

CHAPTER 296

SHIPPING

1994-15

This Act came into operation on 12th May, 1994.

Amended by:

1998/69

2001-9

1998/132

2001/59

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1995

1998

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 296

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THE LAWS OF BARBADOS

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**BARBADOS****SHIPPING**

1994-15

An Act respecting ships, crews and safety at sea and for matters consequential, related or incidental thereto.

[Commencement: 12th May, 1994]

CITATION**Short title**

1. This Act may be cited as the *Shipping Act*.

INTERPRETATION**Definitions**

- 2.(1) In this Act
- (a) “aircraft” means any ship or vessel designed for flying but capable of being manoeuvred on water and includes a seaplane or any ship or vessel able to alight upon or hover over water;
 - (b) “apprentice” means an apprentice to the sea service;
 - (c) “Barbadian ship” means a vessel registered under Part I;

- (d) “Barbados Ships’ Registry” means an agency of the Ministry responsible for shipping that is appointed to administer the ship registry programme and to undertake the execution of the relevant provisions of this Act;
[2001-9]
- (e) “bareboat chartered” means leased without master and crew and for a given period of time;
- (f) “Caribbean Community” means the community of states enumerated in section 6(1) of the *Caribbean Community Act*, Cap. 15;
- (g) “Caribbean trading area” means an area of the Caribbean as set out in regulations made regarding certificates under section 86;
- (h) “Caribbean trade ship” means a vessel engaged in a voyage or voyages commencing from within the near coastal trading area or Caribbean trading area during which the vessel proceeds beyond the limits of the near coastal trading area but does not proceed beyond the limits of the Caribbean trading area;
- (i) “cargo ship” is any ship which is not a passenger ship;
- (j) “certificate” means, in relation to a certified master, officer or seaman, any certificate issued under Part II which shows that the holder is authorised to act in the capacity stated in the certificate;
- (k) “certificate of competency” means a certificate issued to a person under Part II that shows his competency as a master or seaman, and includes a licence issued under section 91;
- (l) “certificate of registry” means, in relation to a Barbadian ship, the certificate granted under section 31;
- (m) “Classification Society” means a society nominated as such under subsection (2) of section 85;
- (n) “consular officer” means a person appointed to be or to perform the functions of a Barbadian consular officer in a foreign country;

- (o) “crew agreement” means an agreement between the master of a ship and the ship’s crew entered into pursuant to section 99;
- (p) “Director” means the Director of Maritime Affairs who may also be appointed Principal Registrar of Ships where no other person is appointed to that office;
- (q) “dollar” refers to Barbadian dollar;
- (r) “fishing-boat” means a vessel used or intended to be used in capturing fish for gain;
- (s) “foreign ship” means a vessel that is not a Barbadian ship;
- (t) “foreign-going ship” means a ship which is neither a near coastal trade ship nor a Caribbean trade ship;
- (u) “individual” includes natural persons, corporations, partnerships, limited partnerships, unincorporated associations and foreign maritime entities;
- (v) “inspector” includes the Registrar, a surveyor or a port state control officer;
[2001-9]
- (w) “international voyage” means a voyage from a port in one country to a port in another country;
- (x) “local fishing vessel” means any commercial fishing vessel
 - (i) wholly owned by the Government of Barbados;
 - (ii) wholly owned by one or more individual who are citizens of Barbados or permanent residents of Barbados within the meaning of the *Immigration Act*, Cap. 190;
 - (iii) wholly owned by a company, society or other association of persons incorporated or established under the laws of Barbados and having its principal place of business in Barbados, all the members of which are citizens of Barbados or permanent residents

of Barbados within the meaning of the *Immigration Act*, Cap. 190 or all the shares or stock of which are beneficially owned by such citizens or permanent residents of Barbados or by a company, society or other association of persons described in this paragraph; or

- (iv) certified in writing by the Minister as having such substantial economic connections with Barbados in relation to its ownership as to be deemed to be a local fishing vessel for the purpose of this Act;

but does not include any fishing vessel registered outside Barbados;

- (y) “managing owner” in relation to a ship includes any person, not being an agent, in whom an owner of such ship has vested authority to manage and operate the ship;
- (z) “master” includes every person having command or charge of a ship other than a pilot;
- (aa) “near coastal trading area” means an area of the Eastern Caribbean as set out in the regulations regarding certificates made under section 86;
- (bb) “near coastal trade ship” means a vessel engaged in a voyage or voyages commencing from within the near coastal trading area, to, from or between locations within the limits of the near coastal trading area;
- (cc) “officer” in relation to ships’ officers means a master and a deck engineer, radio or medical officer;
- (dd) “original Registrar”, in relation to a Barbadian ship or its certificate of registry, means the Registrar by whom the ship was first registered and the certificate first issued, or his successor in office;
- (ee) “owner” as applied to an unregistered vessel means the actual owner, and as applied to a registered ship means the registered owner, and,

where any such vessel or ship is bareboat chartered, “owner” includes the person so chartering the vessel or ship;

- (ff) “passenger” is every person other than
- (i) the master, and the members of the crew or other person employed in any capacity on board a ship on the business of the ship;
 - (ii) a child under one year of age;
 - (iii) a person carried on the vessel under an obligation imposed upon the master to carry shipwrecked, distressed or other person, or by reason of any circumstance that neither the master nor the owner, or charterer, if any, could prevent or forestall;
- (gg) “passenger ferry” means a ship that is used to transport more than 12 passengers
- (i) within the Exclusive Economic Zone of Barbados,
 - (ii) within the Exclusive Economic Zone of Barbados from a port in Barbados to a port in another state,
 - (iii) within the Exclusive Economic Zone of Barbados from a port in another state to a port in Barbados;
- [2001-9]
- (hh) “passenger ship” is a ship which carries more than 12 passengers;
- (ii) “Port of Registry” in relation to any ship means the port where she is for the time being registered;
- (jj) “port state control inspections” means inspections of foreign ships in national ports;
- [2001-9]
- (kk) “port state control officer” means a person who is duly authorised by the competent authority of a party to a relevant Convention to carry out port state control inspections and who is responsible exclusively to that party;
- [2001-9]

- (ll) “Principal Registrar” means the person appointed by the Minister to administer the ship registry programme and includes a Registrar;
- (mm) “proper officer”, in relation to any function or activity, means an officer appointed to perform and engaged in the performance of that function or activity and may include a consular office;
- (nn) “Registrar” means the person appointed by the Principal Registrar for the purpose of registering Barbadian ships in Barbados and includes the Principal Registrar;
- (oo) “salvage” includes all expenses properly incurred by a salvor in the performance of salvage services;
- (pp) “seafarer” includes a master, officer and any other category of crew;
- (qq) “seaman” means every person employed or engaged in any capacity on board a vessel, except
- (i) the master;
 - (ii) a person not belonging to the ship’s crew, who has the conduct of the vessel as a pilot;
 - (iii) a person temporarily employed in the ship while in port; and
 - (iv) an apprentice, unless otherwise expressly provided for in subsection (2);
- (rr) “ship” means every description of vessel used in navigation which is not propelled by oars and in Parts II and VII includes every description of lighter, barge or like vessel however propelled;
- (ss) “small commercial vessel” means a vessel that is less than 150 gross tons, is registered in Barbados and operates within the Exclusive Economic Zone of Barbados;
[2001-9]
- (tt) “vessel” includes any ship or boat used in navigation;
- (uu) “wages” includes emoluments;

- (vv) “watersports activity” means the use of any vessel such as a speedboat, jet-ski or similar craft in water-skiing, jet-skiing, surfing, para-sailing and any other activity whether for recreation or entertainment;
[2001-9]

(2) For the purposes of this Act, a reference to seamen includes apprentices in sections 99 to 102; 104 to 110; 112 to 126; 128 to 134; 136; 142; 144 to 152; 154; 156 to 158; 161; 167 to 174; 176 to 181; 183 to 192.

(3) The phrase “admissible in evidence in the manner provided by this Act” refers to the manner provided for by Part VII.

(4) For the purposes of Parts II and V of this Act, a reference to “an endorsement” means a document attesting the recognition of a certificate under the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended.

[2001-9]

STATEMENT OF PURPOSE

Objects and construction

3.(1) The purposes of this Act are

- (a) to encourage and regulate the orderly development of merchant shipping in Barbados and to provide for the qualifying of persons employed in service at sea in Barbadian ships;
- (b) to regulate the terms and conditions of service of persons employed in Barbadian ships in conformity with international conventions to which Barbados adheres;
- (c) to provide for the safety of passengers, crews, ships and cargo in conformity with any international conventions to which Barbados adheres;
- (d) to regulate and provide for the safety of persons engaged in diving activity in the Exclusive Economic Zone of Barbados;

[2001-9]

THE LAWS OF BARBADOS

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- (e) to regulate the use of small commercial vessels within the Exclusive Economic Zone of Barbados; and
[2001-9]
 - (f) to prevent or mitigate the effect of shipping activity on the marine environment in the Exclusive Economic Zone of Barbados.
[2001-9]
- (2) This Act shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its purposes.

APPLICATION OF ACT

Government ships

- 4.** Unless otherwise expressly provided in the Act or by the regulations, this Act does not apply to
- (a) ships belonging to the Government of Barbados, and
 - (b) ships employed in the defence of Barbados or its territorial waters.

Exempt ships

- 5.(1)** Subject to any international agreement or convention that the Government of Barbados has ratified or adhered to in the case of foreign-going ships or other classes of ships, the Minister may, upon such conditions as he thinks fit to impose, exempt any ship or class of ship, or any person or class of persons, from all or any of the provisions of this Act.
- (2) This Act may be modified in its application to near coastal trade ship or Caribbean trade ship in such manner and to such extent as the Minister may by order prescribe.
- (3) An order under subsection (2) is subject to affirmative resolution.

Minister to give directions

6. The Minister may from time to time give the Director or the Principal Registrar directions with respect to the policy to pursue in the administration of the Act as he may consider necessary, and the Director or the Principal Registrar shall forthwith take steps to give effect to such policy.

Trading in Barbadian waters

- 7.(1) No ship shall trade in or from the waters of Barbados unless the ship
- (a) is a Barbadian ship; or
 - (b) is provided with a certificate of foreign registry or other document similar or equivalent to that required by this Act.
- (2) Every Barbadian ship trading in any waters and every ship trading in or from the waters of Barbados shall provide evidence of financial responsibility against risks of damage to third parties in such a manner as may be prescribed.
- (3) The owner, agent and master of every ship who contravenes subsection (1) or (2) is guilty of an offence and is liable to a fine of \$5 000 and the ship shall be liable to be detained.

PART I**THE SHIP***Registration of Ships***Registration of qualified ships**

- 8.(1) A ship is on application required to be registered as a Barbadian ship if the ship qualifies for registration under this Part.
- (2) A ship that is not registered under this Part shall not be recognised as a Barbadian ship, and is not entitled to the rights and privileges accorded to Barbadian ships under this Act.

- (3) Save as provided in section 9(2) a ship shall not be registered under this Part unless its foreign registration, if any, is first cancelled or evidence of all necessary applications for such cancellation have been provided to the Registrar in such form and substance as he shall require.
- (4) A ship qualifies for registration under this Part where
- (a) the ship is a pleasure yacht;
 - (b) the ship is a local fishing vessel registered under the *Fisheries Act*, Cap. 262, or
 - (c) at least 44 of its 64 shares are owned by persons singly or in association, who are qualified persons or Caricom persons.
- (5) A foreign-going ship used in navigation may be approved for registration by the Registrar where the ship will be engaged only in foreign-going trade, regardless of the nationality of the owners.
- (6) No ship described in subsection (4) may be registered otherwise than with the express written approval of the Registrar, and this approval may only be given where the completion of the ship occurred no more than 20 years before the year in which the application for registration is made or such greater period as the Registrar may state in writing in any specific case, and provided that in the latter case a valid certificate of class from a reputable institution is produced.
- (7) A qualified person is
- (a) an individual who is either a citizen of Barbados resident in Barbados or a permanent resident of Barbados within the meaning of the *Immigration Act*, Cap. 190, or
 - (b) a Barbadian shipping company.
- (8) A Barbadian ship company is a corporation incorporated or registered under the *Companies Act*, Cap. 308 or any special Act.

-
- (9) A Caricom person is
- (a) an individual who is a citizen of a state of the Caribbean Community and resident in a state in that Community, or
 - (b) a Caricom shipping company.
- (10) A Caricom shipping company is a corporation incorporated under the laws of a state of the Caribbean Community
- (a) whose principal place of business is within a state of the Caribbean Community, and
 - (b) all the shares or stock of which is beneficially owned by, or it is otherwise beneficially and wholly owned by, individuals described in subsection (9)(a), by other Caricom shipping companies within the meaning of this subsection, or by states of the Caribbean Community.
- (11) For the purposes of this section
- (a) “foreign-going trade” means
 - (i) trade to or from, but not within, the states of the Caribbean Community, or
 - (ii) trade between ports outside the Caribbean Community;
 - (b) “pleasure yacht” means a ship, however propelled, that is used exclusively for pleasure, and does not carry passengers or cargo for hire or reward.

Foreign-going ships

- 9.(1) A foreign-going ship may, regardless of the nationality of the owners, be approved for registration by the Registrar.
- (2) A ship registered under the law of a foreign country shall on application, if she is bareboat chartered to any citizen of Barbados or to any body corporate established under the Laws of Barbados, in addition to being registered under the law of that foreign country, be registered for the period of the bareboat charter

of a Barbadian ship and the Registrar shall notify the proper officer of that foreign country of such registration as a Barbadian ship.

(3) No ship described in subsection (1) may be registered otherwise than with the express written approval of the Registrar, and that permission may only be given if the completion of the ship occurred not more than 20 years before the year in which application for registration is made or such greater period as the Registrar may state in writing in any specific case, and provided that in the latter case a valid certificate of class from a reputable institution is produced.

[2001-9]

Near coastal trade or Caribbean trade ships

10.(1) A near coastal trade ship or Caribbean trade ship used in navigation of 150 gross register tons or more may, regardless of the amount of Barbadian ownership, be approved for registration by the Registrar if the ship is owned by Caricom persons and will operate generally as a near coastal trade ship or Caribbean trade ship.

(2) No ship described in subsection (1) may be registered otherwise than with the express written approval of the Registrar and that permission may only be given if the completion of the ship occurred not more than 20 years before the year in which application for registration is made or such greater period as the Registrar may state in writing in any specific case and provided that in the latter case a valid certificate of class from a reputable institution is produced.

Obligation to register

11.(1) Whenever a ship qualifies for registration under this Part that ship shall be registered in the manner provided thereunder unless

- (a) the ship is registered in some other country except as provided for in section 8;

- (b) the ship is recognised by the law of a country other than Barbados as a ship of that country, and is by the law of that country exempted from registration;
- (c) the ship is exempted from registration under this act; or
- (d) the ship is required to be registered under the *Barbados Port Authority Act*, Cap. 285B and operates solely within the territorial waters of Barbados.

Director of Maritime Affairs

12. There shall be an officer in the public service to be known as the Director of Maritime Affairs designated by the Minister with such functions as are imposed or authorised under this Act and who shall liaise with the Principal Registrar on behalf of and to the extent required by the Government of Barbados.

Registrars

13.(1) The registers

- (a) to be kept by a Director shall contain the particulars that are required to be entered in a register by this Act with respect to all vessels registered by him; and
 - (b) to be kept by the Principal Registrar shall contain the particulars that are required to be entered in a register by this Act with respect to all vessels registered by him and the other Registrars under this Act.
- (2) Individuals designated by the Principal Registrar as Registrars will register Barbadian ships in Barbados and at ports in countries other than Barbados, and registers must contain the particulars that are required to be entered in a register by this Act in respect of all vessels registered by them; but they need not keep particulars of vessels registered by other Registrars.
- (3) When a ship is first registered with any Registrar, particulars concerning that ship that subsequently require registration must be registered simultaneously

in the original register subject to and in accordance with such regulations as the Minister may make in that behalf.

(4) The Principal Registrar shall designate the Barbados ships' Registry as the central registry office where details of all Barbadian ships registered are kept.

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(5) Where the central registry office referred to in subsection (4) is located outside Barbados the Principal Registrar shall maintain at a place in Barbados duplicates of the records held at the central registry office.

Registers

14.(1) Each Registrar shall keep a register the entries in which must comply with the requirements of this section.

(2) The Registrar shall keep the following books

- (a) a register-book for merchant ships, that is to say, cargo ships and passenger ships;
- (b) a register-book for fishing vessels except for vessels registered under the *Fisheries Act*, Cap. 262;
- (c) a register-book for merchant ships under construction;
- (d) a register-book for fishing vessels under construction;
- (e) a provisional registry file.

(3) A register-book, consists of a main book and files of supporting documents, which shall be maintained in the manner prescribed by regulations.

(4) Where a vessel is registered under the *Fisheries Act*, Cap. 262 as a fishing-boat, it may be registered by the Director of Maritime Affairs in a register-book for local fishing vessels under this Part by filing a copy of its certificate of registration under that Act.

Registration of ships by Director

15.(1) Small commercial vessels and Caribbean trade ships which are below 150 tons but which otherwise qualify for registration in this Part shall be registered by the Director in a small vessel register, as may be prescribed in section 14(3), but this shall not include vessels which are under one ton unless they are engaged in the carriage of passengers and cargo for hire or reward pursuant to the *Barbados Port Authority Act*, Cap. 285B. The Director may also keep a provisional registry file for small vessels.

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(2) Sections 16 to 192 shall also apply in so far as the Director deems appropriate to activity undertaken on the register of small ships.

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(3) This section does not apply to a fishing boat registered under the *Fisheries Act*, Cap. 262.

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Form of register-books

16.(1) All books or records required by this Part to be prepared and maintained may be in a bound or loose-leaf form or in a photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing, or any other information storage device that is capable of reproducing any required information in an intelligible written form within a reasonable time.

(2) When the records kept by a Registrar are prepared and maintained in other than a written form

- (a) any copy required to be furnished by him under this Act must be furnished in an intelligible written form, and
- (b) a report reproduced from those records, if it is certified by the Registrar, is admissible in evidence with the same evidentiary value and to the same extent as if it were produced from a written form of records.

Division of ship into shares

- 17.(1)** The property in each Barbadian ship is divided into 64 shares.
- (2) No more than 64 persons may be registered at the same time as owners of a Barbadian ship, subject to the provisions of this Act with respect to joint-owners or owners by transmission.
- (3) Subsection (2) does not affect the beneficial title of any number of persons represented by or claiming under or through a registered owner or joint-owner.

Fractional owners

- 18.** No person may be registered as the owner of a fractional part of a share in a Barbadian ship.

Joint-owners

- 19.(1)** Notwithstanding section 18, any 5 or fewer persons may be registered as joint-owners of a Barbadian ship or of any shares therein.
- (2) Joint-owners constitute 1 only owner as regards the persons entitled to be registered in respect of a ship or shares therein.
- (3) Joint-owners are not entitled to dispose in severalty of any interest in a Barbadian ship or in any share therein in respect of which they are registered.

Corporate owner

- 20.** A corporation may be registered by its corporate name as owner of a Barbadian ship or of any shares in a Barbadian ship.

Survey of vessels

- 21.(1)** Before being registered under this Part, a vessel must be surveyed by a surveyor and tonnage ascertained in accordance with the tonnage regulations made under section 82.

- (2) The surveyor's certificate of a vessel must specify the vessel's tonnage and build, and contain such other particulars descriptive of the identity of the vessel as the Registrar may require.
- (3) The surveyor's certificate for a vessel must be delivered to a Registrar before he may register the vessel as a Barbadian ship.

Foreign and other measurement

22.(1) Where a vessel has been measured and registered as a foreign ship or has already been measured without being registered as a Barbadian ship, a surveyor may, for the purposes of section 21, accept and use any figures of measurement contained in the latest register relating to that vessel, or in the case of an unregistered vessel, in the latest certificate of measurement relating to that vessel.

(2) Before acting under subsection (1) the surveyor must satisfy himself that there have been no changes of measurement since the making of the register or certificate that he proposes to use; and where any such changes have been made, he must remeasure the vessel to the extent made necessary by the changes.

Changes between surveys

23. Where any change or reconstruction of a Barbadian ship is made that could affect the ship's classification, measurement, tonnage or load line, the owner or master of the ship shall, within 30 days from the completion of the change or reconstruction, advise a Registrar of the change or reconstruction and give him the details thereof.

Marking of ship

24.(1) Before being registered as a Barbadian ship, a vessel must be marked permanently and conspicuously to the satisfaction of the surveyor who issues the certificate therefor, as follows

- (a) the name of the vessel is to be marked on each of the bows, and the name and port of registry, is to be marked on the stern on a dark ground

in white or yellow letters, or on a light ground in dark letters, the letters being not less than 4 inches or 10 centimetres in length, and of a proportionate breadth;

- (b) the official number of the vessel, and the number denoting the register tonnage of the vessel are to be cut on the main beam or some other conspicuous place on the vessel;
 - (c) a scale denoting the vessel's draught of water in feet or decimetres is to be marked on each side of the vessel's stern and stern post in Roman numerals or in figures, by having the numerals or figures cut in and painted white or yellow on a dark ground, or in any other approved manner, so that the lower edge of each numeral or figures coincides with the draught line denoted thereby; and
 - (i) in the case of a scale denoting draught in feet, the numerals or figures are to be at intervals of 1 foot, and not less than 6 inches in length, or
 - (ii) in the case of a scale denoting draught in decimetres, the numerals or figures are to be at intervals of 2 decimetres, and not less than 1 decimetre in length, and, if equal metres are marked the numerals or figures denoting the metres are to be followed by the capital letter "M".
- (2) The Registrar may exempt any class of vessel from all or any of the requirements of subsection (1).
- (3) The marks required by this section shall be permanently continued by the owner of the vessel, and no change may be made in the marks except when any of the particulars denoted by them are changed in accordance with this Act.
- (4) When a Registrar, surveyor, or an inspector appointed under section 197, is satisfied that a vessel is insufficiently or inaccurately marked, the Registrar, surveyor or inspector may suspend the certificate of registry of the vessel until the insufficiency or inaccuracy has been remedied to his satisfaction.

