs referred to in paragraph (a) of section 80 incurred from the time of the arrest or seizure;

(b) where the forced sale is that of a stranded or sunken vessel, following its removal by the Port Authority of Jamaica in the interest of safe navigation or the protection of the marine environment, the cost of such removal shall be paid out next;

(c) the balance of the proceeds shall then be distributed among—

(i) the holders of maritime liens under section 80;

(ii) the holders of rights under section 84;

(iii) the holders of registered mortgages and other preferential rights,

in accordance with the provisions of this Part, to the extent necessary to satisfy the respective claims;

(b) upon satisfaction of all claimants referred to in paragraph (a), (b) and (c), the residue of the proceeds shall be paid to the immediately previous owner and it shall be freely transferable.

(3) The proceeds of a forced sale shall be made available promptly and shall be freely transferrable.

Issue of
certificate
that the
ship is
free of
encum-
brance.

90.—(1) When a ship, registered in any state or a territory thereof, has been the subject of a forced sale in Jamaica, the executing officer shall, at the request of the purchaser, and on being satisfied that the provisions of this Part have been complied with, issue a certificate to the effect that the ship is sold free of all mortgages, liens and other encumbrances 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.

(2) Upon production of the certificate in subsection (1), the registrar of ships shall delete from the register book all registered mortgages except those assumed by the purchaser, and—

(a) if the purchaser is eligible to register the ship in Jamaica, may register the ship in the name of such purchaser if the purchaser so desires; or

(b) issue a certificate of deregistration for the purpose of the new registration,

as the case may be.

Miscellaneous

91.—(1) Where by reason of infancy, mental illness or defect, or any other cause, any person interested in a ship or share therein is incapable of making any declaration or doing any act required or permitted by this Act to be made or done in connection with the registration or mortgage of a ship, or any share therein, the provisions of subsection (2) shall apply.

Provision
for cases
of infancy
and dis-
ability.

(2) The legal guardian or representative of that person, or the committee, manager or other administrator of his estate, or if there is no such guardian, representative, committee, manager or administrator, any person appointed by any court of competent jurisdiction, on application made on behalf of the incapable person or of any other person interested, may make that declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do that act in the name and on behalf of the incapable person, and all acts done by the substitute shall have the same effect as if done by the person for whom he is substituted.

92.—(1) No notice of any trust, express, implied or constructive, shall be entered in a register of ships or be receivable by the Registrar-General.

Equitable
interests

(2) Notwithstanding the provisions of subsection (1), and without prejudice to—

- (a) the provisions of this Act for preventing notice of trusts from being entered in a register or received by the Registrar-General;
- (b) the powers of disposition and of giving receipts, conferred by this Act on registered owners and mortgagees;
- (c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Jamaican ships,

interests arising under contract or other equitable interests may subsist in relation to a registered ship and 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.

**Rights of
registered
owner.**

93. Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship has absolute power to dispose of the ship in the manner provided by this Act and consequently to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship.

**Liability of
owners.**

94.—(1) Where any person has any beneficial interest (otherwise than by way of mortgage) in any ship registered in the name of some other person as owner, the person having such beneficial interest in the ship and the registered owner of the ship shall be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships

(2) In this section, “beneficial interest” includes an interest arising under contract and other equitable interests.

**Dispensing
with decla-
rations and
evidence.**

95. When, under this Part, any person is required to make a declaration on behalf of himself or 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, for any reasonable cause—

- (a) the person is unable to make the declaration; or
- (b) the evidence cannot be produced,

the registrar may, with the approval of the Registrar-General, on the production of such other evidence and subject to such terms as he may think fit, dispense with the requirement of such declaration or evidence.

96.—(1) Declarations required to be made under this Part shall be made before—

Mode of making declarations.

- (a) a registrar; or
- (b) a proper officer.

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

- (a) by the secretary; or
- (b) by any other officer of the body corporate, authorized by that body for the purpose.

97. A person may, on payment of such fees as may be prescribed and on application to the registrar at any reasonable time during the hours of his official attendance, inspect any register.

Inspection of register.

98. The following documents are in the manner provided by this Act admissible in evidence—

Admissibility in evidence of register and Certificate of Registry.

- (a) any register required to be kept or maintained 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 issued 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 Jamaican ship.

Forgery of documents.

99. 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 document required to be supplied or maintained under this Part, including any register, builder's certificate, certificate of survey, Certificate of Registry, declaration, bill of sale or instrument of mortgage, or any entry or endorsement required by this Part to be made in or on any such document commits an offence and on conviction on indictment thereof in a Circuit Court is liable to a fine or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

False declaration.

100.—(1) Any person who, in any declaration made in the presence of or produced to a registrar or proper officer under this Part, or in any document or other evidence produced to such registrar or proper officer—

- (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 in any ship; or
- (b) utters, produces or makes use of any declaration or document containing any such false statement, knowing the same to be false,

commits an offence and on conviction on indictment thereof in a Circuit Court is liable to a fine or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) Without prejudice to the provisions of subsection (1) any person who wilfully makes a false declaration concerning—

(a) the qualification of himself or of any other person to own a Jamaican ship; or

(b) the entitlement of the ship to be registered,

commits an offence and on conviction thereof shall be liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars, or to imprisonment for a term not exceeding three years, or both such fine and imprisonment.

101. If the master of any ship which is owned wholly by persons qualified to own a registered Jamaican ship or a licensed Jamaican ship, as the case may be, fails, on the lawful demand by an Inspector or proper officer, to produce the Certificate of Registry or the licence as the case may be, of the ship or such other evidence as satisfies the Minister that the ship complies with the requirements of this Part, that ship may be detained until that evidence is produced.

Failure to
produce
certificate
or licence.

PART V. *National Character and Flag*

102.—(1) Without affecting the operation of any other provision of this Act, an officer of customs shall not grant a clearance to any ship if on arrival of the ship the master does not declare to that officer the name of the flag state of the ship.

National
character of
ship to be
declared on
clearance.

(2) If a ship attempts to proceed to sea without such clearance the ship may be detained in accordance with this Act until the declaration is made.

103.—(1) The national flag of Jamaica may be flown only on a ship registered or licensed in accordance with this Act.

Right to

(2) Nothing in this section shall be construed to prohibit the use in Jamaican waters in relation to Jamaican ships which are exempt from registration or licensing under this Act, of the national colours of Jamaica.

**National
colours.**

104. The national flag of Jamaica constitutes the national colours of a Jamaican ship.

**Showing of
national
colours.**

105.—(1) The master of a Jamaican ship shall cause the Jamaican national colours to be hoisted on the ship—

- (a) on a signal being made to the ship to such effect by a ship in the service of the Government and carrying out the provisions of this Act;
- (b) on entering or leaving any Jamaican or foreign port;
- (c) when passing a warship of any navy; and
- (d) while in a Jamaican 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 is guilty of an offence and on summary conviction in a Resident Magistrate's Court thereof is liable to a fine not exceeding fifty thousand dollars.

(3) Where there are hoisted on board any Jamaican ship—

- (a) any colours or pendant usually worn by ships of the Jamaica Defence Force; or
- (b) the national colours of any other state, except those of any foreign state in whose waters the ship is for the time being,

the master of the ship, or the owner thereof if he is on board the ship, or any other person hoisting the pendant or colours, is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of fifty thousand dollars and to seizure of the colours or pendant.

106.—(1) If a person, other than in the circumstances mentioned in subsection (2), uses the Jamaican flag and assumes the Jamaican national character on board a ship owned in whole or in part by any person not qualified to own a Jamaican ship, for the purpose of making the ship appear to be a Jamaican ship, the ship shall be subject to forfeiture under this Act.

Penalty for unduly assuming Jamaican character.

(2) The circumstances mentioned in subsection (1) are that the assumption has been made in the exercise of some belligerent right for the purpose of escaping capture by an enemy or by a foreign war ship.

(3) In any proceeding for enforcing any forfeiture mentioned in subsection (1), the burden of proving the right to use the Jamaican flag and assume the Jamaican national character shall lie upon the person using and assuming the same.

107.—(1) A person who uses or permits any person to use the Jamaican flag on board a foreign ship for the purpose of making that ship appear to be a Jamaican ship commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of five hundred thousand dollars or imprisonment for three years or to both such fine and imprisonment.

National flag on foreign ship.

(2) In any proceedings under this section the burden of proving the right to use the flag and to assume the character of a Jamaican ship is upon the person using the Jamaican flag.

108.—(1) The master or owner of a Jamaican ship commits an offence if he does anything or permits anything to be done or carries or permits to be carried any papers or documents with intent to conceal the Jamaican character of the ship from any person entitled by the law of Jamaica to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled, and the ship concerned shall be liable to forfeiture under this Act.

Penalty for concealing Jamaican character or assuming foreign character.

(2) A master or owner of a ship who commits an offence under subsection (1) is liable, on summary conviction thereof in a Resident Magistrate's Court, to a fine not exceeding three hundred and fifty thousand dollars or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Penalty for
acquiring
ownership if
unqualified.

109. If a person not being qualified to do so under this Act, acquires as owner, otherwise than by such transmission as is hereinbefore provided, any interest either legal or beneficial, in a ship using a Jamaican flag and assuming a Jamaican national character that interest shall be subject to forfeiture under this Act.

Liabilities
of ship not
recognized
as a
Jamaican
ship.

110.—(1) Where under this Act a ship which is owned wholly by persons qualified to own a Jamaican ship and is not—

(a) registered or licensed as a Jamaican ship; or

(b) exempted from such registration or licensing,

that ship shall not be entitled to any benefits, privileges, advantages or protection usually enjoyed by Jamaican ships or to use the national colours or assume the national character of Jamaica.

(2) Notwithstanding the provisions of subsection (1), in relation to the payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board that ship, or by any persons belonging to it, the ship shall be dealt with in the same manner in all respects as if it were registered in Jamaica and recognized as a Jamaican ship.

PART VI. *Manning and Certification*

Interpreta-
tion.

111. In this Part "S T C W Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended in 1995 together with any further amendments thereto as may be in force in relation to Jamaica.

112. In making regulations or exercising any other powers in pursuance of this Part the Minister shall act in such manner as appears to him to be necessary for giving effect to the S T C W Convention.

Scheme of regulations.

113.—(1) The Minister may make such regulations as are considered necessary or expedient to provide for the manning requirements for Jamaican ships and the qualifications of seafarers serving on such ships and for matters connected therewith, and without limiting the generality of such powers, in particular he may make regulations—

Regulations regarding manning and qualifications of persons serving in Jamaican ships.

- (a) determining the categories of Jamaican ships by reference to their tonnage capacity, the nature of their cargo and the trading areas or voyages in which they are engaged;
- (b) respecting the manning requirements in relation to such classes or descriptions of ships as may be prescribed, trading in such areas as may be prescribed, and in particular requiring ships to carry such number of qualified officers of any description, qualified medical practitioners and qualified cooks and such number of ratings of any description as may be specified in the regulations;
- (c) prescribing conditions as to the nationality of a person for service on board any Jamaican ship, or any ship engaged in local trade in Jamaican waters;
- (d) requiring that in any case a ship shall be under the charge of a properly certificated master and that watches at sea and in port are always kept by appropriately qualified ratings and officers;
- (e) providing for such ships as may be prescribed to be provided with only certificated or qualified seafarers when going to sea from any place whether within or outside of Jamaica;
- (f) requiring seafarers and other persons performing prescribed functions in relation to the operation

and maintenance of ships to be holders of certificates of competence, proficiency, qualification, authorization or otherwise and to satisfy such other conditions as may be prescribed, including conditions as to nationality and providing for the grant, revocation, extension, validation, suspension, endorsement or variation and the form and recording of such certificates;

- (g) relating to the holding and conduct of examinations for certificates described in paragraph (f), the qualifications of candidates and examiners, the appointment, removal, reappointment and remuneration of such examiners, the fees for such examinations, and all such other matters as the Minister thinks necessary or expedient for the purpose of such examinations;
- (h) providing for the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for certificates described in paragraph (f);
- (i) providing for the programmes of training and the curricula of study to be followed in the training of seafarers;
- (j) providing for the establishment, maintenance and operation of schools for the training of persons for certification as seafarers, and designating from time to time institutions as recognised or affiliated places of training;
- (k) prescribing the manner in which enquiries may be instituted before a tribunal appointed under section 422, the procedure to be followed in the conduct of such proceedings;
- (l) prescribing any other matter which may be, or is required by this Act to be prescribed.

(2) Regulations made pursuant to subsection (13) may, in respect of the breach of any provisions thereof, pro-

vide penalties in excess of the penalty provided in section 29 (b) of the Interpretation Act, so, however, that such penalties shall not exceed a fine of two hundred thousand dollars or imprisonment for a term not exceeding twelve months or both such fine and imprisonment.

114.—(1) Any person—

Offences.

- (a) who serves as a seafarer on board a Jamaican ship without being the holder of a valid certificate of competence for proficiency appropriate to the category in which he is engaged to serve; or
- (b) who, either on his own account or acting in the capacity of agent, engages any person as a seafarer on a Jamaican ship without taking all necessary steps to ascertain whether such person is the holder of a valid certificate appropriate as aforesaid,

commits an offence under this Act and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) For the purpose of paragraph (b) of subsection (1), where it is established that a seafarer is engaged to serve in any category without being the holder of a valid certificate of competence or proficiency appropriate to that category, the onus shall be on the person who engages that seafarer to prove that he has taken such steps as may be prescribed to ascertain that the seafarer was at the time when he was engaged, the holder of a valid certificate appropriate to the capacity in which he is engaged to serve.

(3) Any person who—

- (a) makes or procures or assists in making any false representation for the purpose of obtaining for himself, or for any other person any certificate issuable under this Act or any certified copy thereof; or

- (b) forges, assists in forging or procures the forging of such certificate or copy aforesaid; or
- (c) fraudulently alters or assists in the fraudulent alteration of, such certificate or copy, or procures it to be fraudulently altered; or
- (d) fraudulently makes use of any such certificate or copy aforesaid that is forged, altered, cancelled, or suspended or to which he is not entitled; or
- (e) fraudulently lends his certificate to, or allows it to be used by, any other person; or
- (f) makes or has in his possession any document so closely resembling any such certificate as to be calculated to deceive,

commits an offence and is liable—

- (i) on conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; or
- (ii) on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(4) Any person—

- (a) who, not being the holder of a valid certificate of competency issued or recognized under this Part; or
- (b) who, during a period when, pursuant to section 422, his certificate is suspended or approval thereof is withdrawn, as the case may be,

takes or uses any title, addition or description implying or calculated to lead persons to believe that he is entitled to serve as a seafarer on a Jamaican ship commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one hundred and fifty

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

PART VII. *Engagement and Welfare of Seamen*
Engagement of Seamen

115. The functions of the Registrar of Seamen are—

Functions of
Registrar of
Seamen.

- (a) to conduct all business connected with the engagement and discharge of all persons who serve on board Jamaican ships and all seamen being citizens of Jamaica who serve on foreign ships;
- (b) to afford facilities for engaging and discharging seamen by keeping records of the names and conduct of—
 - (i) seamen who apply to him for engagement;
 - (ii) seamen shipped or discharged by him;
 - (iii) seamen who produce continuous discharge certificates in proof of service in foreign or Jamaican ships;
 - (iv) seamen who serve in Jamaican ships;
- (c) to cause copies of the certificates referred to in paragraph (b) (iii) to be kept at his office;
- (d) to perform such other duties relating to seamen, apprentices and ships as are by or in pursuance of this or any other enactment relating to shipping entrusted to him.

116.—(1) Subject to subsection (2)—

Crew agree-
ment.

- (a) the owner or other person having control of the employment of seamen on a Jamaican ship shall enter into a crew agreement in accordance with this Act with every seaman whom he engages and carries to sea as one of his crew; and
- (b) a crew agreement shall be entered into with every seaman engaged in Jamaica or carried to sea from Jamaica as crew of a ship.

(2) Subsection (1) shall apply where the ship concerned is not less than one hundred gross tons so, however, that the Minister may make regulations for the engagement of seamen and matters pertaining to the engagement of seamen in respect of such ships.

(3) The Minister may waive the requirements stipulated in subsection (1), or he may vary the contents of the prescribed form of the crew agreement in respect of any ship if he considers it expedient to do so and if he is satisfied that the rights of the seamen to be engaged will be adequately protected.

Contents of
crew agree-
ment.

117.—(1) A crew agreement shall be executed in the prescribed form and manner and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs his name thereon.

(2) The crew agreement shall state the place at which it is made, the surname and other names of the seaman, his birth-place, and his age on date of his birth, and shall state clearly the respective rights and obligations of each of the parties, and shall contain in addition thereto the following particulars—

- (a) the name of the ship in which the seaman undertakes to serve;
- (b) either the nature and, as far as is practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, which shall not exceed twelve months, and the port at which it is intended that the crew shall be discharged, and the places or ports of the world, if any, to which the voyage or engagement is not to extend;
- (c) the number and description of the crew;
- (d) if possible, the place and date at which each seaman is to be on board or to begin work;
- (e) the capacity in which each seaman is to serve;

- (f) the amount of wages which each seaman is to receive;
- (g) the prescribed scale of the provisions which are to be furnished to seamen;
- (h) the time that is to expire after arrival at the port of discharge before the seaman is discharged;
- (i) any rules regarding conduct on board and as to fines and other lawful punishment for misconduct which have been prescribed by the Minister for adoption by parties to a new agreement and which the parties agree to adopt;
- (j) a list of persons under the age of eighteen years and the dates of their births.

(3) The crew agreement shall be so drawn up as to admit of such stipulations to be adopted at the will of a master and seaman in each case, whether respecting the advance and allotment of wages or otherwise, as are not contrary to law.

(4) An agreement made to employ a seaman under this section is terminated by—

- (a) the mutual consent or act of the parties thereto;
- (b) the death or inability of the seaman to proceed due to illness;
- (c) the loss or total unseaworthiness of the ship;
- (d) the sale of the ship;
- (e) expiration of time.

118. For the purpose of maintaining discipline on board Jamaican ships, the Minister may make regulations providing for—

Regulations
for disciplinary
offences.

- (a) categorizing any misconduct on board as a disciplinary offence and enabling the master or such

an officer as may be designated by the master to impose fines on seamen committing disciplinary offences;

- (b) the procedure for the hearing of appeals against fines for disciplinary offences;

Conduct
both disci-
plinary
offence
under this
Act.

119. Where any conduct is both a disciplinary offence and an offence under this Act, then if it has been dealt with as a disciplinary offence it shall not, unless otherwise directed by the Director of Public Prosecutions, be dealt with as an offence under this Act.

Procedures
relating to
certain crew
agreements.

120. The following provisions shall have effect with respect to a crew agreement made in the case of Jamaican ships engaged on an international voyage—

- (a) the agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman;
- (b) the master of the ship shall cause the agreement to be read over and explained to each seaman or otherwise ascertain that each seaman understands the agreement before he signs it and shall attest to each signature;
- (c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be forwarded to the owner and the other shall be retained by the master and shall contain a special place for the descriptions and signatures of substitutes or persons engaged subsequent to the first departure of the ship;
- (d) where a substitute is engaged in the place of a seaman who duly had signed the agreement and whose services had, within twenty-four hours of the ship proceeding to sea, been lost by death, desertion or other unforeseen cause, the master shall, before

the ship proceeds to sea if practicable, and if not, as soon as possible thereafter, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness and the witness shall attest to the signature;

- (e) an agreement may be made for one voyage, however, if the voyages on which the ship is engaged average less than six months in duration, an agreement (in this Act called a "Running agreement") may be made to extend over two or more voyages;
- (f) a running agreement shall not extend beyond the twelve months' period next following the making of the agreement or the first arrival of the ship at its port of destination after the termination of that period;
- (g) on every return to the port where the crew was engaged before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement he is guilty of an offence;
- (h) the duplicate crew agreement retained by the owner on the first engagement of the crew shall be kept by the owner for a period of seven years after the expiration of the agreement and shall be produced on demand made therefor by the Registrar of Seamen or other proper officer;
- (i) except as provided in section 137 a crew agreement shall not purport to deprive any court of its jurisdiction to hear and determine disputes respecting the agreement.

Further provisions as to crew agreement.

121.—(1) The master shall, at the commencement of every international voyage cause a legible copy of the crew agreement omitting the signature to be displayed in some part of the ship which is accessible to the crew.

(2) Every erasure, amendment or alteration in any crew agreement, except additions made for the purpose of specifying substitutes or persons engaged after the first departure of the ship, shall be without effect unless made with the consent of all persons interested in the erasure, amendment or alteration.

(3) In any proceedings, a seaman may introduce evidence to prove the contents of any crew agreement or otherwise to support his case without producing or giving notice to produce the agreement or any copy thereof.

(4) Every person who fraudulently alters, makes any false entry in or delivers a false copy of any crew agreement is guilty of an offence.

Terms not to be contrary to law of Jamaica.

122. To the extent that any terms or conditions adopted by the parties to a crew agreement are contrary to the law of Jamaica in matters relating to wages and conditions of employment of seamen and masters on board ships such terms and conditions shall have no effect and the relevant provisions of Jamaican law shall be deemed to apply.

Seaman's certificate of discharge.

123.—(1) Subject to section 181, the master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Registrar of Seamen specifying the period of his service and the time and place of discharge.

(2) A certificate of discharge under subsection (1) shall not contain any statement as to the wages or the quality of work of the discharged seaman.

(3) The master shall, upon the discharge of every officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer.

124. When a seaman is discharged from a Jamaican ship, the master thereof shall make and sign a report in the prescribed form (in this Part called a "character report") in which the master—

Character
report.

- (a) shall report on the conduct, character and qualifications of the seaman who is being discharged; or
- (b) may state that he declines to give any report on the conduct, character and qualifications of the seaman who is being discharged.

which report shall be sent to the Registrar of Seamen.

(2) The master before whom the discharge of a seaman is made shall, subject to section 181 and if the seaman so desires, give the seaman a copy of the character report on the seaman.

125. A person commits an offence who—

Offences

- (a) makes a false report of character knowing the same to be false;
- (b) forges or fraudulently alters any certificate of discharge or character report or copy of a character report;
- (c) fraudulently uses any certificate of discharge or character report, that is forged or altered or that does not belong to him.

126.—(1) Where a Jamaican ship—

- (a) ceases to be registered as such; or
- (b) is transferred or disposed of.

Discharge
on change
of ship's
registry.

any seaman employed in the ship shall be discharged from the ship, unless he consents in writing to continue his employment in the ship.

(2) Where the ship is no longer registered as a Jamaican ship, the provisions of this Part relating to the payment of a seaman's wages and power of the Registrar of Seamen or other proper officer to decide disputes about

wages shall apply in relation to his wages as if the ship had remained registered in Jamaica.

(3) Where the ship has been transferred or disposed of the provisions of this Part relating to the certificate of discharge and return of the seaman to a proper return port apply as if his service had terminated otherwise than by his consent to be discharged during the currency of the agreement.

Prohibition
of employ-
ment of
persons
under six-
teen years.

127.—(1) No person under the age of sixteen years shall be employed in any Jamaican ship.

(2) Subject to subsection (4), no person under the age of eighteen years shall be employed in any capacity in any Jamaican ship unless there has been delivered to the master of the ship a certificate granted by a duly qualified medical practitioner certifying that such person is fit to be employed in that capacity.

(3) Every medical certificate under subsection (2)—

- (a) shall be valid for one year from the date of issue, unless earlier revoked; and
- (b) may at any time be revoked by a duly qualified medical practitioner if he is satisfied that the person is no longer fit for work.

(4) No person under the age of eighteen years shall be employed or work in the engine-room of any ship, unless that young person is an apprentice working under supervision.

Changes in
crew of
certain
ships.

128.—(1) The master of every Jamaican ship engaged on an international voyage shall, before leaving Jamaica, sign and send to the Director a full and accurate statement, in the prescribed form of every change which takes place in

his crew before finally leaving Jamaica and that statement shall be admissible in evidence.

(2) Any master who without reasonable cause fails to comply with this section is guilty of an offence.

129.—(1) Where, during the progress of a voyage of a ship, the master is removed, superseded or for any other reason ceases to have command or charge of the ship, and is succeeded in the command or charge of the ship by some other person, he shall deliver to his successor the Certificate of Registry and the various documents which are in his custody relating to the navigation of the ship and to the crew thereof; and if he fails without reasonable cause to do so, he is guilty of an offence.

Change of master.

(2) The successor to a master shall, immediately on assuming the command of a ship, enter in the official log book a list of the documents so delivered to him.

130. The Minister may make such regulations as he considers necessary or expedient in relation to the conditions of service of persons serving in Jamaican ships and of Jamaican citizens serving in foreign ships and, in particular, those regulations may provide for—

Regulation for conditions of service.

- (a) apprenticeship to sea service;
- (b) engagement of Jamaican citizens on foreign ships;
- (c) the implementation of any international convention relating to the employment, welfare, security, certification or status of seafarers;
- (d) the avoidance of agreements made contrary to any such regulations;
- (e) wages in general, and the rights related thereto of persons employed in Jamaican ships, securing safe working conditions, health and welfare for seafarers and apprentices employed in ships;

- (f) the accommodation to be provided for seafarers and apprentices on board ships, the locations and standards of accommodation; and
- (g) the employment of persons under the age of eighteen years.

Use of
English
language

131.—(1) Except where otherwise provided in this Act, all correspondence, documents, forms or other writings shall be in the English language, and in the case of the crew agreement, official log book and muster lists, in a prescribed form save that a foreign language version of any document may be appended to the English language version thereof.

(2) All written signs displayed on board a Jamaican ship shall be in the English language with, if it is considered to be necessary by the master, a foreign language version appended thereto.

Crew's
knowledge
of English.

132.—(1) A Jamaican ship shall not proceed to sea where in the opinion of the Director the crew of the ship consists of, or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting orders in a language of which they have sufficient knowledge, and the Director shall inform the master of his opinion.

(2) The owner or master of a ship which is taken to sea in contravention of this section commits an offence and the ship is liable to be detained.

Wages

Time and
manner of
payment
of wages

133. The owner or other person responsible for employing the crew of a Jamaican ship shall subject to the terms of the relevant crew agreement pay to each seaman employed on that ship, his wages—

- (a) if demanded, within two days after the arrival of the ship at the port where the crew is to be dis-

charged or upon the seaman's discharge, whichever first happens; or

- (b) at such regular intervals as may be provided in the agreement.

134.—(1) The master of every Jamaican ship shall, before discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account of the seaman's wages and of all deductions to be made therefrom for any reasons whatever. Account of wages.

(2) The account shall be delivered to the seaman not less than twenty-four hours before his discharge.

135.—(1) A deduction from the wages of a seaman shall not be allowed unless it is based on conditions included in the crew agreement and has been included in the account delivered in pursuance of section 134 or relates to a matter happening after the delivery. Deductions from wages.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made in a book kept for that purpose, and shall, if required produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

136.—(1) When a seaman is discharged, and the settlement of his wages has been completed, he shall sign a release, in a form approved by the Registrar of Seamen, of all claims in respect of the past voyage or engagement; and the release shall be signed by the master or owner of the ship, as the case may be. Settlement of wages.

(2) The release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) The release shall be delivered to and retained by the owner for a period of seven years after the expiration of the agreement and shall be produced on demand made therefor by the Registrar of Seamen or other proper officer.

Registrar's
decision as
to wages.

137.—(1) Where a question relating to a seaman's wages, of whatever nature and whatever the amount in dispute, between a master or owner and any of his crew is raised before the Registrar of Seamen and both parties agree in writing to submit the same to him, the Registrar shall hear and decide the question so submitted.

(2) An award made by the Registrar on the submission shall be conclusive as to the rights of the parties, and a document purporting to be the decision on the award shall be admissible in evidence in the manner provided by this Act.

Registrar
may require
ship's docu-
ments.

138. In any proceedings under this Act before the Registrar of Seamen relating to wages, claims or discharge of a seaman, the Registrar may —

- (a) require the owner or his agent or the master or any officer or other member of the crew to produce any log books or other documents in his possession or power relating to a matter in question in the proceedings;
- (b) require the attendance of and may examine any of those person who are then at or near the place on the matter; and
- (c) administer oaths.

Reimburse-
ment of
Registrar.