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(5) Where a suspension occurs under subsection (4) that suspension shall not affect the status of mortgages recorded prior to the suspension.

Application for registration

25. An application for registration of a vessel as a Barbadian ship must be made

- (a) in the case of individuals
 - (i) by the individuals seeking to be registered as owner of the vessel,
 - (ii) if there is more than one individual seeking to be registered as owner of the vessel, by any one or more of those individuals, or
 - (iii) by the agent of any individual, or
- (b) in the case of a corporation, by an agent authorised in writing in that behalf by the corporation, but a Registrar may accept a telex or facsimile confirmation of an agent's authority in lieu of a written authorisation if the circumstances so warrant.

Declaration of ownership

26.(1) No person may be registered as owner of any shares in a Barbadian ship until a declaration of ownership has been made and signed by him, in the case of an individual, or by a person authorised to do so, in the case of a corporation.

(2) A declaration of ownership, to be valid, must refer to the Barbadian ship as described in the certificate of the surveyor of that ship, and must contain

- (a) the full name and address of the declarant, and
- (b) a statement of the number of shares in the ship for which he is entitled to be registered as owner.

Other evidence required

27.(1) In addition to the declaration of ownership, the following evidence must be produced to the Registrar on the first registration of a vessel as a Barbadian ship, namely

- (a) in the case of a vessel built within the Caribbean Community
 - (i) a builder's certificate; that is to say, a certificate signed by the builder of the vessel and containing a true account of
 - (A) the proper denomination and tonnage of the vessel, as estimated by him,
 - (B) the time when and place where the vessel was built, and
 - (C) the name of the person, if any, on whose account the vessel was built; and
 - (ii) if there had been any sale, the bill of sale under which the vessel or any share therein has been vested in the applicant for registration;
- (b) in the case of a vessel built outside the Caribbean Community, the same evidence as in the case of a vessel built within the Community, unless the declarant who makes the declaration of ownership declares that the time and place of the vessel's building are not known to him or that the builder's certificate cannot be produced, in which case there need be required by the Registrar only the bill of sale under which the shares in the vessel became vested in the applicant for registration;
- (c) in the case of a vessel previously registered under the law of a country other than Barbados,
 - (i) official permission from a proper officer in that other country for the transfer of the vessel's registration or a statement that permission for the transfer of registration is not required under that country's laws, and

- (ii) a recent certificate by an officer described in subparagraph (i) of any mortgages or liens recorded on the register of ships maintained by that other country; and
 - (d) in the case of a vessel condemned by a competent court, an official copy of the order of condemnation;
 - (e) in the case of a ship registered under the law of a foreign country and bareboat chartered to any citizen of Barbados, or to any body corporate established under the laws of Barbados, a recent certificate by a proper officer in that foreign country of the temporary transfer and of any mortgage or liens recorded in respect of that ship on the register of ships of such country.
- (2) Where in any case the Principal Registrar is satisfied that, the owner has attempted to comply by obtaining such documents, but due to wholly exceptional and abnormal circumstances prevailing in that foreign country inordinate delay has occurred so the documents required under paragraph (c) of subsection (1) cannot be produced, the Principal Registrar may waive the requirements in that case, but subject to the production of such other documents as he may demand.

Particulars for register

28.(1) When the requirements of this Part that are preliminary to registration have been complied with in respect of a vessel, the Registrar shall enter into the register the following particulars of the vessel

- (a) its name;
- (b) its official number;
- (c) the details contained in the surveyor's certificate;
- (d) the particulars of origin stated in the declaration of ownership;
- (e) the name and description of the registered owners and the proportions in which each owner is interested in the vessel; and

- (f) in the case of a vessel previously registered under the law of another country,
 - (i) evidence of permission to transfer registration or evidence that no permission to transfer is required, and
 - (ii) the particulars of any mortgages or liens recorded on the register of ships of the other country immediately before transfer, which must be entered in the same order of priority as the mortgages or liens were recorded in that other country.

Documents kept by Registrar

29. On registration of a Barbadian ship, the Registrar shall obtain and keep the surveyor's certificate, the builder's certificate, and any bill of sale of the ship previously made, the copy of the order of condemnation, if applicable, and all declarations of ownership.

Port of registry

- 30.(1)** The port of registry of a Barbadian ship is Bridgetown.
- (2) Notwithstanding subsection (1), the Minister may by notice published in the *Official Gazette* name Port St. Charles as a port of registry only for small vessels less than 150 tons that are resident at Port St. Charles.

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Certificate of Registry

Certificate of registry

31. On the completion of the registration of a Barbadian ship and upon payment of the fees prescribed, the original Registrar shall grant a certificate of registry containing the particulars respecting the ship that are entered in the register together with the name of the master.

Registration fee

32.(1) Subject to section 28, there is payable in respect of every vessel registered as a Barbadian ship a registration fee in such amount as may be prescribed.

(2) Subject to section 28, before the first day of January in each year there shall be paid to the original Registrar for each Barbadian ship an annual tonnage fee in such amount as may be prescribed.

(3) Where there is a failure to pay the annual fee in respect of any Barbadian ship, the original Registrar may cancel the certificate of registry of the ship upon reasonable notice to the owners thereof as shown in the register.

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(4) Where a cancellation occurs under subsection (3) that cancellation shall not affect the status of mortgages recorded prior to the cancellation.

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(5) Where more than one net registered tonnage is specified in the certificate of measurement of a Barbadian ship, the registration fee and annual fee shall be calculated by reference to the greatest of these tonnages.

Saving

33. No registration or annual fee is payable under section 32 for a vessel that is registered under the *Fisheries Act*, Cap. 262.

Use of certificate

34.(1) The certificate of registry of a Barbadian ship may be used only for the lawful navigation of the ship, and is not subject to detention by reason of any title, lien, charge or other interest of any owner, mortgagee or other person whatever.

(2) A master or owner of a Barbadian ship commits an offence if he uses or attempts to use for the navigation of the ship a certificate of registry not properly granted under this Act in respect of that ship.

New certificate

35. The Registrar may grant a new certificate of registry for a Barbadian ship if the earlier certificate of registry is delivered up to him.

Lost or mislaid certificate

36.(1) When a certificate of registry of a Barbadian ship is mislaid, lost or destroyed, the Registrar may grant a new certificate of registry in its place.

(2) A declaration of loss of certificate must be by the master of the ship, or some other person who has knowledge of the facts of the case, and must state the facts and the names and description of the registered owners of the ship to the best of the declarant's knowledge and belief.

Endorsement of change

37.(1) When a change occurs in the registered ownership of a Barbadian ship, the change shall be endorsed on the ship's certificate of registry by the Registrar upon advice of the change.

(2) For the purpose of an endorsement under subsection (1), the master of the ship shall deliver the certificate of registry to the Registrar as soon as practicable after the change occurs.

(3) The Registrar may, for the purpose of making an endorsement under this section, require the master of the ship to deliver to him the ship's certificate of registry in such circumstances as will not detain the ship; and the master shall deliver the certificate accordingly.

Suspension of certificate upon registration in foreign country

38.(1) Notwithstanding any of the provisions of this Act, a Barbadian ship bareboat chartered to any citizen of a foreign country or to any body corporate established under the laws of a foreign country may, on application to the proper officer of that foreign country, be registered under the law of that foreign country.

(2) Upon receipt of the appropriate notification from the proper officer, the original Registrar shall from that date suspend the certificate of registry of that ship and notify the proper officer of the suspension and the particulars of any mortgage instruments which are recorded with respect to that ship.

Certificate to be surrendered if ship lost or no longer a Barbadian ship

39.(1) In the event of a registered ship being actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing to be a Barbadian ship, every owner of the ship or of any share in the ship shall, immediately on obtaining knowledge of the event (if notice thereof has not already been given to the Registrar) give notice thereof to the original Registrar and the Registrar shall make an entry thereof in the register, and the registration of the ship shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

(2) In any case as is provided for in subsection (1) of this section, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, as soon as practicable after the event occurs, deliver the certificate to a Registrar, or to a consular officer, and the Registrar (if he is not himself the original Registrar) or the consular officer shall forthwith forward the certificate delivered to him to the original Registrar.

(3) The owner of a Barbadian ship who wishes to transfer the ship to a foreign registry may do so if there are no claims outstanding in favour of the government of Barbados and shall submit to the original Registrar

- (a) a written application specifying the name of the ship;
- (b) the reason for the proposed transfer;
- (c) the name and nationality of the proposed new owner;
- (d) the name of the country to whose registry transfer is desired; and
- (e) the written consent of every registered mortgagee.

Cancellation of certificate of registry

39A. Where a Barbadian ship has been detained by a port state control officer twice within 12 months or 3 times within 3 consecutive years, the Principal Registrar may, in his absolute discretion, cancel the certificate of registry and delete the ship from the register, except in so far as the deletion relates to any mortgages recorded against the ship.

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Provisional certificate

40.(1) Where owners of a ship intend to have the ship registered as a Barbadian ship, but the ship is at a foreign port for which no Registrar has been appointed, the consular officer at that port in the absence of such officer, any Registrar may grant her master a provisional certificate of registry.

(2) The consular officer or the Registrar shall forward a copy of the provisional certificate at the first convenient opportunity to the Principal Registrar.

(3) A provisional certificate must contain

- (a) the name of the ship;
- (b) the time and place of her purchase and the names of the purchasers;
- (c) the name of her master; and
- (d) the best particulars respecting her tonnage, build and description that can be obtained.

(4) A provisional certificate issued under this section has the same effect as a certificate of registry for the ship for the period of 6 months from the date of its issue or until the ship arrives at a port having a Registrar, and upon the expiration of that period, or upon arrival at that port, which ever first occurs, the provisional certificate expires.

(5) The master of every ship in respect of which a provisional certificate is granted under this section shall within 10 days of the ship's first arrival thereafter at the port in Barbados, deliver the certificate to the Registrar; and where any master fails to comply with this subsection, he is guilty of an offence and is liable to a fine of \$500.

(6) Notwithstanding subsection (4), if a mortgage is, by virtue of section 55 registered in respect of a ship for which a provisional certificate of registry has been issued under this section, the provisional certificate does not, only in so far as it affects such registered mortgage, expire by reason of the ship's arrival at a port in Barbados or at a port having a Registrar.

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(7) A provisional certificate issued under this section entitles the ship in respect of which it is issued to all the privileges of a Barbadian ship.

Temporary pass

41.(1) When it appears to the Minister that because of special circumstances it would be desirable that permission be given to a vessel to pass without being previously registered from Barbados to a port in another country, the Minister may grant a pass accordingly.

(2) For the time and within the limits mentioned therein, the pass has, in respect of the vessel, the same effect as a certificate of registry for that vessel.

Transfers and Transmissions

Transfers

42.(1) A registered ship or any shares therein may only be transferred by a bill of sale to a person entitled under this Part to acquire ownership therein.

(2) The bill of sale must set out the description of the ship that is contained in the surveyor's certificate, or some other description sufficient to identify the ship to the satisfaction of the original Registrar, and must be executed in the presence of, and be attested by, a witness.

Registration transfer

43.(1) When a bill of sale for the transfer of a registered ship, or any shares therein, is duly executed, it must be produced to the original Registrar to be effected; and upon its production the original Registrar shall enter in the register the name of the transferee as owner of the ship or shares specified on the bill of sale, and endorse on it the fact of that entry having been made, and the day and hour thereof.

(2) It is the duty of a Registrar to enter bills of sale in the register in the order in which they are produced to him.

Transmission

44.(1) When the property in a registered ship or in any shares therein is transmitted to another person on the death or bankruptcy of the registered owner thereof, or by other lawful means, not being a voluntary transfer by the registered owner

- (a) the other person must authenticate the transmission by making and signing a declaration of transmission that identifies the ship and states the manner in which and the person to whom the property has been transmitted;
- (b) if the transmission results from bankruptcy, the declaration of transmission must be accompanied by evidence admissible in a court as proof of the title of persons claiming under a bankruptcy; and
- (c) if the transmission results from death, the declaration of transmission must be accompanied by the instrument of representation or an official extract therefrom.

(2) On receipt of a declaration of transmission and the required accompanying matter, the original Registrar shall enter in the register

- (a) the name of the person entitled under the transmission to be registered as owner of the ship or shares in which the property has been transmitted, or
- (b) the names of all those persons, if more than 1 person is entitled under the transmission to be registered as owner of the ship or of those shares;

but, for the purpose of the provisions of this Part that relate to the number of persons entitled to be registered as owners of the shares of a Barbadian ship, the persons mentioned in paragraph (b), however many, shall be considered to be one person in respect of the transmitted property in the ship or shares.

Transfer by court

45.(1) When a court orders the sale of a registered ship or any share therein under section 44 or otherwise, the order must contain a declaration vesting in some person named by the court the right to transfer that ship or share.

(2) The person named in the vesting order is entitled to transfer the registered ship or the shares in the registered ship in the same manner and to the same extent as if he were the registered owner thereof.

(3) Every Registrar shall obey the requisition of a person named in the vesting order in respect of every transfer made pursuant to the order, to the same extent as if that person were the registered owner of the ship or shares of the ship being transferred by him.

(4) When a court orders the sale of a registered ship, all 64 shares in that ship are to be sold under the order.

Prohibiting transfer

46.(1) Without limiting any other power of the High Court, the High Court, on the application of an interest person, may, if it thinks fit, by order prohibit for a specified time any dealing with the shares in a registered ship.

(2) On the application under subsection (1), the High Court may, with or without costs, refuse to make an order, make the order subject to such terms and conditions as it thinks fair, and discharge the order when made, and generally act as the justice as the case requires.

(3) On being served with an order made under this section, every Registrar shall, without being made a party to the proceedings, obey the order.

Mortgages

Mortgage of ship

47.(1) A registered ship or share in a registered ship may be security for a loan or other valuable consideration, and on the production of the prescribed mortgage the original Registrar shall record it in the register.

(2) Mortgages shall be recorded in the order in time in which they are produced to the original Registrar for that purpose, and the Registrar shall by memorandum under his hand notify on each mortgage that it has been recorded by him, stating the date and hour of that record.

(3) Notwithstanding anything to the contrary in the foregoing provisions of this section, where the ship has been previously registered in a foreign country and mortgages were registered against that ship and at the time of its registration as a Barbadian ship there is produced to the original Registrar the written consent of every mortgagee, on the production of the prescribed instruments those mortgages on being registered shall be recorded in the order of precedence as was indicated in the previous register.

(4) No mortgage instrument shall be recorded in the register pursuant to subsection (1) in respect of any bareboat chartered ship which has been registered under the law of a foreign country and which has an existing registration as a Barbadian ship pursuant to the provisions of subsection (2) of section 9.

(5) No mortgage instrument shall be recorded against ships registered pursuant to subsection (1) of section 38 in that foreign register.

Discharge of mortgage

48.(1) When a registered mortgage relating to a ship is discharged, the original Registrar shall, on the production of the mortgage instrument with a receipt for the mortgagee money or other release endorsed thereon and duly signed and attested, make an entry in the register to the effect that the mortgage has been discharged.

(2) On entry in the register of a discharge of a mortgage, the estate, if any that passed to the mortgagee vests in the person in whom, having regard to any intervening acts or circumstances, it would have vested had the mortgage not been made.

Priority of mortgages

49. When there are more mortgages than one relating to the same ship or same share, the mortgagees are, notwithstanding any express, implied or constructive notice, entitled in priority between each other according to the date and time at which each mortgage is recorded in the register, and not according to the dates of the mortgages.

Status of mortgagee

50. Except as far as is necessary to make a mortgaged ship or mortgaged share available as a security for the mortgage debt, the mortgagee is not by reason only of the mortgage, the owner of the ship or share; nor does the owner cease to be the owner thereof by reason only of the mortgage.

Power of sale

51.(1) A registered mortgagee has the absolute power to dispose of the ship or share to which the registered mortgage relates and to give effectual receipts for the purchase money.

(2) When there are more persons than one registered as mortgagees of the same ship or same share, a mortgagee is not entitled, except by order of a court of

competent jurisdiction, to sell that ship or share without the concurrence of every prior mortgagee whose mortgage is earlier in time than his.

Mortgage and bankruptcy

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

Transfer of mortgage

53.(1) A registered mortgage or transfer of a ship or share therein may be transferred to any person.

(2) On the production of an instrument of transfer in the prescribed form, the Registrar shall record it by entering in the register the name of the transferee or mortgagee of the ship or share; and the original Registrar shall endorse on the instrument of transfer a note that it has been recorded by him on the date and time stated.

Transfer on death etc.

54.(1) When the interest of a mortgagee in a ship or share therein is transmitted on death or bankruptcy or by other lawful means not being a voluntary transfer, the transmission must be authenticated by a declaration of transmission by the person to whom the interest is transmitted.

(2) The declaration of transmission must be accompanied by like evidence as that required under section 44 in the case of the transmission of a ship or share therein.

(3) On receipt of a declaration of transmission of a registered mortgage accompanied by the required evidence, the original Registrar shall enter the name

of the person entitled under the transmission in the register as mortgagee of the ship or share in respect of which the transmission has occurred.

Registration of mortgage on provisional registration

55.(1) A provisionally registered ship or share therein may be made security for a loan or other valuable consideration and on the production of the prescribed mortgage instrument to the original Registrar he shall record it in the provisional registry file of the ship and shall, by memorandum under his hand, notify on each mortgage that it has been recorded by him, stating the date and time of that recording and such record of the Registrar shall have effect as if made for the purpose of section 49.

(2) On the ship becoming registered the original Registrar shall transfer and record in the register the mortgage in accordance with the provisions of section 47(2).

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(3) If within 30 days of the date of expiration of the provisional certificate of registry the ship has not fulfilled the requirements of registration, the mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered in the register book, notwithstanding that the mortgagor has complied fully with any other requirements of the mortgage instrument.

[2001-9]

Mortgage may secure future advances

56. A mortgage may secure future advances and shall not be extinguished or lose its priority because all previously outstanding obligations secured thereby have been fully repaid or otherwise performed.

Units of account

57. The obligations secured by a mortgage may be expressed in any unit or units of amount to which the parties may agree, including but not limited to currency of Barbados, currency or currencies of any foreign state or states or in

equivalents of any other unit or units of account established by intergovernmental organizations.

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Name of Ship

Refusal of registration

58.(1) A Registrar may refuse the registration of a vessel by a name proposed for the registration if the name is already the name of a Barbadian ship or a name so similar as to be calculated to deceive.

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

Change of name

59.(1) A change may not be made in the name of a Barbadian ship without the previous written consent of the Registrar.

(2) The Registrar may not grant permission to change the name of a Barbadian ship unless he is satisfied that all registered mortgagees thereof have been notified of the proposed change of name.

(3) Application for a change of name must be in writing, and if the Registrar is of the opinion that the application is reasonable he may entertain it.

(4) When permission is granted by the Registrar to change a ship's name, the name shall forthwith be changed in the register, in the ship's certificate of registry, and on the bow and stern of the ship.

Offence

60.(1) A person is guilty of an offence who contravenes or permits any other person under his control to contravene section 58 or 59.

- (2) The Registrar may suspend the certificate of registry of a ship until any contravention of section 58 or 59 is remedied.

Registration of Alteration and Registration Anew

Alteration

61.(1) When a Barbadian ship is so altered as not to correspond with the particulars relating to her tonnage or description in the register, notification of the alteration must be given within 30 days after the completion of the alteration to the original Registrar and the notice must be accompanied by a certificate from a surveyor stating the particulars of the alteration.

(2) Upon receipt of a notice of alteration of a Barbadian ship under subsection (1), the original Registrar 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 original Registrar may suspend the certificate of registry of the ship in respect of which the failure occurs.

Noting on certificate

62.(1) On the registration of an alteration in a Barbadian ship, the ship's certificate of registry must be produced to a Registrar within 60 days after that registration.

(2) When a certificate of registry has been produced to a Registrar under subsection (1), the Registrar may

- (a) endorse and sign on that certificate a memorandum of the alteration, or
- (b) retain that certificate and issue a new certificate of registry that contains a description of the ship as altered.

Change of ownership

63. Where the ownership of a Barbadian ship is changed, the original Registrar may, on the application of the owner of the ship, register the ship anew, even though registration anew is not required under this Part.

Registration anew

64.(1) When registering a Barbadian ship anew, the original Registrar, subject to the payment of the prescribed fees, may proceed as in the case of a first registration, and

- (a) on delivery to him of the existing certificate of registry and on the compliance with other prerequisites to registration, or
- (b) in the case of a change of ownership, on compliance with such of the prerequisites to registration as he thinks material, make a registration anew in respect of that ship and issue a certificate of registry.

(2) When a ship is registered anew, the former registration of the ship is closed, except so far as that registration relates to any unsatisfied mortgage entered thereon.

(3) The names of all persons appearing by the former registration to be interested as owners or mortgagees in the ship registered anew must be entered on the new registration.

(4) A registration anew does not in any way adversely affect the rights of any person described in subsection (3).

Wrecked ship

65. Where the registration of a Barbadian ship is closed because the ship has been wrecked and the ship's certificate of registry is delivered to the Registrar and cancelled, the Registrar may, on application to him, direct that the ship be re-registered on proof to his satisfaction that the ship has, at the expense of the

applicant for re-registration, been surveyed by a surveyor and certified by the surveyor to be seaworthy.

Incapacitated Persons

Incapacity

66.(1) In this section

- (a) “legally incapacitated person” means a person who, by reason of minority, mental infirmity, or other cause, is incapable of making any declaration or doing anything required or permitted by this Part in connection with the registration of a ship or any share therein,
- (b) “personal representative” in relation to a legally incapacitated person, means the guardian or manager of that person, or, if there is none, a person appointed on application made on his behalf or on behalf of any other interested person by a court of judge having jurisdiction in respect of the property of the legally incapacitated person.

(2) Where, in respect of the property of a legally incapacitated person in a registered ship or share therein, a declaration or other act or thing is permitted or required to be made or done under this Part in connection with that ship or share, the personal representative may

- (a) make the declaration or a declaration as nearly corresponding thereto as the circumstances permit, or
- (b) do the act or thing,

in the name and on behalf of the legally incapacitated person.

(3) All declarations made by, and all acts or things done by, the personal representative of a legally incapacitated person are as effectual as if done by the legally incapacitated person while he was a person of full age and capacity.

*Trusts and other Equities***Notice of trust**

67.(1) No notice of any express, implied or constructive trust may be entered in a register, nor may a Registrar receive any such notice.

(2) Subject to any rights or powers appearing by the register to be vested in any other person, the registered owner of a ship or share therein has power to dispose absolutely of the ship or share in the manner provided by this Act and to give effectual receipts for any money paid or advanced by way of consideration.

Beneficial interest

68. In this Part “beneficial interest” includes interest arising under contract and other equitable interests, and the intention of this Act is that, without prejudice to

- (a) the provisions of this Act for preventing notice of trusts from being entered in the register or received by the Registrar; and
- (b) the powers of disposition and of giving receipts by this Act on registered owners and mortgagees,

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

Liability of beneficial owner

69.(1) A beneficial owner of a registered ship as well as the registered owner are liable to all penalties imposed by this Act in respect of any offence under this Act on the owners of ships or shares therein; and proceedings may be taken for the enforcement of those penalties against both the beneficial owner and the registered owner, or either of them jointly, or jointly and severally.

- (2) A beneficial owner is not liable to a penalty mentioned in subsection (1) if the offence in question was committed without his knowledge or consent.
- (3) In this section, “beneficial owner” means a person who has a beneficial interest in a ship that is registered in the name of another person otherwise than by way of a mortgage of the ship or of a share thereof.
- (4) For the purposes of this section, a person is not a beneficial owner of a ship by reason only that he has rights under a trust pursuant to which he had advanced money to another person to enable that other person to assist the owner or charterer of the ship to purchase the ship.

Managing Owner

Managing owner or husband

- 70.(1)** Where there is a managing owner of a registered ship, his name and address must be registered with the Registrar.
- (2) Where there is no managing owner of a registered ship at any time, the name of the ship’s husband or other person to whom the management of the ship is entrusted by or on behalf of the owner must be registered with the Registrar.
- (3) A person whose name is registered under subsection (2) is under the same obligations and subject to the same liabilities as if he were the managing owner.

Evidence, Inspection, etc.

Other evidence

- 71.** Where under this Part a person is required
- (a) to make a declaration on behalf of himself or a corporation, or evidence is required to be produced to a Registrar; and

- (b) it is shown to the satisfaction of the Registrar that for reasonable cause that person cannot make that declaration, or that evidence cannot be produced,

the Registrar may dispense with the declaration or evidence on the production to him of such other evidence, on such terms and conditions, as he may require.

Admissibility of register

72. Notwithstanding any other law

- (a) a register on production from the Registrar having custody thereof;
- (b) a certificate of registry purporting to be signed by a Registrar;
- (c) an endorsement on a certificate of registry purporting to be signed by a Registrar; and
- (d) a declaration made under this Part in respect of a Barbadian ship,

are admissible in evidence in the manner provided by this Act.

Searching register

73. Upon payment of the prescribed fee, a person may, on application to a Registrar during the hours of his official attendance, inspect any register kept by the Registrar under this Part and obtain copies certified by the Registrar of any entry in the registry.

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Fees

74.(1) The Minister may by regulations prescribe fees to be charged under this Act for registration of

- (a) certificates of registry;
- (b) endorsements;
- (c) change of name;

- (d) transfer;
- (e) transmission;
- (f) mortgage;
- (g) survey;
- (h) inspection of register;

of a Barbadian ship, and for the other functions performed under this Act.

(2) Any instruments used to effect the purposes of this Part, and any instruments required to be made in a form approved or determined or prescribed pursuant to this Act and made in that form shall be exempt from stamp duty.

Forms

Forms

75.(1) The several instruments and documents specified in this Part must be in the prescribed form or as near thereto as circumstances permit.

(2) A Registrar is not required to receive and enter in the register any bill of sale, mortgage or other instrument for the disposal or transfer of any ship, or share or any interest therein, that is made in any form other than that required under this Part except in the case of any mortgage or lien to be entered pursuant to section 28(f)(ii).

(3) The prescribed forms must be supplied by the Principal Registrar to all Registrars for distribution to persons required to use the same.

Instructions to Registrars

76. The Principal Registrar may give such instructions as he thinks fit respecting

- (a) the manner of making entries in registers;
- (b) the execution and attestation of powers of attorney;

- (c) any evidence required for identifying any person;
- (d) the referring to the Minister of any question involving doubt or difficulty; and
- (e) generally any act or thing to be done in pursuance of this Part.

Forgery and False Declarations

Forgery

77. Any person who forges or fraudulently alters any register, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage or transfer, or any entry or endorsement made in or on any of those documents, is guilty of an offence triable on indictment, and is liable on conviction to imprisonment for 7 years or to a fine of \$250 000 or to both.

False declaration

78. Every person who, in the case of a declaration made in the presence of or produced to a Registrar under this Part, or in any document or other evidence produced to a Registrar

- (a) wilfully makes any false statement concerning the title to, or ownership of, or the interest existing in, any vessel, ship or share in a ship; or
- (b) utters, produces or makes use of any declaration or document containing any false statement that he knows to be false,

is guilty of an offence and liable on summary conviction to imprisonment for 1 year or to a fine of \$25 000 or to both.

Nationality and flag

79.(1) A customs officer shall not grant a clearance or transire for any vessel until the master of the vessel has declared to that officer the name of the country to which he claims that the vessel belongs and, that officer shall thereupon inscribe that name on the clearance or transire.

- (2) If a vessel attempts to proceed to sea without the clearance or transire, the vessel may be detained until a declaration is made.

National colours

80.(1) The flag of Barbados constitutes the national colours of a Barbadian ship or vessel and such ship or vessel shall wear no other colours.

- (2) A Barbadian ship or vessel shall hoist the national colours
- (a) on entering or leaving any port; and
 - (b) on a signal being made to the ship or vessel.

National flag on foreign ship or vessel

81.(1) A person who uses or permits any person to use the flag of Barbados on board a foreign ship or vessel for the purpose of making that ship or vessel appear to be a Barbadian ship or vessel is guilty of an offence and liable on summary conviction to imprisonment for 2 years or to a fine of \$50 000 or to both.

- (2) In any proceedings under this section, the burden of proving the right to use the flag and assume the appearance of a Barbadian ship or vessel is upon the person using the flag of Barbados.

*Measurement of Ship and Tonnage***Ascertaining tonnage**

- 82.(1)** Before a vessel is registered as a Barbadian ship
- (a) it shall be surveyed by a surveyor of ships and the tonnage of the ship shall be ascertained in accordance with any regulations made under this Part;

- (b) the surveyor shall 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;
 - (c) the Certificate of Survey shall be delivered to the Registrar before registration.
- (2) The Minister may by regulations, hereinafter referred to as "the tonnage regulation"
 - (a) provide a method for ascertaining the tonnage of ships;
 - (b) make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
 - (c) make any provision of the regulations dependent on compliance with such condition, to be evidenced in such manner, as is specified;
 - (d) prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a vessel and provide for making the master and the owner each liable to a fine not exceeding \$2 500 when a prohibition or restriction is contravened.
- (3) In the tonnage regulations, provision may be made
 - (a) for assigning to a ship either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not to be loaded to the full depth to which it can be safely loaded;
 - (b) for indicating on the ship by such mark as is specified, that such a lower tonnage has been assigned to it and, where it has been assigned to it as an alternative, the depth to which the ship can be loaded for the lower tonnage to be applicable;
 - (c) 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 Barbados.

(4) In making the tonnage regulations the Minister shall have due regard to the *International Convention on Tonnage Measurement of Ships, 1969*, including any amendments thereof.

Tonnage of ship

83.(1) Where the tonnage of a ship has been ascertained in accordance with the tonnage regulations and registered, that tonnage shall thenceforth be deemed to be the tonnage of that ship.

(2) The tonnage of a ship as ascertained under subsection (1), must be repeated in every subsequent registration of the ship unless

- (a) an alteration is made in the form or capacity of the ship, or
- (b) it is discovered that the tonnage of the ship has been erroneously computed,

and in either case the ship shall be re-measured and her tonnage determined and registered according to the tonnage regulations.

Tonnage of foreign ship

84.(1) When it appears to the Registrar that a foreign country has brought in rules on tonnage that are substantially the same as those under the tonnage regulations, the Principal Registrar may permit the vessels of that country, without being re-measured in Barbados, to be deemed to be of the tonnage denoted in their certificate of registry or other national papers in the same manner, to the same extent and for the same purposes as the tonnage denoted in the certificate of registry of a Barbadian ship is deemed to be the tonnage of that ship.

(2) Any space shown by the certificate of registry or other national papers of any foreign vessel described in subsection (1) as deducted from tonnage, on account of being occupied by seamen or apprentices and appropriated to their use, shall be deemed to have been certified under this Act and to comply with those provisions of this Act that apply to such a space in the case of Barbadian ships, unless a surveyor certifies to the Registrar that the construction and the

equipment of the vessel as respects that space do not come up to the standard required under this Act in the case of a Barbadian ship.

(3) When any question arises whether the construction and the equipment of a foreign ship described in subsection (1) do come up to the required standard, a surveyor may inspect the vessel for the purpose of determining whether such a certificate should be given by him or not.

(4) Where it appears to the Registrar that the tonnage of a foreign vessel as measured by the rules as to tonnage of the country to which she belongs materially differs from that which would be her tonnage if measured under this Act, the Principal Registrar may instruct that, any of the vessels of that country be re-measured in accordance with this Act, for all or any other the purposes of this Act.

Appointment of surveyors

85.(1) The Director of Maritime Affairs in respect of ships registered pursuant to section 15(1) and the Principal Registrar may with the approval of the Minister appoint duly qualified persons within or outside Barbados as surveyors to survey and measure ships under and for the purposes of this Act.

(2) The Minister may, by regulations, nominate any person to be a Classification Society within or outside Barbados for the purposes of this Act.

(3) A Classification Society so appointed may authorise any person to survey and measure ships under and for the purposes of this Act.

PART II

THE CREW

*Certification and Manning***Regulations**

- 86.(1)** Subject to subsection (2), the Minister may make regulations
- (a) requiring ships to carry such number of duly certificated officers of any description, qualified doctors and qualified cooks and such number of other qualified seamen of any description as may be specified in the regulations;
 - (b) prescribing standards of competency to be attained and other conditions to be satisfied, subject to any exceptions allowed by or under the regulations, by officers and other seamen of any description in order to be qualified for the purposes of this section;
 - (c) requiring that in any case a ship shall be under the charge of a properly certified master and that watches at sea, and in port are always kept by appropriately qualified officers.
- (2) The Minister shall exercise his power to make regulations requiring ships to carry seamen other than doctors and cooks only to the extent that it appears to him necessary or expedient in the interests of safety.
- (3) Without prejudice to the generality of paragraph (b) of subsection (1) the conditions prescribed under that paragraph may include conditions as to nationality, and regulations made for purposes of that paragraph may provide for
- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
 - (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners;

- (c) the issue, form and recording of certificates and other documents;
- (d) the payment of fees; and
- (e) prescribing the rights and obligations of holders of certificates and the offences for which certificates may be suspended or cancelled.

Production of certification and making of returns to Registrar

87.(1) Any person serving or engaged to serve in any Barbadian ship who holds any certificates of competency or other documents evidencing his qualifications, shall, on demand, produce the certificate or document to any Registrar, inspector or proper officer and, if that officer is not himself the master, to the master of the ship.

(2) A person who fails to comply with subsection (1) without reasonable cause is guilty of an offence and liable on summary conviction to a fine of \$100.

(3) Upon the signing of the crew agreement, the master of every Barbadian ship shall forthwith inform the Principal Registrar in writing of the name, grade and number of the certificate and endorsement of each officer (including the master himself) employed on the ship.

(4) When a certificated officer ceases to be employed on a Barbadian ship, or a new certificated officer becomes employed on the ship, the name, grade and number of the certificate and endorsement of that officer shall forthwith be despatched in writing to the Principal Registrar by the master of the ship.

Examinations for competency and certificates

88. For the purpose of granting certificates the Minister may

- (a) cause examinations to be held at such times and at such places as he directs;
- (b) do all such acts and things expedient for the purpose of the examination.

Use of English language

89.(1) Except where otherwise provided in this Act, all correspondence, documents, forms or other writing must be in the English language and in the case of the crew agreement, official log-book and muster lists, in the prescribed form.

(2) A foreign language version of any document referred to in subsection (1) may be appended to the English language version thereof.

(3) All written signs displayed on board Barbadian ships must be in the English language with, if it is considered necessary by the master, a foreign language version appended thereto.

(4) Where in the opinion of the Registrar or an inspector the crew of a Barbadian ship consists of or includes persons who might not understand orders given to them in the course of their duty by reason of the insufficient knowledge of the English language and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, the Registrar or inspector shall so inform the master and the ship shall not be taken to sea.

(5) The Registrar or inspector may cause the ship to be detained until the situation described in subsection (4) is rectified.

(6) If a ship is taken to sea or an attempt is made to take a ship to sea in contravention of this section both the owner and the master of the ship are guilty of an offence and liable on summary conviction to a fine of \$2 000.

Certificated officer

90.(1) An officer is not duly certificated within the meaning of this section unless he is the holder for the time being of

- (a) a valid certificate issued under this Act; or
- (b) an endorsement issued under section 91,
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of a grade appropriate to his rank and status on the ship and to the tonnage or propelling machinery power of the ship, the type of engine of the ship, or to the trade in which the ship is engaged, or of a higher grade.

(2) Any person who, having been engaged in any of the capacities prescribed under this Part in any ship as aforesaid, goes to sea in that capacity without being entitled to, and without being in possession of, the required certificate or endorsement and any person who employs any person in any of the above mentioned capacities in such ship without ascertaining that he is entitled to or possesses such certificates or endorsement is guilty of an offence.

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Acceptance of foreign certificate

91.(1) Where the laws of any other country provide for the examination for and grant of, certificates to persons intending to act as master, seamen officers and engineers on board ships and

- (a) the Registrar is satisfied that all examinations are so conducted as to be equally effective as the examinations for the same purpose in Barbados under this Act, and
- (b) the certificates are granted on principles that show the like qualifications and competency as those granted under this Act,

the Registrar may with the approval of the Principal Registrar order that they be acceptable certificates in Barbados.

(2) The Principal Registrar shall notify the Minister as to the countries whose laws provide for the examination and grant of certificates to persons intending to act as master, seamen officers, and engineers on board ships in manner to satisfy the requirements of subsection (1).

(3) Where persons holding acceptable certificates, desire to go as master, seaman officer or engineer in Barbadian ships, the Principal Registrar may direct that

- (a) if the person is a citizen of Barbados he be granted a certificate of equivalent grade under this Act, or
- (b) if the person is not a citizen of Barbados, he be issued with an endorsement authorising him to go to sea in a Barbadian ship in the same rank or station as if his certificate had been granted under this Act,
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subject to the payment of the prescribed fee and subject to such conditions as the Principal Registrar may impose.

(4) An endorsement issued under subsection (3)

- (a) has during its currency the same force as a certificate of competency granted under this Act and may be cancelled or suspended for like reason, and
- (b) is valid for a period of up to 5 years from the date of issue, and may be renewed on payment of the prescribed fee.

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Exemption

92.(1) The Minister may exempt any ship or class of ship from the requirements of any regulation under section 86 and such exemption given under this section may be confined to a particular period or to one or more particular voyages.

(2) Where it appears to the Registrar that a ship might be unreasonably delayed because the owner is unable to provide officers in accordance with regulations made under section 86 and the Minister is satisfied that

- (a) the owner has exercised due diligence to provide officers; and

- (b) the ship is properly and efficiently manned for the voyage about to be undertaken,

the Minister may, without prejudice to the generality of subsection (1), and on the written application of the owner, exempt that ship from any of the provisions of regulations made under section 86.

Offences

93. A person is guilty of an offence and liable on summary conviction to a fine of \$5 000 or to imprisonment for 18 months or to both, who

- (a) makes, procures to be made or assists in making any false representation for the purpose of obtaining for himself or for any other person any certificate or any endorsement;
- (b) forges, assists in forging or procures to be forged or fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered any certificates, endorsement or any official copy thereof;
- (c) fraudulently makes use of any certificate or endorsement, or copy thereof, mentioned in paragraph (b); or
- (d) fraudulently lends such a certificate or endorsement to or allows the same to be used by any other person.

Going to sea undermanned

94.(1) Subject to section 92, if a Barbadian ship or a foreign ship goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under this Act or under the laws of the flag state as the case may be

- (a) in either case the ship may be detained; and
- (b) in the case of a Barbadian ship the owner and the master are guilty of an offence and liable on summary conviction, to a fine of \$5 000.

(2) The Registrar may suspend the certificate of Registry of a ship mentioned in subsection (1) until the ship is properly manned.

Ship leaving whilst under detention

95. Where a ship leaves or attempts to leave a port in Barbados while under detention under this Part, the master and the owner thereof are guilty of an offence and are liable on summary conviction to a fine of \$25 000.

Power to suspend or cancel certificate

96.(1) The Principal Registrar may suspend or cancel a certificate or endorsement issued under this Act if the holder is convicted by any court in Barbados of an offence relating to or connected with shipping matters and in this regard the Minister may also exercise any of the powers granted to him under section 295.

(2) Where in any case a certificate or endorsement is believed on reasonable grounds not to be genuine or to be held by some person not entitled to it, any person authorised by this Act or by any other written law, to peruse the certificate may impound it, and if the certificate or endorsement is impounded it shall forthwith be sent to the Principal Registrar who may, in his discretion cause such investigations to be made as he thinks fit.

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Apprenticeship to the Sea Service

Signature of contracts and indentures

97.(1) All contracts or indentures of apprenticeship to the sea service intended to be performed on Barbadian ships must be signed by the intended apprentice and the authorised representative of the owner to whom he is to be bound thereby.

(2) The signing must be done in the presence of a Registrar, who shall attest the signature if he has, before the contract or indentures is signed, satisfied himself

(a) that the intended apprentice

- (i) understands the contents and provisions of the contract or indenture;
- (ii) freely consents to be bound thereby;
- (iii) has attained the age of 16 years; and
- (iv) is in possession of a certificate by a duly qualified medical practitioner to the effect that the apprentice is physically fit for the sea service; and

(b) that, if the intended apprentice is under the age of 16 years, his parent's or guardian's consent has been obtained to his being contracted or indentured.

(3) This section shall except in so far as it prescribes specifically in respect of any matter dealt with under any law in force in Barbados governing apprenticeship, be in addition to and not in derogation of the provisions of any such law.

Apprenticeship

98.(1) The Principal Registrar shall keep a copy of every contract or indenture of apprenticeship in his office, which shall, upon payment of the prescribed fee, be made available for inspection by any member of the public.

(1A) Where the intended apprentice is a Barbadian national or resident, the Director shall keep a copy of the contract or indenture of apprenticeship in his office, and shall, upon the payment of the prescribed fee, allow the contract or indenture to be made available for inspection by any member of the public.

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(2) When a contract or indenture is assigned or cancelled, or when an apprentice dies or deserts the ship, the master of the apprentice shall notify the Registrar thereof

- (a) within 30 days after the assignment, cancellation, death or desertion if it happens in Barbados, or
- (b) if it happens elsewhere, so soon afterwards as circumstances permit.

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Engagement of Seamen

Crew agreement

99.(1) The master of every Barbadian ship shall enter into an agreement in accordance with this Act with every seaman whom he engages and carries to sea as one of his crew.

(2) The master of any vessel shall enter into an agreement in accordance with this Act with every seaman whom he engages in Barbados or carries to sea from Barbados as one of his crew.

(3) Subsections (1) and (2) shall not apply in any case where the ship or vessel concerned does not exceed 100 gross register tonnes.

Contents of agreement

100.(1) A crew agreement shall be in the prescribed form and dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs it.

(2) The agreement shall show the place at which it is made, the surname and other names of the seaman, his birthplace, and his age or the date of his birth, and state clearly the respective rights and obligations of each of the parties.

(3) The crew agreement must contain as terms thereof the following particulars

- (a) the name of the ship or vessel on which the seaman undertakes to serve;
- (b) either
 - (i) the nature, and, as far as is practicable, the duration of the intended voyage or engagement;
 - (ii) the maximum period of the voyage or engagement, which must not exceed 12 months, and the port at which it is intended to discharge the crew; and
 - (iii) the places or parts 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 that each seaman is to receive;
- (g) the prescribed scale of the provisions that 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 regulations as to conduct on board, fines, short allowance of provisions or other lawful punishment for misconduct that have been approved by the Minister as regulations proper to be adopted and that the parties agree to adopt; and
- (j) a list of young persons taken on, who are under the age of 18 years, and dates of their births.

(4) The crew agreement must be so framed that it will 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.

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

- (a) mutual consent of the parties thereto;
- (b) the death of the seaman; or
- (c) the loss or total unseaworthiness of the ship or vessel.

Agreement for foreign going ship

101.(1) The following provisions apply to a crew agreement made in the case of a Barbadian foreign-going ship

- (a) the agreement must, subject to the provisions of this Act as to substitutes, be signed by each seaman;
- (b) the master must give reasonable facilities to the seaman and his adviser, if any, to examine the agreement, and must cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands it before he signs it, and the master must attest each signature;
- (c) when the crew is first engaged, the agreement must be signed in duplicate, and one part forwarded to the owner and the other retained by the master, and the agreement must contain a special place or form for the descriptions and signature of substitutes or persons engaged subsequently to the first departure of the ship;
- (d) where a substitute is engaged in the place of a seaman who duly signed the agreement and whose services are, within 24 hours of the ship's putting to sea, lost by death, desertion or other unforeseen cause, the master must, before the ship puts to sea, if practicable, and, if not, as soon as possible after the ship puts to sea, cause the agreement to be read over and explained to the substitute, and the substitute must

thereupon sign the same in the presence of a witness, and the witness must attest the signature;

- (e) an agreement may be made for a voyage, or, if the voyages of the ship average less than 6 months in duration, may be made to extend over 2 or more voyages, and an agreement made to extend over 2 or more voyages is a “running agreement”;
- (f) a running agreement does not extend beyond the 12 months’ period of time next following the date of the making or the first arrival of the ship at her 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 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;
- (h) the duplicate crew agreement retained by the owner on the first engagement of the crew must be kept by the owner for a period of 7 years after the expiration of the agreement and be produced on demand made therefor by the Registrar or other proper officer; and
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- (i) except as provided in section 111, a crew agreement may not purport to deprive any court of jurisdiction to hear and determine disputes respecting the agreement.