139. In any proceedings under this Act before the Registrar of Seamen relating to the wages, claims or disputes or discharge of seamen, all travelling and other expenses incurred by the Registrar shall be met by the owner or master of the ship in dispute.

140. Where a seaman has agreed with the master of a Jamaican ship for payment of his wages or any part thereof in a specific currency, any payment of or on account of his wages if made in any other currency than that stated in the agreement shall, notwithstanding anything in the agreement, be made at the rate of exchange for the amount stated in the agreement for the time being current at the place where the payment is made, and such rate of exchange shall be endorsed on the agreement by a proper officer at that place.

Rate of
Exchange.

141. Where, before the Registrar of Seamen or a proper officer, a question as to wages is raised between the master or owner of a ship and a seaman, and the amount does not exceed one hundred thousand dollars or the wages earned in one voyage by the seaman concerned, whichever is the greater, the Registrar of Seamen or proper officer may—

Registrar
may settle
certain
wage
disputes.

(a) on the application of either party, decide the question and the decision shall be final; but

(b) if the Registrar of Seamen or proper officer is of the opinion that the question is one which ought to be decided by a court, he may refuse to decide it.

142. In any proceedings by the master of a ship or person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages, the court, unless it appears to it that the delay in paying the sum was due to—

Court may
award in-
terest on
wages due
where there
is no crew
agreement.

(a) a mistake;

(b) a reasonable dispute as to liability;

(c) the act or default of the person claiming the amount;
or

(d) any other cause not being the wrongful act or default of the person liable to make the payment or their servants or agents,

may order them to pay in addition to the sum due, interest on it at the rate of twenty per cent per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

Allotment
notes.

143.—(1) Subject to this section, a seaman may, by means of an allotment note issued in accordance with regulations made under subsection (2), allot a part of the wages to which he will become entitled in the course of his employment in a Jamaican ship.

(2) The Minister may make regulations—

- (a) relating to the limitations to which a seaman's right to make an allotment are subject;
- (b) prescribing the form of allotment notes;
- (c) relating to the right of a person named in an allotment note to sue in his own name.

Wage where
service
terminated.

144.—(1) Where the service of a seaman terminates before the date contemplated in the agreement by reason of his being left on shore at any place due to his unfitness or inability to proceed on the voyage, such seaman shall be entitled to wages for time served up to such termination but not for any further period.

(2) Where the service of a seaman terminates before the date contemplated in his agreement by reason of the wreck, loss or foundering of the ship on which he is employed, he shall be entitled to receive wages in respect of each day on which he is in fact unemployed during a period of two months from the date of termination of the service at the rate to which he was entitled at that date, except so far as he obtains other suitable employment.

Protection
of seaman's
rights and
remedies.

145.—(1) Subject to subsection (3) a seaman's lien on a ship, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of the seaman's ship, and

any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Any stipulation in any agreement inconsistent with subsection (1) or any other provision of this Act shall be void.

(3) Subsection (1) does not affect any term of an agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service which then relates to the remuneration to be paid to them for salvage services rendered by that ship.

146.—(1) Where, during a seaman's employment in a ship, expenses are incurred by a public officer for the benefit of any of his dependants and the expenses are of a kind specified in regulations made under this section and such conditions as may be specified in the regulations are satisfied, the public officer may by notice in writing require the persons employing the seaman—

Claims
against
seaman's
wages for
mainten-
ance.

(a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and

(b) to give to the public officer notice in writing of the seaman's discharge from the ship,

and the persons employing the seaman shall, subject to subsection (3), comply with the notice, and give notice in writing of its contents to the seaman.

(2) For the purposes of this section—

(a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of sixteen years, for whom he is liable for the purposes of any enactment to maintain, or in respect of whom he is liable under such enactment to make contributions to a local authority; and

- (b) expenses incurred for the benefit of any person include in addition to any payments made to him or on his behalf, expenses incurred for providing him with accommodation or care or for exercising supervision over him, but no expenses shall be specified in the regulations unless they are such that a Resident Magistrate's Court has power to order the making of payments in respect thereof.

(3) No more than the following proportion of a seaman's net wages shall be retained under subsection (1) whether in pursuance of one or more notices, that is to say—

- (a) one-half, if the notice or notices relate to one dependant only;
- (b) two-thirds, if the notice or notices relate to two or more dependants.

(4) Where a public officer has served a notice under this section on the persons employing a seaman, a Resident Magistrate's Court may, on the application of the officer, make an order for the payment to the officer of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court having regard to the expenses incurred by the officer and the seaman's means thinks fit.

(5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.

(6) An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman;

but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.

(7) Any notice or order under this section may be served by registered post.

(8) Subject to the provisions of this section, the Minister may make regulations specifying—

- (a) the expenses in respect of which a notice may be served by a public officer under subsection (1);
- (b) any conditions that must be satisfied if such a notice is to be served;
- (c) the period that may be specified in such a notice being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship;
- (d) the form of such a notice and the information to be contained therein;
- (e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section, and the amounts specified under this paragraph may include amounts allotted by allotment notes issued under section 143.

(9) In this Part "spouse" includes—

- (a) a woman who cohabits with a man as if she were in law his wife;
- (b) a man who cohabits with a woman as if he were in law her husband.

147.—(1) The master of a Jamaican ship, so far as circumstances permit, shall have the same rights, liens and remedies for the recovery of his wages as a seaman has for his wages under this Act or any other law.

Master's
remedies
for re-
muneration
and dis-
bursement.

(2) The master of a Jamaican ship, and every person lawfully acting as a master of a ship by reason of the

death or incapacity from illness of the master of the ship, so far as circumstances permit, has the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3) Where, in any proceedings regarding the claim of a master in respect of wages or of the disbursements or liabilities mentioned in subsection (2), any right of set-off or counter-claim is set up, the court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Wages not
depend on
freight.

148.—(1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served has earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that the freight has not been earned.

(2) Where a seaman or apprentice who would, but for death, be entitled by virtue of this section to demand and recover any wages, dies before the wages are paid, they shall be paid and applied in the same way as the wages of a seaman who dies during a voyage.

Refusal to
work.

149. A seaman shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for him to begin work, or for any period during which he is lawfully imprisoned for any offence committed by him, unless the court hearing the case otherwise directs.

Illness
caused by
own default.

150.—(1) Where a seaman is, by reason of illness, incapable of performing his duty, and it is proved that the illness had been caused by his own wilful act or default, or is

a sickness or infirmity wilfully concealed at the time of engagement, he shall not be entitled to wages for the period during which he is, by reason of the illness, incapable of performing his duty.

(2) Subsection (1) does not affect the right of any seaman to any payment or other benefits to which he may be entitled under any law providing for compensation to injured or sick workers.

151. When in any proceeding relating to a seaman's wages it is shown that the seaman has, in the course of the voyage, been convicted of an offence and punished by imprisonment or otherwise, the court hearing the case may direct any part of the wages due to the seaman, not exceeding one month's wages, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment. Costs procuring conviction.

152. Where a seaman who has signed a crew agreement is discharged otherwise than in accordance with the terms of the agreement— Improper discharge.

- (a) before the commencement of the voyage; or
- (b) before one month's wages are earned,

without fault and without his consent, he is entitled to receive from the master or owner, in addition to any wages he might have earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages; and he may recover that compensation as if it were wages duly earned.

153.—(1) The following provisions apply to wages due or accruing to a seaman— Protection of wages.

- (a) subject to section 146, wages are not subject to attachment by any court;
- (b) an assignment or sale of wages before they are due does not bind the person making it;

- (c) no power of attorney or authority for the receipt of wages is irrevocable; and
- (d) a payment of wages to a seaman is valid in law notwithstanding that the wages have been sold, assigned, attached or encumbered.

(2) Nothing in subsection (1) affects the provisions of this Act with respect to allotment notes.

(3) Nothing in this section applies to any disposition relating to the application of wages—

- (a) in the payment of contributions to a fund declared by regulations to be a fund to which this section applies;
- (b) in the payment of contributions in respect of the membership of a body declared by regulations to be a body to which this section applies.

Leave and
holidays.

154.—(1) Every seafarer is entitled after twelve months of continuous service on a Jamaican ship, or for the same employer, to annual leave with pay, or to a proportionate part of such leave, the duration of which shall be—

- (a) in the case of master and officers, not less than eighteen working days; and
- (b) in the case of other members of the crew, not less than twelve working days.

(2) For the purpose of calculating the time at which annual leave is due—

- (a) periods between consecutive crew agreements shall be included in the reckoning of continuous service referred to in subsection (1);
- (b) short interruptions of service not due to the act or fault of the employee and not exceeding a total

of six weeks in any twelve months do not break the continuity of the periods of service that precede and follow them; and

- (c) continuity of service is not interrupted by any change in the management or ownership of the ships in which the person concerned has served.

(3) The following shall not be included in annual leave with pay—

- (a) interruptions of service due to sickness or injury; and
- (b) public holidays.

(4) In addition to the entitlement under subsection (1), every member of the crew of a Jamaican ship is entitled to ten days annual leave with pay in lieu of public holidays, and if the length of continuous service is less than twelve months, then the annual leave with pay shall be pro-rated.

155. The Supreme Court shall not have jurisdiction to hear or determine any action, suit or proceeding instituted by or on behalf of any seaman or apprentice for the recovery of wages, not exceeding one hundred thousand dollars or the remuneration for one voyage, except where—

Jurisdiction of Supreme Court in the recovery of wages.

- (a) the owner of the ship is bankrupt;
- (b) the ship is under arrest or is sold by the authority of the Supreme Court; or
- (c) a Resident Magistrate's Court refers the claim to the Supreme Court.

156.—(1) Where proceedings are instituted in a court in relation to a dispute between an owner or master of a ship and a seaman, arising out of or incidental to their relationship as such, or is instituted for the purpose of this section, the court may, if, having regard to all the circumstances it

Power to rescind contract.

thinks it just to do so, rescind any contract or any contract between the owner or master and seaman, or any contract or articles of apprenticeship, upon such terms as the court thinks just.

(2) The jurisdiction of a court under subsection (1) is in addition to any other jurisdiction that the court can exercise independently of this section.

Property of Deceased Seaman

Property of
deceased
seaman.

157.—(1) Where any seaman belonging to a Jamaican ship dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the deceased seaman that are on board the ship.

(2) The master shall enter in the official log book—

- (a) a statement of the amount of the money and a description of the effects; and
- (b) a statement of the wages due to the deceased, the amount of deductions, if any, to be made from the wages and the balance of the wages due.

(3) The entry shall be signed by the master and attested by an officer or some other member of the crew.

(4) The master, if he thinks fit, may cause any of the effects of a deceased seaman to be sold.

(5) The master of the ship shall without delay and prior to any proposed sale under subsection (4) furnish the Registrar of Seaman with a statement of the property of the deceased seaman.

(6) The money, effects and balance of wages mentioned in subsections (1) to (3) and the proceeds of the sale carried out pursuant to subsection (4) are in this Act referred to as the property of the seaman.

158.—(1) Subject to subsection (2), the property of the seaman shall be delivered, by the master of the ship by the most practicable means, to the personal representative of the deceased; or, if there is no personal representative, the master shall deliver the property of the seaman to the Registrar of Seamen or to the proper officer as the case may be, for disposal—

Delivery of deceased seaman's property.

- (a) in accordance with the law for determining the distribution or succession of personal property of deceased persons of the place in which the deceased was last resident; or
- (b) in accordance with the order of a court having jurisdiction to determine the distribution of the property of the deceased.

(2) A master may deduct from the property of the seaman any expenses properly incurred in complying with subsection (1).

(3) After complying with subsection (1), the master shall deliver a statement of account to the Registrar of Seamen respecting the property of the seaman.

159. A person is guilty of an offence, who for the purpose of obtaining, either for himself or for any other person, any property of the seaman—

Forgery of documents.

- (a) forges or fraudulently alters any document purporting to show or assist in showing any right to that property;
- (b) makes use of any document that has been forged or fraudulently altered as described in paragraph (a);
- (c) gives or assists in giving or procures to be given any false evidence knowing the same to be false;
- (d) makes any false representation knowing the same to be false; or

- (e) assists in procuring any false evidence or representation to be given or made knowing the same to be false.

Occupational Safety

Occupational safety regulations.

160.—(1) The Minister may make regulations for securing, as far as is practicable, safe working conditions and safe means of access for masters and seamen employed in Jamaican ships, and for requiring the reporting of injuries sustained by them.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

- (a) require the maintenance, inspection and testing of any equipment and impose conditions on its use;
- (b) require, prohibit, or regulate the use of any material or process;
- (c) require the provision and use of any protective clothing or equipment;
- (d) limit the hours of employment of seamen in any specified operation or in any specified circumstances;
- (e) make provision for the discharge, by persons appointed from among the crew, of functions in connection with the arrangements to be made under the regulations.

(3) Regulations made under this section shall be without prejudice to the provisions of the Factories Act or regulations made thereunder.

Provisions

Provisions and water.

161.—(1) The Minister may make regulations requiring such provisions and water to be provided for seamen employed in Jamaican ships or any class of ships as may be specified in the regulations.

(2) Where the provisions of any regulations made under this section are not complied with in the case of a ship the master or owner is guilty of an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars, unless he proves that the failure to comply was not due to his neglect or default.

(3) Where a person empowered under this Act to inspect the provisions and water to be supplied to the seamen employed in a Jamaican ship is not satisfied that they are in accordance with regulations made under this section, the ship, if in Jamaica, may be detained.

162.—(1) Where three or more members of the crew of a Jamaican ship consider that the provisions or water provided for the use of the crew are, at any time, deficient in quantity or quality, they may complain thereof to the Registrar of Seamen or a proper officer, who may either examine the provisions or water complained of, or cause them to be examined.

Complaints
as to pro-
visions and
water.

(2) Where the person conducting an examination under this section finds that the provisions or water are deficient in quantity or quality, he shall communicate that fact in writing to the master of the ship, and if the master does not thereupon provide adequate provisions or water fit for human consumption he is guilty of an offence.

(3) The person conducting the examination shall enter a statement of the result of the examination in the official log book and send a report thereof to the Registrar of Seamen, and that report is admissible in evidence in the manner provided by this Act.

Allowance
for short
or bad
provisions.

163.—(1) If during the voyage of a Jamaican ship the allowance of provisions provided for a seaman is less than the prescribed quantity or quality, the seaman shall receive by way of compensation for the deficiency in quantity or quality, for so long as it lasts, such amounts as may be prescribed to be paid to him in addition to, and to be recoverable as, wages.

(2) Where the deficiency in quantity occurred because the provisions could not be procured or supplied in proper quantities and proper equivalent substitutes were supplied in lieu thereof, those circumstances shall be taken into consideration for the purposes of subsection (1) and the compensation reduced or denied accordingly.

Weights and
measures.

164.—(1) The master of a Jamaican ship in which provisions are supplied to the crew shall keep on board proper weights and measures for determining the quantities of the several provisions and articles to be distributed, and the master shall allow the weights and measures to be used in the presence of a witness at the time of distribution of the provisions and articles whenever any dispute arises about the quantities.

(2) A master who fails without reasonable cause to comply with subsection (1), commits an offence.

Regulations
regarding
provisions.

165. The Minister may make regulations providing for the inspection of Jamaican ships at regular intervals regarding the provisions and water for crew.

Regard had
to inter-
national
treaty.

166. In making regulations in relation to the health, accommodation or general welfare of ship's crew the Minister shall have due regard to the provisions of any international treaty instrument in force in respect of Jamaica relating to any such matter.

Health and Welfare

167. The Minister may make regulations as appear to him to be necessary in relation to the medical examination of all persons seeking employment in any capacity on board Jamaican ships and the issue of medical certificates in respect of such persons.

Medical
fitness regu-
lations.

168.—(1) The Minister may make regulations with respect to the crew accommodation and facilities to be provided in Jamaican ships.

Crew
accommo-
dation regu-
lations.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may, in particular—

- (a) prescribe the minimum space per person which shall be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
- (b) prescribe the equipment to be provided for the sleeping accommodation, mess rooms, sanitary accommodation and galleys in a ship;
- (c) regulate the spaces in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
- (d) provide for the protection of the crew against injury, condensation, heat, cold and noise on a ship;
- (e) prescribe the water, heating, lighting, ventilation and sanitary facilities to be supplied on a ship;
- (f) require the submission to a surveyor of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration

of any such accommodation and authorize the surveyor to inspect any such works;

- (g) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed; and
- (h) provide for the inspection, measuring and marking of crew accommodation on a ship and its certification for the purpose of ascertaining tonnage.

(3) Regulations made under this section may exempt any particular ship or any class of ship from any requirements of the regulations.

(4) Regulations made under this section may require the master of a ship or any officer authorized by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed.

(5) Where the provisions of any regulations made under this section are contravened in the case of a ship, the owner or master is guilty of an offence and the ship, if in Jamaica, may be detained.

(6) In this section "crew accommodation" includes sleeping accommodation, mess rooms, sanitary accommodation, store rooms and catering accommodation provided for the use of seamen, but does not include any accommodation which is also used by, or provided for the use of, passengers.

Certificated
cook to be
carried.

169.—(1) Subject to subsection (2), every Jamaican ship of one thousand gross tons or more shall carry a duly certificated ship's cook.

(2) Where in the opinion of the Minister there is an inadequate supply of certificated ship's cooks he may exempt a particular ship from the requirements of this section for a specified period.

(3) For the purposes of this section a ship's cook is deemed to be duly certificated if he is the holder of an appropriate certificate having regard to regulations under this Act.

170.—(1) The Minister may make regulations requiring Jamaican ships to carry such medicines, medical stores, medical appliances and books containing instructions and advice, as may be specified in the regulations. Medical stores regulations.

(2) The owner or master of every ship shall ensure that the ship carries medicines, medical stores, appliances and books in accordance with the scales laid down under subsection (1).

(3) Where a proper officer is of the opinion that the medicines, medical stores, appliances and books on a Jamaican ship are deficient in quantity or quality or are placed in improper receptacles, he shall give notice thereof in writing to the master, owner or agent of the ship, and the ship may be detained.

171.—(1) Where the master of, or a seaman belonging to, a Jamaican ship receives any surgical or medical treatment, or such dental or optical treatment, including the repair or replacement of any appliance, as cannot be postponed without impairing the efficiency of the master or seaman, the reasonable expenses thereof shall be borne by his employer. Expenses for medical treatment and burial.

(2) Where the master or seaman dies while employed on a Jamaican ship, and is buried or cremated outside his country of residence, the expenses of his burial or cremation shall also be borne by his employer.

172.—(1) Every Jamaican ship engaged on international voyages that proceeds from a port with not less than one hundred persons on board shall carry on board as part of its complement a duly qualified medical practitioner. Medical practitioners to be carried.

(2) The owner of a Jamaican ship operated in contravention of subsection (1), is guilty of an offence and liable on conviction thereof to a fine of ten thousand dollars in respect of each day of every voyage of the ship on which the ship is so operated.

Welfare
Board for
seamen's
welfare.

173.—(1) The Minister may, by regulations constitute an advisory board to be called the National Seamen's Welfare Board for the purpose of advising him on the measures to be taken for promoting the welfare of seamen.

(2) Regulations made by the Minister pursuant to subsection (1) may contain such provisions as he may think fit for the proper functioning of the Board.

Facilities
for making
complaints.

174.—(1) Where a seaman while employed on a Jamaican ship informs the master of the ship that he wishes to make a complaint to the proper officer or the Registrar of Seamen, or take proceedings in a Resident Magistrate's Court against the master or any of the crew, the master shall, as soon as the service of the ship will permit, allow the complainant to go ashore, so that he can make his complaint or—

- (a) if the ship is then at a place where there is a Resident Magistrate, proper officer or the Registrar of Seamen, at that place; or
- (b) if the ship is not then at such a place, upon its arrival at such a place.

(2) A master of a ship who fails, without reasonable cause, to comply with this section, commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars.

Assignment
and sale of
salvage.

Protection of Seamen from Imposition

175. Subject to this Act, an assignment or sale of any salvage payable to a seaman that is made before the salvage

accrues does not bind the person making the assignment or sale, and a power of attorney or authority for the receipt of any such salvage may be revoked regardless of its terms.

176. A debt exceeding a prescribed percentage of a seaman's total earnings as indicated in the crew agreement, if incurred by the seaman after he is engaged to serve, is not recoverable until the service agreed for is concluded.

Seaman's debts.

Provisions as to Discipline

177.—(1) The master or any member of the crew of a Jamaican ship who by wilful breach or by neglect of duty, or by reason of being under the influence of alcohol or drugs—

Endangering life or ship.

- (a) does any act which causes or is likely to cause the loss, destruction or serious damage of the ship, or which causes or is likely to cause death or serious injury to a person belonging to, or on board, the ship; or
- (b) refuses or omits to do any thing lawfully required to be done by him for preserving the ship from loss, destruction or serious damage, or for preserving any person belonging to or on board ship, from danger of serious injury,

is, unless it is proved that the use of the drug concerned was for the treatment of a medical disorder, and pursuant to and in accordance with the prescription of a duly qualified medical practitioner, guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for twelve months or to both such fine and imprisonment.

(2) In this section "drug" means any chemical agent affecting living tissue.

General
offences
against
discipline.

178.—(1) Where a seaman or apprentice engaged on a Jamaican ship—

- (a) leaves the ship without leave after its arrival at a port and before it is placed in security, he is liable to forfeit out of his wages a sum not exceeding one week's pay;
- (b) wilfully disobeys any lawful command, he commits an offence and is liable on conviction thereof to imprisonment for one month, and to forfeit out of his wages a sum not exceeding two days' pay;
- (c) continually disobeys any lawful command, or continually and wilfully neglects his duty, he commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to imprisonment for three months, and to forfeit for every twenty-four hours continued disobedience or neglect either a sum not exceeding two days' pay or any expenses properly incurred in hiring a substitute;
- (d) assaults the master or any mate or officer of the ship, he commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to imprisonment for one year;
- (e) combines with any of the crews to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to imprisonment for one year;
- (f) wilfully damages his ship, or dishonestly misappropriates or converts to his own use, or commits criminal breach of trust in respect of, or wilfully damages, any of its stores or cargo, he commits an offence and is liable on summary conviction thereof

in a Resident Magistrate's Court to imprisonment for one year and to forfeiture out of his wages a sum equal to the loss thereby sustained;

- (g) commits an act of smuggling, whereby loss or damage is occasioned to the master or owner of the ship, commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to pay to the master or owner a sum sufficient to reimburse the loss or damage and the whole or a proportionate part of wages may be retained in satisfaction or on account of that liability without prejudice to any further remedy;
- (h) aids or procures a person to stowaway on his ship, and that person is afterwards convicted of the offence, he commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to imprisonment for three months, and to pay to the master or owner of the ship a sum sufficient to reimburse the expenses occasioned to that master or owner in respect of the stow-away, and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

(2) A seaman or an apprentice shall not be guilty of an offence under subsection (1) by reason only of his refusing duty during a lawful strike after his ship has arrived and has been secured in good safety to the satisfaction of the master and the Port Authority at a port in Jamaica.

(3) A forfeit or other payment imposed in respect of an offence under subsection (1) shall not exceed one-half of one month's salary in any one month, and shall leave the seaman a sum which is sufficient for his maintenance and that of his dependants.

Conviction
not to
affect other
remedies.

179. Where a seaman or an apprentice employed in a Jamaican ship—

- (a) deserts from his ship, he is guilty of the offence of desertion and is liable on conviction thereof to imprisonment for three months, and in addition he is liable to forfeit all or any part of the effects he leaves on board and the wages which he has then earned and, where the master or owner of the ship has engaged a substitute in his place at a higher rate of wages than the rate at which wages had been stipulated to be paid to him, to satisfy that excess;
- (b) neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship, or is absent without leave at any time within the period of twenty-four hours immediately before the ship sails for a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or his duty, and the act or omission does not constitute or is not treated by the master as constituting the offence of desertion, he is guilty of the offence of absence without leave and is liable on conviction thereof to imprisonment for two months, and in addition is liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute.

Improper
negotiation
of advance
note.

180.—(1) Where a seaman employed on a Jamaican ship being lawfully engaged has received under his agreement an advance note, and after negotiation his advance note wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he is guilty of an offence and is liable on conviction thereof to a fine of

twenty-five thousand dollars and to imprisonment for two months.

(2) This section shall not limit or otherwise prejudice any remedy, by suit or otherwise—

- (a) of any person in respect of the negotiation of the advance note; or
- (b) which an owner or master would otherwise have for breach of contract.

181. Where it is shown to the satisfaction of the Registrar of Seamen that a seaman lawfully engaged on and belonging to a Jamaican ship has wilfully or through misconduct failed to join his ship, the Registrar may direct that the seaman's certificate of discharge be withheld for such period as he may think fit, and while the seaman's certificate of discharge is so withheld, any person having the custody of the documents may, notwithstanding anything in this Act or any other enactment refuse to furnish copies of any of his certificates of discharge or certified extracts of any particulars of service or character.

Certificate of discharge may be withheld.

182. Where a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship of engagement or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, he is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding twenty-five thousand dollars or to imprisonment for two months or to both such fine and imprisonment.

False statement as to last ship.

183.—(1) Any seaman who in contravention of his terms of engagement or other lawful requirement is absent from the ship on which he is employed, subject to subsection (2), shall be regarded as being in desertion and liable in damages thereof.

Deserters from ships.

(2) It shall be a defence to liability under subsection (1) for the seaman to prove that his absence was not unreasonable by reason of being due to an accident or mistake or some other cause beyond his control.

Proof of
desertion
when wages
are to be
forfeited.

184. Whenever a question arises as to whether the wages or effects of a seaman or apprentice shall be forfeited under this Part for desertion from a Jamaican ship, it shall be sufficient for the person attempting to enforce the forfeiture to show that—

- (a) the seaman or apprentice was duly employed on the ship; and
- (b) he left the ship before the completion of the voyage or engagement; and
- (c) an entry of his desertion was duly made in the official log book,

and the desertion shall thereupon be deemed to be proved so far as it relates to any forfeiture of wages under this Part, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

Application
of forfeiture.

185.—(1) Where any wages or effects are forfeited under this Part for desertion from a ship, the effects may be sold, and the wages or effects or the money arising from sale of the effects shall be applied towards reimbursing the expenses caused by the desertion to the master or owner of the ship, and any balance remaining shall be paid to the Registrar of Seamen.

(2) Where any wages are forfeited under this Part for any cause other than desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be in favour of the master or owner by whom the wages are payable.

186. Any question concerning the forfeiture of, or deductions from the wages of a seaman or apprentice under this Part may be determined in any proceedings instituted with respect to those wages notwithstanding that the seaman or apprentice has not been prosecuted for the offence that gives rise to the question.

Question of forfeiture decided in suit for wages.

187. A fine imposed on a seaman for any act of misconduct for which his agreement imposes the fine, shall be subject to the following—

Deduction of fine from wages.

- (a) on the offender being discharged, and the offence and the entry in the official log book required by this Act to be made in respect thereof being proved to the satisfaction of the Registrar of Seamen or proper officer, the master or owner shall deduct the fine from the wages of the offenders; and the fine so deducted shall be paid to the Registrar, and if the master or owner of the ship fails without reasonable cause so to pay the fine he is guilty of an offence;
- (b) an act of misconduct for which a fine is imposed and paid by or deducted from the wages of the seaman shall not be otherwise punished under this Act.

188. Where a person by any means whatever persuades a seaman or an apprentice to neglect or refuse to join or proceed to sea in his ship, or to desert his ship, or otherwise to absent himself from his duty, he is guilty of an offence, and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of fifty thousand dollars.

Persuading seaman to desert, and harbouring deserter.

189.—(1) Where a person secretes himself and goes to sea in a ship without the consent of either the owner, master or the person in charge of the ship or of any other person entitled to give that consent, he is guilty of an offence and

Penalty on stowaways.

is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding ten thousand dollars or to imprisonment for three months.

(2) Every person who goes to sea in a ship without a consent mentioned in subsection (1) shall, so long as he remains in the ship, be deemed to belong to the ship, and be subject to the same provisions for preserving discipline, and to the same fines and punishments for offences constituting or encouraging a breach of discipline, as if he were a member of the crew and had signed the crew agreement.

Trade disputes involving seamen.

190.—(1) Subject to subsection (2) the Trade Union Act shall, so far as it relates to the immunity of persons from legal proceedings for acts committed in contemplation or furtherance of a trade dispute, apply to seamen as it applies to other persons.