(2) If a master wilfully makes a false statement in any endorsement referred to in paragraph (g) of subsection (1), he is guilty of an offence.

Further provisions

102.(1) The master shall, at the commencement of every foreign voyage or engagement, post up a legible copy of the crew agreement, without the signatures, in some part of the ship that is accessible to the crew.

- (2) Every erasure, interlineation or alteration in any crew agreement, except one made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, makes it wholly inoperative unless it is proved to have been made with the consent all of persons interested in the erasure, interlineation or alteration.
- (3) In any proceedings, a seaman may bring forward evidence to prove the contents of any crew agreement or otherwise to support his case, without being required to produce or give 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.

Employment of Young Persons

Employment of young persons

103.(1) No person shall employ an individual under the age of 16 years to work on board any Barbadian ship unless

- (a) he is employed upon work approved by the Registrar on board a school-ship or training ship; or
- (b) the Registrar certifies that he is satisfied, having due regard to the health and physical condition of the individual and to the prospective and immediate benefit to him of the employment, that the employment will be beneficial to him.

(2) No person shall employ an individual under the age of 18 years in any capacity in any Barbadian ship unless there is delivered to the master of the ship a certificate granted by a duly qualified medical practitioner certifying that that individual is fit to be employed in that capacity.

(3) A medical certificate issued under subsection (2) is valid for 1 year from the date of issue, unless earlier revoked, however the medical certificate may at

any time be revoked by a duly qualified medical practitioner if he is satisfied that the individual to whom it refers is no longer fit for work on board a ship.

(4) No individual under the age of 18 years may be employed to work in the engine-room of any vessel unless he is an apprentice working under supervision.

(5) This section does not apply to a vessel in which only members of one family are employed.

Certification of Seamen

Certificate of competency

104.(1) No seaman engaged in a Barbadian ship can be rated as an able seaman unless he holds a certificate of competency as an able seaman.

(2) The Minister may make regulations respecting the grant of certificates of competency as an able seaman, and by the regulations may direct that no certificate be granted to any person unless that person

- (a) has reached the minimum age prescribed by the regulations, not being less than 18 years;
- (b) has performed at least 3 years qualifying service at sea; and
- (c) has passed the prescribed examinations.

(3) The regulations may authorise the grant of a certificate thereunder, to any person, notwithstanding that he has not passed the prescribed examinations, if he can show that he was serving as an able seaman or equivalent seaman rating immediately before the 12th May, 1994.

*Discharge of Seamen***Certificate of discharge**

105.(1) Subject to section 151, the master shall sign and give to a seaman discharge from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in an approved form, specifying the period of his service and the time and place of discharge.

(2) A certificate of discharge under subsection (1) must 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 certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer.

Character report

106.(1) When a seaman is discharged from a Barbadian ship, the master thereof shall make and sign a report in an approved form, in this section called a “character report”, in which the master must

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

(2) The master before, whom the discharge of a seaman is being made shall, subject to section 151 and if the seaman so desires, give the seaman a copy of the character report to him.

(3) A person is guilty of an offence who

- (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; or

- (c) fraudulently uses any certificate of discharge or character report, or copy of a character report, that is forged or altered, or that does not belong to him.

Payment of Wages

Time and manner of payment

107. The master or owner of a foreign-going Barbadian ship shall pay to each seaman belonging to that ship the wages of the seaman, if demanded, within 2 days after the arrival of the ship at the port where the crew is to be discharged, or upon the seaman's discharge, whichever happens first.

Account of wages

108.(1) The master of a Barbadian ship shall, before paying off or 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.

(2) The account shall be delivered to the seaman not less than 24 hours before his payment or discharge.

Deductions

109.(1) No deduction from the wages of a seaman may be made unless the deduction is included in the account delivered in pursuance of section 108, except in respect of a matter happening after the delivery of the account.

(2) The master shall during the voyage

- (a) enter in a book kept for the purpose, the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur; and

- (b) if required, produce the book at the time of the payment of wages, and also upon a hearing before any competent authority of any complaint or question relating to that payment.

Settlement of wages

110.(1) When a seaman is discharged from a Barbadian ship and the settlement of his wages is completed, he shall sign a release, in an approved form, of all claims in respect of the past voyage or engagement; and the release shall be signed also by the master or owner of the ship.

(2) When signed and attested, the release operates 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 the owner of the ship to which it relates, and it shall be retained by him for a period of 7 years after the expiration of the agreement.

(4) A release shall be produced by the owner retaining it on demand made therefor by a Registrar or other proper officer.

Registrar's decision re wages

111.(1) Where any question between a master or owner of a Barbadian ship and any member of the crew thereof is raised before a Registrar and both parties have agreed in writing to submit the question to the Registrar, then, regardless of the nature of the question or the amount in dispute, it is the duty of the Registrar to hear and decide the question submitted to him.

(2) An award made by a Registrar pursuant to a submission under subsection (1) is conclusive as to the rights of the parties.

(3) A document purporting to be the submission or award made under this section is admissible in evidence in the manner provided by this Act.

Ship's papers

112.(1) In any proceedings under this Act before a Registrar, relating to wages, claims or discharge of a seaman, the Registrar

- (a) may require the owner, or his agent, or the master or any mate or other member of the crew, to produce any logbooks, papers or other documents in his possession or power relating to the matter in question in the proceedings, and
- (b) may require the attendance of, and may examine on the matter any of those persons who are then at or near the place.

(2) In any proceedings under this Act before a Registrar 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.

(3) For the purposes of subsection (1), the Registrar may administer oaths.

Rate of exchange

113.(1) Where a seaman has agreed with the master of a Barbadian ship for payment of his wages 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 money stated in the agreement for the time being current at the place where the payment is made.

(2) The rate of exchange referred to in subsection (1) must be endorsed on the agreement by a consular officer or a Registrar at the place where the payment of wages is made.

*Advance and Allotment of Wages***Conditional agreements**

114.(1) A crew agreement may contain a stipulation for payment to, or on behalf of, the seaman conditionally on his going to sea in pursuance of the agreement of a sum not exceeding the equivalent of two weeks' wages payable to the seaman under the agreement.

(2) Except as provided in subsection (1), an agreement by or on behalf of the employer of a seaman for the payment of money to, or on behalf of, the seaman conditionally on his going to sea is void.

(3) Any money paid in satisfaction of or in respect of a void agreement described in subsection (2) may not be deducted from the seaman's wages, and the person purporting to conclude a void agreement with the seaman has no right of action, suit or set-off against the seaman or his assignee in respect of any money paid or purporting to have been so paid.

Allotment note

115.(1) A stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence may be inserted in the crew agreement, and shall state the amounts and times of the payments to be made.

(2) Where a crew agreement is required to be made in a prescribed form, the seaman may require that a stipulation be inserted in the crew agreement for the allotment, by means of an allotment note of one half or any less part of the seaman's wages, in favour either of a near relative or of a bank account in the seaman's name.

(3) When any seaman is engaged under this Act, the master shall, after the seaman has signed the crew agreement, ask the seaman whether he requires a stipulation for the allotment of his wages by means of an allotment note, and, if the seaman requires such stipulation, the master shall insert the stipulation in the

crew agreement; and the stipulation so inserted is presumed to have been agreed to by the master.

- (4) An allotment note may be in a prescribed form.
- (5) In regard to allotment notes under this Act
 - (a) “near relative” means the spouse, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman for whom an allotment note is made; and
 - (b) “spouse” has the meaning ascribed thereto under section 2 of the *Succession Act*, Cap. 249.

Facilities for remitting wages

116.(1) Where the balance of wages due to a seaman is more than \$150 and the seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting all or any part of the balance to an account in a bank or to a near relative, the master shall provide the seaman with all reasonable facilities for so doing, so far as regards so much of the balance as is in excess of \$150.

- (2) While his ship is in port, the master is under no obligation
 - (a) to provide the facilities, described in subsection (1) if the excess sum becomes payable before the ship leaves port, or
 - (b) to provide the facilities otherwise than conditionally upon the seaman going to sea in the ship.

Recovery of allotted sums

- 117.**(1) The person in whose favour an allotment note is made may
- (a) recover the sums allotted as they are made payable with costs from
 - (i) the owner of the ship with respect to which the engagement was made; or
 - (ii) any agent of the owner who has authorised the allotment,

in the same court and manner in which wages of seamen are recoverable under this Act unless the seaman is shown in the manner specified in this Act to have forfeited, or ceased to be entitled to the wages out of which the allotment is to be paid.

(2) In any proceedings under subsection (1), it is sufficient for the claimant to prove that

- (a) he is the person mentioned in the note, and
- (b) the note was given by the owner or by the master or an authorised agent.

(3) In any proceedings under subsection (1), the seaman is presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court

- (a) by the official statement of the change in the crew caused by his absence, which must be made and signed by the master as required by this Act;
- (b) by a certified copy of some entry in the official logbook to the same effect; or
- (c) by such other evidence as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Rights of Seaman in respect of Wages

Right to wages, time of

118. A seaman's right to wages and provisions begins at

- (a) the time at which he commences work, or
- (b) the time specified in the agreement for his commencement of work or presence on board, whichever is the earlier time.

Wages and salvage

119.(1) A seaman cannot by any agreement

- (a) forfeit his lien on a ship;
- (b) be deprived of any remedy for the recovery of his wages to which, in the absence of the agreement, he would be entitled;
- (c) abandon his right to wages in case of the loss of the ship; or
- (d) abandon any right that he may have or obtain in the nature of salvage.

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

(3) Paragraph (d) of subsection (1) does not apply to a stipulation in an agreement made in respect of the remuneration to be paid for salvage services to another vessel to the seamen who belong to the vessel that, according to the terms of the agreement, is to be employed on salvage service.

Wages and freight

120.(1) Subject to subsection (4), the right to wages does not depend on the earning of freight.

(2) Every seaman who would be entitled to demand and recover any wages if the vessel in which he has served had earned freight, is, subject to all other rules of law and conditions applicable to the case, entitled to demand and recover his wages, notwithstanding that freight has not been earned.

(3) In a case of the wreck or loss of the vessel, proof that a seaman has not exerted himself to the utmost to save the vessel, cargo and stores, bars his claim for wages.

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

Wages when service ends

121.(1) Where the service of a seaman terminates before the date contemplated in the agreement by reason of his being left on shore at a place abroad under a certificate of his unfitness or inability to proceed on the voyage, the seaman is entitled to wages for time served up to the time of that 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 loss or foundering of the vessel on which he is employed, he is entitled to receive wages in respect of each day on which he is in fact unemployed during a period of 2 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.

Refusal to work

122. A seaman is not entitled to wages

- (a) for any time during which he unlawfully refuses or neglects to work when required, whether before or after time fixed by the agreement for him to begin work, or
- (b) for any period during which he is lawfully imprisoned for an offence committed by him, unless the court hearing the case otherwise directs.

Illness by default

123.(1) Where a seaman is by reason of sickness incapable of performing his duty and it is proved that his sickness has been caused by his own wilful act or default, or is a sickness or infirmity wilfully concealed at the time of engagement, he is not entitled to wages for the time during which he is, by reason of the sickness, incapable of performing his duty.

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

Costs of procuring conviction

124. When in any proceedings relating to seaman's wages it is shown that a seaman has, in the course of the voyage, been convicted of an offence by a competent authority and rightfully punished for that offence by imprisonment or otherwise, the court hearing the case may direct any part of the wages due to the seaman, not exceeding 1 month's wages, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Improper discharge

125. Where a seaman who has signed an agreement is discharged otherwise than in accordance with the terms of the agreement

- (a) before the commencement of the voyage, or
- (b) before 1 month's wages are earned,

without fault on his part justifying the discharge 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 1 month's wages, and he may recover that compensation as if it were wages duly earned.

Protection of wages

126.(1) The following provisions apply to wages due or accruing to a seaman

- (a) 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 the assignment or sale;
- (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.

Vacation Leave and Public Holidays

Leave and holidays

127.(1) Every person is entitled after 12 months of continuous service on a Barbadian ship, or for the same employer, or *pro rata* if the period served is less than 12 months, to an annual vacation-holiday with pay, the duration of which must be

- (a) in the case of master and officers, not less than 18 working days; and
- (b) in the case of other members of the crew, not less than 12 working days.
- (2) For the purpose of calculating when a vacation-holiday is due
 - (a) service of articles must be included in the reckoning of continuous service;
 - (b) short interruptions of service not due to the act or fault of the employee and not exceeding a total of 6 weeks in any 12 months does 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 the annual vacation-holiday 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 Barbadian ship is entitled to 11 days annual leave in lieu of public holidays, and where the length of continuous service is less than 12 months, then the annual paid leave must be pro rated.

Mode of Recovering Wages

Suit for wages

128.(1) A seaman, or a person duly authorised on his behalf, may, as soon as any wages due to him become payable, sue for them in a court of competent jurisdiction in Barbados, and, notwithstanding any other law, the order made by the court in the matter is final and not subject to appeal.

(2) A court upon complaint on oath made to it, for the purposes of proceedings under this section, may summon the master or owner or other person to appear before it to answer the complaint.

(3) Upon the appearance of the master or owner or other person, the court may examine upon oath the parties and their respective witnesses regarding the complaint and the amount of wages due, and may make such order for the payment of any wages found due as appears reasonable and just.

(4) Where a master or owner or other person does not appear, the court, on due proof that the master or owner or other person was duly summoned, may examine on oath the complainant and his witnesses regarding the complaint and the amount of wages due, and may make such order for the payment of any wages found due as appears reasonable and just.

(5) Where an order under this section for the payment of the wages is not obeyed within 24 hours next after the making thereof, the court may issue a warrant to levy the amount of the wages awarded to be due by distress and sale of the goods and chattels of the person on whom the order is made, together with all the charges and expenses incurred in connection with the distress and levy and the enforcement of the order.

(6) Where sufficient distress cannot be found, the court may, subject to subsection (7), cause the amount of the wages, charges and expenses to be levied on the ship in respect of which the wages were earned or on the tackle and apparel thereof.

(7) If the ship is not within the jurisdiction of the court, no levy may be made on the ship, but the court may cause the person upon whom the order for payment is made to be arrested and committed to prison for a term not exceeding 3 months.

Jurisdiction of Supreme Court limited

129. The Supreme Court does not have jurisdiction to hear or determine any action, suit or proceeding instituted by or on behalf of any seaman for the recovery of wages, except where

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

Master's remedy for wages

130.(1) The master of a Barbadian ship, so far as circumstances permit, has the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) The master of a Barbadian ship, and every person lawfully acting as master of a ship by reason of the deceased 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 or 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 proceedings, and may direct payment of any balance found to be due.

Power of Court to Rescind Contracts

Power to rescind contracts

131.(1) Where proceedings are instituted in a court in relation to a dispute between an owner or master of a Barbadian ship and a seaman, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court may, if, having regard to all the circumstances it thinks it just to do so, rescind any contract between the owner or master and the seaman, or any contract or indentures of apprenticeship, upon such terms as the court thinks just.

(2) The power 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

132.(1) If any seaman belonging to a Barbadian ship dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the 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 must be signed by the master and attested by a mate 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 furnish a Registrar with a statement of the property of the deceased seaman.
- (6) The money, effects and balance of wages mentioned in subsections (1) to (4) are in this Act referred to as the property of the seaman.

Delivery of the property

133.(1) Subject to subsection (2), the property of the deceased seaman shall be delivered by the master of a ship by the most practicable means to the personal representative of the deceased or, if there is no personal representative of the deceased, the master shall dispose of the 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 a deceased seaman expenses properly incurred in complying with subsection (1).
- (3) After complying with subsection (1), the master shall render a statement of account to a Registrar respecting the property of the deceased seaman.

Forgery of document

134.(1) A person is guilty of an offence who, for the purpose of obtaining either for himself or for any other person, any property of a deceased seaman

- (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.

Provisions, Health and Accommodation

Complaint as to provisions

135.(1) Where 3 or more of the crew of a Barbadian ship consider that the provisions or water provided for the use of the crew are at any time of bad quality or deficient in quantity, they may complain thereof to a Registrar, consular officer or inspector, who may either examine the provisions or water complained of, or cause them to be examined.

(2) Where the person making an examination under this section finds that the provisions or water are of bad quality or deficient in quantity, he shall signify that fact in writing to the master of the ship and if the master does not thereupon provide proper provisions or water in lieu of those that have been condemned he is guilty of an offence.

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

(4) Where the person making the examination certifies in his statement that there was no reasonable ground for complaint, each of the complainants is liable to forfeit to the owner out of his wages a sum not exceeding 1 week's wages.

Allowance for provisions

136.(1) If during the voyage of a Barbadian ship the allowance of provisions provided for a seaman is less than that prescribed, or any of those provisions are

of bad quality, the seaman shall receive by way of compensation for the deficiency or bad quality, for so long as it lasts, the following amounts to be paid to him in addition to, and to be recoverable as, wages

- (a) if the deficiency is not more than $\frac{1}{3}$ of the quantity specified in the agreement, a sum not exceeding \$10 a day;
 - (b) if the deficiency is more than $\frac{1}{3}$ of that quantity, \$15 a day; or
 - (c) in respect of bad quality, a sum not exceeding \$20 a day.
- (2) If the deficiency occurred because the provisions could not be procured or supplied in proper quantities and proper and equivalent substitutes were supplied in lieu thereof, those circumstances must be taken into consideration for the purposes of subsection (1) and the compensation reduced or denied accordingly.

Weights and measures

137.(1) The master of a Barbadian 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 served out and the master shall allow the weights and measures to be used in the presence of a witness at the time of serving out the provisions and articles whenever any dispute arises about the quantities.

(2) The master of a ship who fails without reasonable cause to comply with subsection (1) is guilty of an offence.

Medical examinations and cooking

138.(1) The Minister may make such regulations as appear to him to be necessary

- (a) for the medical examination of all persons seeking employment in any capacity on board ships or vessels, and the issue of medical certificates in respect of such persons; and

- (b) for the examination and granting of certificates to persons qualifying to be employed as ships' cooks.

Crew accommodation

139.(1) The Minister may make regulations respecting the crew accommodation to be provided in Barbadian ships, and, in particular, may make regulations

- (a) respecting the space and equipment to be provided for the sleeping rooms, wash rooms, mess rooms and galleys in a ship;
- (b) providing for protection of the crew against injury, condensation, heat, cold and noise on a ship;
- (c) prescribing the water, heating, lighting, ventilation and sanitary facilities to be supplied on a ship; and
- (d) respecting the inspection, measuring and marking of crew accommodation on a ship and its certification for the purpose of ascertaining register tonnage, and prescribing the fees to be charged therefor.

Certified cook

140.(1) Every foreign-going Barbadian ship of 1000 gross register tons or more must be provided with, and carry, a duly certificated ship's cook.

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

Scales of medical stores

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

may make different provisions for different descriptions of ships in different circumstances.

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

(3) Where an inspector is of the opinion that the medicines, medical stores and appliances on a Barbadian 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 consignee of the ship and the inspector may suspend the certificate of the registry of the ship until he is satisfied that the default has been remedied.

Expenses of medical treatment

142.(1) Where the master of, or a seaman belonging to, a Barbadian ship receives any surgical or medical treatment, or such dental or optical treatment, (including the repairs 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 the persons who are employing him.

(2) If the master or seaman dies and is buried or cremated outside his country of residence, the expenses of his burial or cremation shall also be borne by the persons who are employing him.

Medical practitioners

143.(1) Every Barbadian foreign-going ship that proceeds from a port with 100 persons or more on board must carry on board as part of her complement a duly qualified medical practitioner.

(2) The owner of a Barbadian ship is guilty of an offence and is liable on summary conviction to a fine of \$500 in respect of each day of every voyage of the ship on which the ship is in contravention of subsection (1) by not carrying a duly qualified medical practitioner on board.

(3) For the purpose of subsection (1), “duly qualified medical practitioner” means a medical practitioner authorised by law to practise as a legally qualified medical practitioner in any country of the Commonwealth or in any other country that is approved by the Registrar after consultation with the Minister.

Facilities for Making Complaints

Facilities for complaints

144.(1) Where a seaman while on board a Barbadian ship tells the master of the ship that he wishes to make a complaint to a magistrate, consular officer, Registrar or inspector against the master or any of the crew, the master shall, so soon as the service of the ship will permit, allow the complainant to go ashore, so that he can make his complaint

- (a) if the ship is then at a place where there is a magistrate, consular officer, Registrar or inspector, at that place, or
- (b) if the ship is not then at such place, on her arrival at such a place.

(2) A master of a ship who fails, without reasonable cause, to comply with this section, is guilty of an offence and liable on summary conviction to a fine of \$5 000.

Protection of Seamen from Imposition

Assignment and sale of salvage

145. 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.

Seaman's debts

146. A debt exceeding \$100 incurred by a seaman after he is engaged to serve is not recoverable until the service agreed for is concluded.

*Discipline***Misconduct endangering life or ship**

147. A master or seaman belonging to a Barbadian ship who, by wilful breach of duty or by neglect of duty or by reason of his being under the influence of alcohol or drugs

- (a) does any act tending to cause the immediate loss, destruction or serious damage of the ship, or tending to endanger immediately the life or limb of a person belonging to or on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to, or on board, the ship from any immediate danger of life or limb,

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 1 year, or to both.