(2) Notwithstanding the provisions of subsection (1) and the provisions of the Labour Relations and Industrial Disputes Act or of any other law, no seaman shall take or continue to take industrial action while the ship on which he is employed, is at sea.

(3) Notwithstanding anything in any agreement—

- (a) a seaman employed in a Jamaican ship may terminate his employment in that ship by leaving the ship in contemplation or furtherance of a trade dispute after giving to the master not less than forty-eight hours notice of his intention to do so, and shall not be compelled unless the notice is withdrawn to go to sea in the forty-eight hours following the giving of such a notice; but
- (b) such a notice shall be of no effect unless at the time it is given the ship is in Jamaica and securely moored in a safe berth.

(4) In this section, "trade dispute" means any dispute between employers and seamen, or between seamen and seamen which is connected with the employment or with the conditions of labour, or any person.

191. Where a ship registered in Jamaica or any other country is in a port in Jamaica and a person not authorized by law to do so—

Unauthor-
ized pre-
sence on
board ship.

- (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 police officer or an officer of customs,

such person commits an offence and on summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding one hundred thousand dollars or to imprisonment for a term of one year or to both such fine and imprisonment.

192.—(1) Where on or in respect of a Jamaican ship—

Offences to
be entered
in official
log book.

- (a) an offence is committed under section 178 or 179;
or
- (b) an act of misconduct is committed for which the crew agreement of the person committing it provides for a fine, and it is intended to enforce the fine,

the following procedure shall be adopted, namely—

- (i) an entry of the offence or act of misconduct shall be made in the official log book and signed by the master and also by an officer or other member of the crew;
- (ii) the alleged offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port; or if it is at the time in port, before its departure from port, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit;

- (iii) a statement that a copy of the entry was so furnished or that the entry was so read over, and in either case the reply, if any, then made by the alleged offender, shall likewise be entered and signed in the manner aforesaid: and
- (iv) in any subsequent legal proceedings, the entries made under this section, shall, if practicable, be produced or proved, and if they are not the court hearing the case may in its discretion refuse to receive evidence on the offence or act of misconduct.

Relief and Repatriation

Proper
return port.

193. For the purposes of this Part, a proper return port is either—

- (a) the port at which a seaman was engaged;
- (b) a port in the state to which he belongs; or
- (c) in the case of a discharged seaman, some other port agreed to by the seaman at the time of his discharge.

Repatria-
tion of
seaman.

194.—1) Except as otherwise provided in this Act, it is an implied term of every crew agreement entered into for the employment of a seaman in a Jamaican ship that, where the agreement terminates at a port other than the port of engagement, the seaman will be returned to a proper return port at the expense of the master or owner of the ship and in accordance with the provisions of such regulations as the Minister may make in that regard.

(2) The owner of the ship shall make such arrangements as are necessary to defray all expenses incurred for the return of a seaman pursuant to subsection (1).

(3) The responsibility of the owner, master or agent under this section includes an obligation—

- (a) to pay the cost of maintenance and medical treatment that is necessary for the seaman until his arrival at his proper return port; and
- (b) to ensure that the seaman does not become a charge upon the state.

(4) Subsection (1) applies whether an agreement terminates—

- (a) by expiration;
- (b) by an act of the parties;
- (c) by shipwreck;
- (d) by sale of the ship;
- (e) by the inability of the seaman to proceed in the ship by reason of sickness or injury; or
- (f) by any other cause.

195.—(1) A seaman who has been left behind or discharged from his ship as a result of his—

- (a) desertion;
- (b) imprisonment; or
- (c) inability to proceed to his ship because of an illness or infirmity that was wilfully concealed at the time of his engagement.

Seaman to bear expenses of repatriation in certain cases.

is not entitled to be returned at the expense of the master or owner under section 194.

(2) The owner of the ship from which a seaman mentioned in subsection (1) has been left behind or discharged, shall make all arrangements necessary to defray expenses incurred for the return of the seaman to a proper return port as if the seaman were entitled thereto.

(3) An owner may be reimbursed for any expenses incurred pursuant to subsection (2) out of any wages owing to the seaman at the time he left the ship or out of the proceeds from the sale of any of his effects left on board the ship, or where this is not sufficient, the owner, may be reimbursed by ordinary process of law.

(4) Notwithstanding subsection (1) or (3), the owner shall ensure that the seaman does not become a charge upon the state.

Guarantee
for dispute
of seaman.

196.—(1) Where a seaman is to be left behind or discharged from his ship at a port other than his port of engagement, the Registrar of Seamen or proper officer may demand from the owner, master or agent a guarantee for the proper discharge of any obligations imposed by section 194 or 195.

(2) Where a guarantee required under this section is refused the Registrar of Seamen or proper officer may withhold his consent to the discharge of the seaman concerned.

Effect of
workman's
compensa-
tion.

197. Where a seaman is eligible to receive and receives medical aid or periodical payments at the expense of his employer under the terms of any enactment providing for compensation to injured or sick workers, the receipt thereof—

- (a) removes any right of the seaman to receive medical treatment under section 194, to the extent that he receives that medical aid; and
- (b) removes any right of the seaman to receive maintenance under section 194, to the extent and for so long as he receives the periodical payments.

Application
to foreign
ships.

198.—(1) Sections 194 to 197 apply in respect of a foreign ship that engages a seaman or apprentice in Jamaica as they apply to Jamaican ships.

(2) For the purposes of subsection (1), "owner" includes any person appointed or nominated by the owner, to act as his agent, and who was so acting at the time the seaman or apprentice was engaged.

199.—(1) Where a seaman belonging to a Jamaican ship is left behind at a place other than a proper return port, the master of the ship shall, subject to this section and as soon as practicable, enter in the official log book a statement of the effects left on board by the seaman and an account of wages due to him at the time when he was left behind.

Wages and
effects of
seaman
left behind.

(2) On the termination of the voyage during which the seaman was left behind, the master shall furnish to the Registrar of Seamen or proper officer, within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, a delivery account and a retention account.

(3) The master shall, if so required by the Registrar of Seamen or proper officer, furnish such vouchers or other documents as may be reasonably required to verify the delivery and retention accounts.

(4) The master of a ship shall deliver to the Registrar of Seamen or proper officer, if he will receive them, the effects of a seaman as shown in a delivery account and, subject to any reimbursement allowed under subsection (5), the amount due on account of wages as shown in that account, and the Registrar or proper officer shall give to the master a receipt for any effects or amount so delivered.

(5) The master of a ship is entitled to retain out of the wages any sums shown in a retention account that appear to the Registrar of Seamen or proper officer to be owing or payable to the master of the ship; and for that purpose the Registrar or proper officer shall allow those

sums to be retained by the master out of the amount due on account of wages shown in the delivery account and, so far as that amount is not sufficient, to be raised and paid to the master out of the effects.

(6) Before allowing any sum to be retained or to be raised and paid, the Registrar of seamen or proper officer may require that evidence be provided by statutory declaration or otherwise that the sums are owing or payable to the master of the ship.

(7) The Registrar of Seamen or proper officer shall deliver the remainder of the wages and effects to such person at such time and in such manner as may be prescribed, and shall render such accounts in respect thereof as the Minister may direct.

(8) In this section—

“delivery account” means an account of the effects and wages of a seaman left behind or owing at the time a seaman leaves or is discharged from the ship;

“effects of a seaman” includes the proceeds of the sale of any such effects; and

“retention account” means an account of any expenses accruing to the master or owner of a ship by the absence of a seaman from the ship due to his desertion, neglect to join his ship, or conduct constituting an offence under section 185 or 186, including, in the case of a seaman who is not entitled to be repatriated at the expense of the master or owner of the ship, any provision made for the return of the seaman to a proper return port.

Sale of
seaman's
effects.

200.—(1) The effects of a seaman referred to in section 199 may be sold by the Registrar of Seamen or proper officer in such manner as he thinks fit when they are delivered to him unless the Minister directs to the contrary.

(2) Where the effects are not sold pursuant to subsection (1), they may be sold by the Minister as and when he thinks fit unless they are delivered to the seaman.

201. The master of a Jamaican ship is not liable for any loss of effects or for any damage to the effects of a seaman left behind or discharged at a port other than his proper return port, if the master proves to the Registrar of Seamen or proper officer that the loss or damage occurred without his neglect or consent after the seaman left his ship.

Liability of master.

202.—(1) The Government of Jamaica is not liable in respect of anything done under section 200, except to the extent that, if after the wages or effects of a seaman have been dealt with under that section any legal proceedings are taken by the seaman against the owner, master or agent of the ship, or by the master or owner of the ship against the seaman, in respect of those wages or effects, the Minister or his nominee shall, if notice is given to him of the proceedings and a reasonable opportunity afforded him of appearing, comply with any order of the court made in respect of the wages or effects so far as he can do so out of the wages and effects remitted to him in respect of the voyage of the ship.

Limitation of Liability of Government.

(2) The Minister or his nominee is entitled to appear and be heard in any proceedings referred to in subsection (1) and may be represented by any public officer.

(3) The Minister may, if and so far as he thinks fit, meet any claim by a seaman against the owner, master or agent of the ship in respect of any wages or effects dealt with under section 200 although legal proceedings are not actually taken in respect thereof, if the Minister has given notice to the master or owner of the ship and the master or owner of the ship has not given written notice of objection within ten days of the notice being given, and any

expense incurred by the Minister under this subsection is recoverable by the Government as a civil debt.

(4) For the purpose of this section, any legal proceedings taken or any claim made by a person in whose favour an allotment note has been made are to be treated as proceedings taken or claim made by the seaman.

Payment to
Govern-
ment.

203.—(1) Any sums remitted under section 199 or arising from the sale of effects under section 200, and not disposed of in accordance with that latter section, shall be retained by the Government.

(2) The master of a ship who, without reasonable cause, contravenes subsection (1) of section 206 is guilty of an offence the prosecution of which shall be without prejudice to any other liability to which the ship might be subject.

Non-appli-
cation of
section 206.

204. Section 199 does not apply in relation to a seaman left behind if—

- (a) the master of a ship satisfies the Registrar of Seamen or proper officer that none of the effects of the seaman has to his knowledge been left on board the ship and that he has paid all wages due to the seaman;
- (b) the amount of wages earned by the seaman, after taking into account any deduction made in respect of allotments or advances for which provision is made by the crew agreement, appears from the agreement to be less than five hundred dollars;
- (c) the master of the ship satisfies the Registrar of Seamen or proper officer that the net amount due to the seaman on account of wages, after taking into account any deductions lawfully made in respect of allotments, advances or otherwise, is less than five hundred dollars; or

- (d) the question of forfeiture of the wages and effects of the seaman has been dealt with in proceedings lawfully instituted before the termination of the voyage or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.

205.—(1) Where during the currency of his crew agreement the service of a seaman engaged on a Jamaican ship terminates otherwise than by the consent of the seaman, the master of the ship shall—

Maintenance and return of seaman involuntarily terminating service.

(a) in addition to—

- (i) giving the seaman a certificate of discharge required by this Act; and
- (ii) paying to the seaman the wages to which he is entitled,

make adequate provision in accordance with this Act for the maintenance and return of the seaman to a proper return port; and

(b) record the details of these provisions in the official log book.

(2) Where a master fails without reasonable cause to comply with subsection (1), the expenses of maintenance and of the journey to the proper return port—

- (a) if defrayed by the seaman, are recoverable as wages due to him; and
- (b) if defrayed by the Registrar of Seamen or proper officer or any other person, are a charge upon the ship to which the seaman belonged.

(3) A charge upon a ship under subsection (2) (b) may also be recovered—

- (a) from the person who is the owner of the ship for the time being;

- (b) if the ship has been lost, from the person who was the owner of the ship at the time of the loss;
- (c) if the ship has been transferred to some person, from the person who was the owner of the ship at the time of the transfer, or the owner for the time being.

at the suit of the Registrar of Seamen or proper officer or other persons defraying the expenses, or, if the expenses, have been defrayed out of public moneys, as a debt to the state, by ordinary process of law and in the manner in which wages are recoverable by a seaman.

**Certificate
when sea-
man left
behind.**

206.—(1) The master of a Jamaican ship shall not leave a seaman behind at any foreign port or place except when the seaman is discharged in accordance with this Act, unless the master has had the certificate of the Registrar of Seamen or proper officer endorsed on the crew agreement certifying the cause of the seaman being left behind which cause may include unfitness or inability to proceed to sea, desertion or disappearance.

(2) The Registrar of Seamen or proper officer to whom an application is made for a certificate under this section may examine the grounds on which a seaman is to be left behind and, for that purpose, may, if he thinks fit, administer oaths and grant or refuse the certificate as he thinks just, but a certificate may not be unreasonably withheld.

Offences.

207.—(1) Where the master of the ship fails to comply with section 205 or 206 he is, without limiting his liability under any other provision of this Act, guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of two hundred and fifty thousand dollars.

(2) In a prosecution for an offence under subsection (1) for failing to comply with section 206 the onus is upon the master of the ship to prove that the certificate was obtained or could not be obtained without unreasonable delay to the ship or was unreasonably withheld.

208.—(1) Where the master of a Jamaican ship leaves a seaman behind at any foreign port or place on the grounds of his unfitness or inability to proceed to sea, the master shall deliver to the person signing the certificate required by section 206 a full and true account of the wages due to the seaman; and, if that person is the proper officer, the master shall deliver the account in duplicate.

Account of wages of seaman left behind.

(2) A master who fails without reasonable cause to deliver the account required under subsection (1) commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of two hundred and fifty thousand dollars.

209.—(1) The master shall pay to the proper officer the wages due to a seaman left behind on the grounds of his unfitness or inability to proceed to sea, if such officer will receive the wages.

Payment of seamen's wages to proper officer.

(2) Where a payment is made under this section, the proper officer, if satisfied with the account under section 208, shall furnish a receipt for the payment.

(3) A payment under this section shall be made, whenever practicable, in cash, and where not so practicable, by bank draft.

(4) A master who fails without reasonable cause to pay wages as provided by this section, is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of two hundred and fifty thousand dollars.

Application
of wages
of seaman
left behind.

210. Where the wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea are paid to and accepted by the Registrar of Seamen or proper officer, that officer shall deal with them in the following manner—

- (a) where the seaman subsequently obtains employment at or leaves the port at which the payment has been made, the officer shall obtain out of the money any expenses such as the owner or master is by this Act required to defray, and pay the remainder to the seaman and deliver to him an account of the money received and expended on his behalf;
- (b) where the seaman dies before his ship leaves the port, the officer will deal with the money as part of the property of a deceased seaman; and
- (c) where the seaman is sent to a proper return port at the public expense under this Act, the officer shall account for the money to the Minister, and after retaining any expenses duly incurred in respect of the seaman except such expenses as the owner, master or agent of the ship is required by this Act to defray, the money shall be dealt with as wages of the seaman.

Relief of
distressed
seaman.

211.—(1) Where a seaman—

- (a) is found in any place outside Jamaica after having been shipwrecked from a Jamaican ship; or
- (b) has been discharged or left behind from a Jamaican ship in any place outside Jamaica,

and is in distress in that place (hereinafter in this Part called a “distressed seaman”) the Registrar of Seamen or a proper officer, as the case may be, may provide relief to that seaman in accordance with this Act.

(2) For the purposes of subsection (1), relief is provided in relation to a seaman when provision is made—

- (a) for the return of the seaman at the expense of the Government to a proper return port and also for his necessary clothing and maintenance until his departure for such port;
- (b) in the case of the seaman's death prior to return, for burial or cremation expenses; and
- (c) in addition in the case of a shipwrecked seaman, for the repayment of any expenses incurred in his conveyance to port after his shipwreck and his maintenance while being so conveyed.

212.—(1) Any expenses incurred by the Government in the provision of relief pursuant to section 211 together with the wages, if any, due to a distressed seaman, is a charge upon the ship to which the seaman had belonged, and is a debt due to the Government—

**Repayment
of relief
and return
expenses.**

- (a) from the owner, master or agent of the ship at the time of the loss;
- (b) where the ship has been transferred, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer; and
- (c) where the ship is a foreign ship, also from the person, who engaged the seaman for service in the ship.

(2) A debt under this section, in addition to any fines and consular fees incurred, may be recovered by the Minister on behalf of the Government by ordinary process of law in the manner in which wages are recoverable by the seaman.

(3) In any proceedings for recovery of a debt under this section, the production of an official account of the expenses incurred in accordance with this Act, and proof of payment of the expenses by or on behalf of the Government of Jamaica is *prima facie* proof that the expenses were incurred or repaid under this Act by or on behalf of the Government.

Forcing
ashore.

213. The master or a member of the crew of a Jamaican ship, who wrongfully forces a seaman ashore and leaves him behind, or otherwise causes a seaman to be wrongfully left behind at any place commits an offence.

Manner of
return.

214.—(1) A seaman may be sent to a proper return port by any reasonable route.

(2) Provision may be made for the return of a seaman either by—

- (a) providing him with suitable employment on board a ship that is proceeding to a proper return port and that is in need of a crew to make up its complement; or
- (b) providing the seaman with a passage in any ship or aircraft or in other public transport and by providing for his maintenance during the journey.

(3) Where the master of a ship is required under this Part to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman's passage or the expenses of his journey, deposit with a proper officer such sum as the proper officer considers sufficient to defray the expenses of the return of the seaman to a proper return port.

(4) Where a seaman is repatriated as a member of a crew, he is entitled to the appropriate remuneration for work done during the voyage.

215.—(1) When any question arises as to what return port a seaman is to be sent, or as to the route by which he should be sent, the question shall be decided by the Registrar of Seamen or proper officer.

Settlement of question regarding return of seaman to proper return port.

(2) In deciding the question of a seaman's return port, the Registrar of Seamen or proper officer shall have regard—

- (a) to the convenience of the seaman and to the expense involved; and
- (b) where applicable, to the fact that a ship is in need of a crew to make up its complement and is about to proceed to a proper return port or to a port in the vicinity thereof.

(3) Nothing in this section shall be construed as relieving the owner from the obligation and expense of returning the seaman to his proper return port.

216.—(1) The Minister may, whenever he deems it necessary, spend money on the temporary relief in such manner as he thinks advisable, of a shipwrecked, destitute or otherwise distressed seaman—

Minister may provide temporary relief.

- (a) not otherwise entitled to relief under this Act or under the laws of the country to which his ship belongs; or
- (b) who is a citizen of Jamaica employed on a foreign vessel and discharged or left behind in a foreign country.

(2) Any expenses incurred for a shipwrecked, destitute or otherwise distressed seaman under this section, shall be repaid to the Minister by the owner, master or agent of the vessel to which the distressed seamen belonged and may be recovered by the Minister on behalf of the country

in the same manner as expenses incurred outside Jamaica for distressed seamen of Jamaican ships are recoverable.

PART VIII. *Official Log Book and Ordinary Ship's Log*

Official log
book.

217.—(1) An official log book in the prescribed form shall be kept on every Jamaican ship of not less than two hundred gross tons, and on every Jamaican ship engaged on international voyages.

(2) The Minister may make regulations prescribing—

- (a) the form of official log book;
- (b) the particulars to be entered in the official log books;
- (c) the persons by whom such entries are to be made, signed or witnessed; and
- (d) the procedure to be followed in the making of such entries and in their amendment or cancellation.

(3) The official log book may, at the discretion of the master be kept distinct from or combined with the ordinary ship's log, but in all cases the spaces in the official log book shall be duly filled with entries.

(4) Any entry required to be made in an official log book—

- (a) shall be made as soon as possible after the occurrence to which it relates;
- (b) if it is not made on the same day as the occurrence, shall be made and dated to show the dates of the occurrence and the entry respecting it;
- (c) if it is made in respect of an occurrence taking place before the arrival of the ship at its final port

of discharge, shall not be made more than twenty-four hours after that arrival.

(5) Every entry in the official log book shall be signed by the master and by an officer or some other member of the crew, and if it is an entry of illness, injury or death, it shall also be signed by the medical practitioner on board (if any).

(6) Every entry made in an official log book in the manner provided by this Act is admissible in evidence to prove the facts stated therein.

218. The master of a ship for which an official log book is kept shall, subject to any regulations made under section 217, enter or cause to be entered in the official log book particulars of—

Entries in
official log
book.

- (a) every conviction by a court of a member of his crew and the punishment imposed;
- (b) every offence committed by a member of his crew for which it is intended to prosecute or to make a forfeiture or to impose a fine, together with the statement concerning the furnishing of a copy, or reading over, of the entry and concerning the reply, if any, made to the charge, as required by this Act;
- (c) every disciplinary offence for which punishment is imposed on board, and the punishment imposed;
- (d) the conduct, character and qualifications of each member of his crew or a statement that he declines to give an opinion on those particulars;
- (e) every case of illness or injury happening to a member of the crew, with the nature thereof and the medical treatment given, if any;
- (f) every refusal of a member of the crew to take anti-corbutics or medicines;

- (g) every birth and death whenever occurring;
- (h) the name of every seaman who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (i) the wages due to any seaman who dies during the voyage, and the gross amount of all deductions to be made from those wages;
- (j) the sale of the effects of any seaman who dies during the voyage, with a statement of each article sold and the sum received for it;
- (k) every collision with any other ship and the circumstances in which it occurred;
- (l) the date and time of the display in the ship of a notice containing particulars of the ship's draught and freeboard; and
- (m) any matter directed by this Act to be entered.

Delivery of
official log
book where
ship is
transferred,
lost or
abandoned.

219.—(1) Where, by reason of transfer of ownership or change of employment of a Jamaican ship, the official log book ceases to be required in respect of the ship, the master or owner of the ship shall—

- (a) if the ship is then in a Jamaican port, within one month; or
- (b) if the ship is elsewhere, within six months after such cessation,

deliver or transmit to the Director the official log book and the agreement with the crew duly made out to the time of the cessation.

(2) If a Jamaican ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Director the official log book duly made out to the time of the loss or abandonment.

220.—(1) If an official log book is not kept in the manner required by this Act or if any entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master of the ship is guilty of an offence and, except as otherwise expressly provided in the Act in respect thereof, is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of five hundred thousand dollars.

Offences in respect of official log book.

(2) Any person who makes, procures to be made, or assists in making an entry in an official log book in respect of any occurrence taking place previous to the arrival of the ship at its final port of discharge of the crew, more than twenty-four hours after that arrival, is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of five hundred thousand dollars.

(3) Any person who wilfully destroys, mutilates or renders illegible an entry in an official log book, or wilfully makes, procures to be made or assists in making a false or fraudulent entry in, or omission from, an official log book is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of five hundred thousand dollars.

221.—(1) All Jamaican ships shall carry on board an ordinary ship's log within which shall be recorded the daily activities of the ship and such other particulars as may be prescribed.

Ordinary ship's log.

(2) The ordinary ship's log shall comprise a deck log and an engine room log where appropriate.

(3) Where a ship is not required by this Act to carry an official log book, or where it is not practicable for a ship to produce the official log book, the ordinary ship's log of that ship shall be admissible in evidence.

**Returns of
crew lists.**

222.—(1) Every master of a Jamaican ship of not less than two hundred gross tons shall make out and sign a list of the crew of the ship in the prescribed form containing the following particulars—

- (a) the number and date of the ship's registration and its gross and net tonnage;
- (b) the length and general nature of the voyage or employment;
- (c) the names, ages and places of birth of all the crew, their ratings on board, their previous ships or other employments and the dates and places of their previous ships or other employments and the dates and places of their joining the ship;
- (d) the names of any of the crew who have ceased to belong to the ship, with the times, places, causes and circumstances thereof;
- (e) the names of any members of the crew who have been maimed or hurt, with the time, place, cause and circumstances thereof;
- (f) the wages due at the time of death to any of the crew who have died;
- (g) particulars of the property belonging to any of the crew who have died, with a statement of the manner in which the property has been dealt with, and the money for which any part of it has been sold.

(2) The list of the crew referred to in subsection (1) shall be delivered or transmitted by the master or owner to the Director—

- (a) in respect of the half-year period ending respectively on the 30th day of June and the 31st day of December, within twenty-one days thereafter; or
 - (b) upon the discharge of the crew,
- whichever first happens.

(3) Where a Jamaican ship is lost or abandoned, the ship's master or owner shall, if practicable and as soon as possible, deliver to the Director the list of the crew duly made out to the time of the loss or abandonment.

(4) For the avoidance of doubt, "crew" in this section includes the master and apprentices.

223. The owner shall retain the official log book and the list of a crew for a period of seven years after the receipt and shall produce the same on demand made therefor by the Director or other proper officer.

Retention of
official log
book and
crew list.

224.—(1) The Master of a Jamaican ship shall, upon arrival at a port, or at such other time and place as the Director may, with respect to any ships or class of ships, direct, deliver to the Director or a proper officer, in the prescribed form, a return of the facts relating to births and deaths which the master is required by section 225 to record.

Returns of
births and
deaths in
Jamaican
ships.

(2) In respect of any death recorded pursuant to subsection (1) the master shall notify such death to such person (if any) as the deceased may have named as his next-of-kin.

(3) When the return is made outside of Jamaica the proper officer shall send a certified copy of the return to the Director.

(4) The master of any ship who fails to comply with any requirement of this section is guilty of an offence and upon summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding fifty thousand dollars.

225. The master of any foreign ship, which calls at a port or such other place in Jamaica as the Director may with respect to any ship or class of ships direct, in the course of or at the end of a voyage shall, upon arrival at such port or other place, make a return to the Director of births and deaths of citizens of Jamaica occurring in any such ships.

Return of
births and
deaths of
Jamaican
citizens in
foreign
ships.

(2) The master of any ship who fails to comply with any requirement of this section is guilty of an offence and upon summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding fifty thousand dollars.

Returns to
be sent to
Registrar
of Births
and Deaths.

226. The Director shall cause any information contained in any return referred to in section 234 or 235 to be sent to the Registrar of Births and Deaths.

PART IX. *Safety*

Interpretation

Interpre-
tation and
application.

227.—(1) In this Part—

“appropriate certificate” in relation to any Convention means a certificate issued in accordance with the relevant Convention as defined therein;

“cargo ship” means a ship which is not a passenger ship, pleasure craft or fishing vessel;

“Convention state” in relation to any Convention referred to in this Part means a state in relation to which the Convention, is in force;

“existing ship” means a ship which is not a new ship;

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

“International Collision Regulations” means the International Convention for Prevention Collision at Sea 1972, and any amendments thereto as are in force in relation to Jamaica;

“international voyage” means a voyage to or from a Convention state from or to a port outside such State;

“Load Line Certificate” means—

- (a) in relation to a Jamaican ship, an International Load Line Certificate or Jamaica load line

certificate, as the case may be, issued under this Part; or

- (b) in relation to a foreign ship, an International Load Line Certificate issued by a Load Line Convention State, a certificate issued in respect of a ship that has been surveyed and marked in accordance with regulations implementing the Load Line Convention.

“Load Line Convention” means the International Convention on Load Lines 1966 and any amendments thereto, as in force in relation to Jamaica;

“Load Line Convention state” means a state, in respect of which the Load Line Convention are in force;

“Load Line ship” means a ship other than—

- (a) a ship of war;
- (b) a fishing vessel; or
- (c) a pleasure yacht not engaged in trade;
- (d) an existing ship of under 150 gross tons; or
- (e) a new ship of under 24 metres in length;

“Load Line Regulations” means the regulations made by the Minister to give effect to the Load Line Convention;

“new ship” in relation to the Load Line Convention, means a ship whose keel has been, laid or which is at a similar stage of construction on or after—

- (a) in the case of a ship flying the flag of a Load Line Convention state other than Jamaica, the date from which the Load Line Convention has come into force in relation to that state; or
- (b) in the case of any other ship the 18th day of November, 1982;

"SOLAS Convention" means the International Convention for the Safety of Life at Sea, 1974, and any amendments thereto, as are in force in relation to Jamaica;

Prevention of Collisions and Safety of Navigation

Collision
Regulations.

228.—(1) The Minister may make regulations, hereinafter referred to as "the collision regulations"—

- (a) for the prevention of collisions at sea;
- (b) respecting the lights, sounds or other signals to be carried, used or exhibited;
- (c) respecting signals of distress and urgency;
- (d) respecting the steering and sailing rules to be observed by vessels.

and in making such regulations he shall have regard—

- (i) to any other international convention or treaty for the time being in force in relation to Jamaica; and
- (ii) to regulations made under any other enactment regulating navigation in ports and harbours.

(2) This section shall not, unless the context otherwise requires, be construed as affecting the making of or continuance in force of regulations made under any enactment concerning lights and signals to be carried, or the steps to be taken for avoiding collisions by vessels navigating the waters of any port, harbour or other internal waters.

Jamaican
ships to
observe
Collision
Regulations.

229.—(1) All owners and masters of vessels shall comply with the collision regulations and shall not carry, exhibit or use any lights, sounds or other signals other than such as are prescribed by those Regulations.

(2) Contravention of the collision regulations is caused by the wilful default of the master owner of a vessel he shall be guilty of an offence and on conviction

thereof shall be liable to a fine not exceeding five hundred thousand dollars.

(3) Subsections (1) and (2) shall apply to the owners and pilots of seaplanes and other craft when in close proximity to or on the surface of water as they apply to the owners and masters of vessels.

230. In any case before a court in Jamaica concerning a contravention of the collision regulations arising within Jamaican waters, foreign vessels and seaplanes shall be treated as if they were vessels and seaplanes registered in Jamaica.

Foreign
ships in
Jamaican
waters.

231.—(1) Liability for collision damage, including damage to vessels, their cargoes, the effects or other property of the crew, passengers or other persons on board, or to third parties, shall be apportioned according to the degree of fault of each ship involved in a collision.

Collision
liability.

(2) Where it is not possible to determine the degree of fault of each vessel, or if it appears that the vessels are equally at fault, liability shall be apportioned equally.

(3) There shall be no presumption of fault against a ship for a contravention of the collision regulations without proof of fault or negligence.

(4) If the collision is accidental or caused by *force majeure*, or if the cause is left in doubt, the damage shall be borne by those who have suffered them, notwithstanding that the vessels, or any one of them, may have been at anchor, or was otherwise made fast, at the time of the collision.

(5) If the collision is caused by the fault of one of the vessels, liability to make good the damage shall attach to the one which has committed the fault.

(6) In respect of damage causing death or personal injuries, the vessels in fault shall be jointly and severally

liable to third parties, without prejudice, however, to the right of the vessel which has paid a larger part than that which, in accordance with the provisions of subsections (1) and (2), it ought ultimately to bear, to obtain a contribution from the other vessel or vessels at fault.

(7) In addition to any other remedy provided by the law the persons entitled to any contribution referred to in subsection (6) shall, for the purpose of recovering the contribution, have, subject to the provisions of this Act, the same rights and powers as persons entitled to sue for damages in the first instance.

(8) Collision liability shall attach in accordance with this section in cases where the collision may be caused by the fault of a pilot whether or not the pilot is carried by compulsion of law.

(9) The right of action for the recovery of damages resulting from a collision is not conditional upon the entering of a protest or the fulfilment of any other special formality.

(10) Where no collision has actually taken place, liability for damage to the vessels involved in the incident, or to goods or persons on board the vessels resulting from the execution or non-execution of a manoeuvre or a contravention of the collision regulations shall be determined in accordance with this section.

Inspection
to enforce
compliance
with
Collision
Regulations.

232. An Inspector may inspect any vessel in a port of Jamaica to determine whether the vessel is properly provided with lights and shapes and the means of making sounds signals as required by the Collision Regulations; and if he finds that the vessel is not so provided, he shall specify in writing the action required to rectify the deficiency and the vessel may be detained until such deficiency is rectified.

233.—(1) After a collision between vessels, the master of each vessel shall, if and so far as he can do so without further damage or injury to his own vessel, crew and passengers, if any—

Duty to render assistance following collision.

- (a) render to the other vessel, 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) remain by the other vessel, until he has ascertained that there is no need for further assistance;
- (c) give the master of the other vessel the name and port of registry of his vessel, and the names of the ports from which his vessel sailed and to which his vessel is bound.

(2) Any master of a vessel who fails, without reasonable cause, to comply with the provisions of subsection (1), is guilty of an offence and on conviction thereof is liable to a fine not exceeding two hundred and fifty thousand dollars, or to imprisonment for a term not exceeding two years, or to both such imprisonment and fine.

234.—(1) The master of any Jamaican vessel upon encountering dangerous ice, a dangerous derelict, tropical storm or any other direct danger to navigation shall send information accordingly by any means of communication at his disposal and in accordance with such regulations in that regard as may be made to all vessels in the vicinity or to such authorities ashore as may be prescribed.

Obligation to notify hazards of navigation.

(2) Every person in charge of a radio station which is based in Jamaica or on board any Jamaican vessel, shall on receiving the signal prescribed in the regulations referred to in subsection (1), for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and if so required by regulations shall transmit the message in the prescribed manner.

(3) For the purposes of this section, a "tropical storm" means a hurricane, typhoon, cyclone or other storm of a similar nature, and a master of a vessel shall be deemed to have encountered a tropical storm if he has reason to believe that there is such a storm in the vicinity.

Master to proceed moderately in danger area.

235.—(1) The master of a Jamaican vessel, when ice is reported on or near his course, shall at night either proceed at a safe speed adapted to the prevailing circumstances or change his course so as to keep amply clear of the ice reported and of the area of danger.

(2) The master of a vessel who fails to comply with this section, is guilty of an offence and is liable on conviction thereof to a fine of five hundred thousand dollars.

Obligation to assist vessels, etc., in distress.

236.—(1) Subject to section 238, the master of a Jamaican vessel on receiving at sea a signal from any source that a vessel or aircraft is in distress, shall proceed 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 to do so; 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 official log book of the ship the reason for failing to proceed to the assistance of the persons in distress.

(2) 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 hundred and fifty thousand dollars.

Right to requisition ships when in distress.

237. The master of a vessel or aircraft in distress, after consultation, so far as may be possible, with the masters of the vessels which answer his call for assistance, has the right to requisition one or more of those vessels as he considers best able to render assistance, and it shall be the duty of the

master of any vessel requisitioned to comply with the requisition by proceeding with all speed to the assistance of persons in distress.

238.—(1) The obligation imposed by section 236 shall not apply where the master of a ship has been informed by the persons in distress or the master of any other ship that one or more ships, other than his own, have been requisitioned under section 236, and are complying with the requisition.

Release from obligation to assist.

(2) The obligation imposed by section 236 or 237, as the case may be, shall not apply in relation to a ship, the master of which has been informed by the persons in distress or by the master of another ship which has reached such persons, that assistance is no longer necessary.

239.—(1) The master of a vessel shall, so far as he can do so without serious danger to his own vessel, render assistance to every person, including an enemy, who is found at sea in danger of being lost.

Obligation to assist persons in danger at sea.

(2) If the master of a vessel fails to comply with the provisions of subsection (1), he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand dollars, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

240. Compliance by a master with any of the provisions of this Part shall not affect his right, or the right of any other person to salvage.

Salvage rights not affected.

241.—(1) Where a master of a vessel uses or displays or causes or permits any person under his authority to use or display—

Improper use of signals of distress.

- (a) any prescribed signal except in circumstances and for the purposes prescribed; and
- (b) any signal that is liable to be mistaken for any prescribed signal,

he is guilty of an offence and, in addition to any penalty imposed upon him on conviction, he is liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress or urgency; and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

(2) Where a master who is guilty of an offence under subsection (1) is an officer certificated or licensed under this Act, he shall be subject to an enquiry into his conduct pursuant to this Act.

Reports of
accidents
to ships.

242.—(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 sustained any material damage affecting its seaworthiness or its efficiency, either in its hull or in any part of its machinery,

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

(2) Every report of an accident involving or causing damage to, a ship made under subsection (1) shall be signed by the owner or master of the ship, and shall state—

- (a) the name of the ship, the port of registry of the ship, the official number (if any) of the ship and the place where the ship is located;
- (b) the circumstances in which the accident or damage occurred; and
- (c) the probable cause of the accident or damage.

(3) If the managing owner, or in the event of there being no managing owner or no such owner resident in

Jamaica, the agent of any ship to which this section applies has reason to believe that the ship has sustained or caused any such accident or received any such damage as is mentioned in subsection (1), he shall ensure that the accident or damage has been reported to the Director by the master.

(4) In reporting to the Director as required under subsection (3) the managing owner or agent shall state in writing the name of the ship, its official number (if any) and its port of registry and state to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the location of the ship.

(5) The master or managing owner or agent who fails, without reasonable cause to comply with this section is guilty of an offence and is liable on conviction thereof to a fine of two hundred thousand dollars.

(6) This section shall apply to all Jamaican ships and to all foreign ships carrying passengers or cargo to or from a Jamaican Port.

243.—(1) If the managing owner or agent of any Jamaican ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been lost, he shall cause a reasonable search to be made for the ship and shall, as soon as may be convenient, send to the Director a notice in writing signed by him and stating—

Loss of ship.

- (a) the name, the port of registry 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 of two hundred and fifty thousand dollars.

Safety of Life at Sea

Application
of safety
provisions.

244. Nothing in sections 245 to 261 or in any regulations made under section 245, unless it is expressly otherwise provided by such regulations, shall apply to—

- (a) ships of war and troop ships;
- (b) cargo ships of less than 500 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.

Regulations
relating to
safety at
sea.

245.—(1) The Minister may make such registrations as he considers necessary or expedient to implement the provisions of the SOLAS Convention and of any other international treaty instrument relating to maritime safety applicable to Jamaica.

(2) Every person who fails without reasonable cause to comply with the provisions of any regulations made under this section commits an offence and in respect of any such offence shall, be liable on conviction thereof to a fine not exceeding two hundred and fifty thousand dollars.

Ships in port
through
stress of
weather, etc.

246. Notwithstanding that any provision of this Part or of any regulations made under section 245 is expressed to apply to ships that are not Jamaican ships while they are within any port in Jamaica, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

Surveys and Certification

Surveyor's
duties.

247.—(1) Surveyors shall, as and when required by or under this Act, carry out surveys of—

- (a) the hull and machinery of ships;
- (b) the equipment of ships, including tackle, and appurtenances;

- (c) the life-saving, fire-fighting and other safety equipment of ships;
- (d) the radiotelegraphy and radiotelephony installations of ships; and
- (e) the stowage and manner of loading of ships' cargoes, and stowage of dangerous goods.

(2) The survey and inspections of ships, so far as regards the enforcement of this Part, shall be carried out by surveyors, subject to such conditions as the Director may impose, or by any classification society authorised by the Director.

248. A surveyor shall at all times have the same powers and responsibilities as an Inspector under sections 316, 317 and 318.

Surveyor to
name
Inspector's
powers, etc.

249. The structure, machinery and equipment of a passenger ship shall be subjected to the following surveys pursuant to this Part—

Survey
requirements
for
passenger
ships.

- (a) a survey before the ship is put in service, which shall include a complete inspection of its structure, machinery and equipment, including the outside of the ship's bottom and the inside and the outside of the boilers and shall be such as to ensure that the arrangements, material and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in lifesaving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment fully comply with the relevant regulations applicable to the ship, are in a satisfactory condition

and are fit for the service for which the ship is intended;

- (b) a periodical survey before the Passenger Ship Safety Certificate or Passenger Certificate may be renewed, which shall include an inspection of the ship's structure, machinery and equipment referred to in paragraph (a) to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (c) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in section 254(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship and which shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

Regulations
for cargo
ship
safety con-
struction
require-
ments and
surveys.

250.—(1) The Minister may make regulations, in this Act referred to as “Cargo Ship Safety construction and Survey Regulations”, prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any Jamaican ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.

(2) The regulations shall include requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of such ship.

(3) This section applies to—

- (a) Jamaican cargo ships of not less than 500 gross tons;

- (b) Jamaican cargo ships of such lower tonnage and of such description as the Minister may specify; and
- (c) foreign cargo ships while they are within Jamaican waters and while they are not exempted under this Act.

251. The radio installations, including those used in life-saving appliances of cargo ship of 300 gross tons or over engaged on international voyages shall be subjected to the following surveys pursuant to this Part—

Survey requirements for the safety equipment of cargo ships.

- (a) a survey before the ship is put in service, which shall include a complete inspection of the radio installation, including, when appropriate, those used in the life-saving appliances, to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (b) a periodical survey before the Cargo Ship Safety Radio Certificate may be renewed, which shall include an inspection of the radio installation, including when appropriate, those used in life-saving appliances, to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (c) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in 261(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship and which shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all

respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

Survey
require-
ments for
the radio
installations
of cargo
ships.

252.—(1) The safety equipment of a cargo ship of 500 gross tons or over engaged on international voyages shall be subjected to the following surveys pursuant to this Part—

- (a) a survey before the ship is put in service, which shall include a complete inspection of the life-saving appliances and arrangements (except radio installations where only the arrangements shall be inspected), the shipborne navigational equipment, the fire safety systems and appliances, the inert gas system, the fire control plans, the means of embarkation of pilots, the nautical publications, lights, shapes and means of making sound and distress signals and other equipment to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and is fit for the service for which the ship is intended;
- (b) a periodical survey before the Cargo Ship Safety Equipment Certificate may be renewed, which shall include an inspection of the equipment referred to in paragraph (a) to ensure that it complies with the relevant regulations applicable to the ship, is in a satisfactory condition and is fit for the service for which the ship is intended;
- (c) an annual survey, or, in the case of a tanker of 10 years of age and over, an intermediate survey, within 3 months before or after the anniversary date of the Cargo Ship Safety Equipment Certificate which shall include a general inspection of the equipment referred to in paragraph (a) to ensure that it is being maintained in accordance with section 254(1) (a) and it remains fit for the service for which the ship is intended;

- (d) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from an investigation prescribed in section 254(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship and which shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

(2) In any period of 5 years, there shall be carried out at least one survey in accordance with this section.

253. The structure, machinery and equipment, excluding the radio installations and safety equipment to which sections 251 and 252 apply, of cargo ships of 500 gross tons or over shall be subjected to the following surveys pursuant to this Part—

Survey requirements for the structure, machinery and equipment of cargo ships.

- (a) a survey before the ship is put in service, which shall ensure that the arrangements, materials and scantlings of the structure including the sea connections, overboard discharge valves and other ship side fittings, the boilers and other pressure vessels and their appurtenances (other than domestic boilers having a heating surface of 5 square metres or less and a working pressure of 3.5 bar gauge or less and other domestic pressure vessels having such a working pressure), main and auxiliary machinery including steering gear and associated control systems, electrical installation, structural fire protection and special measures for tankers and other equipment comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended and that the required

stability information is provided; and which shall, for the purposes of the survey of the outside of the ship's bottom, the sea connections, overboard discharge valves and other ship side fittings and the rudder be carried out whilst the ship is in dry dock; and shall also, in the case of tankers, include an inspection of the pump rooms, cargo and bunker piping systems, vent piping, pressure or vacuum-valves and flame arresting screens;

- (b) a periodic survey, before the Cargo Ship Safety Construction Certificate or the Jamaican Cargo Ship Safety Construction Certificate may be renewed, which shall be such as to ensure that the arrangements, materials and scantlings referred to in sub-paragraph (a) comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended and which shall, in the case of tankers, include an inspection of the pump rooms, cargo and bunker piping systems, vent piping, pressure or vacuum-valves and flame arresting screens;
- (c) in the case of a tanker of 10 years of age or over, at least one intermediate survey, during the period of validity of the certificate; there is only one such survey, it shall be held not more than 6 months before nor later than 6 months after, the half way date of the period of validity of the certificate. In no case shall the period between the surveys so required exceed three 3 years and the surveys shall include an inspection of the arrangements, materials and scantlings of the structure provided in compliance with the relevant regulations applicable to the ship and the steering gear and associated control systems, cargo and bunker piping systems on deck and in the pump rooms, vent piping,

pressure or vacuum-valves, flame arresting screens and the electrical installation in hazardous zones to ensure that they remain satisfactory for the service for which the ship is intended;

- (d) an annual survey within 3 months before or after each anniversary date of the Cargo Ship Safety Construction Certificate or the Jamaican Cargo Ship Safety Construction Certificate, except that an annual survey shall not be required in respect of a tanker of 10 years of age or over in any year in which it has been surveyed in accordance with paragraph (c) within 3 months before or after the anniversary date of the Cargo Ship Safety Construction Certificate; such surveys to include a general inspection of the arrangements, materials and scantlings of the structure provided in compliance with the relevant regulations applicable to the ship to ensure that they are being maintained in accordance with section 254(1)(a) and that they remain fit for the service for which the ship is intended;
- (e) a minimum of 2 surveys of the lower areas of the hull, including the sea connections, overboard discharge and other ship side fittings and the rudder with the ship in dry dock during any 5 year period, provided that in all cases the interval between any 2 such surveys shall not exceed 36 months and the surveys shall be such as to ensure that they remain satisfactory for the service for which the ship is intended;
- (f) an additional survey, either general or partial, according to the circumstances, to be made after resulting from an investigation prescribed in section 254(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship, and shall be such

as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

Responsibilities of owner and master and compliance with ISM Code.

254.—(1) The owner and master of every ship to which this section applies shall ensure that—

- (a) the condition of the ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant provisions of this Part applicable to the ship;
- (b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of a surveyor or, except by direct replacement;
- (c) whenever an accident occurs to a ship or a defect is discovered either of which affects the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment—
 - (i) it is reported at the earliest opportunity to a surveyor, or a proper officer; and
 - (ii) if a Jamaican ship is in such a case in a port outside Jamaica it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to a surveyor or to a proper officer under subsection (1)(c)(i), the surveyor or proper officer, as the case may be, shall cause investigations to be initiated to determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.

(3) Subsections (1) and (2) apply to—

- (a) Jamaican ships; and
- (b) except as regards subsection (1)(a), other ships which have been surveyed pursuant to this Part.

(4) All Jamaican ships, all other ships while in Jamaican waters and all companies in relation to ships referred to in this subsection shall comply with the ISM Code.

(5) For the purposes of subsection (4), “ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the Organization as may be amended from time to time, and “Company” has the same meaning as in the ISM Code.

255.—(1) In any case where a surveyor determines that the condition of a ship to which this section applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Director.

Procedure to be adopted when the ship including its structure not corresponding to certificate.

(2) If such corrective action is not taken within a reasonable period as a surveyor may specify, the surveyor, shall, at the end of that time, immediately notify the Director who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship and notice of any such suspension to the owner, and to the surveyor, who in turn shall notify the master.

(3) This section applies only to Jamaican ships and other ships which have been surveyed pursuant to this Part.

Issue of
certificates to
Jamaican
ships
engaged on
international
or short
international
voyages.

256. When a survey to meet the requirements set out in this Part is satisfactorily completed—

- (a) the Director, or any other person authorised by him, shall issue—
 - (i) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, unless the ship is only engaged on short international voyages when a short international voyage Passenger Ship Safety Certificate shall be issued;
 - (ii) in the case of a cargo ship of 300 gross tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
 - (iii) in the case of a cargo ship of 500 gross tons or over engaged in international voyages, a Cargo Ship Safety Equipment Certificate; or
 - (iv) in the case of a cargo ship of 500 gross tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

Issue of
certificates
to Jamaican
ships not
engaged on
international
voyages.

257. When a survey or surveys, to meet the requirements set out in this Part are satisfactorily completed the Director shall issue—

- (a) in the case of a Jamaican passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
- (b) in the case of a Jamaican cargo ship of 500 gross tons or over not engaged on international voyages, a Cargo Ship Safety Construction Certificate.

Form of
certificate.

258.—(1) A Passenger certificate shall indicate compliance with the provisions of this Act and state—

- (a) the limits (if any) beyond which the ship is not fit to ply;

- (b) the number of passengers which the ship is fit to carry;
- (c) any condition with which the ship has to comply.

(2) A Passenger Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificate shall be in the form prescribed by the Safety Convention.

259.—(1) The duration of certificates issued under section 255 shall be as follows—

**Duration and
validity of
certificates.**

- (a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate shall be issued for a period of validity not exceeding 12 months;
- (b) a Cargo Ship Safety Radio Certificate shall be issued for a period of validity not exceeding 12 months;
- (c) a Cargo Ship Safety Equipment Certificate shall be issued for a period of validity not exceeding 24 months;
- (d) a Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding 5 years.

(2) The duration of certificates issued under section 257 shall be as follows—

- (a) a Passenger Certificate shall be issued for a period of validity not exceeding 12 months;
- (b) a Jamaican Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding 5 years.

(3) A certificate shall cease to be valid—

- (a) if its period of validity has been exceeded and the certificate has not been extended when permitted by section 261;
- (b) if annual and intermediate surveys have not been carried out in accordance with this Part and the certificate has not been endorsed;
- (c) upon the transfer of a ship to the flag of another state;

Issue and
duration of
exemption
certificates.

260.—(1) When an exemption is granted to a ship in accordance with the relevant provisions applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any Certificate issued under section 255.

(2) An Exemption Certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.

(3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificates to which it refers.

(4) Where an Exemption Certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

Extension
and other
provisions.

261.—(1) If a Jamaican ship, at the time when a certificate issued under section 256(1)(a) or (b) expires, is not in a Jamaican port or the port in which it is to be surveyed—

- (a) the Director may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to a Jamaican port or the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so;
- (b) no certificate shall be extended for a period longer than 5 months, and a ship to which the extension is granted shall not, on its arrival in a Jamaican

port or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or Jamaica without having obtained a new certificate.

(2) The Director may extend a certificate issued under section 256(1)(a), or (b) which has not been extended under subsection (1) for a period of grace of up to one month from the date of expiry stated on it.

(3) In the case of a Jamaican ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Director may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board for that voyage and sets out the details of the modifications that may be made with respect to life-saving appliances stated on the certificate.

(4) The memorandum referred to in subsection (3) shall be attached to the certificate during the particular voyage and shall be returned to the Director at the completion of the voyage.

(5) In the case of a ship that has transferred from the registry of the Government of another country to the Jamaican registry, the Director, subject to such survey requirements that may be considered to be necessary may issue one or more of the certificates prescribed by sections 256 and 257 for a period to be determined by the Director, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the Government of that other country if satisfied that—

- (a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;

- (b) the certificate issued by or behalf of the Government of that country would have remained valid had the registry of the ship not been changed;
- (c) the condition of the ship, including its structure, machinery and equipment, have been maintained so as to comply with the relevant regulations applicable to the ship; and
- (d) after any of the surveys referred to in sub-paragraph (a) have been complete, no material change has been made to the ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the Administration of that other State or the Director except by direct replacement.

Load Line

Load Line
Regulations.

262.—(1) The Minister may make such regulations (hereinafter referred to as “the Load Line Regulations”) as appear to him to be necessary for the purpose of giving effect to the Load Line Convention and for making provision in relation to the matters specified in subsection (2).

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

- (a) prescribe load line requirements; and
- (b) provide for the survey of and issue of local Load Line Certificates in respect of ships to which the Load Line Convention does not apply.

Ships not to
proceed to
sea unless
complying
with Load
Line Regu-
lations.

263.—(1) No Jamaican load line ship shall proceed to sea unless—

- (a) the ship has been surveyed in accordance with the Load Line Regulations either by a surveyor or at the request of the Minister by the Government of any Convention state;

- (b) the ship complies with the conditions for the assignment of load lines prescribed in the Load Line Regulations;
- (c) the ship is marked on each side with a mark (hereinafter referred to as "deck-line") indicating the position of the uppermost continuous deck and with marks (hereinafter referred to as "load line"), indicating the several maximum depths to which the ship is permitted to load in various circumstances prescribed by the Load Line Regulations; and
- (d) the deck-line and load lines are of the descriptions and in the positions required by the Load Line Regulations.

(2) Where the ship proceeds or attempts to proceed to sea in contravention of this section the master or owner thereof is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars and the ship may be detained until it has been so surveyed and marked.

264.—(1) The owner or master of a Jamaican load line ship who fails without reasonable cause to keep the ship marked in accordance with this Part is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding one hundred thousand dollars.

Alteration or
defacement
of load line
marks.

(2) Any person who conceals, removes, alters, defaces or obliterates or permits any person under his control to conceal, remove, alter, deface or obliterate any mark placed on the ship in accordance with this Part, except with the authority of a person entitled under the Load Line Regulations to authorize the alteration of the mark is guilty of an offence and is liable on conviction thereof to a fine not exceeding five hundred thousand dollars.

Submersion
of load
lines.

265.—(1) No Jamaican ship shall be so loaded that the appropriate load line on each side of the ship would be submerged, if the ship had no list.

(2) Where any ship is loaded in contravention of this section, the owner or master of the ship is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of five hundred thousand dollars, and to such additional fine not exceeding one hundred thousand dollars for every centimetre or part one hundred thousand dollars for every centimetre of part thereof by which the appropriate load line on each side of the ship was submerged if the ship had been in salt water and without any list.

(3) In any proceedings against an owner or master in respect of a contravention of this section, it shall be a valid defence that the contravention was due solely to deviation or delay caused by stress of weather or *force majeure* which neither the master, the owner, nor the charterer, if any, could have prevented or forestalled.

(4) Without prejudice to any proceedings under this section, any ship which is loaded in contravention of this section may be detained until it ceases to be so loaded.

Submersion
of Load
Lines of
foreign
ships.

266. The provisions of section 265 shall apply to foreign ships while they are in Jamaican waters as they apply to Jamaican ships.

Exemption
Certificate.

267. An International Load Line Exemption Certificate shall be issued to any ship to which an exemption has been granted in accordance with the Load Line Convention.

International
and Local
Load Line
certificates.

268.—(1) Where a Jamaican ship 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 purpose of this section the appropriate certificate—

- (a) in the case of a Load Line Convention ship, is the International Load Line Certificate; and
- (b) in the case of any other ship, is the Local Load Line Certificate.

269. Where a valid Load Line Certificate is produced in respect of the ship to which the certificate relates the ship shall be deemed to have been surveyed and marked in accordance with the provisions of this Act and the Load Line Regulations.

Effect of
Load Line
Certificates.

270.—(1) Every Load Line Certificate issued under this Part shall, unless it is renewed in accordance with the provisions of subsection (2), expire at the end of such period as specified therein which period shall not exceed five years from the date of its issue.

Duration,
renewal and
cancellation
of Load
Line Certi-
ficate.

(2) Any such Load Line Certificate may, after a survey conducted in accordance with the Load Line Regulations before the issue of the certificate, be renewed from time to time by the Director or by any person authorized by him to issue a Load Line Certificate for such period not exceeding five years on any occasion as the Director or other authorized person renewing the certificate thinks fit.

(3) The owner of every ship in respect of which any such certificate remains in force, shall cause the ship to be surveyed in the prescribed manner at least once in every period of twelve months after the issue of the certificate for the purpose of ascertaining whether the certificate should remain in force, having regard to subsection (2), and if the ship is not so surveyed, the Director with the approval of the Minister shall cancel the certificate, but may, if he thinks fit extend the said period by a maximum of three months.

Production
of Load
Line Certi-
ficates of
Jamaican
ships.

271. The master of every Jamaican load line ship shall, upon request, produce a valid Load Line Certificate to the Officer of Customs from whom a clearance for the ship from a port in Jamaica is demanded, and until the certificate is produced a clearance shall not be granted and the ship may be detained in accordance with the provisions of this Act.

Production
of Load
Line Certi-
ficates of
foreign
ships.

272. Unless a valid Load line Certificate is produced in respect of a foreign ship, the provisions of section 271 shall apply to that ship proceeding or attempting to proceed to sea from a port in Jamaica as they apply to a Jamaican ship.

Deck cargo
regulations.

273.—(1) The Minister may make regulations, in this section referred to as the "Deck Cargo Regulations", prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a load line ship.

(2) Where the Load Line Regulations provide either generally or in particular cases or classes of cases for assigning special freeboard to ships which are to have effect only when carrying a cargo of timber on deck, then, without prejudice to the generality of subsection (1) the Deck Cargo Regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any such special requirements as are mentioned in subsection (2), the Minister shall have regard in particular to the provisions of Chapter IV of Annex 1 to the Load Line Convention.

(4) Where any provisions of the Deck Cargo Regulations are contravened—

- (a) in the case of a Jamaican ship; or
- (b) in the case of any other ship while it is in a Jamaican port.

the master of the ship is, subject to subsection (5), guilty of an offence and is liable on conviction thereof to a fine of two hundred and fifty thousand dollars.