General offences against discipline

148.(1) A seaman engaged on a Barbadian ship who commits any of the following acts is guilty of an offence and is liable to be punished as follows

- (a) if he quits the ship without leave after her arrival at a port and before she is placed in security, he is liable to forfeit out of his wages a sum not exceeding 1 week's pay;
- (b) if he is guilty of wilful disobedience to any lawful command, he is liable to imprisonment for 1 month, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding 2 days' pay;

- (c) if he is guilty of continued wilful disobedience to any lawful command or commands, or continued wilful neglect of duty, he is liable to imprisonment for 3 months, and also at the discretion of the court to forfeit for every 24 hours of continued disobedience or neglect either a sum not exceeding 2 days' pay or any expenses properly incurred in hiring a substitute;
- (d) if he assaults the master or any mate or officer of the ship, he is liable to imprisonment for 1 year or to a fine of \$5 000 or to both;
- (e) if he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he is liable to imprisonment for 1 year, or to a fine of \$5 000, or to both;
- (f) if he 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 her stores or cargo, he is liable to imprisonment for 1 year, and also at the discretion of the court to forfeit out of his wages a sum equal to the loss thereby sustained;
- (g) if he commits an act of smuggling, whereby loss or damage is occasioned to the master or owner of the ship, he is liable to pay to the master or owner a sum sufficient to reimburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without affecting any further remedy; or
- (h) if he aids or procures a person to stow away on his ship, and that person is afterwards convicted of the offence, he is liable to imprisonment for 3 months, and also 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 stowaway and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability without affecting any further remedy.

- (2) A seaman does not commit 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 relevant port authority.
- (3) A forfeit or other payment imposed in respect of an offence under subsection (1) may not exceed 1/2 of 1 month's salary in any 1 month, and the seaman must be left a sum that is sufficient for the maintenance of the seaman and his family.
- (4) Offences under this section are triable summarily.

Convictions: effect on other remedies

149. Where a seaman lawfully engaged upon a Barbadian ship commits any of the following acts he is guilty of an offence and liable to be punished as follows

- (a) if he deserts his ship, the offence is desertion and he is liable on summary conviction to imprisonment for 3 months and
 - (i) to forfeit all or any part of the effects he leaves on board and the wages that he has then earned, and
 - (ii) if 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) if he
 - (i) neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship,
 - (ii) is absent without leave at any time within the period of 24 hours next before the ship's sailing from a port, either at the commencement or during the progress of a voyage, or
 - (iii) is absent at any time without leave and without sufficient reason from his ship or from his duty,

and the act or omission does not constitute or is not treated by the master as constituting the offence of desertion, the offence is absence without leave, and he is liable on summary conviction to imprisonment for 2 months and to forfeit out of his wages a sum not exceeding 2 days' pay, and in addition, for every 24 hours of absence either a sum not exceeding 6 days' pay or any expenses properly incurred in hiring a substitute.

Improper negotiations of advance note

150.(1) Where a seaman belonging to a Barbadian ship has been lawfully engaged and has received under his agreement an advance note and, after negotiating 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 summary conviction to a fine of \$250 or to imprisonment for 2 months.

- (2) This section does not remove or limit any remedy, by suit or otherwise
- (a) that a person has in respect of the negotiation of the advance note, or
 - (b) that an owner or master would otherwise have had for breach of contract.

Withholding certificate of discharge

151.(1) Where it is shown to the satisfaction of a Registrar outside Barbados that a seaman belonging to a Barbadian ship and lawfully engaged has wilfully or through misconduct failed to join his ship, the Registrar shall report the matter to the Principal Registrar.

- (2) The Principal Registrar may direct that the certificate of discharge of a seaman referred to in subsection (1) be withheld for such period as he thinks fit.
- (3) While the seaman's certificate of discharge is withheld under subsection (2), the Registrar and any other person having the custody of the documents may, notwithstanding anything in this or any other Act, refuse to

furnish copies of any of the seaman's certificates of discharge or certified extracts of any particulars of his service or character.

False statement, last ship or name

152. A seaman who on or before being engaged wilfully and fraudulently

- (a) makes a false statement of the name of his last ship or alleged last ship, or
- (b) makes a false statement of his own name,

is guilty of an offence and is liable on summary conviction to a fine of \$250, or to imprisonment for a term of 2 months or to both.

Entries in log-book as evidence

153.(1) This section applies to

- (a) an offence committed under section 148 or 149 in or in respect of a Barbadian ship; and
- (b) an act of misconduct for which the agreement of the person who commits it provides for a fine and it is intended to enforce that fine.

(2) An entry of the offence or act of misconduct to which this section applies must be made in the official log-book and be signed by the master and also by an officer or one of the crew.

(3) Where in respect of an offence to which this section applies the offender is still in the ship, he must

- (a) before the next following arrival of the ship at any port, or
- (b) if the ship is at that time in port, before her departure from port,

either be furnished with a copy of the entry or have the same read over distinctly and audibly to him; and the offender may thereupon make such reply thereto as he thinks fit.

(4) A statement that a copy of the entry was, as required by subsection (3), furnished to the offender or read over to him and, in either case, the reply, if any, then made by the offender shall likewise be entered and signed in the manner provided in subsection (2).

(5) In any subsequent legal proceedings, the entries made under this section must, if practicable, be produced or proved; and if they are not produced or proved, the court hearing the matter may refuse to receive evidence of the offence to which this section applies.

Proof of desertion

154.(1) When a question arises whether the wages of a seaman are forfeited under this Part for desertion from a Barbadian ship, it is sufficient for the person attempting to enforce the forfeiture to show that

- (a) the seaman was duly engaged in or belonging to the ship;
- (b) the seaman left the ship before the completion of the voyage or engagement; and
- (c) an entry of the desertion of the seaman was duly made in the official log-book.

(2) Upon showing the facts mentioned in paragraphs (a) to (c) of subsection (1), the desertion is proved so far as it concerns any forfeiture of wages under this Part, unless the seaman can produce a proper certificate of discharge or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving the ship.

Application of forfeiture

155.(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, 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 Government of Barbados.

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

Question in suit

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

Deduction of fines

157. A fine imposed on a seaman for any act of misconduct for which his agreement imposes the fine must be deducted as follows

- (a) when the offender is discharged and the act of misconduct and the entry in the official log-book required by this Act to be made in respect thereof are proved to the satisfaction of the Registrar, consul officer or Director, the master or owner shall deduct the fine from the wages of the offender;
- (b) the fine so deducted shall be paid to a 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; and
- (c) an act of misconduct for which a fine has been inflicted and paid by or deducted from the wages of the seaman shall not be otherwise punished under this Act.

Persuasion to desert

158. A person is guilty of an offence and is liable on summary conviction to a fine of \$500 who by any means persuades a seaman

- (a) to neglect or refuse to join or proceed to sea in his ship,
- (b) to desert from his ship, or

- (c) otherwise to absent himself from his duty.

Penalty for stowaways

159.(1) A person who secretes himself and goes to sea in a ship without the consent of

- (a) the owner or master;
- (b) the person in charge of the ship; or
- (c) any other person entitled to give that consent,

is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or to imprisonment for 3 months, or to both.

(2) Where a person goes to sea in a ship without obtaining the consent mentioned in subsection (1), then, so long as he remains in that ship, that person

- (a) belongs to the ship,
- (b) is subject to the same laws and regulations for preserving discipline, and
- (c) is subject to the same fines and punishments for offences constituting or tending to a breach of discipline,

as if he were a member of the crew and had signed the crew agreement.

*Official Log-Book***Official log-book**

160.(1) An official log-book in a prescribed form must be kept in every Barbadian ship of over 100 gross register tons.

(2) The Minister may make regulations prescribing

- (a) the form of official log-books;

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- (b) the particulars to be entered in 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 united with the ordinary ship's log, but in all cases the spaces in the official log-book must be duly filled up.
- (4) An 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, it shall be made and dated to show the dates of the occurrence and the entry respecting it; and
 - (c) if it is made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, it shall not be made more than 24 hours after that arrival.
- (5) Every entry in the official log-book must 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 must 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 fact stated therein.

Entries in official log-book

161. The master of a ship for which an official log-book is kept shall, subject to any regulations made under section 160, enter or cause to be entered in the official log-book particulars of

- (a) every conviction by a court of a member of his crew and the punishment inflicted;
- (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 offence for which punishment is inflicted on board, and the punishment inflicted;
- (d) the conduct, character and qualifications of each of his crew or a statement that he declines to give an opinion on these 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 antiscorbutics or medicines;
- (g) every birth and death happening on board his ship;
- (h) every marriage taking place on board ship with the names and ages of the parties;
- (i) 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;
- (j) the wages due to any seaman who dies during the voyage, and the gross amount of all deductions to be made from those wages;

- (*k*) 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;
- (*l*) every collision with any other ship and circumstances in which it occurred;
- (*m*) the date and time of posting up in the ship of a notice containing particulars of the ship's draught and freeboard; and
- (*n*) any matter directed by this Act to be entered.

Delivery of copy of official log-book

162.(1) The master of every foreign-going Barbadian ship shall, upon the ship's arrival at her final port of destination or upon the discharge of the crew, whichever first happens, deliver a copy of the official log-book of the voyage to the owner of the ship who shall retain the same for a period of 7 years after delivery and shall produce the same on demand made therefor by a Registrar or other proper officer.

(2) The master or the owner of every Barbadian near coastal trade ship or Caribbean trade ship for which an official log-book is required to be kept, shall within 21 days after the 30th June and the 31st December in each year, deliver the official log-book for the preceding half-year

- (*a*) in the case of a ship over 150 gross register tonnes to the Registrar,
- (*b*) in the case of a ship under 150 gross register tonnes, but not less than 100 gross register tonnes, to the Director.

(3) A master or owner of a ship who fails without reasonable cause to comply with this section commits an offence.

Penalty

163.(1) The master of a Barbadian ship commits an offence when the official log-book of the ship is not kept in the manner required by this Act, or if an entry

directed by this Act to be made therein is not made at the time and in the manner directed by this Act.

(2) A person is guilty of an offence who in an official log-book makes, in respect of an occurrence that took place before the arrival of the ship at her final port of discharge, an entry thereof more than 24 hours after that arrival.

(3) A person is guilty of an offence who wilfully

- (a) destroys, omits, alters, or renders illegible any entry in an official log-book, or
- (b) makes a false or fraudulent entry in, or omission from, an official log-book.

Returns and Delivery of Documents

List of crew

164.(1) Every master of a Barbadian ship shall make out and sign a list (in this Act referred to as the “list of the crew”) in an approved form containing the following particulars

- (a) the number and date of the ship’s register and her net register 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 last 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 circumstance 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; and
 - (h) details of any marriage that takes place on board, with the date thereof and the names and ages of the parties.
 - (2) The list of the crew
 - (a) in the case of a foreign-going ship, shall be delivered or transmitted by the master
 - (i) within 48 hours after the arrival of the ship at her final destination in Barbados, or
 - (ii) upon the discharge of the crew
- whichever first happens, to the owner of the ship who shall retain the list for a period of 7 years after receipt, and who shall produce the same on demand made thereof by a Registrar or other proper officer;
- (b) in the case of a near coastal trade ship or Caribbean trade ship over 150 gross register tonnes shall be delivered or transmitted by the master or owner to the Registrar within 21 days after the 30th June and the 31st December in each year; and
 - (c) in the case of a near coastal trade ship or Caribbean trade ship under 150 gross register tonnes, but not less than 100 gross register tonnes, shall be delivered or transmitted by the master or owner to the Director within 21 days after the 30th June and the 31st December in each year.
- (3) Where a Barbadian ship is lost or abandoned, the ship's master or owner shall, if practicable and as soon as possible, deliver to a Registrar the list of the crew duly made out to the time of the loss or abandonment.
 - (4) This section does not apply to ships of under 100 gross register tonnes.
 - (5) For the avoidance of doubt, "crew" in this section includes the master of the ship and any apprentice aboard ship.

Documents to be transferred

165. Where during the progress of a voyage the master of a Barbadian ship is removed or suspended, or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the certificates of registration and the various documents relating to the navigation of the ship and to its crew that are in his custody and his successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Returns of births and deaths

166.(1) The master of a Barbadian ship, upon its arrival at a port, or at such other time and place as the Registrar may with respect to any ship or class of ships direct, shall deliver, in such form as the Principal Registrar prescribes a return of the facts recorded by the master in respect of a birth or death on board the ship

- (a) to the Registrar if the ship is in Barbados, or
- (b) to a Registrar or consular officer, if the ship is elsewhere.

(2) When the return is made elsewhere than in Barbados, the Registrar or consular officer must send a certified copy of the return to the Principal Registrar.

(3) The Principal Registrar shall cause the information contained in the return or copy thereof to be sent to the authority having responsibility for the registration of births and deaths.

*Relief and Repatriation***Repatriation of seamen**

167.(1) Except as otherwise provided in this Act, it is an implied term of every agreement entered into for the employment of a seaman in a Barbadian ship that,

if 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.

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

(3) The responsibility of the master or owner 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 Government of Barbados.

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

- (a) by effluxion of time,
- (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.

Exception from liability

168.(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 a sickness or infirmity that was wilfully concealed at the time of his engagement,

is not entitled to be returned under section 167 at the expense of the master or owner.

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

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

(4) Notwithstanding subsection (1) or (3), the master and owner of the ship are bound to ensure that the seaman does not become a charge upon the Government.

Duty of Registrar etc.

169.(1) When a seaman is to be left behind or discharged from a ship at a port other than his port of engagement, a Registrar or consular officer may demand from the owner or master of the ship, whether principal or agent, a guarantee for the proper discharge of any obligations imposed by section 167 or 168.

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

Effect of workmen's compensation

170. When 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 167 to the extent that he receives that medical aid, and
- (b) removes any right of the seaman to receive maintenance under section 167, to the extent and for so long as he receives the periodical payments.

Application to foreign vessels

171. Sections 167 to 170 apply in respect of a foreign ship that engages a seaman in Barbados and “owner” in such a case includes any person appointed or nominated by the owner, or the charterer if the ship is on demise or charter, to act as his agent and who was so acting at the time the seaman was engaged.

Wages etc. of seaman left behind

172.(1) Where a seaman belonging to a Barbadian ship is left at a place other than a proper return post, 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.

(2) On the termination of the voyage during which the seaman was left behind, the master shall furnish to a Registrar or consular officer, within 48 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 required by the Registrar or consular officer, furnish such vouchers as may be reasonably required to verify the delivery and retention accounts.

(4) The master of a ship shall deliver to a Registrar or consular 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 consular 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 sum shown in a retention account that appear to a Registrar or consular officer to be owing or payable to the master of the ship; and for that purpose the Registrar or consular officer must 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, a Registrar or consular 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 or consular officer shall deliver the remainder of the wages and effects to such person at such time and in such manner as the Principal Registrar requires, and shall render such accounts in respect thereof as the Principal Registrar may direct.

(8) In this section

- (a) “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; and
- (b) “retention account” means an account of any expenses caused 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 148 or 149, 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.

Liability of master

173. The master of a Barbadian 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 a Registrar or consular officer that the loss or damage occurred without is neglect or consent after the seaman left his ship.

Liability of Government

174.(1) The Government of Barbados is not liable with respect to anything done under section 172 except that, if after the wages or effects of a seaman have been dealt with under section 172, any legal proceedings are taken in respect of those wages or effects, or involving the forfeiture of those wages by the seaman, against the master or owner of the ship or by the master or owner of the ship against the seaman, the Registrar 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 as respects 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.

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

(3) The Minister or his nominee may, if and so far as he thinks fit, meet any claim made by a seaman against the master or owner of the ship in respect of any wages or effects dealt with under section 172 although legal proceedings are not actually taken in respect thereof, if the Director or his nominee 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 10 days of the notice being given.

(4) For the purpose of this section, any legal proceedings taken or any claim made on behalf of a person are to be treated as proceedings taken, or a claim made, by the seaman.

Payment to Government

175.(1) Any sums remitted under section 172 or arising from the sale of effects under that section, and not disposed of in accordance with that section, shall be paid to the Government of Barbados.

(2) The master of a ship who without reasonable cause contravenes section 172 or 175 is guilty of an offence, without affecting any other liability to which the ship might be subject.

Non-application of section 172

176. Section 172 does not apply in the case of an absent seaman when

- (a) the master of a ship satisfies a Registrar or consular officer that none of the effects of the seaman have, to his knowledge, been left on board the ship, and that he has paid all wages due to the seaman;
- (b) the amounts 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 \$500;
- (c) the master of the ship satisfies a Registrar or consular 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 \$500; or
- (d) the question of the 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 48 hours of the arrival of the ship at the port at which the voyage terminates.

Effects of seaman

177.(1) The effects of a seaman described in section 172, may be sold by a Registrar or consular officer in such manner as he thinks fit when they are delivered to him, unless the Minister directs to the contrary.

(2) If 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.

(3) For the purposes of this section and sections 72 to 176, “effects” includes the proceeds of any sale of the effects of a seaman.

Certificate of discharge

178. Where the master of a Barbadian ship discharges a seaman, he shall give to that seaman a certificate of discharge in an approved form.

Return from service

179.(1) Where during the currency of his agreement the service of a seaman belonging to a Barbadian ship terminates otherwise than by the consent of the seaman, the master of the ship shall, in addition to

- (a) giving the seaman a certificate of discharge required by this Part, and
- (b) paying to the seaman the wages to which he is entitled,

make adequate provisions in accordance with this Act for maintenance and return of the seaman to a proper return port and the master shall request a Registrar or consular officer to endorse the particulars of any provisions so made upon the crew agreement of the ship that the seaman is leaving.

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

(3) A charge upon a ship under subsection (2)(b) may also be recovered from the person who is the owner of the ship for the time being

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

at the suit of the Registrar or consular officer, or other person defraying the expenses, or, if the expenses, have been allowed out of public money, as a debt to the Crown, either by ordinary process of law or in the court, and in the manner, in which wages are recoverable by a seaman.

Discharge on ownership change

180.(1) Where a Barbadian ship is transferred or disposed of, any seaman belonging to that ship shall be discharged unless he consents in writing to complete the voyage of the ship if it is continued.

(2) Where a seaman is discharged under this section, the provisions of this Part relating to the certificate of discharge and the 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.

Certificate when seaman left

181.(1) The master of a Barbadian 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 a Registrar or consular officer endorsed on the crew agreement certifying the cause of the seaman being left behind, whether the cause is unfitness or inability to proceed to sea, desertion, disappearance or otherwise.

(2) The Registrar or consular 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 the 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.

Offence

182.(1) Where the master of the ship fails to comply with section 180 or 181, he, without limiting his liability under any other provision of this Act, commits an offence and is liable on summary conviction to a fine of \$2 500.

- (2) In a prosecution for an offence under section 180 or 181, the onus is upon the master of the ship to prove that the certificate
- (a) was obtained, or
 - (b) could not be obtained without unreasonable delay to the ship, or
 - (c) was unreasonably withheld.

Account of wages

183.(1) Where a master of a Barbadian ship leaves a seaman behind at any foreign port or place, on the ground of his unfitness or inability to proceed to sea, the master shall deliver to the person signing the certificate required by section 181 a full and true account of the wages due to the seaman and, if that person is a consular officer, the master shall deliver the account in duplicate.

(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 to a fine of \$2 500.

Payment of wages

184.(1) The master shall pay to a consular officer the wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea, if the consular officer will receive the wages.

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

(3) A payment under this section shall be made, whenever practicable, in money, and when not so practicable, by bills drawn on the owner of the ship.

(4) A master who fails without reasonable cause to pay wages as provided by this section, commits an offence and is liable on summary conviction to a fine of \$2 500.

Application of wages

185. 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, a Registrar or consular officer, that officer accepts them on condition that he deals with them in the following manner

- (a) if the seaman subsequently obtains employment at, or leaves the port at which the payment has been made, the officer will 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) if 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) if the seaman is sent to a proper return port at the public expense under this Act, the officer will account for the money to the Minister, and after retaining any expenses duly incurred in respect of the seaman, except such expenses as the master or owner of the ship is required by this Act to defray, the money will be dealt with as wages of the seaman.

Relief of distressed seaman

186.(1) Where a seaman

- (a) is found in any place outside Barbados after having been shipwrecked from a Barbadian ship, or
- (b) by reason of having been discharged or left behind from a Barbadian ship in any place outside Barbados is in distress in that place,

a Registrar or consular officer may provide relief to that seaman in accordance with this Act.

- (2) Relief is provided the seaman when provision is made
 - (a) for the return of the seaman at the expense of the Government of Barbados to a proper return port, and also for his necessary clothing and maintenance until his departure for such a port;
 - (b) in case of death, for burial 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.
- (3) A seaman for whom relief is provided under paragraph (a) of subsection (1) is included within the expression “distressed seaman” in this Act.

Repayment of relief and return

187.(1) Where any expenses are incurred by a consular officer on behalf of the Government of Barbados under section 186, or are incurred by the government of a foreign country and are repaid to such foreign country by the Government of Barbados, the Minister may pay to the consular officer or foreign government the amount of the expenses out of any moneys available for the purpose or out of any moneys appropriated for that purpose by Parliament.

- (2) Any or all of the money paid by the Minister under subsection (1), together with the wages, if any, due to a distressed seaman, is a charge upon the ship to which the seaman belonged, and is a debt due to the Government of Barbados
 - (a) from the master or owner of the ship at the time of the loss;
 - (b) if 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) if the ship is a foreign ship, also from the person, whether principal or agent, who engaged the seaman for service in the ship.
- (3) 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 of

Barbados, either by ordinary process of law or in the court and manner in which wages are recoverable by seamen.

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

Forcing ashore

188. A person who, being the master or crew of a Barbadian ship, wrongfully forces a seaman on to shore and leaves him behind, or otherwise causes a seaman to be wrongfully left behind at any place commits an offence.

Proper return port

189. For the purposes of this Part, either the port at which a seaman was shipped, or a port in the country to which he belonged, or, in the case of a discharged seaman, some other port agreed to by the seaman at the time of his discharge, is a proper return port; but in the case of a seaman shipped in Barbados the return port is Bridgetown unless otherwise agreed to by him at the time of his discharge.

Manner of return

190.(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

- (a) if he is fit for work, by providing him with suitable employment on board a ship that is proceeding to a proper return port and that is in want of men to make up its complement, or
- (b) if that is not practicable, by 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 consular officer such sums as the consular 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.

Return of seaman

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

(2) In deciding the question of a seaman's return port, the Registrar or consular officer must have regard both

- (a) to the convenience of the seaman and to the expense involved, and
- (b) if it is the case, to the fact that a ship that is in want of men to make up its complement is about to proceed to a proper return port or to a port in the vicinity thereof.