(5) Where a person is charged with an offence under subsection (4) it shall be a defence to prove to the satisfaction of the court that the contravention was due solely to deviation or delay caused by stress of weather or any other cause of *force majeure* which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(6) For the purpose of securing compliance with the Deck Cargo Regulations, an Inspector may inspect any ship to which this Part applies which is carrying cargo in any uncovered space on its deck.

274.—(1) The owner or master of a ship in respect of which a load line certificate issued under this Part is in force shall, as soon as practicable after any structural alteration which affects the position of the load line marks is made in the hull or super-structures of the ship, give notice in writing to the Director containing full particulars of the alteration.

Notice to be given of alterations affecting position of ship's Load Lines.

(2) Where notice of any alteration is not given as required by subsection (1), the owner and the master are guilty not exceeding an offence and each is liable on conviction thereof to a fine not exceeding five hundred thousand dollars.

(3) The Director may exercise with respect to any such ship his powers specified in subsection (4) where he has reason to believe that—

- (a) material alterations have taken place in the hull or super-structure of the ship which affect the load line marks; or
- (b) fittings and appliances for the protection of openings, guard rails, the freeing ports or the means of

access to the crews' quarters have not been maintained on the ship in as effective a condition as they were when the certificate was issued.

(4) In any such case the Director may—

- (a) cancel the Load Line Certificate; or
- (b) require the owner to have the ship surveyed again to such an extent as the Director thinks fit; and, if that requirement is not complied with he may cancel the Load Line Certificate.

(5) Where a Load Line Certificate has expired or has been cancelled, the Director may require the owner or master of the ship to which the certificate relates to surrender the certificate as he directs and the ship may be detained and if the owner or master fails without reasonable cause to comply with such requirement he is guilty of an offence and liable on conviction thereof to a fine not exceeding five hundred thousand dollars.

Inspection
of ships
regarding
Load Lines.

275.—(1) An Inspector may, for the purpose of ensuring that the provisions of this Act have been complied with, board any ship within Jamaican waters and demand the production of any Load Line Certificate for the time being in force in respect of that ship.

(2) Where pursuant to subsection (1), a valid Load Line Certificate is produced to the Inspector his powers of inspecting the ship with respect to load line shall be limited to verifying—

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that the markings of the load line on the ship correspond with those specified in the certificate;
- (c) that no material alterations have taken place in the hull or super-structure of the ship which affect the markings of the load lines;

- (d) that the fittings and appliances for the protection of openings, guard rails, 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) Where a valid Load Line Certificate is not produced to the Inspector, the ship may be detained until such certificate is produced.

276.—(1) Where it is found upon an inspection referred to in section 275 that a ship is loaded in contravention of section 265 or, the ship may be detained and proceedings may be taken against the master or owner thereof under section 265.

Contravention of Load Line Regulations and detention of ship.

(2) Where the load lines on the ship are not marked as specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the Inspector.

(3) Where on inspection a ship is found to have been so materially altered in respect of the matters referred to in section 275 (2) (c) and (d) that it is manifestly unfit to proceed to sea without danger to human life, the ship shall be detained; but where the ship has been so detained the Director shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

277.—(1) Where a Load Line Certificate has been issued under this Part in respect of a Jamaican load line ship—

- (a) the owner of the ship shall forthwith upon receipt of the certificate, cause it to be framed and displayed in some conspicuous place on board the ship, and the certificate shall be kept so framed and displayed and shall be legible so long as the

Posting up of Load Line Certificate and entry of Load Line details in ship's log book.

certificate remains in force and the ship is in use;
and

- (b) the master of the ship before making any other entry in any official log book, shall enter therein the particulars as to the marking of the deck-line and load line specified in the certificate.

(2) Before any Jamaican load line ship proceeds to sea the master thereof shall—

- (a) enter in the official log book the draught and free-board relating to the depth to which the ship is for the time being loaded, the density of the water in which the ship is floating and all other particulars relating thereto in the form as set out in the official log book;
- (b) cause a notice in the prescribed form containing the information specified in paragraph (a) to be displayed in some conspicuous place on board the ship and the notice shall remain displayed and shall be legible while the ship is at sea.

(3) The master or owner of any Jamaican load line ship who fails to comply with the provisions of this section is guilty of an offence and is liable on conviction thereof to a fine not exceeding one hundred thousand dollars.

Load Line Exemptions

Power to
make exemp-
tion Orders.

278.—(1) Where in the opinion of the Minister the sheltered nature and conditions of international voyages between ports in Jamaica and ports in neighbouring countries make it unreasonable or impracticable to apply the provisions of this Act to ships plying on such a voyage, and the Minister is satisfied that the Government of the other countries concur in that opinion, the Minister may, by order, direct that ships plying on such voyages be exempt from the provisions of this Part.

(2) The Minister may, by order, direct that vessels engaged solely in coastal trading, or any class of such vessels specified in the order be exempt from the provisions of this Part.

(3) Any order under this section may be made subject to such conditions as the Minister thinks fit, and where any such order is made subject to conditions, the exemption granted by the order shall not have effect in relation to a ship unless the ship complies with those conditions.

279.—(1) On the application of the owner of a Jamaican Load Line ship, the Minister may exempt the ship from the application of this Part, if in his opinion the ship embodies features of a novel kind such that, if the ship has to comply with all the requirements of this Part, the development of those features and their incorporation in the ship might be seriously impeded.

Further powers to exempt ships of novel design.

(2) Where a Jamaican Load Line ship 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, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(3) Any exemption granted under this section may be granted subject to such conditions as the Minister thinks fit; and any such exemption shall not have effect unless those conditions are complied with.

280. In this Part, any reference to exempting a ship is a reference to exempting the ship either—

Extent of exemption.

- (a) from all the provisions of this Part or of any regulations made thereunder; or
- (b) from such of those provisions as are specified in the instrument granting the exemption.

**Issue of
Exemption
Certificate.**

281.—(1) Where the Minister exempts a ship under section 278 or 279 the Director shall issue the appropriate certificate in accordance with the provisions of this Part to the owner of the ship.

(2) For the purposes of this section, where the exemption is granted under subsection (1) or (3) of section 278 the appropriate certificate is to be called an “International Load Line Exemption Certificate”.

**Duration
and extension
of
exemption.**

282.—(1) The Load Line Regulations shall make provision for determining the period during which any exemption granted under section 278 or 279 or any certificate issued under section 268 is to remain in force including—

- (a) provision enabling the period for which any such exemption or certificate is originally granted or issued to be extended within such limits and in such circumstances as may be prescribed by the Regulations; and
- (b) provision for terminating any such exemption and for cancelling any such certificate in such circumstances as may be prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information as may be prescribed by the Regulations relating to—

- (a) periodical inspections of the ship in accordance with the Load Line Regulations; and
- (b) any extension of the period for which the certificate was issued.

**Penalty for
non-compliance
with conditions of
exemption
certificates.**

283. Where an exemption certificate, issued in respect of any Jamaican ship specifies conditions on which the certificate is issued and any of those conditions is not complied with, without prejudice to any other liability, the owner or

the master of the ship is guilty of an offence and is liable on conviction thereof in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars.

Carriage of Bulk Cargoes

284. In this Part, "grain" includes wheat, maize, corn, oats, rye, barley, rice, pulses, seeds and processed forms thereof, whose behaviour is similar to that of grain in its natural state.

Interpretation.

285. The Minister may make regulations relating to—

Bulk cargo regulations.

(a) the safe carriage and storage of bulk cargoes having due regard to—

(i) the Code of Safe Practice for Solid Bulk Cargoes issued by the IMO and amendments thereto or replacement thereof;

(ii) any other international guidelines relating to the carriage or storage of solid or liquid bulk cargoes;

(b) the safe carriage and stowage of grain in compliance with the SOLAS Convention.

286.—(1) Where grain is loaded on board any Jamaican ship, or is loaded at any port in Jamaica on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting.

Precautions regarding grain cargoes.

(2) If such precautions as are mentioned in subsection (1) are not taken, the owner, master or any agent of the ship who was charged with the responsibility for loading or with sending the ship to sea laden with the grain, is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unseaworthy by reason of improper loading.

(3) Where any ship, which has been loaded with grain outside Jamaica without necessary and reasonable precautions having been taken to prevent the grain from

shifting, enters any port in Jamaica so laden, the owner or master is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unseaworthy by reason of improper loading.

(4) No offence is committed under subsection (2) where the ship would not have entered any such port but for stress of weather or any other cause or *force majeure* that, neither the master, the owner nor the charterer if any, could have prevented or forestalled.

(5) Any person authorized by the Director to ensure the observance of the provisions of this section may inspect the grain, and the mode in which it is stowed and shall have all the powers of an Inspector under this Act.

Offences

287. Any person who—

- (a) commits an offence by contravening the provisions of any regulations made under section 285;
- (b) commits an offence under section 286.

is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars.

Dangerous Goods

Interpretation.

288. For the purposes of sections 289 to 292 in relation to any ship "dangerous goods" means—

- (a) goods of an explosive, highly inflammable or toxic nature or that are otherwise by their nature of quantity either singly or collectively liable to endanger life or imperil the ship;
- (b) without limiting the generality of paragraph (a), any goods so declared by regulations under this Part.

289.—(1) The Minister may by regulations prescribe which goods, articles or materials to be carried in a ship are, for the purpose of this Part, dangerous goods in accordance with the provisions of the Safety Convention relating to the carriage of dangerous goods and to amendments thereto or replacements thereof or with any other Convention which may be accepted by Jamaica, and such regulations shall have regard to the International Maritime Dangerous Goods (IMDG) Code of the International Maritime Organization.

Regulations
as to
dangerous
goods.

(2) Without restricting the generality of the foregoing, the Minister may by regulations prescribe—

- (a) the method of packing and stowing such goods;
- (b) the quantity of such goods which may be carried in any ship;
- (c) the place or places within a ship in which they may be carried;
- (d) the marking that is to be placed on any package or container in which goods may be placed for shipment;
- (e) the precautions that shall be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the provisions of the regulations.

290.—(1) No person shall send by or carry in a Jamaican ship, except in accordance with regulations made pursuant to section 289, any dangerous goods, so, however, that this section shall not apply to ship's distress signals or to the carriage of military stores under conditions authorized by the Minister.

Carriage
and mark-
ing of
dangerous
goods.

(2) No person shall send by or carry in a Jamaican ship any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the same, in accordance with such regulations as the

Minister may make and without first giving written notice of the nature of such goods and of the name and address of the sender thereof to the master or owner of the ship.

(3) This section shall apply to foreign ships while in Jamaican waters as they apply to Jamaican ships.

Offences.

291. Any person who contravenes the provisions of section 290 is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars and where the offence involves the marking, packing, stowing or quantity of dangerous goods within a ship, the ship shall be deemed, for the purposes of this Act, to be unseaworthy by reason of improper loading.

**Rejection
and disposal
of dangerous
goods by
ships.**

292.—(1) The master or owner of any ship may refuse to take on board any package or parcel that he suspects might contain any dangerous goods being carried in breach of the provisions of regulations made under this Part; and may require the package to be opened to ascertain its nature.

(2) When any dangerous goods, or any goods that, in the opinion of the master or owner of the ship, are dangerous goods, have been sent on board any ship without the marking or the written notice described in section 290, the master or owner of the ship may cause the goods, together with any package or container thereof, to be removed from the ship and disposed of in such manner as may be prescribed; and neither the master nor the owner of the ship is subject to civil or criminal liability in any court in respect of such disposal.

Seaworthiness of Ships

Unseaworthy ship.

293.—(1) For the purposes of this Part the circumstances in which a ship shall be regarded as being in an unseaworthy state include those where by reason of the matters mentioned in subsection (2), it is unfit to proceed to sea without serious

danger to the safety of persons, property or the marine environment, having regard to the nature of the voyage for which the ship is intended, and "unseaworthy" shall be construed accordingly.

(2) The matters referred to in subsection (1) are—

- (a) the condition of the hull, equipment, machinery or cargo;
- (b) undermanning;
- (c) overloading or unsafe or improper loading.

294.—(1) Any person who sends or attempts to send any ship to sea from any port in Jamaica in an unseaworthy state shall be guilty of an offence, unless he proves either—

Sending unseaworthy ship to sea an offence.

- (a) that he used all reasonable means to ensure that the ship was sent to sea in a seaworthy state; or
- (b) that sending the ship to sea in such unseaworthy state was in the circumstances reasonable and justifiable.

(2) Any master of a Jamaican ship, or foreign ship, as the case may be, who knowingly takes such ship to sea from any port in Jamaica 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 taking the ship to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted except after consultation with the Director.

(4) Every person who commits an offence against this section shall, on summary conviction thereof in a Resident Magistrate's Court, be liable to a fine not exceeding five hundred thousand dollars, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Owner's
obligation
to crew
regarding
seaworthi-
ness.

295.—(1) In every contract of employment 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 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 to ensure the seaworthiness of the ship at the time when the voyage commences and to keep the ship in a seaworthy condition during the voyage.

(2) Nothing in this section 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.

Detention of
unseaworthy
ships.

296.—(1) Where, whether on a complaint or representation made to him or otherwise, the Director or an Inspector has reason to believe that any Jamaican ship, or any foreign ship in Jamaica, unseaworthy, he may exercise any of the powers conferred by subsection (2).

(2) Where the Director or Inspector, as the case may be, is satisfied that the ship is unseaworthy, he may—

- (a) cause the ship to be detained in accordance with this Act; and
- (b) in the case of a Jamaican ship, cause its Safety Convention Certificates to be suspended, until he is satisfied that the ship is fit to proceed to sea.

(3) Where the ship is detained pursuant to subsection (2), the Director or Inspector may adopt any measures or means he thinks suitable or necessary to prevent the ship from sailing while it is unseaworthy.

(4) Where a ship has been detained under subsection (2)—

- (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 a consular officer for the country to which the ship belongs who is at or nearest to the port in which the ship is detained;
- (c) the Director may, if he thinks fit, appoint some competent person or persons to inspect the ship and report thereon to him;
- (d) the owner or master of the ship may, at any time before an inspection is made by a person appointed under paragraph (c), require such person to be accompanied by such competent person as the owner or master may select and—
 - (i) if all such persons agree on the survey result, the Director shall cause the ship to be detained or released accordingly, as the circumstances may require, subject to the right of appeal under subsection (6), or
 - (ii) if they do not agree, the Director shall act as if no request for accompaniment had 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 competent person as the consular officer selects.

(5) The Director, on receiving the report referred to in subsection (4) (c), may—

- (a) order the ship to be released; or

- (b) subject to subsection (6), if in his opinion the ship is unseaworthy, confirm the order for it to be detained, either absolutely or until there is compliance with such conditions with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo, or the manning of the ship as he thinks necessary for the safety of persons, property or the marine environment, and may vary or add to any such order.

(6) Before an order for the confirmation of the detention of a ship under subsection (5) is made, a copy of the report on the ship referred to in paragraph (c) of subsection (4) 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 to the Minister in such manner as may be prescribed.

(7) Where a ship has been detained under subsection (2), the owner of the ship or the Director may at any time refer the matter to the Maritime Tribunal.

(8) The Director may at any time, if satisfied that a ship detained under this section is not unseaworthy order it to be released either upon or without any condition.

Powers of
Inspectors
regarding
detention.

297.—(1) Every Inspector or proper officer shall have the same power as the Director under section 296 to order the detention of a Jamaican ship for the purpose of inspecting or for ascertaining the sufficiency of its crew, and if he thinks that a ship so detained by him is not unseaworthy he may order the release of that ship.

(2) Any person detaining a ship under subsection (1) shall forthwith report to the Director any order made by him for the detention or release of the ship.

Liability
for costs and
damages.

298.—(1) If a ship is detained under this Act, and it appears that when detained was at the time of such detention unseaworthy, the owner of the ship shall be liable to pay

to the Government the costs of and incidental to the detention and inspection of the ship; and such costs shall, without prejudice to any other remedy, be recoverable in the same manner as salvage is recoverable.

(2) Any dispute as to the amount of the costs of the detention and inspection of a ship may be referred to a Judge in Chambers who shall, on the request of the Minister, ascertain and certify the proper amount of those costs.

299.—(1) Where a complaint is made in such manner as may be prescribed, to the Director, or to an Inspector, that a Jamaican ship is unseaworthy, such officer may require the complainant to give security in such manner as may be prescribed, for any costs and compensation which may become payable by the Authority in respect of the detention and inspection of the ship.

Power to require complainant to give security for costs.

(2) The security referred to in subsection (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, or Inspector, as the case may be, frivolous or vexatious.

(3) Where a ship is detained in consequence of any complaint under subsection (1), and the circumstances are such that costs and compensation become payable by the Authority in respect of the detention and inspection of the ship, the complainant shall be liable to pay to the Authority all such costs and compensation.

300.—(1) If in proceedings against any seaman for the offence of desertion or absence 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—

Allegation of unseaworthiness by seaman charged desertion.

- (a) that the ship is in an unseaworthy state; 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 130,

the court hearing the case shall be entitled to take such measures as are in its power to satisfy itself concerning the truth 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 desirable to hear;
- (iii) shall, if satisfied that the allegation is groundless, dismiss the case; and
- (iv) shall, if satisfied that the allegation is founded, cause the ship to be surveyed before adjudication.

(2) A seaman charged with desertion or with absence from his ship without leave shall not have a right to apply for an inspection under this section unless he has before leaving the ship, complained to the master of the circumstances alleged by him to justify an inspection of the ship.

Further provisions concerning surveys.

301.—(1) For the purposes of section 300 the court shall require an Inspector to inspect the ship, and to answer any question concerning such ship which the court thinks fit to ask.

(2) An Inspector shall inspect the ship, make a written report thereon to the court, and include in his written report an answer to every question put to him by the court.

(3) On receiving a report under subsection (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.

302.—(1) The costs, if any, of an inspection of a ship made under section 300 shall be determined by the Director according to a prescribed scale of fees. Costs of inspection.

(2) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation therein is sufficient or complies with such requirements as may be prescribed, as the case may be and that there were no reasonable grounds for the complaint, the costs of the inspection shall be paid by the person upon whose demand or in consequence of whose 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 Authority.

(3) If it is proved that the ship is not in a fit condition to proceed 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 inspection to the Authority, and in addition be liable to pay to the seaman who has been charged in any proceedings referred to in section 300 such compensation as the Court may award.

General

303.—(1) Every Jamaican passenger ship, regardless of size and every Jamaican cargo ship of not less than twenty-four metres in length shall carry on board such information about the ship's stability as may be prescribed. Ships to carry stability information.

(2) The information referred to in subsection (1), a copy of which shall be sent to the Director, shall be based on the determination of the ship's stability by means of an

inclining test of the ship but the Director may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner or master is guilty of an offence and is liable to a fine not exceeding two hundred and fifty thousand dollars.

Require-
ment to
maintain
condition
of ship.

304. The condition of any ship including its equipment, in respect of which a certificate issued under this Act is in force, shall be maintained at all times to comply in all respects with the provisions of the Act or any regulations made thereunder.

Notice of
accident,
defect or
alterations
affecting the
efficiency or
seaworth-
iness of
the ship.

305.—(1) Whenever an accident occurs to a ship or a defect is discovered, or any alteration is made to the ship's hull, equipment, appliances or machinery which affects the safety of the ship or the efficiency, completeness or seaworthiness thereof, the owner or master shall, as soon as practicable following such accident, discovery of defect, or alteration, give written notice to the Director describing full particulars of the accident, defect or alteration, as the case may be.

(2) Where notice is not given as required by this section, the owner or master of the ship is guilty of an offence and is liable on conviction thereof to a fine not exceeding two hundred and fifty thousand dollars.

(3) For the purposes of this section and section 319 "alteration" in relation to any thing includes the renewal or replacement of any part of it.

Re-survey
of a ship
following
alterations
or damages.

306. Where the Director has reason to believe that since the making of the last survey report in respect of any ship—

(a) any alteration has been made as is mentioned in section 305; or

- (b) the hull, equipment, appliances or machinery of the ship have sustained any damage or are otherwise defective or insufficient,

the Director may require the ship to be re-surveyed to such extent as he thinks fit, and if such requirement is not complied with, may cancel any certificate issued in respect of the ship under this Act.

307. Notwithstanding anything in this Part, the Minister may relieve any foreign ship or the owner of any such ship from compliance with any of the provisions of this Part or regulations made thereunder relating to inspection, in any specific case of emergency where the Minister may deem it necessary or advisable in the public interest, to such extent and in such manner and upon such terms as he may consider proper in the circumstances; but the Minister shall not relieve any ship or the owner thereof from compliance with any such provision in such manner as would permit any ship to proceed to sea or to make any voyage in an unseaworthy condition.

Application of this Part to ship.

308.—(1) All certificates or certified copies thereof issued under this Part, shall be posted in a prominent and accessible place in the ship for the information of all persons on board; and the certificates or copies thereof shall be kept so posted while they are in force and the ship is in use.

Posting up of certificates on board ship.

(2) The owner or master of a ship who fails without reasonable cause to comply with this section is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine of one hundred thousand dollars.

309. No Jamaican ship shall proceed to sea on an international voyage from a port in Jamaica unless there is in force in respect of the ship such certificates required under this Part appropriate to the category and intended service of the ship.

Ship not to proceed to sea without appropriate certificate.

Detention
of ship for
non-produc-
tion of
certificate.

310. The master of every Jamaican ship shall produce to the appropriate authorities from whom a clearance for the ship is demanded for an international voyage the certificates required by this Part to be in force when the ship proceeds to sea and a clearance shall not be granted, and the ship may be detained, until the certificates are so produced or the Director is otherwise satisfied that the ship complies with the requirements of this Part.

Penalty for
forgery of
survey
report or
certificate.

311. Any person who—

- (a) knowingly and wilfully makes or assists in making or procures to be made a false or fraudulent survey or inspection report under this Part; or
- (b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering any such report or certificate, or anything contained in or any signature to any such report or certificate,

is guilty of an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding five years.

Survey of
foreign
ships and
issue of
Convention
Certificates.

312.—(1) The Minister may, at the request of the Government of any state to which is a party to any Convention to which effect is given under this Part, cause a ship requested in that state to be surveyed, and if satisfied that the requirements of the Convention are complied with, shall authorize the issue of the appropriate certificates to the ship in accordance with the Convention as if it were a Jamaican ship.

(2) Any certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of the state in which the ship is or will be registered.

313. The Minister may request the Government of another state is a party to any Convention to which effect is given under this Part or any organization authorized to act in that behalf by the Minister to issue in respect of a Jamaican ship any certificate the issue of which is required under this Act; 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 under this Act.

Survey of
Jamaican
ships by
other
Convention
Countries.

314.—(1) Notwithstanding any other provisions of this Act or the provisions of the Fishing Industry Act, the Minister may make regulations prescribing requirements for hull, equipment and machinery of Jamaican fishing vessels wherever they may be employed, and foreign fishing vessels while in Jamaican waters.

Fishing
vessel safety
regulations.

(2) Regulations made under this section may make different provision for different descriptions of fishing vessels or for fishing vessels of the same description in different circumstances.

(3) Regulations made under this section may also make provision for—

- (a) the issue of certificates showing compliance with the prescribed requirements and for the effect, suspension and cancellation of such certificates;
- (b) the form and manner of, and the fees payable in connection with an application for such a certificate;
- (c) the notification of and effect of alterations to a fishing vessel after the issue of a certificate under this section;
- (d) the circumstances under which the survey and certificate under this section are required for the fishing vessel to proceed to sea from Jamaica.

(4) In making regulations under this section, due regard shall be had to any International Convention relating to safety of fishing vessels.

PART X. *Inspection of Ships for Safety*

Appoint-
ment of
Inspectors.

315.—(1) The Director, with the approval of the Minister may, from time to time, appoint Inspectors of ships at such places as he deems advisable.

(2) Such Inspectors shall be persons competent to survey and inspect—

- (a) the boilers and machinery of ships;
- (b) the equipment of ships, including ships' tackle, apparel and appurtenances;
- (c) the hulls and super-structures of ships;
- (d) the life-saving, fire-fighting and other safety equipment of ships;
- (e) the radio communication of ships;
- (f) the stowage and manner of loading ships' cargoes and the stowage of dangerous goods in ships;
- (g) electrical installations of ships.

(3) An Inspector of ships may be appointed in several capacities to perform different functions.

Inspector's
Record of
Inspection

316.—(1) An Inspector may at all reasonable times go on board and inspect any ship in Jamaican waters or any Jamaican ship anywhere for the purpose of ensuring that it is in compliance with the provisions of this Act or any regulations made thereunder.

(2) Where the Inspector finds that any of the provisions mentioned in subsection (1) has not been complied with, he shall give written notice to the owner or master of the ship stating in what respect there is deficiency.

(3) Every notice so given shall be communicated in such manner as may be prescribed to the officer of Customs at any port at which the ship may seek a clearance and such clearance shall not be granted and the ship may be detained in accordance with this Act.

(4) Where the Inspector considers that—

- (a) the ship is unseaworthy;
- (b) in the case of a passenger ship, it is unfit to carry passengers; or
- (c) the machinery or equipment of the ship is defective in any way so as to expose persons on board to serious danger,

he shall notify the Director that the ship is to be detained.

(5) Where, under this section, an Inspector visits any ship he may ask the owner or his agent, the master or chief engineer, of the ship any questions concerning the ship as he thinks fit and every such person shall fully and truthfully answer every such question.

(6) An Inspector may reasonably require of the owner or his agent the master or chief engineer of the ship, that the machinery of the ship be activated or dismantled so that he may satisfy himself as to its condition and every person of whom such a request was made capable of so doing, shall comply with such requirement.

(7) A person who contravenes subsection (5) or (6) is guilty of an offence and is liable on conviction thereof

to a fine not exceeding one hundred thousand dollars.

(8) An Inspector 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.

(9) Where an Inspector has reasonable grounds for believing that there are on any premises provisions or water

intended for supply to a ship registered or licensed in Jamaica which if provided on such ship, would not be in accordance with any regulations made under section 168, he may upon production of prescribed authorization enter such premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with such regulations.

(10) Any person who—

- (a) obstructs an Inspector under this section; or
- (b) 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 summary conviction thereof in a Resident Magistrate's Court shall be liable to a fine not exceeding two hundred thousand dollars.

Inspector's
Report to
Director.

317. An Inspector, where satisfied on inspection of a ship pursuant to this Part that he can with propriety do so, shall forward a report to the Director which shall contain a statement showing:—

- (a) that the hull and machinery are sufficient for the service intended and in good condition;
- (b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) that the equipment required under any regulations is on the board and in good condition;
- (d) that the ship's officers are persons duly certificated as required under this Act and that the crew is sufficient and competent;
- (e) the class of voyage for which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;
- (f) if the ship is a passenger ship the number of passengers which it may carry; and

- (g) the steam pressure that may be carried on the boilers.

318. An Inspector shall keep a record of the inspection he makes and furnish copies thereof to the Director.

Record of inspection certificates.

319. An Inspector may board any foreign ship on the arrival thereof for the purpose of verifying—

Inspection of foreign ships.

- (a) that there is in force in respect of the ship, the appropriate certificates required to be issued under this Act;
- (b) that the condition of the hull, equipment and machinery of such ship corresponds substantially with the particulars shown in such a certificate;
- (c) that the ship is adequately manned as regards the number, qualifications and competence of seafarers employed thereon;
- (d) that any conditions subject to which such a certificate, being the equivalent of an exemption certificate, is issued, are complied with; or
- (e) compliance with any other provisions of this Act.

320. The master of every foreign ship shall produce to the appropriate authorities from whom a clearance for the ship is demanded in respect of an international voyage from a Jamaican port, valid certificates (hereinafter called an "equivalent certificate") that are the equivalent of the certificates issued under Part VI or IX that would be required to be in force in respect of the ship if it were a Jamaican ship, and a clearance shall not be granted, and the ship may be detained until those certificates are so produced or the Director is satisfied that the ship complies with the requirements of Part VI and IX.

Production of certificates by foreign ship.

321.—(1) Where a valid equivalent certificate is produced in accordance with section 320, it shall be accepted and the ship shall be exempt from surveys or inspections under

Inspection of foreign ships certificates.

section 319, unless there are reasonable grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the certificate or that the ship and its equipment are not in compliance with the provisions of this Act and the regulations made thereunder.