(3) Nothing in this section relieves the owner from the obligation and expense of returning the seaman to his proper return port.

Assistance by Minister

192.(1) The Minister may, whenever he deems it necessary, spend money on the temporary relief in Barbados, in such manner as he thinks advisable, of shipwrecked, destitute or otherwise distressed seamen not otherwise entitled to relief under this Act or under the laws of the country to which their vessel belongs.

(2) Any expenses incurred for shipwrecked, destitute or otherwise distressed seamen under this section, must be repaid to the Minister by the master, owner or agent of the vessel to which the distressed seamen belonged, and may be recovered by the Minister on behalf of the Government of Barbados in the same

manner as expenses incurred outside Barbados for distressed seamen of Barbadian ships are recovered.

PART III PASSENGER SHIPS

Regulations of passenger ships

193. The Minister may make regulations

- (a) respecting accommodation, facilities and provisions on board passenger ships that carry passengers from or to Barbados,
- (b) requiring the preparation and furnishing of particulars as to all passengers to or from Barbados, and
- (c) limiting the number of passengers that a ship may carry from Barbados, whether or not the ship is a passenger ship.

Offences re passenger ships

194.(1) Any person on board or attempting to board a passenger ship in Barbados commits an offence who

- (a) being drunk or disorderly, is requested by the owner or any person in his employment to leave the ship, and after having the amount of any fare paid by him, returned or tendered to him, does not leave the ship;
- (b) after warning by the master or other officer of the ship, molests or continues to molest any passenger;
- (c) having gone on board the ship at any place and being requested, because the ship is full, by the owner or any person in his employment, to leave the ship before it has left that place, and having had the amount of any fare paid by him, returned or tendered to him does not leave ship;

- (*d*) travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;
 - (*e*) having paid his fare for a certain distance, knowingly and wilfully proceeds in the ship beyond that distance without first paying the additional fare for the additional distance intending to avoid payment thereof;
 - (*f*) on arriving in a ship at a point to which he has paid his fare, knowing and wilfully refuses or neglects to leave the ship;
 - (*g*) fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipts showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship; or
 - (*h*) wilfully does or causes to be done anything 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 commits an offence who
- (*a*) being drunk and disorderly, has been on that account refused admission to a passenger ship in Barbados by the owner or any person in his employment and, after having the amount of any fare paid by him returned or tendered to him, nevertheless persists in attempting to enter the ship; or
 - (*b*) after having been refused admission to a passenger ship in Barbados by the owner or person in his employment because the ship is full and having had the amount of any fare paid by him returned or tendered to him, nevertheless persists in attempting to enter the ship.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine of \$2 000 or to imprisonment for 2 months or to both.

Ticket for passage

195.(1) Where a person receives money from another person for or in respect of a passage in a ship proceeding from Barbados to any place outside Barbados, he shall give to the person paying the money a contract ticket signed by or on behalf of the owner or charterer of the ship.

(2) A contract 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 unberthed;
- (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) Any question that arises respecting the breach or non-performance of any stipulation in any contract ticket may, at the opinion of the passenger interested, be tried before a magistrate, and the magistrate may award the complainant such damages and costs as he thinks just, not exceeding 3 times the amount of the passage money specified in the contract ticket.

PART IV

SAFETY

*Definitions***Definitions**

196.(1) In this Act

- (a) “load line certificate” means
 - (i) in relation to a Barbadian ship, an international load line certificate or a local load line certificate, issued, in either case, under section 235, or
 - (ii) in the case of a foreign ship, a certificate having the like effect as an international load line certificate issued by a foreign country to which the Load Line Convention applies;
- (b) “Load Line Convention” means the International Convention on Load Lines of 1966, and any amendments or replacements thereto in effect in respect of Barbados;
- (c) “load line ship” has the meaning given that phrased by section 230;
- (d) “Safety Convention” means the International Convention for the Safety of Life at Sea, 1974, and any amendments or replacements thereto in effect in respect of Barbados;
- (e) “Safety Convention Certificate” means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and includes
 - (i) a safety certificate;
 - (ii) a safety construction certificate;
 - (iii) a safety equipment certificate;
 - (iv) a safety radiotelegraphy certificate;

- (v) a safety radiotelephony certificate; and
- (vi) any similar certificate that is limited, modified or restricted by an exemption certificate,
- (f) “Safety Convention ship” means a ship registered in a country to which the Safety Convention applies and “Safety Convention passenger motor ship” means a passenger motor ship registered in such a country;
- (g) “short international voyage” is an international voyage in the course of which a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety. Neither the distance between the last port of call in the country in which the voyage begins and the final port of destination nor the return voyage shall exceed 600 miles. The final port of destination is the last port of call in the scheduled voyage at which the ship commences its return voyage to the country in which the voyage began.

Appointment of inspectors

197.(1) The Principal Registrar may, with the approval of the Minister either generally or in a particular case, appoint at such places as he considers advisable nautical inspectors who must be persons duly qualified to inspect

- (a) the boilers and machinery of motor ships;
- (b) the equipment of ships, including ships’ tackle, furnishing and appurtenances;
- (c) the hulls and superstructures of ships;
- (d) the life-saving, fire-fighting and other safety equipment of ships;
- (e) the radiotelegraphy and radiotelephony installations of ships; or
- (f) the stowage and manner of loading of ship’s cargoes and the stowage of dangerous goods in vessels.

(2) One person may be appointed as a nautical inspector in several capacities.

(3) Unless otherwise stated, the survey and inspection of ships for the purposes of this Part and the enforcement of the regulations under this Part must be carried out by inspectors.

(4) The Director may, with the approval of the Minister, appoint inspectors who will undertake the duties specified in subsection (1) with respect to the small vessel register kept pursuant to section 15(1).

[2001-9]

(5) An inspector appointed under subsection (4) in addition to a surveyor appointed under section 85(1) may also be appointed to undertake the duties of a port state control officer.

[2001-9]

Rights of inspectors

198.(1) An inspector, in the exercise of his duties, may, at all reasonable times, go on board any ship in Barbados, or any Barbadian ship wherever it may be, and inspect it or any of its machinery, or equipment, or any certificate of a master, mate or engineer.

(2) When

- (a) an inspector considers a ship unsafe or unfit to carry passengers, in the case of a passenger ship, or the machinery or equipment defective in such a way as to expose persons on board to serious danger; or
- (b) an inspector finds that any provisions of this Act or any regulations made or deemed to be made thereunder have not been complied with in respect of the ship and considers that the ship should not go to sea for that reason,

the inspector may, in the case of a foreign ship, cause it to be detained, or, in the case of a Barbadian ship, suspend the certificate of registry of the ship, until he is satisfied that the ship can properly go to sea.

(3) Where an inspector visits a ship, he may ask the owner or his agent, the master or chief engineer, or any other person on board and in charge, or appearing to be in charge of the ship, and question concerning any accident that has happened on the ship, as he thinks fit; and every such person shall fully and truly answer every such question.

(4) An inspector may require that the machinery of a ship be put in motion so that he can satisfy himself about its condition.

Record of inspection

199.(1) An inspector shall keep a record of the inspections he makes and the certificates he issues, in such form and with such particulars respecting them as the Registrar may require.

(2) An inspector shall furnish copies of his records and certificates and such other information pertaining to the duties of his office as the Registrar may require.

Safety and Load Line Conventions

Regulations re Safety Conventions

200. The Minister may make such regulations as are necessary to give effect to the Safety Convention and the Load Line Convention.

Notice of countries

201. When the Minister is satisfied

- (a) that the Government of any country has ratified, acceded to or denounced the Safety Convention or the Load Line Convention, or
- (b) that the Safety Convention or the Load Line Convention has been applied or ceased to apply to any country,

the Minister may make a declaration to that effect by notice in the *Official Gazette*.

*Inspection for Safety***Surveys of passenger ships**

202. Every Barbadian passenger ship shall be subjected to the following specified surveys, namely

- (a) a survey before the ship is put into service;
- (b) periodic surveys at intervals of not more than 1 year, and
- (c) additional surveys as occasion arises.

Initial survey

203.(1) The survey made before a passenger ship is put into service must include a complete inspection of the hull, machinery and equipment.

(2) The survey must be so made as to ensure that the arrangements, materials and scantlings of

- (a) the hull,
- (b) the boilers and other pressure vessels,
- (c) the main and auxiliary machinery,
- (d) the electrical installations,
- (e) the radio installation,
- (f) the radio installation in motor lifeboats,
- (g) the portable radio apparatus for survival craft,
- (h) the life-saving appliances,
- (i) the fire detecting and extinguishing appliances,
- (j) the pilot ladder, and
- (k) the other equipment,

fully comply with the requirements of the Safety Convention and with any regulations made under Sections 200 and 211.

- (3) The survey must also be-so made as to ensure that
- (a) the workmanship of all parts of the hull and machinery and equipment is satisfactory, and
 - (b) the ship is provided with such light and sound signals and distress signals,

as are required by the Safety Convention and the collision regulations.

Subsequent surveys

204.(1) The periodic surveys made of a passenger ship must be of such a nature as to ensure that

- (a) the hull,
- (b) the boilers and other pressure vessels,
- (c) the main and auxiliary machinery,
- (d) the electrical installation,
- (e) the radio installation,
- (f) the radio installation in motor lifeboats,
- (g) the portable radio apparatus for survival craft,
- (h) the life-saving appliances,
- (i) the fire detecting and extinguishing apparatus,
- (j) the pilot ladders, and
- (k) the other equipment,

are in a satisfactory condition and fit for the service for which they are intended, and that they comply with the requirements of the Safety Convention and any regulations made under section 200 or 211.

- (2) The light and sound signals and the distress signals carried by the ship shall also be subjected to the survey.

Additional surveys

205.(1) A survey which may be either general or partial, as the circumstances require, must be made of a passenger ship every time

- (a) an accident occurs on or to the ship,
 - (b) a defect is discovered that affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment or
 - (c) important repairs or renewals are made to the ship.
- (2) The survey must be so made as to ensure that
- (a) the necessary repairs or renewals have been effectively made,
 - (b) the material and workmanship of the repairs or renewals are in all respects satisfactory, and
 - (c) the ship complies in all respects with the Safety Convention and the collision regulations and any regulations made under this Act.

Barbadian cargo ship survey

206.(1) The hull, machinery and equipment of a Barbadian cargo ship must be surveyed on completion of the ship, and thereafter at intervals of not more than 4 years.

- (2) The survey must be so made as to ensure that the arrangements, materials and scantlings of
- (a) the hull,
 - (b) the boilers and other pressure vessels,
 - (c) the main and auxiliary machinery,
 - (d) the electrical installation, and

- (e) the other equipment,
- are in all respects satisfactory for the service for which the ship is intended.
- (3) The hull, machinery and equipment referred to in subsection (1) does not include items in respect of which they are issued
- (a) cargo ship safety equipment certificates,
 - (b) cargo ship safety radiotelegraphy certificates, or
 - (c) cargo ship radiotelephony certificates.

Life-saving appliances: cargo ships

207.(1) The life-saving appliances and fire-fighting appliances of Barbadian cargo ships must be surveyed before the ship is put into service, and thereafter at intervals of more than 2 years.

(2) The fire control plans in new Barbadian cargo ships, and the pilot ladders, light and sound signals and distress signals in new and existing Barbadian cargo ships must be included in the surveys for the purpose of ensuring that they comply fully with the requirements of the Safety Convention, and, where applicable, the collision regulations.

Radio installation

208. The radio installations of Barbadian cargo ships and any radiotelegraph installations in a motor lifeboat or any portable radio apparatus for survival craft that is carried in compliance with any regulations made under sections 200 and 211 must be surveyed before the ship may be put into service, and thereafter at intervals of not more than 1 year.

Pleasure yacht

209. Pleasure yachts are exempt from the inspections required under sections 202 to 208.

Inspectors' duty re reports

210.(1) When, after a survey is made in respect of a ship, the inspector who did the inspection is satisfied that he can with propriety do so, it becomes his duty to forward a report of his survey to the Registrar.

(2) The report must contain a statement showing, in respect of the ship inspected,

- (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 that is required under any regulations is on board and in good condition;
- (d) that the master, mates and engineers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;
- (e) the class of voyage on which the ship is fit to ply, and the time, if less than 1 year, for which the hull, equipment and machinery will be sufficient;
- (f) if the ship is a passenger ship, the number of passengers that may be carried thereby; and
- (g) the steam pressure that may be carried on the boilers.

*Safety Regulations***Safety regulations**

211. The Minister may make regulations respecting

- (a) the construction of hulls, including their subdivision into water-tight compartments and the fitting of double-bottoms and fire-resisting doors;
- (b) the construction of machinery, with particular reference to the testing of the main and auxiliary boilers, connections, steam pipes, and high pressure vessels, and the fuel tanks for internal combustion engines;
- (c) the construction of equipment and the class and quantity of various types of equipment to be carried in any vessel, including the marking of boats, life-boats, and buoyant apparatus;
- (d) compasses, sounding apparatus and other navigating appliances;
- (e) propelling power and the appliances and fitting for steering;
- (f) stability, and the data relating thereto, to be supplied to the master of a motor ship;
- (g) the marking of subdivision load lines on passenger motor ships;
- (h) the provisions to be made for mustering the passengers and crew for abandoning ship, including the lighting of decks, passage ways and similar parts of the ship, and the provision of proper means of escape from the various parts of the ship;
- (i) passenger accommodation and the number of passengers allowed to be carried;
- (j) the production of plans and documentary evidence showing the construction of hulls, machinery and equipment, the subdivision of hulls into water-tight compartments, the arrangement of passenger

accommodation, and like information necessary to decide on the fitness of a motor ship for any particular service;

- (k) the inspection of the hulls, equipment and machinery of motor ships and the extent to which inspection is to be carried out, having due regard to the class of voyage on which a motor ship is to be engaged and the trade on which she is employed, and whether the ship is classed with a society or association, approved by the Minister for the classification and registration of shipping;
- (l) the manning of motor ships, the number of certificated life-boat men to be carried, and the qualifications for, and the granting of certificates to, life-boat men;
- (m) the carrying of line-throwing apparatus;
- (n) precautions against fire, and damage control plans;
- (o) the holding of periodic boat and fire drill;
- (p) the provision of pilot ladders on ships;
- (q) the signals to be carried and used;
- (r) the radio apparatus and the number of radio operators to be carried in various classes of ships, and the hours of duty of such radio operators; and
- (s) the carrying of such charts, directions or information as the Minister considers necessary or expedient for the safe operation of ships, either at all times or on specified voyages.

Issue of Certificates

Certificate to passenger or cargo ship

212.(1) Where a Barbadian ship, being a Safety Convention ship, is intended to carry more than 12 passengers on an international voyage, and the Registrar on receipt of the report of inspection provided for under section 210 is satisfied

that all relevant provisions of this Act have been complied with, the appropriate Safety Convention certificate or certificates, and an inspection certificate, shall be issued under this Act in respect of that ship.

(2) Where a Barbadian ship, being a cargo ship exceeding 500 gross register tonnes, is intended to be employed on an international voyage and an inspector is satisfied that all relevant provisions of this Act have been complied with, the appropriate Safety Convention certificate or certificates and an inspection certificate shall be issued under this Act in respect of that ship.

Local safety certificate

213. The Minister may make regulations prescribing safety requirements, and providing for the issue of local safety certificates, in respect of

- (a) any ship or class of ship to which the Safety Convention does not apply; and
- (b) for matters for which the Safety Convention does not expressly provide in respect of any ship or class of ship to which that Convention applies.

Posting of certificate

214.(1) On receipt of an inspection certificate or a local safety certificate or a Safety Convention certificate, the owner or master shall cause the certificate or certificates to be posted up in some conspicuous place on board the ship for the information of all on board; and the certificate or certificates shall be kept so posted while they are in force and the ship is in use.

(2) A certificate is in force for the period specified therein or until notice is given by the Registrar to the owner or master that the certificate has been cancelled.

Certificates by other governments

215.(1) The Minister may request the government of a country to which the Safety Convention applies to issue in respect of a Barbadian ship any certificate provided for by the Safety Convention.

(2) A certificate issued in pursuance of a request under subsection (1) and containing a statement that it has been so issued has effect for the purposes of this Act as if it had been issued hereunder.

Certificates to non-Barbadian ships

216.(1) The Minister, at the request of the Government of a country to which the Safety Convention applies, may cause any certificate provided for by the Safety Convention to be issued in respect of that country, if he is satisfied in like manner as in the case of a Barbadian ship that the certificate can properly be issued.

(2) A certificate is issued on a request under subsection (1) and it must contain a statement that it has been so issued.

(3) A valid Safety Convention certificate issued in respect of a ship by the government of a country to which the ship belongs has, subject to any regulations made by the Minister, the same effect in Barbados as a corresponding certificate issued in respect of a Barbadian ship under this Act.

*Proceeding to Sea***Production of certificate**

217.(1) The master of a Safety Convention ship that is not a Barbadian ship and for which a clearance is demanded in respect of an international voyage shall produce to a customs officer a valid Safety Convention certificate; and if the Safety Convention certificate is qualified, the master shall show that the corresponding exemption certificate has been issued.

(2) A clearance shall not be granted, and the ship shall be detained, until the appropriate certificates are produced.

Barbadian ship and certificate

218. The master of

(a) a Barbadian Safety Convention ship, or

(b) a Barbadian ship that is required to possess a local safety certificate,

shall, in respect of every international voyage, produce to the customs officer from whom a clearance is demanded a valid Safety Convention certificate or local Safety Certificate, as the case may be.

International voyage outside Convention

219.(1) A passenger ship that is registered in a country to which the Safety Convention does not apply, and a cargo ship exceeding 500 gross register tonnes that is so registered, shall not proceed or attempt to proceed to sea on an international voyage from Barbados until the ship has complied with such provisions of this Act respecting safety as applied to Barbadian ships.

(2) Notwithstanding subsection (1), the Principal Registrar may authorise the clearance of any ship to which subsection (1) applies if he is satisfied that

(a) no passengers are carried;

(b) the amount of cargo carried is not more than allows the ship to make a voyage in safety;

(c) the hull, boilers, machinery and equipment of the ship are in good condition and sufficient for the voyage contemplated; and

(d) the radio installation is in good condition and sufficient for the voyage contemplated.

*General Safety Precautions and Responsibilities***Qualifications of crew**

220. Every Barbadian ship shall be manned with a crew both sufficient and efficient, from the point of view of safety of life, for the purpose of the intended voyage, and shall, during the voyage, be kept so manned.

Hazards to navigation

221.(1) The master of a Barbadian ship on meeting with a dangerous condition, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information of it

- (a) by all means of communication at his disposal, and
- (b) in accordance with any regulations that the Minister may make or adopt therefor,

to ships in the vicinity, or to such authorities on shore as are prescribed by those regulations.

(2) The person in charge of a radio station in Barbados or on board a Barbadian ship shall, on receiving a signal prescribed in the regulations 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.

(3) A transmission of messages in pursuance of this section shall be without charge.

(4) For the purposes of this section

- (a) “tropical storm” means a hurricane, typhoon, cyclone or other storm of a similar nature; and
- (b) a master of a ship shall be deemed to have met with a tropical storm if he has reason to believe there is such a storm in his vicinity.

Distress signals

222.(1) The Minister may make regulations prescribing what signals will be signals of distress and urgency; and the signals so prescribed are signals of distress and urgency, respectively, for the purposes of this Act.

(2) In regulations under this section, the Minister may further prescribe, so far as is necessary and expedient, the circumstances in which, and the purposes for which, any signals prescribed by the regulations are to be used, and the circumstances in which the signals are to be revoked.

Abuse of distress signals

223.(1) A master of a ship is guilty of an offence who uses or displays or causes or permits any person under his authority to use or display

- (a) any signal prescribed by regulations under section 222, otherwise than in the circumstances and for the purposes prescribed by the regulations; or
- (b) any private signal, whether registered or not, that is liable to be mistaken for any signal so prescribed by the regulations.

(2) 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.

(3) Compensation under subsection (2) is, without affecting any other remedy, recoverable in the same manner as salvage is recoverable.

Obligation to assist in distress

224.(1) The master of a Barbadian ship at sea on receiving a signal from any source that a ship or aircraft or survival craft thereof 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.

- (2) If he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to proceed to the assistance of the persons in distress, he shall enter in the official log-book the reason for failing to proceed to the assistance of those persons.
- (3) The master of any ship in distress may, after consultation, so far as possible, with the master of the ships that answer his distress signal, requisition such one or more of those ships as he considers best able to render assistance.
- (4) It is the duty of the master of a Barbadian ship that is requisitioned under section 3 to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

Prevention of Collisions

Giving helm orders

- 225.** No person in a Barbadian ship shall, when the ship is going ahead
- (a) give a helm or steering order containing the word “starboard” or “right” unless he intends that the head of the ship move to the right; or
 - (b) give a helm or steering order containing the word “port” or “left” unless he intends that the head of the ship move to the left.

Collision regulations

- 226.(1)** The Minister may make regulations, in this Act referred to as “collision regulations”
- (a) for the prevention of collision at sea;
 - (b) respecting the lights to be carried and exhibited;
 - (c) respecting other signals to be carried and used; and
 - (d) respecting the steering and sailing rules to be observed by ships.

(2) All owners and masters of ships, and of seaplanes and other craft when on or in close proximity to the water, shall obey the collision regulations and shall not carry or exhibit any lights to use any signals other than those required by regulations made under this Part.

(3) When an infringement of the collision regulations is caused by the wilful default of a master or owner, the master or owner is guilty of an offence.

Presumption of fault

227. If any damage to property arises from the non-observance of the collision regulations, the damage is presumed to have been caused by the wilful default of the person in charge of the ship, seaplane or other craft at the time, unless it is shown to the satisfaction of a court that the circumstances of the case made a departure from the collision regulations necessary.

Assistance in collisions

228.(1) In every case of collision between 2 ships, it is the duty of the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers, if any

- (a) to render to the other ship, and to her master, crew and passengers, if any, such assistance as is practicable and necessary to preserve them from any danger caused by the collision, and to stay by the other ship until he has ascertained that she has no need of further assistance; and
- (b) to give to the master or person in charge of the other ship that name of his own ship and the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) A master or person in charge of a ship who fails without reasonable cause to comply with this section commits an offence.