(2) Where—

(a) a certificate is not acceptable due to the circumstances referred to in subsection (1), or if a certificate has expired or has otherwise ceased to be valid; or

(b) the ship is not adequately manned,

the ship shall not be granted clearance and shall be detained until it can proceed to sea or to the appropriate repair yard without causing danger to the safety of life, property at sea or in port or the marine environment and the Director shall in writing notify the resident Consul or diplomatic representative of the flag state or, in his absence, the nearest diplomatic representative of the flag state.

(3) All efforts shall be made to prevent undue detention of or delay to a ship referred to in subsection (2).

Inspector's
duty to
avoid
liability for
undue de-
tention or
delay.

322.—(1) An Inspector or public officer exercising functions under this Act in relation to the movement of any ship within Jamaican waters shall discharge his functions with such diligence as to avoid any undue detention of or delay to such ship.

(2) Notwithstanding the provisions of this or any other law to the contrary, the Minister may authorize the clearance of a ship in any case where it appears to him that an Inspector has not complied with subsection (1) so as to avoid undue delay to or detention of the ship.

323. An Inspector who in purported execution of his functions under this Act wilfully and without reasonable cause acts in such a manner as to cause undue detention of or delay to a ship within Jamaican waters commits an offence, and is liable on summary conviction in a Resident Magistrate's court to a fine not exceeding five hundred thousand dollars, or in default of payment thereof to imprisonment for a term not exceeding 12 months.

Liability for wilful detention or delay.

324. The Minister may make regulations prescribing safety requirements and providing for the survey and issue of local safety certificates in respect of any ship or class of ship to which the Safety Convention does not apply.

Regulations for safety requirements and issue of local certificates.

Power of Search, Inspection and Arrest

325.—(1) Any Inspector, either alone or with any other person, may at any time go on board any ship in Jamaican waters whenever—

Powers of Inspectors, officers to board ships.

(a) he has reasonable grounds to suspect that an offence under this Act has had been, is being, 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 enactment.

(2) In respect of a Jamaican ship the powers conferred on an Inspector by this section may also be exercised outside Jamaica and may be exercised by a proper officer, in addition to an Inspector.

(3) Any master of a ship who, without reasonable excuse, refuses to allow any Inspector 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 five hundred thousand dollars or to imprisonment for a term not exceeding three months.

Power to
require
production
of docu-
ments, etc.

326.—(1) Where an Inspector has reason to suspect that any provision of this Act or regulations made thereunder, or any other provision of law for the time being in force relating to shipping, seamen navigation or the protection of the marine environment is not being complied with, he may—

- (a) require the owner, master or any of the crew to produce any log book or other documents relating to the crew or any members thereof in their respective possession or control;
- (b) require any such master to produce a list of all persons on board his ship, and take copies of the log-books or documents, or any part thereof;
- (c) muster the crew of such ship; and
- (d) summon the master to appear and give an explanation concerning the ship or its crew or the log-books or documents produced or required to be produced.

(2) If any person, on being duly required by an Inspector under this section—

- (a) fails without reasonable cause to produce to that officer any 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 an Inspector,

he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months.

327.—(1) Any Inspector may arrest any person who he has reasonable cause to believe has committed an offence against any provision of this Act or any regulations made thereunder and take him before a court, to be dealt with according to law.

Power of
arrest.

(2) Any article, in respect of which any offence under this Act 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 and Inspectors

328.—(1) Surveyors and Inspectors shall make such returns to the Director as he may require, with respect to—

Returns by
Surveyors
and
Inspectors.

- (a) surveys and inspections of ships;
- (b) machinery, equipment and cargo of ships including the loading of ships carried out under this Act; and
- (c) any other details of such ships as may be prescribed.

(2) Every owner, master and chief engineer of any ship surveyed or inspected shall, on demand, give to the Surveyor or Inspector such information and assistance as the Surveyor or Inspector may reasonably require for the purpose of making any return under subsection (1).

(3) Any owner, master or engineer of a ship who, after demand by a Surveyor or Inspector, fails without reasonable cause to give information or assistance pursuant to subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred and fifty thousand dollars.

PART XI. Wreck and Salvage

329. In this Part—

“salvor” means any person rendering salvage services;

Interpreta-
tion.

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by a salvor in the performance of the salvage services;

“Salvage Convention” means the International Convention on Salvage, 1989 as amended from time to time;

“salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters;

“salvage services” means services rendered in direct condition with salvage operations;

Wreck

Powers of
Principal
Receiver
and receiver
of wreck.

330.—(1) The Principal Receiver of Wreck shall throughout Jamaica, have all the powers of a receiver and shall exercise general direction and supervision over all matters relating to wreck and salvage.

(2) The Minister may appoint any Collector of Customs or an Inspector to be a receiver of wreck in relation to any specified area.

(3) Nothing in this Act shall affect the powers of the Jamaica National Heritage Trust in relation to the control and development of any wreck which has been declared to be a national monument or designated as protected national heritage, as the case may be, under the Jamaica National Heritage Trust Act.

Expenses of
receiver.

331.—(1) There shall be paid to each receiver the expenses properly incurred by him in the performance of his duties.

(2) A receiver shall, in addition to all other rights and remedies for the recovery of the expenses referred to in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to

him and may, if the property in respect of which any such expenses are due is not under arrest in any court, seize or detain the property until his expenses are paid, or until security is given therefor to his satisfaction.

(3) Whenever any dispute arises as to the amount payable to any receiver in respect of expenses such dispute shall be determined by arbitration pursuant to the Arbitration Act.

332.—(1) Where any vessel is wrecked, stranded or in distress in Jamaican waters or on the shores of Jamaica, the receiver for the area in which the vessel is situated shall, upon becoming aware of the incident, forthwith go to such place and take command of all persons present, and assign such duties and give such directions to each person present as he thinks fit for the preservation of the vessel, the lives of the persons belonging to the vessel, the cargo and apparel of the vessel.

Functions of receiver where vessel is in distress.

(2) For the purpose of preserving life or preventing the threat of significant danger to public health, public safety or the environment, the receiver may—

- (a) require the assistance of such persons as he thinks necessary;
- (b) require the master or other person having the charge of any vessel near at hand to give such aid with his crew or vessel as is in his power; and
- (c) require the use of any available machinery, vehicle or equipment.

(3) Any person who, without reasonable excuse, wilfully disobeys the direction of the receiver under subsection (1), or fails to comply with any requisition under subsection (2) (a) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty thousand dollars.

(4) Any damage sustained by any person in consequence of the exercise by the receiver of powers conferred by this section 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 determined and recovered under this Part.

(5) Nothing in this section shall be construed to authorize the receiver to interfere in any matter arising between the master and crew of a vessel concerning the management of the vessel, unless he is requested to do so by the master.

Power to
pass over
adjoining
lands.

333.—(1) When a vessel is wrecked, stranded or in distress as described in section 332, any person may, for the purpose of rendering assistance to the vessel, its cargo or apparel, or of saving the life of any person—

- (a) enter on, pass and repass over any adjoining lands, with or without vehicles, machinery or equipment, unless there is some public road equally convenient; and
- (b) deposit on those lands any cargo or other articles recovered from the vessel.

without being impeded or hindered or being subject to liability for trespass by the owner or occupier of such lands, but such person may not cause any more damage to the adjoining lands than is reasonably necessary for the purpose of rendering that assistance.

(2) Any damage sustained by the owner or occupier of any land in consequence of the exercise of the rights conferred by subsection (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 determined and recovered under this Part.

- (3) An owner or occupier of any land who—
- (a) impedes or hinders any person in the exercise of the rights conferred upon him 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 removed to a safe place of public deposit,

shall be guilty of an offence and on conviction be liable to a fine not exceeding one hundred thousand dollars.

334. A receiver may, whenever any vessel is wrecked, stranded or in distress in Jamaican waters or on the shores of Jamaica, and any person plunders, creates disorder or obstructs the preservation of the vessel or of shipwrecked persons or of the cargo or apparel of the vessel—

Power of receiver to use force to suppress, plunder and disorder.

- (a) cause such person to be apprehended and detained in order to be dealt with according to law;
- (b) with the assistance of at least one member of the Jamaica Constabulary Force use such force as may be reasonably necessary for the suppression of any such plunder, disorder or obstruction;
- (c) order any person to assist him in so doing.

335. If any person loses his life or sustains injury by reason of any person resisting the receiver or any person acting under the orders of a receiver in the exercise of powers conferred under section 334, neither the receiver nor the person acting under his orders shall be liable to any action, suit, prosecution or punishment by reason of

Immunity of receiver.

the person losing his life or sustaining any injury unless it is shown that more force than necessary was used by the receiver or person acting under orders.

Examination
on oath
regarding
vessels in
distress.

336.—(1) Where any vessel is or has been in distress in Jamaican waters, a receiver shall, as soon as it is convenient 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 of the circumstances of the distress of the vessel or of the cargo or stores thereof, as to the following matters—

- (a) the name and description of the vessel;
- (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 vessel was bound;
- (e) the occasion of the distress of the vessel;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the vessel or to the cargo on board the vessel as the person holding the examination thinks necessary.

(2) The person holding the examination under subsection (1) in relation to any vessel 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 thinks fit cause a copy of the record to be placed in a conspicuous place in the post offices and police stations in the area in which the 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 316.

Rules to be
observed by
person find-
ing wreck.

337.—(1) Where any person finds or takes possession of any wreck within Jamaica, or where any wreck found or taken possession of outside Jamaica is brought within

Jamaica, the person finding such wreck or taking possession thereof shall—

- (a) if he is the owner thereof, give notice to the receiver for the area 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 for such area.

(2) The Minister may in the case of any particular wreck dispense with a delivery required under subsection (1), upon such condition as he thinks fit.

(3) Any person who fails, without reasonable cause, to comply with provisions of subsection (1) relating to any wreck is guilty of an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding one hundred thousand dollars, 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—
 - (i) to the owner of the wreck if it is claimed; or
 - (ii) if it is unclaimed to the person entitled thereto,

double the value of the wreck, to be recovered in the same way as a fine of like amount under this Act.

338.—(1) Where a vessel is wrecked, stranded or in distress in Jamaican waters or on the shores of Jamaica any cargo or other articles belonging to or separated from the vessel which are washed ashore or otherwise lost or taken from the vessel shall be delivered to a receiver.

Penalty for taking wreck at the time of casualty.

(2) Any person (whether or not the owner of any cargo or articles), who conceals or keeps possession of any such cargo or article knowing it to be wreck or refuses to

deliver any such cargo or article to a receiver or any person authorized by the receiver to demand such cargo or article, is guilty of an offence and on summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding two hundred and fifty thousand dollars.

(3) A receiver or any person authorized by the receiver to demand the delivery to him of any cargo or article referred to in subsection (1) may use such force as may reasonably be necessary to take such cargo or article from any person refusing to deliver it to him.

Notice of
wreck to be
given by
receiver.

339. Where a receiver takes possession of any wreck, he shall within forty-eight hours—

- (a) cause to be posted at the nearest post office and police station, and otherwise published 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 five hundred thousand dollars, send a copy of such description to the Director.

Delivery of
wreck to
owner.

340.—(1) The owner of any wreck in the possession of a receiver, upon establishing his claim thereto to the satisfaction of the receiver within six months from the time when the wreck came into the possession of the receiver shall, on paying the salvage and other expenses due, be entitled to have the wreck or the proceeds thereof as the case may be surrendered to him.

(2) Where any wreck belonging to or forming part of a foreign vessel which has been wrecked or found in distress in Jamaican waters or on the shores of Jamaica, or belonging to and forming part of the cargo thereof, is found on or near the shores of Jamaica or is brought into any port in Jamaica, the consular officer of the state to which the vessel belongs or, in the case of cargo, the consular

officer of the country to which the owners of such cargo belong 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 other article.

341.—(1) A receiver may at any time, and in such manner as may be prescribed, sell any wreck in his custody, if in his opinion—

Immediate
sale of
wreck by
receiver in
certain
cases.

- (a) it is under the value of one hundred thousand dollars or such other amount as may be prescribed;
or
- (b) it is so damaged, contains such dangerous goods or is of so perishable a nature that in the interest of all concerned it cannot with advantage be kept;
or
- (c) it is not of sufficient value to pay for storage; or
- (d) it has not been removed within a time specified by the receiver.

(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.

(3) In this section “dangerous goods” has the same meaning as in section 288.

342.—(1) All wreck, being foreign goods brought or coming into Jamaica, shall be subject to the same treatment for the purpose of law as if they had been otherwise imported into Jamaica.

Wrecked
goods sub-
ject of
duties.

(2) If any question arises as to the origin of any goods referred to in subsection (1), they shall be deemed to be the produce of such country as the Commissioner of Customs may on investigation determine.

(3) The Commissioner of Customs shall permit—

- (a) all goods, wares or merchandise salvaged from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination; and
- (b) all goods, wares or merchandise salvaged from any ship stranded or wrecked on its outward voyage to be returned to the port at which they were shipped, but the Commissioner of Customs shall take security for any duties payable in respect of those goods.

Right to
unclaimed
wreck.

343. The Government of Jamaica is entitled to all unclaimed wreck found within any part of Jamaica or found or taken possession of outside Jamaica and brought within Jamaica, except where the Minister has granted to any person the right to any such wreck.

Notice of
unclaimed
wreck to
be given to
persons
entitled.

344.—(1) Any person who claims to be entitled to a wreck the ownership of which has not been established found at any place in Jamaica or in Jamaican waters shall give the receiver a statement containing the particulars of his entitlement and specifying an address to which notices must be sent.

(2) Where a statement has been given to the receiver under subsection (1) and the entitlement is proved to the satisfaction of the receiver, the receiver shall, on taking possession of any wreck found at a place to which the statement refers, within 48 hours, send to the specified address a description of the wreck and of any marks distinguishing it.

Disposal of
unclaimed
wreck.

345.—(1) Where no person establishes a claim to the ownership of any wreck which—

- (a) has been found in Jamaica or found or taken possession of outside Jamaica and brought into Jamaica; and

- (b) has been in the possession of a receiver for six months,

the receiver shall sell such wreck and pay into the Consolidated Fund the proceeds thereof after deducting therefrom the expenses of the sale, and such amount of salvage payable to salvors as the Minister in each case may determine.

(2) If the wreck is claimed by any person who has delivered the statement required by section 344 and has proved to the satisfaction of the receiver his entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck shall, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.

346. Upon delivery of any wreck or payment of the proceeds of sale of any wreck by a receiver pursuant to 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 a third party concerning the right or title to the wreck.

Delivery of unclaimed wreck by receiver not to prejudice title.

347.—(1) Where any vessel is sunk, stranded, wrecked or abandoned in any port or harbour of Jamaica or in any approach thereto, in such manner, to be likely to be an obstruction or a danger to navigation the competent authority may—

Removal of wreck by port, harbour or other authority.

- (a) take possession of, and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy the vessel or part of such vessel until the raising, removal or destruction thereof; or
- (c) subject to subsections (2) and (3), sell in such manner as it thinks fit the vessel or the part thereof so raised or removed, and also any other property recovered in the exercise of its powers under this section, and out of the proceeds of the sale reimburse itself for the expenses incurred, and hold the

surplus, if any, in trust for the persons entitled thereto:

Provided, however, that such surplus shall be paid into the Consolidated Fund unless such persons establish a claim thereto within one year of the sale.

(2) Except in the case of property which is of a perishable nature, or which would deteriorate in value by delay, a sale shall not be made under this section, until at least seven clear days' notice of the intended sale has been given, either by advertisement in some daily newspaper circulating in Jamaica or in such other manner as the competent authority thinks 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 the competent authority referred to in subsection (1) of the fair market value thereof; and such value shall be ascertained by agreement between the competent 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 competent authority in respect of any property under subsection (3) shall, for the purposes of subsection (1), be deemed to be 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 competent authority when acting under this section, the competent authority may recover such difference from the owner of the vessel concerned by civil action.

(6) In this section "competent authority" means—

- (a) the Port Authority;
- (b) any person authorized by the Minister for purposes of this section.

348. The powers conferred by this Part on the competent authority for the removal of wrecks shall be in addition to, and not in derogation of, any other similar powers conferred by any other enactment.

Powers of Port to remove wrecks to be cumulative.

349. Where a vessel is sunk, stranded, wrecked or abandoned on the coast or any adjacent rock, shoal, bank or other area of Jamaican waters, and, it is or is likely to become an obstruction or a danger to navigation, the Director has the same powers in relation to the vessel as are by this Part conferred on the competent authority in relation to a vessel referred to in section 347.

Minister's power of removal.

350.—(1) If any person, being the owner of any wrecked, submerged, sunken or stranded vessel or being the agent or servant of such owner, wishes to break up such vessel prior to the removal thereof from Jamaica, such person shall before commencing salvage or breaking up operations, apply to the Principal Receiver in such manner as may be prescribed for permission.

Breaking and removal of wrecks.

(2) On receiving any application for permission to break up any vessel under this section, the Principal Receiver may, if satisfied that it would be appropriate to do so, grant such permission which shall be in such form as may be prescribed and may, in granting such permission —

- (a) stipulate such conditions as he considers necessary to minimize the risks or effects of any pollution; and
- (b) require security in such reasonable amount as he may consider necessary to ensure the safe and effective removal of such vessel or any portion thereof.

(3) Any person who, without the previous written permission of the Principal Receiver, does or causes to be done any salvage or breaking up operations on any such

wrecked, submerged, sunken or stranded vessel lying within Jamaica is guilty of an offence and on summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding one million dollars, or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Extent of
power of
removal of
wreck.

351. The provisions of this Part relating to the removal of wrecks shall apply to every article or thing being or forming part of the tackle, cargo, stores or ballast of a vessel.

Taking
wreck to
a foreign
port.

352. Any person who, without the prior written consent of the Principal Receiver takes into any foreign port and there sells—

- (a) any vessel, whether stranded, derelict or otherwise in distress, found in Jamaica; or
- (b) any part of the cargo or apparel thereof or anything belonging thereto; or
- (c) any other wreck found in Jamaica,

is guilty of an offence and on summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding one million dollars or to imprisonment of a term not exceeding five years or to both such fine and imprisonment.

Unauthor-
ized board-
ing of
wrecked
vessel.

353.—(1) Subject to the provisions of Part IX, a person shall not, without the permission 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 or a person lawfully acting as such.

(2) Any person who contravenes subsection (1) may be removed by the master of the vessel, with such force as may be necessary, and is guilty of an offence and on summary conviction thereof in a Resident Magistrate's Court is liable to a fine not exceeding one hundred thousand

dollars or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

(3) Where a person refuses to allow any person duly authorized by a receiver to board any wreck he is guilty of an offence and is liable to a fine not exceeding two hundred thousand dollars.

354.—(1) A person shall not—

- (a) impede, hinder or endeavour in any way to impede or hinder, the salvaging of any vessel stranded or in danger of being stranded or otherwise in distress or any part of the cargo or apparel thereof, or 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, or any part of the cargo or apparel thereof, or any wreck.

Interfer-
ing with
wreck, etc.

(2) any person who contravenes subsection (1) shall be guilty of an offence and on summary conviction in a Resident Magistrate's Court thereof shall be liable to a fine not exceeding two hundred thousand dollars.

355.—(1) Where a receiver has reasonable cause to suspect or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to a Resident Magistrate for a search warrant under this section.

Summary
procedure
for conceal-
ment of
wreck.

(2) If the Resident Magistrate is satisfied by information on oath that there are reasonable grounds for the suspicion of the receiver, he may issue a warrant authorizing

the receiver together with such persons as he may require, to enter and search such place where the wreck is suspected to be.

Salvage

Non-appli-
cation to
platforms
and drilling
units.

356. Sections 358 to 391 shall not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of seabed mineral resources.

Non-appli-
cation to
vessels.

357.—(1) Sections 358 to 391 shall not apply to warships or other non-commercial foreign state owned vessels owned or operated by a foreign state and entitled at the time of salvage operations, to sovereign immunity under generally recognized principles of international law unless that state has decided to apply the Salvage Convention to such ships or vessels.

(2) For the purposes of any proceedings under this Act, a certificate signed by the Secretary General of the Organization, setting out a state's decision to apply the Convention to ships and vessels referred to in subsection (1) and the terms and conditions of such application, shall be *prima facie* evidence of the facts stated therein.

Life
salvage.

358.—(1) Where services are rendered—

- (a) wholly or in part in Jamaican waters in saving life from any vessel; or
- (b) outside Jamaican waters, in saving life from any Jamaican vessel,

the owner of the vessel, cargo or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this Part.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel, shall have priority over all other claims for salvage.

(3) Under no circumstances shall salvage be due from a person whose life has been saved.

359.—(1) Where any vessel is wrecked, stranded or in distress in Jamaican waters or on the coast of Jamaica and services are rendered— Salvage of cargo.

- (a) by any person assisting the vessel or saving the cargo or equipment of the vessel or any part thereof;
- (b) by any person other than the Receiver in saving any wreck,

the owner of the vessel, cargo, equipment or wreck shall pay to the salvor, a reasonable amount of salvage, to be determined in the manner set out in this Part.

(2) A salvor of human life, who has participated in services rendered in the event of a maritime casualty giving rise to salvage shall be entitled to a fair share of the remuneration awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.

360. Nothing in this Part shall entitle any person to salvage remuneration— Services excluded from salvage remuneration.

- (a) in respect of salvage services rendered contrary to any express and reasonable prohibition of such services on the part of the vessel or aircraft or by the owner of property to which such services are rendered;
- (b) in respect of services rendered by a tug to, or in respect of, the vessel or aircraft which it 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.

Conditions
for salvage
remunera-
tion.

361.—(1) Except as otherwise provided in section 370, no remuneration shall be due under this Act if the salvage operations had no useful result.

(2) A salvor shall be entitled to remuneration under this Part notwithstanding that the vessel performing the salvage operation and the vessel, cargo or other property salvaged belong to the same owner.

Salvage
contracts.

362.—(1) Sections 358 to 391 shall apply to any salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Jamaican vessel shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel, and the master and the owner of a Jamaican vessel shall have the authority to conclude contracts on behalf of the owner of property on board the vessel.

(3) Nothing in this section shall affect the application of section 363 or the duties to prevent or minimize damage to the environment provided in paragraph (b) of section 364 and paragraph (b) of section 365.

Annulment
or modifi-
cation of
contracts.

363. Any contract relating to salvage or any terms thereof may be annulled or modified by the Court, where it appears to the Court that—

- (a) the contract had been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is too large or too small for the services actually rendered.

Duties of
salvor.

364. The salvor shall owe a duty to the owner of the vessel or other property in danger to—

- (a) carry out the salvage operation with due care;
- (b) exercise due care to prevent or minimize damage to the environment in performing the duty specified in paragraph (a);

- (c) seek assistance from other salvors whenever the circumstances reasonably so require; and
- (d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or the owner of other property in danger provided that the amount of his reward shall not be prejudiced where he proves that such a request was unreasonable.

365. The owner and master of the vessel or the owner of other property in danger shall duty to the salvor—

Duties of owner and master.

- (a) to co-operate fully with him during the course of the salvage operations;
- (b) in performing the duty specified in paragraph (a) to exercise due care to prevent or minimize damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

366.—(1) The Director may—

Powers of Director.

- (a) give directions in relation to any salvage operation; and
- (b) take measures in accordance with generally recognized principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.

(2) The Director shall, in giving directions and taking measures under subsection (1) take into account the need for co-operation between salvors, other interested parties and the public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

(3) Any public officer or other person acting under directions as referred to in this section shall be under a duty to exercise due care in preventing or minimizing damage to the environment.

(4) Any public authority or an officer thereof who is reasonably within the vicinity of a vessel or person in distress or danger of being lost at sea shall render assistance to save the vessel and life by co-operating in—

- (a) the procurement and provision of facilities to salvors;
- (b) the admittance to the port of vessels in distress;
- (c) ensuring the efficient and successful performance of the salvage operation for the purpose of saving life or property; and
- (d) preventing or minimizing damage to the environment.

Criteria
for fixing
salvor
awards.

367. Salvage rewards shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are listed—

- (a) the salved value of the vessel and other property;
- (b) the skill and effort of the salvors in preventing or minimizing damage to the environment;
- (c) the measure of success achieved by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in saving the vessel, other property and life;
- (f) the time used and the expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;

- (i) the availability and use of vessels or other equipment intended for salvage operations; and
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

368.—(1) Payment of a reward fixed in accordance with section 367 shall be made by all of the owners of the vessel and other property interests in proportion to their respective salved values.

Responsibility for payment of award.

(2) For expediency the ship owner shall pay the reward on behalf of all interests referred to in subsection (1) subject to his retaining the right to be reimbursed by these other interests.

(3) The ship owner who makes the payment under subsection (2), may require the other interests to provide security not exceeding the values of their respective salved interests until he has been fully reimbursed.

369. The salvage reward, excluding any interest and recoverable legal costs that may be payable thereon, shall not exceed the salved value of the vessel and other property salved.

Quantum of reward.

370.—(1) Where a salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under this Part equivalent at least to the special compensation assessable under subsection (2), he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as defined in subsection (3).

Special Compensation.

(2) Where, in the circumstances set out in subsection (1), the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of 30 per cent of the expenses incurred by the salvor; and the Court or

person determining the award may, where it or he deems it fair and just, increase such special compensation further, bearing in mind the criteria set out in section 367; but in no event shall the total increase be more than 100 per cent of the expenses incurred by the salvor.

(3) For the purposes of subsections (1) and (2), "salvor's expenses" means the out of pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in paragraphs (h), (i) and (j) of section 367.

(4) The total special compensation assessable under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 367.

(5) Where the salvor, in carrying out the salvage operations, has acted negligently and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or a part of any special compensation payable under this section.

(6) Nothing in this section shall affect any right of recourse available to the owner of the vessel.

Services
rendered
under
existing
contract.

371. No payment is due under this Part unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger giving rise to the salvage operations arose.

Apportion-
ment
between
salvor.

372.—(1) The apportionment between salvors of a reward fixed under section 367 shall be made on the basis of the criteria listed in that section.

(2) The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the State in which such vessel is registered.

(3) Where the salvage referred to in subsection (1) has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servant; and in the absence of formal contract the Court or person determining the apportionment and disbursement shall apply general principles of law and equity according to the merits of the case in order to reach a just and equitable decision.

373. A salvor may be deprived of the whole or part of the payment due to him under this Part to the extent that the salvage operation has become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

Salvor misconduct.

374. Nothing in this Part shall affect the salvor's maritime lien; provided however that the salvor may not enforce his maritime lien when reasonable security for his claim, including interest and costs, has been tendered or provided.

Maritime lien.

375.—(1) A person liable for a payment under this Part shall, upon the request of the salvor, give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.

Duty to provide security.

(2) Without prejudice to subsection (1), the owner of the salvaged vessel shall take all reasonable steps to ensure that the owner of the cargo provides security to the satisfaction of such owner of the vessel or of the salvor for the claims against them, including interest and costs, before the cargo is released.

(3) The salvaged vessel and property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operation, until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or property.

(4) In the event of any dispute between the salvor and a person liable for a payment under this Part, or between the owner of the vessel and the owner of the cargo referred to in subsection (2), relating to the security to be provided under this section, the tribunal having jurisdiction over the salvor's claim may, upon the application of any such party in that behalf, decide the amount and the terms of such security.

Interim
payment.

376.—(1) The Court or person adjudicating the claim of the salvor may, upon the application of the salvor, make an interim order for payment to the salvor of such amount as the Court or person may deem fair and just, and on such terms, including terms as to security where appropriate, as may be fair and just in the circumstances of the case.

(2) In the event of any interim payment under subsection (1), the security provided under section 375 shall be reduced accordingly.

State-
owned
cargo.

377. Non-commercial cargoes owned by a state and entitled, at the time of salvage operations, to sovereign immunity under generally recognized principles of international law, shall not be subject to seizure, arrest or detention by any legal process, or to any *in rem* proceedings, without the express consent of the state owner of such cargo.

Humanitarian
cargoes.

378. No humanitarian cargoes donated by a state shall be subject to seizure, arrest or detention, where such state has agreed to pay for salvage service rendered in respect of such humanitarian cargoes.

Salvors
right to
interest.

379. A salvor shall be entitled to be paid interest on any payment due to him under this Part, and the amount of such interest shall be at the discretion of the Court or person adjudicating the case.