Reporting of accidents

229. When a Barbadian ship has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her sea-worthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, as soon as possible after the happening of the accident or damage, transmit to the Registrar, by letter signed by the owner or master, a report of the accident or damage, and of its probable occasion, stating the name of the ship, her official number, if any, the port to which she belongs and the place where she is.

Definitions re load line ships

230.(1) Load line ships are all ships other than

- (a) existing ships of under 150 gross register tonnes;
- (b) new ships of less than 24 metres (79 feet) in length;
- (c) ships of war or coast guard ships;
- (d) ships solely engaged in fishing; and
- (e) pleasure yachts not engaged in trade.

(2) For the purposes of this Part, load line ships consist of

- (a) international load line ships; that is to say, load line ships that carry cargo or passengers on international voyages; and
- (b) local load line ships; that is to say, ships that are not international load line ships.

(3) In the following provisions of this Act

- (a) “contracting country” means a foreign country to which for the time being the Load Line Convention applies; and
- (b) “Load Line Convention ship” means a ship that belongs to a contracting country.

(4) In subsection (1)

- (a) “new ship” refers to a ship whose keel is laid, or is at an equivalent stage of production, on or after the day this section comes into operation; and
- (b) “existing ship” means a ship that is not a new ship.

Load line regulations

231.(1) The Minister may by regulations, in this Act called the “load line regulations”, make provision, having regard to the Load Line Convention

- (a) for survey and determination of load line, including conditions of assignment of freeboard, freeboards and timber freeboards;
- (b) specifying zones, areas and seasonal periods;
- (c) for the issue of certificates and forms thereof; and
- (d) for any other matter relating to load lines.

(2) In the load line regulations different provisions may be made in relation to any matter by reference to different descriptions of ships, different areas, different seasons of the year, or any other different circumstances.

Compliance with regulations

232.(1) Subject to any exemption conferred by or under this Act, it is unlawful for a Barbadian load line ship to proceed or attempt to proceed to sea unless

- (a) the ship has been surveyed in accordance with the load line regulations
 - (i) by a surveyor in the case of an international load line ship; or
 - (ii) by an inspector in the case of a local load line ship;
- (b) the ship complies with the conditions of assignment contained in the load line regulations;

- (c) the ship is marked on each side with
 - (i) a deck mark; that is to say, a mark indicating the position of the uppermost complete deck as defined by the load line regulations, and
 - (ii) load lines, that is to say, lines indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the load line regulations;
 - (d) the deck mark and the load lines are of the description required by the load line regulations, the deck mark is in the position required by those regulations, and the load lines are of the number required by such of those regulations as are applicable to the ship; and
 - (e) the load lines are in the position required by such of the load line regulations as are applicable to the ship.
- (2) Where any ship proceeds or attempts to proceed to sea in contravention of this section
- (a) the master of the ship,
 - (b) the owner or charterer of the ship, and
 - (c) the agent of the ship, if he is privy to the contravention,
- are each guilty of an offence.

Submersion of load lines

233.(1) A Barbadian load line ship shall not be so loaded as to submerge the appropriate load line on each side of the ship in sea water when the ship has no list.

- (2) Where a ship is loaded in contravention of subsection (1)
- (a) the master of the ship,
 - (b) the owner or charterer of the ship, and

(c) the agent of the ship, if he is privy to the contravention,
are each guilty of an offence.

(3) In addition to any penalty that may otherwise be imposed upon a person convicted of an offence under subsection (2), he is liable to a fine of \$4 000 for every inch or fraction of an inch by which the appropriate load line on each side of the ship was submerged or would have been submerged if the ship had been floating in sea water and had no list.

(4) A Registrar or an inspector may suspend the certificates of registry of a ship loaded in contravention of this section until the ship ceases to be so loaded.

Alteration or defacement of marks

234. A person commits an offence

- (a) who, being the owner or master of a Barbadian load line ship that has been marked in accordance with the requirements of this Part, fails without reasonable cause to keep the ship so marked; or
- (b) who conceals, removes, alters, defaces, obliterates or permits any person under his control to conceal, remove, alter, deface or obliterate, any mark placed on a Barbadian ship in accordance with the requirements of this Part, except where he does so under the authority of a person empowered under the load line regulations to authorise him in that behalf.

Load line certificates

235.(1) Where a Barbadian load line ship has been surveyed and marked in accordance with the requirements of this Part and the load line regulations, and complies with the conditions of assignment to the extent required in her case by

the load line regulations, the owner of the ship is entitled on his application to have issued to him

- (a) in the case of an international load line ship, a certificate to be known as an international load line certificate; or
 - (b) in the case of a local load line ship, a certificate to be known as a local load line certificate.
- (2) Load line certificates must be in the prescribed form and issued
 - (a) in the case of an international load line certificate, by the Registrar or by a classification society; and
 - (b) in the case of a local load line certificate, by the Registrar or an inspector.
- (3) The Minister may request the government of a contracting country to issue a load line certificate to a Barbadian load line ship; and a certificate issued in pursuance of such request and containing a statement that it was so issued has effect, for all purposes, as if it had been issued under subsection (1).
- (4) Where a valid load line certificate issued under subsection (3) is produced in respect of a Barbadian ship, the ship shall be deemed, for the purposes of this Part
 - (a) to have been surveyed under the load line regulations, and
 - (b) to be marked as required by section 232 if the deck mark and load lines correspond with the positions specified in the certificate.

Renewal of certificate

236.(1) After a survey that is not less thorough than the survey required by the load line regulations before the issue of the certificate, a load line certificate may be renewed from time to time and by an authority authorised to issue such a certificate for such period, not exceeding 5 years on any occasion, as the authority that is renewing the certificate thinks fit.

(2) Every load line certificate that is not renewed in accordance with subsection (1) expires at the end of such period, not exceeding 5 years from the date of its issue, as specified therein.

Cancellation of certificate

237. The Registrar shall cancel a load line certificate in force in respect of a ship, if he has reason to believe that

- (a) material alterations have taken place in the hull or superstructure of the ship that affect the positions of the load line; or
- (b) fittings and appliances for the protection of openings, guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective a condition as they were in when the certificate was issued.

Periodic load line surveys

238.(1) For the purpose of determining whether the load line certificate should be cancelled under section 237, the owner of a ship in respect of which a load line certificate is in force shall cause the ship to be surveyed in the manner prescribed by the load line regulations once at least in each year, or within any extended period under subsection (2), after the issue of the certificate.

(2) If the ship is not surveyed as required by subsection (1), the Registrar shall cancel the certificate; but the Registrar may, if he thinks fit in any particular case, extend the period of 1 year mentioned in subsection (1).

Certificate to be surrendered

239.(1) Where a load line certificate has expired or been cancelled, the Registrar may require the owner or master of the ship to which the certificate relates to deliver up the certificate as the Registrar directs.

(2) The Registrar may suspend the certificate of registry of the ship until such requirement has been complied with.

- (3) The owner or master who fails without reasonable cause to comply with a requirement under subsection (1) commits an offence.

Ship without certificate

240.(1) Subject to any exemption conferred by or under this Act, a Barbadian load line ship shall not proceed or attempt to proceed to sea unless the appropriate load line certificate is in force in respect of the ship.

(2) The master of a Barbadian load line ship shall produce to the customs officer from whom a clearance of the ship is demanded the load line certificate that is required by this Act to be in force when the ship proceeds to sea.

(3) A clearance may not be granted, and the ship shall be detained until the certificate is produced as required under subsection (2).

Certificate display and entry

241.(1) Where a load line certificate has been issued in respect of a Barbadian load line ship

- (a) the owner or master of the ship shall, forthwith on the receipt of the certificate, cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible so long as the 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 position of the deck mark and load lines specified in the certificate.
- (2) Before a Barbadian load line ship leaves any dock, harbour or other place for the purpose of proceeding to sea, the master thereof shall
- (a) enter into the official log-book such particulars, relating to the depth to which the ship is for the time being loaded, as the load line regulations require to be entered; and

- (b) cause a notice, in such form and containing such particulars as the load line regulations require, to be posted up in a conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, harbour or place.
- (3) The Minister may exempt any local load line ship, or class of ships, from the requirement of subsection 2(b).

Particulars in crew agreement

242. Before a crew agreement of a Barbadian load line ship is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck mark and load lines specified in the certificate.

Load Line Convention Ships not Registered in Barbados

Certificate of foreign ships

243.(1) The Registrar may, at the request of the government of a country, issue a load line certificate in respect of an international load line ship of that country, if he is satisfied, in like manner as in the case of a Barbadian ship, that the certificate can properly be issued.

(2) Where a certificate is issued on a request under this section it must contain a statement that it has been so issued.

Validity of certificate

244.(1) With a view to determining the validity in Barbados of certificates purporting to have been issued in accordance with the Load Line Convention in respect of foreign Load Line Convention ships, the Minister may make such regulations as are necessary for the purpose of giving effect to Article 17 of the Load Line Convention.

(2) For the purposes of the provisions of this Part relating to foreign Load Line Convention ships, a “valid load line certificate” means a certificate complying

with such of those regulations made under subsection (1) as are applicable in the circumstances.

Inspection of foreign ships

245.(1) For the purpose of demanding production of its load line certificate, an inspector may go on board any foreign Load Line Convention ship that is in Barbados.

(2) Where a valid load line certificate is produced to an inspector, the inspector's powers of inspecting the ship with respect to load line are limited to ensuring

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that the position of the load lines on the ship corresponds with the position specified in the certificate;
- (c) that no material alterations have taken place in the hull or superstructure of the ship that affect the position of the load lines; and
- (d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were when the certificate was issued.

(3) Where it is found on any inspection under this section that a ship is loaded beyond the limits allowed by the certificate, the ship may be detained and subsections 233(2) and (3) apply in respect thereof.

(4) Where it is found on any inspection under this section that the load lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the inspector.

(5) Where a valid load line certificate is not produced to an inspector on demand, the inspector may, for the purpose of seeing that this Part has been complied with, inspect the ship as if the ship were a Barbadian ship.

(6) For the purposes of this section, a ship is loaded beyond the limits allowed by the certificate if she is so loaded as to submerge the appropriate load line on each side of the ship in salt water when the ship has no list; that is to say, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled to be loaded under the Load Line Convention.

Production of certificate

246.(1) The master of a foreign Load Line Convention ship shall produce a valid load line certificate to the customs officer from whom a clearance for the ship from Barbados is demanded.

(2) A clearance may not be granted, and the ship may be detained, until the certificate required by subsection (1) is so produced.

Deck cargo regulations

247.(1) The Minister may make regulations, in this section called the “deck cargo regulations”, prescribing the requirements to be complied with when cargo is carried in any uncovered space on the deck of a load line ship.

(2) Different requirements may be prescribed in the deck cargo regulations in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyage, different seasons of the year, or any other different circumstances.

(3) If the load line regulations provide, either generally or in particular cases or classes of cases, for assigning special freeboards to ships that are to have effect only where timber is carried as a deck cargo, then, without affecting 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; and in prescribing such special circumstances, the Registrar must have regard in particular to Chapter IV of the Load Line Convention.

Offence against regulations

248.(1) Where any of the provisions of the deck cargo regulations are contravened

(a) in the case of a Barbadian ship; or

(b) in the case of any other ship while the ship is in port in Barbados,

then, subject to section 249, the master of the ship commits an offence and is liable on summary conviction to a fine of \$10 000.

(2) A ship described in subsection (1) is presumed for the purposes of section 260 to be unsafe by reason of improper loading.

Defence to contravention

249. Where a person is charged with an offence under section 248, it is a defence for him to prove that the contravention was due solely to deviation or delay caused solely by stress of weather or other circumstances that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

Securing compliance

250. For the purposes of securing compliance with the deck cargo regulations, an inspector may go on board any Barbadian ship, or any foreign ship that is in port in Barbados, and inspect cargo in any uncovered space on her deck.

*Carriage of Grain***Carriage of grain**

251.(1) Where grain is loaded on board any Barbadian ship, or is loaded in Barbados on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting.

(2) If the precautions required under subsection (1) are not taken, the owner, the master of the ship and any agent of the owner who was charged with the load or with sending the ship to sea laden with the grain, are each guilty of an offence.

(3) When the precautions required under subsection (1) are not taken in respect of a ship, the ship is presumed, for the purposes of section 260 to be unsafe by reason of improper loading.

(4) When any ship that has been loaded with grain outside Barbados without the taking of all necessary and reasonable precautions to prevent the grain from shifting enters Barbados so laden, the owner and master of the ship are each guilty of an offence.

(5) A ship described in subsection (4) is presumed, for the purposes of section 260, to be unsafe because of improper loading.

(6) Subsections (1) to (5) do not apply if the ship would not have entered Barbados but for stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(7) Without limiting the generality of subsections (1) to (5), a particular precaution prescribed in regulations which the Registrar may make

- (a) in relation to the loading of ships generally or of ships of any class, and
- (b) as being a precaution to be treated for the purposes of those subsections as a necessary or reasonable precaution to prevent grain from shifting,

shall be treated as necessary or reasonable precautions in the case of ships generally, or of ships of that class, as the circumstance requires.

(8) Subsection (7) does not apply to a ship when the ship is loaded in all respects in accordance with any provisions approved by the Registrar for the loading in question other than regulations made under subsection (7).

(9) Any person who commits an offence under this section is liable on summary conviction to a fine of \$10 000.

(10) For the purpose of securing the observance of this section, an inspector may go on board any Barbadian ship, or any foreign ship that is in port in Barbados, and inspect any grain loaded in the ship and the manner in which it is stowed.

(11) In this section “grain” includes wheat, maize, oats, rye, barley, rice, pulses and seeds.

Dangerous Goods

Meanings of “dangerous goods”

252. For the purposes of section 253 to 257, “dangerous goods” means, in respect of any ship

- (a) any goods of an explosive, highly inflammable or toxic nature, or that are otherwise by their nature or quantity, either singly or collectively, liable to endanger life or imperil the ship, and
- (b) without limiting the generality of paragraph (a), any goods that are declared by regulations under section 256 to be dangerous in their nature.

Carriage of dangerous goods

253.(1) Any person who sends or attempts to send by any ship, or, not being the owner or master of the ship, carries or attempts to carry in any ship, any dangerous goods

- (a) without distinctly marking their nature on the outside of the package containing the goods, or
- (b) without, at or before the time of sending the goods to be shipped or taking them on board the ship, giving written notice to the master or owner of the ship of the nature of the goods and the name and address of the sender or carrier of the goods,

commits an offence and is liable on summary conviction to a fine of \$2 500.

(2) Any person who knowingly sends or attempts to send by, or carries or attempts to carry in, any ship any dangerous goods under a false description, or falsely describes the sender or carrier of any such goods, is guilty of an offence and is liable on summary conviction to a fine of \$5 000.

Disposing of dangerous goods

254.(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; and he 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 notice described in subsection 253(1), the master or owner of the ship may cause the goods, together with any packaging or container thereof, to be thrown over-board; and neither the master nor the owner of the ship is liable, civilly or criminally, in any court in respect thereof.

Forfeiture of dangerous goods

255.(1) Where any dangerous goods have been sent or carried or attempted to be sent or carried, on board any ship in circumstances that would be an offence under section 253, any court having admiralty jurisdiction may declare those goods, and any packaging or container thereof, to be forfeited, and thereafter they shall be disposed of as the court directs.

(2) A court may exercise the powers conferred by subsection (1) notwithstanding

(a) that the owner of the goods concerned has not committed any offence in respect of the goods, or is not before the court, or has had no notice of the proceedings; and

(b) that there is no evidence to show to whom the goods belong,

but the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

Regulations re dangerous goods

256.(1) The Minister may in the interests of safety make regulations for the carriage of dangerous goods in ships.

(2) If any regulations referred to in subsection (1) are contravened in relation to any ship, the master and the owner of the ship are each guilty of an offence and liable on summary conviction to a fine of \$10 000.

(3) A ship in respect of which a contravention of regulations under subsection (1) has occurred is presumed for the purposes of section 260 to be unsafe by reason of improper loading.

Application of sections 253 to 256

257. Sections 253 to 256 and any regulations made thereunder apply

- (a) to Barbadian ships; and
- (b) to other ships within Barbadian waters whether they are embarking or disembarking passengers, or loading or discharging cargo or fuel.

*Unseaworthy Ships***Sending unseaworthy ship to sea**

258.(1) Any person who sends or attempts to send, or is party to sending or attempting to send, a Barbadian ship to sea in such an unseaworthy state that the life of any person is likely to be endangered thereby, commits an offence unless he proves either

- (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 an unseaworthy state was, under the circumstances, reasonable and justifiable.

(2) The master of a Barbadian foreign-going ship who knowingly takes the ship to sea in such an unseaworthy state that the life of any person is likely to be endangered thereby is guilty of an offence, unless he proves that taking the ship to sea in such an unworthy state was under the circumstances reasonable and justifiable.

Duty to ensure seaworthiness

259.(1) Notwithstanding any agreement to the contrary, it is an implied term of every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and of every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship that

- (a) the owner of the ship,
- (b) the master, and
- (c) every agent charged with the loading of the ship or with the preparing of the ship for sea, or the sending of the ship to sea,

are bound to use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition throughout the voyage.

(2) Nothing in this section makes the owner of a ship liable by reason of the ship's being sent to sea in an unseaworthy state when, owing to special circumstances, the sending of the ship to sea in that state was reasonable and justifiable.

Detention of unseaworthy ship

260.(1) Where, whether on complaint or representation made to him or otherwise, a Registrar or an inspector has reason to believe that any Barbadian ship, or any foreign ship in Barbados, is an unsafe ship, he may cause the ship to be detained until he is satisfied that the ship is fit to proceed to sea.

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- (2) When the Registrar or inspector detains a ship pursuant to subsection (1), he may adopt any measures or means he thinks suitable or necessary to prevent the ship from sailing while it is an unsafe ship.
- (3) Where a foreign ship has been detained under this section, a consular officer for the country to which the ship belongs shall be informed forthwith.
- (4) Where a ship has been dealt with under this section, the ship may be inspected or surveyed by a Registrar or inspector to investigate any defects believed to exist.
- (5) *[Deleted by 2001-9.]*
- (6) A Registrar or inspector acting under this section, shall as soon as practicable after action is completed therein, forward a full report thereof to the Registrar, together with copies of any reports made under inspection or survey.
- (7) Any complaint in respect of the seaworthiness of a ship must be in writing, stating the name and address of the complainant, and a copy of the complaint, including the name and address of the complainant, must be given to the owner or master of the ship if action is taken under this section.
- (8) Before any action is taken under this section as a result of a complaint, the Registrar or inspector must assure himself, by all means at his disposal, that the complaint is not merely of a trivial or vexatious nature.
- (9) In this section, “unsafe ship” means a ship
- (a) that is presumed to be an unsafe ship for the purposes of this section by any provision of this Part, and
 - (b) any ship that is, by reason of the defective condition of her hull, equipment or machinery, or by reason of undermanning, overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which the ship is intended.

Liability for costs, damages

261.(1) If it is proved that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the detention of a ship as an unsafe ship, the Registrar is liable to pay to the owner of the ship

- (a) the owner's costs of an incidental to the detention and survey of the ship, and
- (b) compensation for any loss or damage sustained by the owner by reason of the detention or survey.

(2) If a ship is detained under this Act, and the ship was, at the time of detention, an unsafe ship within the meaning of section 260, the owner of the ship is liable to pay to the Registrar any costs of and incidental to the detention and survey of the ship and those costs are, without affecting any other remedy, recoverable as salvage is recoverable.

Security for costs

262.(1) Where a complaint is made to the Registrar or an inspector that a Barbadian ship is unsafe, the Registrar, or inspector may, if he thinks fit, require that security to his satisfaction be given by the complainant for the costs and compensation that the complainant may become liable to pay under section 263.

- (2) The security may not be required when the complainant
- (a) is made by one-fourth, being not less than 3, of the seamen belonging to the ship, and
 - (b) is not frivolous or vexatious in the opinion of the Registrar, or inspector, as the case may be.

(3) The Registrar or inspector shall, if a complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

Complainant's liability

263. Where a ship is detained in consequence of any complaint and the circumstances are such that the Registrar becomes liable under this Part to pay to the owner of the ship any costs or compensation, the complainant is liable to pay to the Registrar all such costs and compensation as the Registrar incurs or is liable to pay in respect of the detention and survey of the ship.

Miscellaneous

Protection of longshoremen

264. The Minister may by regulations provide for the protection against accidents of workers employed in Barbados in loading or unloading ships, and provide in particular for

- (a) the strength of machinery, tackle and gear and their fitness for the purpose for which they are intended;
- (b) the provision of proper safe gangways, staging and the like;
- (c) protection by way of rails or other sufficient protection at openings through decks and round wharves and docks;
- (d) illumination of holds and decks of ships and docks or wharves at which ships are loading or unloading; and
- (e) means for attending to persons injured.

Marking of heavy packages

265. No persons shall, in Barbados, consign to be loaded on any ship, and no master, owner or agent of any ship shall, in Barbados, cause or permit to be loaded on any ship, any package or object of a gross weight of 3 000 kilos or over

without causing its approximate weight to be plainly and durably marked on the outside of the package or object.

Ministerial exemption

266. Notwithstanding anything in this Part, the Minister may, by order in the *Official Gazette*, exempt any Near Coastal trade ship or Caribbean trade ship, or the owner of any such ship, from compliance with any of the provisions of this Part or with any of the regulations made under this Part.

PART V

WRECKS, SALVAGE AND INVESTIGATIONS

Receivers of Wreck

General superintendence

267.(1) The Minister has the general superintendence of all matters relating to wreck, and may, by notice in the *Official Gazette*, appoint any person to be a receiver of wreck in any specified area and to perform duties of a receiver under this Part.