The common
understanding
regarding
the reward
and special
compensation.

380. In fixing a reward under sections 367, 368 and 369, and assessing special compensation under section 370, the court or arbitrator is under no duty to fix a reward under

sections 367, 368 and 369, up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under section 370.

381.—(1) This section applies where—

- (a) services are rendered wholly or in part in Jamaican waters in saving life from a vessel of any nationality or elsewhere in saving life from any Jamaican ship; and

Recourse
for life
salvage
payment.

(b) either—

- (i) the vessel and other property are destroyed; or
- (ii) the sum to which the salvor is entitled under section 359 (2) is less than a reasonable amount for the services rendered in saving life.

(2) Where this section applies, the Minister may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life.

382.—(1) Disputes as to the amounts of salvage, whether in respect of life or property and whether rendered within or outside Jamaica arising between the salvor and the owners of any vessel, aircraft, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined by and before the Maritime Tribunal, or the Supreme Court, according to the provisions of this section.

Determin-
ation of
salvage
disputes.

(2) Disputes shall be determined by the Maritime Tribunal in any case where—

- (a) the parties to the dispute consent;
- (b) the value of the property salvaged does not exceed one million dollars; or

- (c) the amount claimed does not exceed five hundred thousand dollars.

(3) In any other case, disputes as to salvage shall be determined by the Supreme Court in admiralty, but if the claimant does not recover in the Supreme Court more than five hundred thousand dollars he shall only be entitled to recover such costs as he would have recovered in proceedings before the Maritime Tribunal, charges or claim, unless the Court certifies that the case is a fit one to be tried by the Supreme Court.

(4) A dispute relating to salvage may be determined on the application either of the salvor or of the owner of the property salvaged, or of their respective agents.

(5) The court or the arbitrators to whom a dispute as to salvage is referred for determination may for the purpose of determining any such dispute call to their assistance as an assessor, any person qualified to such extent as may be prescribed in maritime affairs and there shall be paid as part of the cost of the proceedings to every such assessor in respect of his services such sum as may be prescribed.

Valuation
of property
salvaged.

383.—(1) Where any dispute relating to salvage arises, the receiver of the area where the property is situated in respect of which the salvage claim is made may, on the application of either party, appoint a valuer to value the property, and where such a valuation is made shall give copies of the valuation to both parties.

(2) Any copy of a valuation made under subsection (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 may be prescribed, shall be paid in respect of any valuation made under this section by the person applying for such valuation.

384. Where any party is aggrieved by the decision of the Maritime Tribunal or Supreme Court, as the case may be, under section 382, such party may appeal therefrom to the Court of Appeal in like manner as in the case of any judgment of the Supreme Court.

Appeal in case of salvage disputes.

385.—(1) Where salvage is due to any person under this Act, the Principal Receiver shall—

Detention of property liable to salvage by receiver.

- (a) if the salvage is due in respect of services rendered in assisting any vessel or aircraft or in saving life therefrom or in saving the cargo or apparel thereof, detain the vessel or aircraft and cargo or apparel; and
- (b) if the salvage is due in respect of the salving of any wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Except as hereinafter provided, the Principal Receiver shall detain the vessel or aircraft 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) The Principal Receiver may release any vessel, aircraft, cargo, apparel or wreck detained under this section, if security is given—

- (a) to his satisfaction, or to the satisfaction of a Judge of the Supreme Court.
- (b) where—
 - (i) the claim for salvage exceeds five hundred thousand dollars; and
 - (ii) a question has been raised as to the sufficiency of the security.

(4) Any security given for salvage in pursuance of this section to an amount exceeding five hundred thousand dollars may be enforced by a competent court in the same manner as if bail had been given in that court.

Sale of
detained
property

386.—(1) The Principal Receiver may sell any vessel, aircraft, cargo, apparel or wreck detained by him under section 385 if the persons liable to pay the salvage in respect of which the property is detained have been notified 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 it becomes due;
- (b) where the amount is disputed but no appeal lies from the decision of the court to which the dispute is referred, and payment is not made within twenty days after the decision of the court;
- (c) where the amount is disputed and an appeal lies from the decision of the court to which the dispute is referred, and within thirty days after the decision of the court no payment of the sum is made or proceedings are not commenced for the purpose of appeal or of obtaining leave to appeal.

(2) The proceeds of sale of any vessel, aircraft, cargo, apparel or wreck shall, after payment of the costs of the sale, be applied by the Principal Receiver in payment of the costs of salvage and if not required for that purpose, shall be paid to the owners of the salvaged property, or to any other person entitled to the property or, in the absence of any such owners or person, into the Consolidated Fund.

Apportion-
ment of sal-
vage among
owners, etc.
of foreign
vessels.

387. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, crew or other persons connected to any foreign vessel or aircraft,

the amount shall be apportioned by the Court or such person as the court may appoint to make such apportionment in accordance with the law of the state to which the vessel or aircraft belongs.

388.—(1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Jamaica by a Jamaican ship has been finally determined in the manner provided by this Part or by agreement or arbitration, and does not exceed five hundred thousand dollars, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to the Principal Receiver for permission to pay such amount to the Principal Receiver.

Apportionment of salvage by receiver where amount small.

(2) The Principal Receiver shall, if he thinks fit, receive the amount referred to in subsection (1) and shall grant to the person paying the amount a certificate stating the amount paid and such other particulars as may be prescribed.

(3) A certificate granted under subsection (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, aircraft, cargo, apparel or wreck against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(4) The Principal Receiver shall, with all convenient speed, distribute any amount received by him under this section among the persons entitled thereto in such shares and proportions as he thinks fit, any 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 the Principal Receiver 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 the Supreme Court.

389. Whenever the aggregate amount of salvage payable has been finally ascertained in respect of salvage services rendered by a Jamaican ship—

- (a) in Jamaica and the amount exceeds five hundred thousand dollars; and
- (b) outside Jamaica, whatever that amount may be,

then, if any delay or dispute arises as to the apportionment thereof, the Supreme Court—

- (i) 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;
- (ii) 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 dealt with as the Court directs, and for the purposes aforesaid may issue such process as it thinks fit.

Application to the Government.

390.—(1) Where salvage services are rendered by or on behalf of the Government, or with the aid of Government property, 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 involving the Government, and of any regulations made under this section the provisions of this Part except and to such extent as may be prescribed shall apply in relation to salvage services

rendered in assisting any ship or aircraft of the Government, 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:

Provided that non-commercial Government cargo shall not be liable to detention for salvage due.

(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.

(4) The Minister may make regulations providing for the application or modification of the provisions of this Part to ships and aircraft referred to in subsection (1), and in relation to the services referred to in subsection (2).

391. No action shall be instituted in respect of any salvage services unless proceedings therein are commenced within two years after the date when the salvage services were terminated; but the court may extend any such period to such extent and on such conditions as it considers fit.

Time limit for salvage proceedings.

PART XII. *Passenger Ships*

392.—(1) The Minister may make regulations—

- (a) respecting accommodation, facilities and provisions on board Jamaican passenger ships;
- (b) requiring the preparation and furnishing of particulars as to all passengers on board Jamaican ships, wherever they may be, and foreign ships in Jamaican waters;
- (c) regulating the number of passengers which a Jamaican ship may carry, whether or not the ship is a passenger ship; and

Power of the Minister to make regulations respecting passenger ships.

- (d) prescribing the terms and conditions upon which Jamaican ships may carry passengers.

(2) In making regulations under subsection (1), the Minister shall have due regard to the International Convention on the Carriage of Passengers and their luggage on Board Ships, 1974.

(3) Regulations made pursuant to subsection (1) may specify the extent (if any) of their application to licensed Jamaican passenger ships.

Offences in
connection
with pass-
enger ships.

393.—(1) Any person on board or attempting to board a Jamaican passenger ship commits an offence if—

- (a) either on account of being under the influence of drugs or alcohol or being disorderly or on account of the ship being full, has been refused admission to the ship by the master or other officer of the ship or where he is already on board, has been requested by the owner, master or any person employed on the ship to leave the ship, and nevertheless—

- (i) attempts to enter the ship; or

- (ii) where he is already on board, does not leave the ship,

after having the amount of any fare paid by him returned or tendered to him;

- (b) after warning by the master or other officer of the ship, he molests or continues to molest any passenger;
- (c) he travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;
- (d) having paid his fare for a certain distance, he wilfully proceeds in the ship beyond that distance

without first paying the additional fare for the additional distance, intending to avoid payment thereof;

- (e) having knowingly arrived at the point to which he has paid his fare, he refuses or neglects to leave the ship;
- (f) he fails, when requested by the master or other officer thereof, either to pay his fare or to show such ticket or other documents that would confirm the payment of his fare as is usually given to persons travelling by and paying their fare for the ship; or
- (g) he wilfully causes anything to be done in such a manner as to obstruct or injure any part of the machinery or tackle of the ship, or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

(2) A person who commits an offence under this section is liable to a fine not exceeding one hundred thousand dollars or to imprisonment for three months or to both such fine and imprisonment.

394.—(1) Where a person receives money from another person for or in respect of a passage in a Jamaican ship he shall give to the person paying the money a ticket signed by or on behalf of the owner or charterer of the ship. Ticket for passage.

(2) A ticket required by this section must specify—

- (a) the amount of the fare paid;
- (b) the places between which the passenger is entitled to be carried;

- (c) whether the passenger is to be berthed or underthed;
- (d) whether the passenger is entitled to food or will purchase or provide his own food for the journey;
- (e) the amount of baggage the passenger is permitted to carry free of charge; and
- (f) any other rights or obligations of the parties.

(3) A competent court hearing any question respecting breach or non-performance of any stipulation in any ticket may award the complainant such damages and costs as it thinks fit, not exceeding three times the amount of the passage money specified in the ticket.

(4) Sections 395 to 401 shall apply wherever any person referred to in this section seeks to limit his liability before a competent court, or seeks to procure the release of a ship or other property or the discharge of any security.

PART XIII. *Limitation of Liability* *Ship owners and Salvors*

**Interpre-
tation.**

395. For the purposes of this Part—

“shipowner” includes a charterer manager, operator or other person who has a legal interest in or is in possession of a ship;

“salvage services” means services rendered in direct connection with salvage operations;

“salvor” means any person rendering salvage services;

“salvage operations” includes the operations referred to in section 397 (1) (d), (e) and (f).

**Persons
entitled to
limit lia-
bility.**

396. —(1) Shipowners and salvors are entitled to limitation of their respective liabilities in accordance with this Part.

(2) An issuer of liability insurance for claims subject to limitation under this Part shall be entitled to the benefit of limitation to the same extent as the insured.

(3) A person in respect of whose act or default, the shipowner or salvor would, but for this subsection, be liable, may limit his liability under this Part.

397.—(1) Subject to sections 398 and 399, the following claims shall be subject to limitation of liability, regardless of the basis of liability—

Claims subject to limitations.

(a) claims in respect of—

(i) loss of life or personal injury; or

(ii) loss of or damage to property,

occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including claims in respect of anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Part, and further loss caused by such measures.

(2) The claims referred to in subsection (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, so however that, the claims referred to in paragraphs (d),

(e) and (f) of subsection (1) shall not be subject to limitation to the extent that they relate to remuneration under a contract of service with the person liable.

Shipowner's
liability
against ship;
invoking
limitation
not ad-
mission of
Liability.

398.—(1) For the purposes of this Part, the liability of a shipowner shall include liability in an action against his ship.

(2) The act of invoking the limitation conferred under this Part shall not constitute an admission of liability.

Claims
excepted
from limit-
ation.

399. Notwithstanding any provision to the contrary, limitation of liability under this Part shall not apply to the following—

- (a) claims for salvage including, if applicable, any claims for special compensation under section 370, or contribution in general average;
- (b) claims by servants of a shipowner or salvor, whose duties are connected with the ship or the salvage operations, as the case may be, including claims of their heirs, dependants or other persons entitled to make such claims, if under the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is under such contract only permitted to limit his liability to an amount greater than that provided for in section 394;
- (c) claims for oil pollution damage within the meaning of The International Convention on Civil Liability for Oil Pollution Damage, 1992;
- (d) claims for nuclear damage which are restricted from limitation of liability under any international agreement which has force in Jamaica;
- (e) claims against the shipowners of a nuclear ship for nuclear damage.

Conduct
barring
limitation.

400. A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal

act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

401. Where a person entitled to limitation of liability under this Part has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

Counter-claims may be set off.

402. The limits of liability for claims other than those provided for in section 404, shall be calculated as follows—

Limits of liability calculation.

(a) in respect of claims for loss of life or personal injury—

- (i) 2 million Units of Account for a ship with a tonnage not exceeding 2000 gross tons;
- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in sub-paragraph (i)—

(A) for each ton from 2,001 to 30,000 gross tons, 800 Units of Account;

(B) for each ton from 30,001 to 70,000 gross tons, 600 Units of Account; and

(C) for each ton in excess of 70,000 gross tons, 400 Units of Account;

(b) in respect of any other claims—

- (i) 1 million Units of Account for a ship with a tonnage not exceeding 2000 gross tons;
- (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in sub-paragraph (i)—

(A) for each ton from 2,001 to 30,000 gross tons, 400 Units of Account;

(B) for each ton from 30,001 to 70,000 gross tons, 300 Units of Accounts; and

(C) for each ton in excess of 70,000 gross tons, 200 Units of Account.

Priorities.

403.—(1) Where the amount calculated in accordance with paragraph (a) of section 402 is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph (b) of section 402 shall be available for payment of the unpaid balance of claims under paragraph (a) of that section and such unpaid balance shall rank rateably with claims mentioned under paragraph (b) of section 402.

(2) The limit of liability for any salvor not operating from any ship or for any salvor operating solely from the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage basis of 1,500 gross tons.

**Limit for
passenger
claims.**

404.—(1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount equivalent to 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

(2) For the purpose of this section "claims for loss of life or personal injury to passengers of a ship" means any such claims brought by or on behalf of any person carried in that ship—

- (a) under a contract of passenger carriage; or
- (b) who, with the consent of the shipowner, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

405. The amounts referred to in sections 401, 403 and 404 shall be converted into Jamaican dollars according to the value of the Jamaican dollar on the date the security or guarantee referred to in section 407 shall have been deposited.

Conversion
of unit of
Account to
Jamaican
funds.

406.—(1) The limits of liability determined in accordance with section 402 shall apply to the aggregate of all claims which arise on any distinct occasion—

Aggregation
of claims.

- (a) against the shipowner and any person for whose act, neglect or default he may be liable; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they may be liable; or
- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are liable.

(2) The limits of liability determined in accordance with section 402 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the shipowner in respect of the ship referred to in that section and any person for whose act, neglect or default he may be liable.

407.—(1) Any person alleged to be liable in respect of a claim which is subject to limitation of liability under this Part and seeking to limit his liability under this Part shall constitute a fund (hereinafter called a "limitation fund") by—

Provision of
security and
release of
ships.

- (a) depositing into the Supreme Court an amount at least equivalent to the limit provided for in section 402 or 404 as may be appropriate to the potential liability, together with interest at the prescribed rate thereon from the date of the occurrence

giving rise to the alleged liability until the date of payment into court; or

- (b) producing a guarantee to the satisfaction of the Court for such amount, and any amount so constituted shall be available only for the payment of claims in respect of which limitations of the relevant liability can be invoked.

(2) A limitation fund constituted by any one of the persons mentioned in any of the paragraphs of section 407 (1), or his insurer, shall be deemed to have been constituted by all persons mentioned in the respective paragraphs of section 191(1).

(3) In subsection (1) "prescribed rate" means such rate as may be prescribed by the Minister by Order published in the *Gazette*.

Distribution
of the funds.

408.—(1) Subject to sections 402, 403 and 404, claims against a limitation fund shall be distributed among the claimants in proportion to their established claims.

(2) The Supreme Court may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to the exclusion of any claimants who do not appear within a certain time and as to payment of costs, as the Court thinks just.

(3) No lien on other right in respect of any ship or property shall affect the proportions in which any amount is distributed amongst several claimants.

(4) All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under the provisions of this Part and all costs incurred in relation thereto may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

(5) If, before the proceeds of the limitation fund are distributed, the person liable, or his insurer, has settled the claim, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Part.

(6) In making any distribution in accordance with this section the Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims subrogated or that may otherwise be established later.

409.—(1) Where a limitation fund has been constituted with the Supreme Court in accordance with section 407, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted. Bar to other actions.

(2) After a limitation fund has been constituted—

- (a) a ship or other property belonging to a person on whose behalf a limitation fund has been constituted has been seized or arrested within Jamaica or Jamaican waters in connection with a claim which appears to the Court to be founded on liability to which limitation is applicable under this Part; or
- (b) security has been deposited, then the Court has the power to order the release of the ship or property, and shall order such release of the ship or property if the fund has been constituted—
 - (i) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
 - (ii) at the port of disembarkation in respect of claims for loss of life or personal injury; or
 - (iii) at the port of discharge in respect of damage to cargo,

but where the release is ordered the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim.

(3) Subsections (1) and (2) shall apply only if the claimant is entitled to bring a claim before the Court and the limitation fund is actually available and freely transferable in respect of that claim.

Limitation of Liability of Dock and Harbour Authorities

Limitation
of liability.

410.—(1) The liability of a dock or harbour authority for any loss or damage caused to any vessel or to any property on board any vessel, without the actual fault or privity of such authority is limited to an aggregate amount equivalent to 70 Units of Account for each ton of the tonnage of the largest Jamaican ship that, at the time of such loss or damage occurring, is or within a period of five years previous thereto has been within the area over which such authority performs any duty or exercises any power.

(2) For the purpose of this section, a vessel shall not be deemed to have been within the area over which a dock or harbour authority performs any duty or exercises any power by reason only of the fact that it has been built or fitted out within such area or that it has taken shelter within or passed through such area on a voyage between two places both situated outside that area or that it has loaded or unloaded cargo or passengers within that area.

(3) The limitation of liability under this section relates to the whole of any loss or damage which may arise upon one distinct occasion, although such loss or damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any enactment and notwithstanding anything contained in any enactment.

(4) Nothing in this section shall impose any liability in respect of any loss or damage on a dock or canal authority

in any case where no such liability would have existed if this Act had not been enacted.

(5) In this Part—

“dock” includes wet dock and basins, tidal-docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharfs, piers, stages, landing places and jetties;

“authority” in relation to a dock or harbour includes any authority or person having the control or management of any dock or harbour, as the case may be.

PART XIV. *Maritime Tribunal*

411.—(1) There shall be appointed by the Minister a Maritime Tribunal consisting of a Commissioner sitting with not more than five nor less than two assessors.

*Constitution
Maritime
Tribunal.*

(2) A person who is to be appointed a Commissioner of the Tribunal, shall be a Resident Magistrate, or other person holding prescribed legal or technical qualifications, but in any special case in which the Minister thinks it expedient he may after consultation with the Chief Justice, appoint a Judge of the Supreme Court to be Commissioner of the Tribunal.

(3) The assessors shall be masters of ships engaged in international voyages or such other persons possessing nautical, engineering or other special skills, knowledge and experience as the Director may recommend.

412.—(1) The following provisions shall have effect in relation to the proceedings of the Maritime Tribunal concerning any ship—

*Power and
procedure
of tribunal.*

(a) the Commissioner, each assessor, and any Surveyor referred to in paragraph (b) 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 this Act;

- (b) the Tribunal may order the ship to be surveyed by a Surveyor;
- (c) the Commissioner shall have the same power as the Director, to order the ship to be detained or released but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released; and
- (d) the owner or 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 Tribunal may make such order with respect to the costs of any inquiry or investigation or other proceedings 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 Commissioner, any assessor or a Surveyor who acts in the execution of any inspection or survey under this section, or any person who fails to comply with any request made by such Commissioner, assessor or a Surveyor is guilty of an offence and on conviction thereof is liable to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding two years.

Report
of the
Tribunal.

413. The Commissioner shall send to the Minister such report as is directed by rules under section 414, and each assessor shall sign such report, and if he refuses to sign such report he shall state the reasons therefor.

Rules of
Procedure.

414. The Minister may make rules to give effect to provisions of this Act relating to the Maritime Tribunal and,

without prejudice to the generality of such powers, such rules may in particular provide for—

- (a) the summoning of and procedure before the Tribunal;
- (b) the appointment of persons to administer the Tribunal;
- (c) the form and sending of reports to the Minister;
- (d) the requiring, on an appeal, of security for costs and damages; and
- (e) the amount of fees.

415. The Tribunal may at any time during a hearing permit or summon an expert witness to give an expert opinion based on his special knowledge, skill, experience or training in respect of construction or design or of a scientific matter or important principle.

Expert witnesses.

416. Such remuneration, if any, as the Minister may direct shall be paid to the Commissioner, assessors of the Maritime Tribunal, and to any officer or person appointed for the purposes of the Tribunal.

Payments of officers of Tribunal.

417. No action, suit or other proceedings shall be brought against any person for anything done or omitted to be done by him as a member of the Maritime Tribunal.

Indemnity.

PART XV. *Inquiries and Investigations*

418.—(1) Where any of the following casualties occurs, that is to say—

Investigations of shipping casualties.

- (a) the loss or presumed loss, stranding, grounding, abandonment of, or material damage to a ship;
- (b) a loss of life caused by fire on board, or by any accident to, or on board a ship or ship's boat; or
- (c) any damage caused by a ship,

and, at the time it occurs, the ship or ship's boat was in Jamaican waters, the Minister may cause a preliminary inquiry into the casualty to be held by the Director.

(2) Whether or not a preliminary inquiry into the casualty has been held under subsection (1), the Minister may cause a formal investigation to be held by the Maritime Tribunal.

Preliminary inquiry.

419.—(1) For the purposes of a preliminary inquiry under section 418, the Director shall have the powers of an Inspector under this Act.

(2) Upon concluding the inquiry the Director shall send a report thereof to the Minister containing a full statement of the case and the findings and recommendations thereon.

Formal investigation.

420.—(1) For the purposes of this section the Maritime Tribunal holding a formal investigation shall have all the powers of a Commission under the Commission of Enquiry Act.

(2) The Commissioner shall submit a report to the Minister on the findings of a formal investigation, and the recommendations, if any, of the Maritime Tribunal.

Additional powers of Tribunal and Director.

421. The Maritime Tribunal or the Director, as the case may require, may—

- (a) go on board any ship 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 regulations made hereunder apply, so, however, that such ship shall not be unreasonably detained or delayed;
- (b) enter and inspect any premises if it appears to him that the entry or inspection is 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 them 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.

422.—(1) If it appears to the Minister that a seafarer—

- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason;
- (b) has been seriously negligent in the discharge of his duties;
- (c) procured his certificate of competence or proficiency by providing misleading or false information or otherwise by false misrepresentation of facts or;
- (d) in the case of a master, has failed to comply with section 233,

**Suspension or
cancellation
of certifi-
cates.**

he may direct the Maritime Tribunal to inquire into the matter and make such recommendations as it thinks fit to the Minister, including a recommendation that the certificate of competence or proficiency of the seafarer, if he holds such a certificate, be suspended or cancelled.

(2) Where as a result of a formal investigation, the Maritime Tribunal is satisfied, with respect to any seafarer, of any of the matters referred to in paragraphs (a) to (d) of subsection (1), and, if it is a matter mentioned in paragraphs (a) or (b) thereof, is further satisfied that it caused or contributed to the accident, the Tribunal may make such

recommendations to the Minister as are referred to in subsection (1).

(3) Where a recommendation as referred to in subsection (1) or (2) is made, the Minister may act as he thinks fit having due regard to the recommendations and shall instruct the Director accordingly.

(4) The Director, acting on the instructions of the Minister referred to in subsection (3), or consequent on the conviction of a seafarer for an indictable offence or such other offence as may be prescribed, suspend or cancel a certificate of competence or proficiency issued under this Act, and order that it be surrendered at such place and at such time as he directs.

(5) Any seafarer who, without reasonable cause, fails to surrender his certificate in accordance with subsection (4) commits an offence, and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one hundred and fifty thousand dollars.

Rehearings.

423.—(1) Where a preliminary inquiry or formal investigation has been held under the preceding provisions of this Part, the Minister may order the whole or part of the case to be reheard and shall do so—

- (a) if new and important evidence which could not have been produced at the inquiry or investigation has been discovered; or
- (b) if it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) may provide for the rehearing to be made by the persons who held the inquiry or investigation, as the case may be, or by the Supreme Court.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 425,

and accordingly section 420 (1) shall apply in relation to a rehearing of an investigation as it applies in relation to the holding of an investigation.

424.—(1) A person may appeal to the Court of Appeal where he is aggrieved by— Appeals.

- (a) any action taken under section 422 whereby, in the case of a seafarer, his certificate of competence or proficiency is suspended or cancelled; or
- (b) any decision, findings or recommendations made by the Maritime Tribunal under this Part,

unless an order under section 423 has been made.

(2) An appeal shall lie to the Court of Appeal from any decision, findings or recommendations resulting from a rehearing referred to in section 423.

425. The Minister may, after consultation with the Director, make rules for the conduct of inquiries under section 419 and for formal investigations under section 420 and for the conduct of any rehearing under section 423 which has not been held by the Supreme Court or Court of Appeal and without prejudice to the generality of such powers, such rules— Rules relating to inquiries and investigations.

- (a) shall provide in the case of inquiries under section 418 that the persons holding the inquiry shall do so with the assistance of one or more assessors;
- (b) may provide for the manner in which any facts may be proved, the persons to be allowed to appear, the notice to be given to persons affected, and the payment of assessors and other persons involved in inquiries and investigations.

426. Where a certificate of competence issued under this Act has been cancelled or suspended under this Part, the Minister may, if he is of the opinion that the justice of the case so requires, direct— Power to restore certificate.

- (a) the re-issue of the certificate or, as the case may be, the reduction of the period of suspension and the return of the certificate; or
- (b) the grant of a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

PART XVI. *Legal Proceedings*

Jurisdiction of a Resident Magistrate's Court.

427. Subject to any express provision of this Act to the contrary, every offence under this Act is hereby declared to be punishable upon summary conviction in a Resident Magistrate's Court.

Provision as to jurisdiction over offences.

428. For the purposes of determining jurisdiction under this Act, an offence is deemed to have been committed, and a 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 illegal offender or person complained against may be.

Jurisdiction over ships lying off the coast.

429. Where any area over which the court has jurisdiction under this Act or under any other Act or law for any purpose whatsoever is situated on the coast of any sea, or abutting on or projecting into any bay, channel, river or other navigable water, every such court shall, have jurisdiction—

- (a) over any ship whether a Jamaican 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.

430. Where any person is responsible for an act or omission which would constitute an offence if it had taken place in Jamaica then if such person is—

Jurisdiction in case of offences on board ship.

- (a) a citizen of Jamaica, and the act or omission occurred—
 - (i) on board a Jamaican ship at any place outside Jamaica;
 - (ii) on board any foreign ship to which he does not belong; or
- (b) is not a citizen of Jamaica, and the act or omission occurred at any place outside Jamaica,

and that person is found within the jurisdiction of any court in Jamaica which would have had cognizance of the offence if it had been committed on board a Jamaican ship within the limits of its ordinary jurisdiction within Jamaica, that court shall have power to try the offence as if it had been so committed.

431.—(1) Where any court imposes a penalty under this Act consisting of a fine for which no specific application is provided herein, the court may if it thinks fit direct the whole or any part of the fine—

Application of fines.

- (a) to be applied in compensating any person for any loss 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 subsection (1) or any specific application provided under this Act, every fine referred to in subsection (1) shall be paid into the Consolidated Fund.

432. Where an act or omission constitutes an offence under this Act and also under another enactment, nothing

Offence under other law.

in this Act shall be deemed to prevent the prosecution, of any person for such act or omission, according to such other enactment for the time being in force in Jamaica, so, however, that no person shall be punished more than once for the same offence.

Detention and Distress on Ship

Enforcing
detention
of ship.

433.—(1) Where under this Act or any other enactment in force in Jamaica a ship is liable to be detained, an Inspector may notwithstanding any provision to the contrary detain the ship.

(2) If, after the detention of a ship or after service on the master of a ship of any notice 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,

each commits an offence and on conviction thereof is liable on conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(3) An Inspector may, if he thinks it necessary, request that a police guard be placed on any ship detained under this section.

(4) If a ship goes to sea in contravention of subsection (2) when any Inspector, police guard, 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 arising out of such Inspector, guard surveyor being so taken to sea; and
- (b) on conviction, to a fine of fifty thousand dollars for every day until such officer, guard or surveyor returns, or until such time in which he would be

able after leaving the ship to return to the port from which he is taken,

and any expenses ordered to be paid are recoverable in like manner as the fine.

(5) Any police guard placed on board a ship under subsection (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 Inspector, police guard surveyor shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding twelve months.

434.—(1) Where under this Act or any other enactment a ship is liable to be detained, an Inspector shall notify the proper officer of customs that such ship is liable to be detained.

Officer of customs to be informed of detention of ship.

(2) Where a notification under subsection (1) has been made to any officer of customs in respect of any ship. Part VI of the Customs Act shall apply in relation to such ship.

435. Whenever—

- (a) any foreign ship is detained under this Act; or
- (b) any proceedings are taken under this Act against the master or owner of such ship,

Notice to consular officer on detention of foreign ship.

notice as mentioned in subsection (2) shall forthwith be served on the consular officer for the country to which the ship belongs, at the nearest port where the ship is detained for the time being.

(2) The notice to be served under subsection (1) shall be in such form as may be prescribed and shall specify the grounds on which the ship has been detained or on which the proceedings have been taken.

Distress on
ship.

436. 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 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, its tackle, furniture and apparel.

Inquiries
into deaths
of crew
members
and others.

437.—(1) Subject to subsection (4), where—

- (a) any person dies in a Jamaican ship; or
- (b) the master or a seaman employed in such a ship dies in a country outside Jamaica,

an inquiry into the cause of death shall be held by a proper officer—

- (i) at the next port where the ship calls after the death if there is such an officer; or
- (ii) at such other port as the Director may direct.

(2) The proper officer holding an inquiry under subsection (1) shall for the purposes of the inquiry have the powers conferred on an Inspector under this Act.

(3) The officer holding the inquiry under subsection (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 subsection (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.

438.—(1) Where the owner of a ship has been convicted of an offence under this Act and a fine has been imposed, if the fine is not paid forthwith, the ship may be seized by the Director and after reasonable notice is given to the owner, may be sold by an order of the court.

Seizure and sale.

(2) Any surplus money remaining from the proceeds of sale after paying the amounts of fines payable under subsection (1) of this section, the costs of the seizure and sale and any duties and expenses payable shall be disposed of in accordance with provisions of the law.

Prosecution and Compounding of Offences

439.—(1) Where any person is beneficially interested (otherwise than by way of mortgage) in any ship or share in a ship, 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.

Liability of ship owners.

(2) Proceedings may be taken for the enforcement of any penalties referred to in subsection (1) against both or either of the persons mentioned in that subsection, with or without joining the other.

440.—(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 similar officer or a partner of the body corporate, firm, society or other body of persons, as the case may be, 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—

Offences by bodies of persons, servants and agents.

- (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 servant or agent in his employment or of the servant of such agent provided that such act, omission, neglect or default was committed—

- (a) by such servant of such person in the course of his employment;
- (b) by such agent when acting on behalf of such person; or
- (c) by the servant of such agent when acting in the course of the 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.

Persons
who may
prosecute

441. Prosecutions in respect of offences under this Act shall (without prejudice to the provisions of any other enactment relating to prosecutions) be conducted by any officer appointed under this Act and specially authorized in writing in that behalf by the Director.

Prosecu-
tion of
offences and
penalties.

442.—(1) A person who commits an offence under this Act, for which no specific penalty is provided, is liable to a fine not exceeding one hundred thousand dollars or to imprisonment for six months.

(2) Where an offence under this Act is a continuing one, and no penalty is provided in respect of the continuance thereof elsewhere than in this section, every person who commits that offence, in addition to any other liability, is liable to a fine of five thousand dollars for every day or part thereof during which the offence continues after conviction.

443.—(1) The Director may compound any offence under this Act which is prescribed to be an offence compoundable by the Director on payment by the person suspected of having committed such offence of a sum of money not exceeding one hundred thousand dollars.

Compound
ing of
offences.

(2) On the payment of any sum of money under subsection (1)—

- (a) the person 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.

444.—(1) Subject to the provisions of this section, no action shall be maintainable to enforce any claim against the owners of a ship in respect of any damage or loss to another ship, its cargo or freight, or any property on board, or in respect of any damages of loss of life or personal injury suffered by any person on board that other ship, caused by the fault of the first mentioned ship, whether the other ship be wholly or partly in fault, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injury unless proceedings

Limitation
of actions.

therein are commenced within one year from the date of payment.

(2) Any court of competent jurisdiction may in accordance with the rules of Court extend any such period to such extent and on such conditions as it thinks fit and shall, if satisfied that during the period there has not been a reasonable opportunity of constituting an action against the defendant within the jurisdiction of the court, extend any such period to an extent sufficient to give such reasonable opportunity.

(3) Nothing in this section shall affect any enactment relating to workmen's compensation.

Evidence and Service of Documents

Deposition
to be re-
ceived in
evidence
where
witness
cannot be
produced.

445.—(1) Subject to subsection (2) where 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 the proceedings, then, upon due proof that the witness cannot be found in Jamaica, 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 Jamaica 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 the Judge, Magistrate or proper officer before whom it was made has certified that the accused was present at the time of making it; and
- (b) no deposition so made shall be admissible, unless it is authenticated by the signature of the Judge,

Magistrate or proper officer before whom it was made.

(2) A deposition made in the manner referred to in subsection (1) shall be deemed to be duly authenticated if it purports to have been signed by the Judge, Magistrate or proper 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 proper 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 limit the operation of any other enactment whereby depositions taken in any proceedings are rendered admissible in evidence.

446. Whereby any document is required by this Act to be executed in the presence of, or to be attested to 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.

**Proof of
attestation
not re-
quired.**

447.—(1) Where any document is by this Act declared to be admissible in evidence, such document shall—

**Admis-
sibility of
documents
in evidence.**

(a) on its production from proper custody, be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and

(b) subject to all exception as may be provided, be evidence of the matters stated therein.

(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 in 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,
etc. to be
in writing.

448. Where 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.

449.—(1) Where for the purposes of this Act any document is required to be served on any person, that document may be served—

(a) 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 registered post;

(b) if the document is to be served on the master of a ship (where there is a master), or other 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 in 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 Jamaica, on the managing owner of the ship or, if there is no managing owner in Jamaica, on some agent of the owner residing in Jamaica 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 which is unseaworthy shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred thousand dollars, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) Any owner or master of a ship who is party or privy to any obstruction referred to in subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred thousand dollars, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

450. A suit shall not be maintained against any public officer or any person appointed or authorized under this Act for any purpose of this Act 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.

Protection
of public
officers and
other per-
sons acting
under this
Act.

PART XVII. *Miscellaneous*

451. Every person summoned pursuant to this Act, before any authority or tribunal for examination or inquiry of any matter shall be allowed such expenses as would be allowed to a witness attending at any legal proceeding for the purposes of the Witnesses' Expenses Act.

Witnesses.

Powers of
Director to
prescribe
forms.

452.—(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, and may from time to time make such alterations in those forms as he thinks fit.

(2) The Director shall cause every form to be marked with a seal or some other distinguishing mark, and before finally issuing any form or marking 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 Jamaica, at such charges as may be prescribed.

(4) Every 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 book, instrument or paper, if made in a form purporting to be the proper form and if marked with a seal in accordance with this section, shall be deemed to be in the form required by this Act unless the contrary is proved.

Offences
in respect
of use of
form or
supplying
false
information.

453.—(1) If any person—

- (a) without reasonable cause uses a form not purporting to be a form approved by the Director in a case where a form approved by the Director is, under this Act, required to be used; 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 by the Director, 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 two hundred and fifty thousand dollars or a term of imprisonment not exceeding six months or to both such fine and imprisonment.

(2) Any owner, agent, master or chief engineer of a ship who whether by reason of false statement or otherwise, wilfully misleads or attempts to mislead any person acting in the exercise of his functions under this Act commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year.

454. 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 without limiting the generality of the foregoing, by such regulations may provide for—

General
power to
make regu-
lations.

- (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 under this Act which may be compounded and the officers by whom such offences 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, the regulation of maritime traffic and the administration of maritime search and rescue within Jamaican waters;
- (f) prescribing the requirements for hull, equipment and machinery and safety requirements of vessels.

455. All regulations made under this Act shall be subject to affirmative resolution of the House of Representatives.

Regulations
to be subject
to affirmative
resolution.

General
powers of
exemption.

456. Without prejudice to any other powers conferred on him by the provisions of this Act or by any regulations made thereunder, the Minister may, subject to such conditions if any as he thinks fit to impose, by order exempt any ship or class or description of ships as may be specified in such order from any specific 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.

Implementa-
tion of
treaties.

457. For the purpose of giving effect to any international agreement or other international treaty instrument relating to shipping or the prevention of pollution of the marine environment, to which Jamaica is a party, the Minister may—

(a) by order make such amendment to any provision of the Act; or

(b) make such regulations,

as appear to him to be necessary and any order or such regulations, as the case may be, shall be subject to affirmative resolution.

Conven-
tions appli-
cable to
Jamaica.

458.—(1) Section 459 applies in respect of international and other conventions, including amendments thereto and replacements thereof and other international treaty instruments.

(2) The Minister responsible for foreign affairs shall within six months of any convention specified in this subsection taking effect in relation to Jamaica, from time to time by Notice publish the international conventions relating to shipping, seafaring or other maritime matters including amendments thereto and replacements thereof and other international instruments which apply to Jamaica, the reservations, if any, entered thereto by Jamaica as well as those international conventions, including amendments thereto and replacements thereof and other international instruments which cease to apply to Jamaica.

conventions, including amendments thereto and replacements thereof and other international instruments which cease to apply to Jamaica.

(3) The Director shall keep in his office a copy of—

- (a) all the maritime instruments referred to in subsection (2) that are in force in relation to Jamaica;
- (b) all regulations and notices made pursuant to this Act,

and copies shall be made available during business hours for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public, seafarers or persons concerned with or having an interest in ships or shipping.

459. Where an international convention or other international treaty instruments is in force in relation to Jamaica and a provision of that convention or instrument and a provision of this Act conflict in any manner, the provision of the convention or instrument shall prevail unless the Minister, by order, otherwise provides.

Conventions to prevail.

PART XVII. *Final and Transitional Provisions*

460. The Carriage of Goods Act is hereby amended in the manner specified in the Second Schedule.

Amendment of Carriage of Goods Act. Second Schedule.

461. The enactments specified in column 1 of Parts I and II of the Third Schedule are, subject to the provisions of this Part, hereby repealed to the extent specified in column 2 of the said Parts respectively, and replaced by the provisions of this Act.

Repeals Third Schedule.

462.—(1) Any instrument which was issued, served or granted under any law which is repealed or which ceases to have effect by virtue of this Act shall, without prejudice to any power to amend such instrument, and subject to such

Savings.

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 regulations made thereunder 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 the provisions of this Act or any regulations made or continued in force thereunder.

(2) In this section "instrument" means any licence, certificate, validation, exemption, notice or other authority, or any instrument or other requirement, as the circumstances may require.

(3) A reference in any enactment to any provisions of the Merchant Shipping Acts of the United Kingdom shall, unless the context otherwise requires, be construed as a reference to the equivalent provision of this Act.

Exemption
of certain
vessels.

463. Any ship to which a certificate under sections 35, 39 or 40 of the Marine Board Act has been issued shall, where such certificate is in force immediately before the coming into force of Part IV be deemed to be exempted from registration under this Act to the extent of the period and conditions of validity of such certificate.

Transitional
provisions.

464.—(1) Upon the commencement of this Act—

- (a) all property, movable and immovable assets, rights, powers, liabilities and obligations of the Marine Board established by the Marine Board Act shall, subject to any order of the Minister to any other effect, be transferred to and vest in the Authority;
- (b) any reference in any enactment or document to the Marine Board established by the Marine Board Act shall, unless the context otherwise requires, be deemed to be a reference to the Authority.

(2) Until other provision therefor is made by regulations made under this Act, any regulations which have governed any matter under this Act immediately before the commencement of this Act, shall continue in force subject to such modifications as may be necessary to bring them into conformity with this Act.

465. The Minister may make regulations to provide—

Regulations
for resolving
transitional
difficulties.

- (a) for resolving any difficulties that may arise out of the repeal by this Act of any enactment;
- (b) for the amendment or revocation of any regulations or any part thereof, made under any law repealed by this Act and remaining in force pursuant to this Part;
- (c) for the continuance in force, subject to such conditions as may be prescribed, of any exemptions (whether or not based upon reciprocity with any other country) from the operation of any enactment repealed by this Act;
- (d) generally, for effecting a due and orderly assimilation of the law relating to shipping throughout Jamaica in conformity with the purposes of this Act.

FIRST SCHEDULE (Sections 6 and 11)

*The Maritime Services Authority***Appoint-
ment of
members.**

1. The Authority shall consist of—

- (a) the Director of Maritime Services who shall be a member *ex officio*; and
- (b) not less than six nor more than eight other members (hereinafter referred to as appointed members) as the Minister may appoint.

**Tenure of
appointed
members.**

2.—(1) Subject to the provisions of this Schedule, an appointed member shall hold office for such period not exceeding three years as may be specified in the instruction of appointing him to that office, and shall be eligible for reappointment.

(2) The Minister may at any time revoke the appointment of any appointed member of the Authority.

**Temporary
appointment.**

3. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of such member.

**Chairman
and Deputy
Chairman.**

4.—(1) The Minister—

- (a) shall appoint one of the members of the Authority to be the Chairman thereof; and
- (b) may, on the recommendation of the Authority, appoint another member to be Deputy Chairman.

(2) In the case of the absence or inability to act of the Chairman the Deputy Chairman (if any) shall perform the functions of the Chairman.

(3) In the case of the absence or inability to act of the Chairman and the Deputy Chairman (if any), the Minister may appoint another member of the Authority to act as Chairman.

Resignation.

5.—(1) Any appointed member of the Authority other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument such appointed member shall cease to be a member of the Authority.

(2) The Chairman may at any time resign his office as Chairman or as an appointed member, as the case may be, by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

(3) The Deputy Chairman (if any) may resign his office as such by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

6. The names of all members of the Authority as first constituted and of every change in the membership thereof shall be published in the *Gazette*. Publication membership.

7.—(1) The seal of the Authority shall be authenticated by the signatures of the Chairman or any member of the Authority authorized to act in that behalf and the secretary of the Authority. Seal and document Authority.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority shall be signified under the hand of the Chairman or any member authorized to act in that behalf or the secretary of the Authority.

8.—(1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Authority shall determine. Procedure and meeting.

(2) The Chairman may at any time call a special meeting of the Authority and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Authority.

(3) The Chairman, or in the case of the absence or inability to act of the Chairman, the Deputy Chairman, (if any) or the person appointed in accordance with the provisions of sub-paragraph (3) of paragraph 4 shall preside at the meetings of the Authority and when so presiding the Chairman, Deputy Chairman or the person appointed as aforesaid, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Authority shall be four or such higher number as the Authority shall determine.

(5) Subject to the provisions of this Schedule, the Authority may regulate its own proceedings.

(6) The validity of any proceedings of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the Chairman and other members of the Authority such remuneration on, if any (whether by way of salaries or travelling or other allowances), as the Minister may determine. Remuneration of members.

10.—(1) A member who is in any way directly or indirectly interested in a member of the contract made or proposed to be made by the Authority, or in any other matter whatsoever which falls to be considered by the Authority, shall disclose the nature of his interest at a meeting of the Authority and the disclosure shall be recorded in the minutes of the meeting; and the member shall not— Declaration of interest by member of the Authority.

(a) in the case of a contract, take part in any deliberation or decision of the Authority with respect to the contract; and

- (b) in the case of any other matter, take part in any deliberation or decision of the Authority with respect to the matter if the Authority decides that the interest in question might affect prejudicially the member's consideration of the matter.

(2) A notice given by a member at a meeting of the Authority to the effect that he is a member of specified company or firm and is to be regarded as interested in any contract which is made after the date of the notice with the company or firm shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to any contract so made.

Finance and Administration

**Appoint-
ment of
staff.**

11.—(1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, other employees and agents as it thinks necessary for the proper carrying out of the provisions of this Act:

Provided that, except with the prior approval of the Minister—

- (a) no salary in excess of the prescribed rate shall be assigned to any post;
- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned.

(2) In subsection (3) the prescribed rate means \$750,000 or such higher rate as may be approved by order of the Minister.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government to any office with the Authority and any officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

(4) The Authority may, with the approval of the Minister—

- (a) enter into arrangements respecting schemes whether by way of insurance policies or not; or
- (b) make regulations for pensions, gratuities and other retiring or disability or death benefits relating to members and employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependents and legal personal representatives of such members or employees.

**Funds and
resources
of the
Authority.**

12. The funds and resources of the Authority shall consist of—

- (a) such sums may be provided by Parliament for the Authority in the Estimates of Revenue and Expenditure;
- (b) such sums as may be allocated from time to time to the Authority from loan funds;
- (c) moneys earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Authority;

- (d) any property, mortgages, debentures, or investments acquired by or vested in the Authority;
- (e) sums borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;
- (f) revenues from charges imposed by the Authority for use of any facility or services provided by it;
- (g) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.

13.—(1) Subject to the provisions of paragraph (2), the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions. **Borrowing powers.**

(2) The power of the Authority to borrow shall be exercisable only with the approval of the Minister responsible for finance, as to the amount, as to the sources of borrowing as to the terms on which borrowing may be affected.

(3) An approval given in any respect for the purposes of this section may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

14.—(1) The Minister may from time to time make advances and grants to the Authority, out of sums placed upon the estimates of the revenue and expenditure of the Island for the purpose and approved by the House of Representatives. **Advances and grants to Authority, and guarantee of repayment of sums borrowed.**

(2) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit, the payment of the principal and of interest on any authorized borrowing of the Authority made otherwise than by way of advance under paragraph (1).

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct the repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

15. The Authority shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayments of advances made to the Authority under paragraph 14, and of any sums issued in fulfilment of any guarantee given thereunder, and payments of interest on what is outstanding for the time being in respect of such advances and of any issued at such rate as the Minister aforesaid may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods. **Repayment of, and interest on, advances and sums issued to meet guarantees.**

**Reserve
Fund.**

16.—(1) The Authority shall establish a reserve fund.

(2) The management of the reserve fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Authority may determine—

- (a) no part of the reserve fund shall be applied otherwise than for the purposes of the Authority; and
- (b) the power of the Minister to give directions to the Authority shall extend to the giving of directions as to any matter relating to the establishment or management of the reserve fund, the carrying of amounts to the credit thereof, or the application thereof, notwithstanding that the directions may be of a specific character.

**General
Financial
duties.**

17.—(1) It shall be the duty of the Authority so to conduct its affairs as to secure that its revenue (including any grant towards revenue made to it in pursuance of paragraph 14) is not less than sufficient to meet charges properly chargeable to revenue account, taking one year with another.

(2) Monies standing to the credit of the Authority may from time to time be invested in securities approved either generally or specifically by the Minister; and the Authority may, from time to time, with the like approval, sell all or any of such securities.

**Accounts
and audit.**

18.—(1) The Authority shall keep accounts and other records in relation to its business, and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.

(2) The accounts of the Authority shall be audited annually by auditors appointed by the Authority and approved by the Minister.

(3) So soon as the accounts of the Authority have been audited, the Authority shall send the statement of its accounts to the Minister together with a copy of the auditor's report thereon.

(4) The Auditor-General shall be entitled at all times to examine the accounts and other records in relation to the Authority.

**Annual
report and
Estimates.**

19.—(1) The Authority shall, within three months after the end of each financial year, or within such longer period as the Minister may in special circumstances allow, cause to be made, and transmit to the Minister, a report dealing generally with the activities of the Authority during the preceding financial year.

(2) The Minister shall cause copies of the report together with copies of the statements of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and the Senate.

(3) The Authority shall, before a date specified by the Minister, submit to the Minister for his approval, estimates of revenue and expenditure for the ensuing financial year.

20. No customs duty, general consumption tax or other similar impost shall be payable upon any article imported into Jamaica, taken out of bond in Jamaica, or purchased in Jamaica, by the Authority and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Authority in the performance of its functions under this Act.

Exemption
from
Customs
Duty, etc.

21.—(1) The income of the Authority shall be exempt from income tax.

Exemption
from income
tax, stamp
duties and
transfer tax.

(2) On any instrument executed by or on behalf of the Authority shall be exempt from stamp duty and recording and registration fees.

(3) There shall be exempt from taxation under the Transfer Tax Act any transfer by the Authority of property belonging to it or any right or interest created in or over or otherwise with respect to any such property.

SECOND SCHEDULE

(Section 460)

Insert in Part II of the Carriage of Goods Act next after section 16 the following heading and subdivision—

“ *Delivery of Goods and Lien for Freight*

Interpreta-
tion.

17. In this Part, unless the context otherwise requires—

“goods” includes every description of wares and merchandise;

“wharf” includes all wharves, quays, docks, and premises in or upon which goods, when landed from ships, may be lawfully placed;

“warehouse” includes all warehouses, buildings and premises in which goods, when landed from ships, may be lawfully placed;

“report” means the report required by the customs laws to be made by the master of an importing ship;

“entry” means the entry required by the customs laws to be made for the landing or discharge of goods from an importing ship;

“shipowner” includes the master of the ship and every person authorized to act as agent for the owner or entitled to receive the freight, demurrage, or to her charges payable in respect of the ship;

“owner” used in relation to goods means every person who is for the time entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of lien (if any, to that lien).

Power of shipowner to enter and land goods on default by owner of goods.

18.—(1) Where the owner of any goods imported in any ship into Jamaica fails to make entry thereof, or, having made entry thereof, to land the same or take delivery thereof, and to proceed therewith with all convenient speed within the respective periods hereinafter mentioned, the shipowner may make entry of and land or unship the goods at the following times—

- (a) if a time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the time so expressed;
- (b) if no time for delivery of goods is expressed in the charter party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, from the time of the report of the ship.

(2) Where a shipowner lands goods in pursuance of this section he shall place them, or cause them to be placed—

- (a) if any wharf or warehouse is named in the charter party, bill of lading, or agreement, as the wharf or warehouse where the goods are to be placed and if they can be conveniently there received, on that wharf or in that warehouse; and
- (b) in any other case on some wharf or in some warehouse on or in which goods of like nature are usually placed, being, if the goods are dutiable, a wharf or warehouse duly approved by the Commissioners of Customs for the landing of dutiable goods.

(3) If at any time before the goods are landed or unshipped the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall in that case be preferred to any entry which may have been made by the shipowner.

(4) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, and the owner of the goods at the time of that landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, the goods shall be assorted at landing, and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment; and the expense of and consequent on that landing an assortment shall be borne by the shipowner.

(5) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and warehousing thereof at any particular wharf or warehouse other than at which the ship is discharging and has offered and been ready to take delivery thereof, and the shipowner has failed to make that delivery, and has also failed at the time of that offer to give the owner of the goods correct information of that which the goods can be delivered, then the shipowner shall, before landing or unshipping the goods, in pursuance of this section, give to the owner of the goods or of such last mentioned wharf or warehouse twenty-four hours notice in writing of his readiness to deliver the goods, and shall, if he lands or unships the same without that notice, do so at his own risk and expense.

Lien for
freight on
landing
goods.

19. If at the time when any goods are landed from any ship, and placed in the custody of any person as a wharfinger warehouseman, the shipowner gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in the notice, the goods so landed shall, in the hands of the wharfinger or warehouseman, continue subject to the same lien, if any, for such charges as they were subject to before the landing thereof; and the wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as hereinafter mentioned, and shall, if he fails so to do, make good to the shipowner any loss thereby occasioned to him.

Discharge
of lien.

20. The lien for freight and other charges described in section 19 shall be discharged—

- (a) upon the production to the wharfinger or warehouseman of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a release of freight from the shipowner; and
- (b) upon the deposit by the owner of the goods with the wharfinger or warehouseman of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner,

but in the latter case the lien shall be discharged without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

Provisions
as to
deposits
by owners
of goods.

21.—(1) When a deposit as aforesaid is made with the wharfinger or warehouseman, the person making the same may, within fifteen days after making it, give to the wharfinger or warehouseman notice in

writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given, the wharfinger or warehouseman may, at the expiration of the fifteen days, pay the such deposited over to the shipowner.

(2) If a notice is given as aforesaid the wharfinger or warehouseman shall immediately apprise the shipowner of it, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by the notice to be payable, and shall return the balance, or, if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the notice.

(3) At the expiration those thirty days unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover that balance or sum, or otherwise for the settlement of any disputes which may have arisen between them concerning the freight or other charges as aforesaid, and notice in writing or those proceedings has been served on the wharfinger or warehouseman, the wharfinger or warehouseman shall pay the balance or sum to the owner of the goods.

(4) A wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof.

Sale of
goods
by ware-
housemen.

22.—(1) If the lien is not discharged, and no deposit is made as aforesaid, the wharfinger or warehouseman may, and, if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as in his discretion he thinks fit, sell by public auction, either for home use or for exportation, the goods or so much thereof as may be necessary to satisfy the charges hereinafter mentioned.

(2) Before making the sale the wharfinger or warehouseman shall give notice thereof by advertisement in a daily newspaper published and circulating in Jamaica, and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the wharfinger or warehouseman, or is otherwise known to him, send notice of the sale to the owner of the goods by registered post.

(3 The title of *bona fide* purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section, nor shall any such purchaser be bound to inquire whether the notice has been sent.

Application
of proceeds
of sale.

23. The proceeds of sale shall be applied by the wharfinger or warehouseman as follows, and in the following order—

- (a) first, if the goods are sold for home use, in payment of any customs or excise duties owing in respect thereof;
- (b) in payment of the expenses of the sale;
- (c) in payment of the charges of the wharfinger or warehouseman and the shipowner according to such priority as may be determined by the terms of the agreement (if any) in that behalf between them; or, if there is no agreement—
 - (i) in payment of the rent, rates, and other charges due to the wharfinger or warehouseman in respect of the goods; and
 - (ii) in payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods.

and the surplus, if any, shall be paid to the owner of the goods.

Warehouse-
man's rent
and
expenses.

24. Whenever any goods are placed in the custody of a wharfinger or warehouseman, under the authority of this Part, the wharfinger or warehouseman shall be entitled to rent in respect of the same, and shall also have power, at the expense of the owner of the goods, to do all such reasonable acts as in the judgment of the wharfinger or warehouseman are necessary for the proper custody and preservation of the goods, and shall have a lien on the goods for the rent expenses.

Warehouse-
men's
protection.

25. Nothing in this Part shall compel any wharfinger or warehouseman to take charge of any goods which he would not have been liable to take charge of nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Part.

Saving for
power of
discharge
of ship or
delivery
of goods.

26. Nothing in this Part of this Act shall take away or abridge any powers given to any harbour authority, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor shall anything in this Part of this Act take away or diminish any rights or remedies given to shipowner or wharfinger or warehouseman by any Act.

THIRD SCHEDULE

(Section 461)

PART I

<u>Column 1</u>	<u>Column 2</u>
The Marine Board Act	The entire Act
The Merchant Shipping (Wireless and Telegraphy) Act	The entire Act
The Seafarers Certification Act	The entire Act
The Seamen (Repatriation) Act	The entire Act
Seamen's Wages (Recovery of) Law (Cap. 353)	The entire Law
Shipping Masters' Fees Law (Cap. 357)	The entire Law
Wreck and Salvage Law (Cap. 419)	The entire Law

PART II. *United Kingdom Legislation*

<u>Column 1</u>	<u>Column 2</u>
Admiralty Offences (Colonial) Act 1849	In so far as such Acts are in force in Jamaica
Admiralty Offences (Colonial) Act 1860	
Merchant Shipping Act 1894	
Merchant Shipping Act 1906	
Merchant Shipping Act 1907	
Maritime Conventions Act 1911	
Merchant Shipping (Safety Load Line Conventions) Act 1932	
Merchant Shipping (Safety Convention) Act, 1949	
Merchant Shipping Act 1954	
Merchant Shipping Safety and Load Lines Convention (Colonial) No. 1 Order 1933	