(2) In this Part “wreck” includes

- (a) flotsam, jetsam, lagan and derelict found in or on the shores of the sea or of any tidal water;
- (b) the whole or any portion of a vessel that is lost, abandoned, stranded, or in distress;
- (c) any part of the cargo, stores or equipment of a vessel mentioned in paragraph (b); and
- (d) any part of the personal property on board a vessel mentioned in paragraph (b) when it was lost, stranded, abandoned or in distress.

Fees and expenses of receiver

268.(1) A receiver shall be repaid the expenses properly incurred by him in the performance of his duties; and he shall be paid also such fees as the Minister may establish by regulations.

(2) A receiver has, in addition to all other rights and remedies for the recovery of his expenses and fees, the same rights and remedies in respect thereof that a salvor has in respect of salvage due to him and may, if the property in respect of which any such expenses and fees are due is not under arrest in any court, seize or detain the property until his expenses and fees are paid, or until security is given therefor to his satisfaction.

Duties of receiver

269.(1) When any vessel is wrecked, stranded or in distress at any place on or near the coast of Barbados, the receiver shall, upon being made acquainted with such stranding or distress

- (a) forthwith proceed to that place,
- (b) upon his arrival at that place take the command of all persons present, and
- (c) assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the shipwrecked person, belonging to the vessel and of the cargo and apparel of the vessel.

(2) Notwithstanding subsection (1), a receiver shall not interfere between the master and crew of the vessel with reference to the management of the vessel unless he is requested by the master to do so.

(3) A person who wilfully disobeys the directions of the receiver is guilty of an offence and is liable on summary conviction to a fine of \$5 000.

Powers of receiver

270.(1) A receiver may, with a view to the preservation of shipwrecked persons or of a vessel, cargo or wreck

- (a) require such persons as he thinks necessary to assist him;
- (b) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel as is in his power; and
- (c) require the use of any machinery, vehicle or equipment that is obtainable.

(2) A receiver may

- (a) cause to be arrested and kept in custody, until he can be conveniently taken before a court to be dealt with according to law, any person who plunders, creates disorder, or obstructs the preservation of a vessel wrecked, stranded or in distress on or near the coast of Barbados,
- (b) use reasonable force for the suppression of plundering, disorder or obstruction, and
- (c) require all persons in the vicinity to assist him.

Passage over adjoining lands

271.(1) When a vessel is stranded, wrecked or in distress, any person may, for the purpose of rendering assistance to the vessel or of saving the lives of shipwrecked persons or of saving the cargo or apparel of the vessel

- (a) pass and repass, with or without vehicles and equipment, over any adjoining lands without being subject to interruption by the owner or occupier, unless there is some public road equally convenient, and
- (b) deposit on those lands any cargo or other things recovered from the vessel,

but that person may not do 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 in consequence of the exercise of the rights conferred by subsection (1) is 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 in default of payment, recoverable in the same manner as the amount of salvage is determined or recoverable under this Part.

(3) The owner or occupier of any property who hinders or obstructs any person exercising the rights conferred by subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

Immunity of receiver

272. When, during any time a receiver or a person acting under his orders is engaged in the execution of the duties imposed on the receiver by this Part some other person resists the receiver, or a person is killed, maimed or hurt by reason of that resistance, no action, suit or prosecution against the receiver or person acting under his orders is maintainable by or on behalf of the person killed, maimed or hurt, unless the receiver or person acting under his orders used more force than was reasonably necessary in the circumstances.

Obstruction of receiver

273. Every person who

- (a) without reasonable cause fails to comply with any lawful requirement or order of a receiver, or
- (b) wilfully impedes or obstructs a receiver or any person acting under his orders in the execution of his duty,

is guilty of an offence and is liable on summary conviction to a fine of \$200 or to imprisonment for 6 months, or to both.

*Dealing with Wreck***Taking possession of wreck**

274.(1) A person who takes possession of any wreck in Barbados shall as soon as possible deliver the wreck to the receiver.

(2) The receiver may dispense with a delivery required under subsection (1) in the case of any wreck upon such conditions as the Minister thinks fit.

(3) Subsection (1) applies to any wreck found derelict at sea outside Barbados and brought into Barbados.

(4) A person who, having taken possession of wreck, fails without reasonable cause to comply with subsection (1), is guilty of an offence and is liable on summary conviction to a fine not exceeding double the value of the wreck, and is also liable to forfeit any claim or right to salvage with respect to the wreck.

Concealment of wreck

275.(1) Where a receiver suspects or receives information that

(a) any wreck is secreted or in the possession of some person who is not its owner, or

(b) any wreck is being otherwise improperly dealt with the receiver may apply to a magistrate for a search warrant.

(2) The magistrate may grant the search warrant upon application therefor under subsection (1).

(3) The receiver may by virtue of the warrant enter any house or other place wherever situated, and also any vessel, and search for, seize and detain any wreck there found.

(4) If any seizure of wreck is made in consequence of information given by any person to the receiver, the informer is entitled by way of salvage to such sum as the receiver may allow under instructions from the Minister.

Notice of wreck

276.(1) Where a receiver takes possession of any wreck and does not know who owns it, he shall within 48 hours

- (a) cause to be posted in the customs house nearest to the place where the wreck was found or was seized by, or delivered to him, a description of the wreck and of any marks by which it can be distinguished, and
- (b) transmit a similar description to the Minister.

(2) The Minister may give such publicity to the description of the wreck as he thinks fit.

Owner's right to wreck

277.(1) Where any wreck is in the possession of a receiver and its owner establishes his claim to the wreck to the satisfaction of the receiver within 6 months from the time the wreck came into possession of the receiver, the owner is, upon paying the customs duty, if any, and the salvage fees and expenses due, entitled to have the wreck or the proceeds of sale of the wreck delivered up to him or his agent.

(2) When any wreck in the possession of the receiver is shown to the satisfaction of the Minister to belong to an owner in a foreign country, the Minister may, in the absence of the owner or his agent, deem the consular officer of that foreign country in Barbados to be the owner in respect of the custody and disposal of the wreck.

Power to sell wreck

278.(1) A receiver may immediately sell a wreck in his possession where

- (a) it is in his opinion to the advantage of all parties to sell the wreck, or
- (b) the wreck consists of goods of a dangerous or perishable nature.

(2) The proceeds of a sale, pursuant to subsection (1), after levying customs duty, if any, and defraying the expenses of the sale, shall 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.

Unclaimed wreck

279.(1) Where any wreck is in the possession of a receiver and no owner establishes a claim to it within 6 months after it came into the receiver's possession, the receiver may sell the wreck and pay the proceeds of sale to the Crown

- (a) after deducting the expenses of the sale, any customs duty payable, and any other expenses incurred by him from the proceeds; and
- (b) after paying to the salvors out of the proceeds such amount of salvage as the Minister may determine.

Discharge of receiver

280. Upon delivering any wreck to the owner thereof, or paying him the proceeds of sale pursuant to this Part, a receiver is discharged from all liability thereof, but the delivery does not affect any question that may be raised by third parties concerning the wreck.

Removal of Wreck

Removal of wreck in port

281.(1) Where a vessel is sunk, stranded or abandoned in any place under the control of the port authority or in or near any approach thereto, in such manner as in the opinion of the port authority to be, or to be likely to become, an obstruction or danger to navigation, the authority, may

- (a) take possession of the vessel and raise, remove or destroy the whole or any part thereof;

- (b) light or buoy the vessel or part thereof until it is raised, removed or destroyed; and
 - (c) in such manner as the authority thinks fit, sell the vessel or part thereof when so raised or removed, and also any other property recovered in the exercise of its powers under this section.
- (2) Out of the proceeds of any sale pursuant to subsection (1), the port authority may reimburse itself for the expenses incurred by it in relation to the vessel described in that subsection.
- (3) The surplus proceeds, if any, from the sale of the vessel described in subsection (1) must be held on deposit to pay to the persons who establish a right to the proceeds or any part thereof.
- (4) The deposit referred to in subsection (3), is forfeited to the port authority if the person entitled to proceeds or any part thereof fails to claim therefore within 1 year after the sale of the vessel.
- (5) When the expenses connected with the raising, removal or destruction of a vessel described in subsection (1) exceed the value of any property recovered therefrom, the excess amount becomes a debt due to the port authority from the person who was the owner of the vessel at the time it was sunk, stranded or abandoned.
- (6) In this Part “port authority” means the Barbados Port Authority established under the *Barbados Port Authority Act*, Cap. 285B.

Removal officer

- 282.(1)** Where a vessel is run aground or stranded, or is found in a dangerous or hazardous condition, in a port under the control of the port authority, or in or near the approaches thereto, and it appears expedient to the port authority to take charge of the operation of refloating or removing the vessel, it may, subject to subsection (4), appoint an officer to direct the operation.
- (2) The officer so directed is authorised to do all things that in his opinion are necessary to refloat or remove the vessel.

(3) The master and all persons present and belonging to the ship shall obey the direction of the authorised officer and render him such assistance as he may require.

(4) An officer to be appointed under subsection (1) may only be appointed with the approval of the Minister but he may be appointed either generally or in a particular case.

Removal of wreck

283. Where a vessel is sunk, stranded or abandoned on the coast or on or near any rock, shoal or bank in Barbados or any adjacent seas, and, in the opinion of the Minister, it is, or is likely to become, an obstruction or a danger to navigation, the Minister has the same powers in relation to the vessel as are by this Part conferred upon the port authority.

Salvage

Reasonable salvage entitlement

284.(1) Where

- (a) services are rendered wholly or in part within Barbados waters in saving life from any aircraft or vessel, or elsewhere in saving life from any Barbadian vessel, or
- (b) within Barbadian waters, any aircraft or vessel is wrecked, abandoned, stranded or in distress, and services are rendered by any person in assisting the vessel or saving the wreck,

the owner of the aircraft, vessel, cargo or apparel saved shall pay to the salvor a reasonable amount of salvage, including expenses properly incurred to be determined in case of dispute, in the manner provided by this Part.

(2) When salvage is payable by the owner of a vessel or aircraft in respect of the preservation of life, the salvage is payable in priority to all other claims for salvage.

Disputes re salvage

285. Disputes as to salvage, whether of life or property, shall be heard and determined by and before a receiver, or the High Court, as provided for respectively by this Part and not otherwise.

Amount of salvage

- 286.** A receiver must determine the amount of salvage
- (a) in any case where the parties to the dispute consent;
 - (b) in any case where the value of the property salvaged does not exceed \$20 000; and
 - (c) in any case where the amount claimed does not exceed \$6 000.

Costs

287. Where in any proceedings for salvage in the High Court the claimant recovers an amount less than the maximum amount that might be claimed before a receiver, then, unless the High Court certifies that the proceedings were unfit to be determined by a receiver

- (a) the claimant is not entitled to any costs, charges or expenses incurred by him in the prosecution of his claim, and
- (b) the claimant shall pay to the other parties such costs, charges and expenses, if any as the High Court directs.

Valuation of property

288. Where any dispute as to salvage arises, a receiver, or the High Court, shall, on the application of either party, appoint a valuer to value property for salvage, and copies of the valuation shall be given to both parties.

Detention of salvaged property

289.(1) A receiver may seize property that is alleged to be liable for salvage, in this Part referred to as “detained property”, and detain it until

- (a) the salvage fees and costs due thereon are ascertained and paid,
- (b) process is issued for the arrest or detention of the property by a court, or
- (c) security is given to his satisfaction for the salvage, fees and costs.

(2) A receiver may release any detained property

- (a) if security is given to his satisfaction; or
- (b) if the claim for salvage exceeds \$4 000 and any question is raised as to the sufficiency of the security, security is given to the satisfaction of a court.

(3) Any security given for salvage in pursuance of this section may be enforced by the High Court in the same manner as if bail had been given in the High Court.

Detained property

290.(1) A receiver may sell any detained property if

- (a) the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, and
- (b) the amount
 - (i) is not disputed and payment of the amount due is not made within 20 days after the amount is due;
 - (ii) is disputed, but no appeal lies from the High Court and payment is not made within 20 days after the decision of the High Court;or

- (iii) is disputed and an appeal lies from the decision of the High Court to some other court and within 2 months of the decision of the Court of first instance, neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.
- (2) The proceeds of sale of detained property
 - (a) shall, after the payment of the expenses of the sale, be applied by the receiver in payment of expenses, fees and salvage, and
 - (b) so far as they are not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive the proceeds.

Voluntary agreement re salvage

291.(1) Where services are rendered for which salvage is claimed and the salvor voluntarily agrees to abandon his lien upon the vessel and the cargo and property alleged to be salvaged, then, upon the master or owner complying with the requirements of subsection (2), the agreement, to the extent of the security given, is binding on

- (a) the vessel and the cargo and property,
- (b) the respective owners of the vessel and the cargo and property, and
- (c) the owners for the time being thereof,

for any salvage that is adjudged to be payable.

(2) Before an agreement under subsection (1) is valid, the master or owner, whether as principal or agent, must

- (a) enter into a written agreement attested by two witnesses to abide by the decision of any court, of competent jurisdiction in Barbados or another country, and
- (b) give security in that behalf to an amount agreed upon by the parties to the agreement.

(3) Where security has been given for the performance of any agreement made under this section, the person with whom the security is lodged shall deal with it as the court adjudicating upon the agreement directs.

(4) Where any agreement that is similar to an agreement made under this section is made under the laws of another country and that agreement provides that the parties thereto will abide by the decision of a court of competent jurisdiction in Barbados, the High Court may adjudicate upon, and enforce, that agreement.

(5) The High Court may enforce, and is bound to assist any court of competent jurisdiction in any other country in enforcing, any agreement made under this section or any similar agreement made under the laws of that other country.

Limitation of time

292. An action in respect of salvage services may not be brought after the end of 2 years from the date when the salvage services were rendered.

Shipping Casualties, Inquiries and Investigations

Investigations of shipping casualties

293.(1) Where any of the following casualties occur, that is to say

- (a) the loss or presumed loss, stranding, grounding, abandonment of, or damage to a ship;
- (b) a loss of life caused by fire on board, or by any accident to, a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or
- (c) any damage caused by a ship;

and, at the time it occurs, the ship was a Barbadian ship or the ship or ship's boat was in Barbadian waters, the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Minister.

(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 a wreck commissioner.

Preliminary inquiry

294.(1) For the purposes of a preliminary inquiry under section 293, the person holding the inquiry has all the powers of an inspector under this Act.

(2) Upon the conclusion of a preliminary inquiry, the person holding it shall send to the Minister a report containing a full statement of the case and of that person's opinion thereon, accompanied by such report of, or extracts from, the evidence, and such observations, as he thinks fit.

Formal investigation

295.(1) The Minister may appoint

- (a) a person appearing to him to be suitably qualified, by the holding of, or by having held, judicial office, or by experience as a legal practitioner; or
- (b) a person who was formerly a senior public officer,

to be a wreck commissioner to hold one or more formal investigations.

(2) The wreck commissioner holding a formal investigation

- (a) shall conduct it with the assistance of one or more assessors with nautical, engineering or other special skills or knowledge; and
- (b) shall conduct it in accordance with any regulations made under section 349.

(3) Notwithstanding paragraph (a) of subsection (1), if any question concerning the cancellation or suspension of an officer's certificate or endorsement is likely to arise there must be at least 2 assessors with experience in the merchant service available to assist the wreck commissioner.

(4) Part III of the *Commissions of Inquiry Act*, Cap. 112 apply to a formal investigation as if the investigation were an inquiry under that Act in relation to which the wreck commissioner were chairman.

(5) The wreck commissioner may make such order with regard to the costs of a formal investigation as he thinks just; and any such costs may be recovered by the Minister from the person ordered to pay them.

(6) At the conclusion of a formal investigation, the wreck commissioner shall send to the Minister a full report on the investigation, together with the evidence taken.

Effect on certificates or endorsements

296.(1) When, as a result of a formal investigation, the wreck commissioner

- (a) is satisfied that any master, mate or engineer
 - (i) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason;
 - (ii) has been seriously negligent in the discharge of his duties; or
 - (iii) has failed to give any assistance or information required by section 228, and
- (b) in a case coming under paragraph (i) or (ii), is further satisfied that the circumstance caused or contributed to the casualty, the wreck commissioner may cancel or suspend any certificate or endorsement issued to the officer concerned under section 86 or 91, or censure him.

[2001-9]

(2) If a certificate or endorsement is cancelled or suspended pursuant to subsection (1), the officer concerned shall forthwith deliver such certificate or endorsement to the wreck commissioner.

[2001-9]

- (3) Notwithstanding subsection (1)
- (a) a wreck commissioner may not cancel or suspend a certificate or endorsement unless at least half of the number of assessors concur; and
[2001-9]
 - (b) each assessor who does not concur must state in writing his dissent and his reasons therefor.
- (4) A copy of the report made to the Minister under subsection (6) of section 295 shall be furnished by the wreck commissioner to any officer whose certificate or endorsement is cancelled or suspended, or who is censured.
[2001-9]

[2001-9]

Inquiry into fitness or conduct

297.(1) If it appears to the Minister that any master, mate or engineer who holds a certificate or endorsement under section 86 or 91

- (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; or
- (c) has failed to give any assistance or information required by section 228,

the Minister may cause an inquiry to be held by any person qualified under section 295 to be appointed as a wreck commissioner, and, if the Minister does so, he may, if he thinks fit, suspend the certificate or endorsement pending the outcome of the inquiry, and require the officer concerned to deliver it to the wreck commissioner.

[2001-9]

- (2) Section 295 applies to an inquiry under this section as if the inquiry were a formal investigation and as if the person holding the inquiry were a wreck commissioner.

(3) A person holding an inquiry under this section may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1) censure the officer or, if at least half of the number of assessors concur therein, cancel or suspend any certificate or endorsement issued to the officer under section 86 or 91.

[2001-9]

(4) When a certificate or an endorsement is suspended under this section, the officer concerned shall, unless he has delivered it to the wreck commissioner in pursuance of subsection (1), deliver it forthwith to the person holding the inquiry or to the Registrar.

[2001-9]

[2001-9]

Re-hearing and appeal

298.(1) Where an inquiry or formal investigation has been held under this Part, the Minister may, in his discretion, order the whole or any part of the case to be re-heard.

- (2) It is the duty of the Minister to order a case or part thereof to be re-heard
- (a) if new and important evidence that could not be produced at the inquiry or investigation has been discovered;
 - (b) if it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice might have occurred.
- (3) A re-hearing under this section
- (a) may be held by the person or wreck commissioner who held the first inquiry or formal investigation, or by another person qualified to hold the inquiry or investigation, as the Minister may direct; and
 - (b) must be conducted in accordance with regulations made under section 349,

and, subject to such rules, the provisions of this Part that applied to the original inquiry or investigation apply to the re-hearing.

- (4) Where, as a result of a formal investigation or an inquiry under section 297
- (a) the certificate or endorsement of any person has been cancelled or suspended, or
[2001-9]
 - (b) any person has been found to be at fault,

then, if no order is made under subsection (1) or (2), a person described in paragraph (a) or (b), or any other person who, having an interest in the investigation or inquiry, has appeared at the hearing thereof and is affected by the decision or finding, may appeal to the High Court.

Delivery of certificates etc.

299.(1) A person who fails to deliver a certificate or an endorsement as required by or under section 296 or 297 is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

(2) Where a certificate or an endorsement is delivered to any person other than the Registrar in pursuance of section 296 or 297 that person shall, as soon as possible, forward it to the Registrar for retention.
[2001-9]

(3) Where an endorsement issued under subsection (3) of section 91 is suspended or cancelled under this Part, the Principal Registrar shall send a copy of the report on the case and of the evidence to the government of the country by which the certificate of the officer concerned was issued.
[2001-9]

[2001-9]

Power of Minister

300. Where a certificate or an endorsement has been suspended or cancelled under section 296 or 297, the Minister may, if he is of the opinion that the justice of the case so requires

- (a) re-issue the certificate or endorsement, or, as the case may be, reduce the period of suspension and return the certificate or endorsement, or
[2001-9]
- (b) grant a new certificate or endorsement of the same or a lower grade in place of that cancelled or suspended.
[2001-9]

[2001-9]

PART VA**REGULATION OF DIVING OPERATIONS AND SMALL COMMERCIAL
VESSEL OPERATIONS****Recreational diving**

300A.(1) The Minister may make regulations for the provision of diving operations for hire or reward to be conducted within the Exclusive Economic Zone of Barbados.

(2) Where a person involved in diving operations

- (a) damages any coral reef as a result of the operations, that person is guilty of an offence and section 27 of the *Coastal Zone Management Act*, Cap. 394, shall apply as if the offence was committed under that Act; and

- (b) contravenes any regulations made under subsection (1), that person is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for 5 years or to both.

[2001-9]

Coastal craft

300B.(1) The Minister may make regulations with respect to the use of small commercial vessels and passenger ferries within the Exclusive Economic Zone of Barbados.

- (2) Regulations made pursuant to subsection (1) shall include
- (a) the licensing of operators of small commercial vessels, watersports craft and passenger ferries;
 - (b) the manning, certification and inspection of small commercial vessels;
 - (c) the provision of approved emergency procedures for small commercial vessels and passenger ferries; and
 - (d) the prevention of marine pollution by small commercial vessels and passenger ferries.
- (3) A person who contravenes any regulations made under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for 5 years or to both.

[2001-9]

Minister to make order

- 300C.**(1) The Minister may by order
- (a) prescribe the area within the Exclusive Economic Zone of Barbados at which activities including watersports activities may be conducted; and
 - (b) set out the conditions which must be adhered to by persons engaging in activities including watersports activities.

(2) A person who engages in activities contrary to an order made under subsection (1) is guilty of an offence and is liable on conviction to a fine of \$50 000 or to imprisonment for 3 years or to both.

[2001-9]

Damage or removal of buoys

300D.(1) No person shall damage or remove

- (a) any buoys which have been placed by the Director to create the channels through which speedboats or other coastal craft may approach the beach; or
- (b) any permanent buoys which have been placed by the Director of the Coastal Zone Management Unit.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 3 years or to both.

[2001-9]

Damage or removal of navigational aids

300E.(1) No person shall damage or remove any buoys or other navigation aid placed by the Barbados Port Authority or any successor body.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$150 000 or to imprisonment for 5 years or to both.

[2001-9]

PART VI
LIMITATION AND DIVISION OF LIABILITY
Limitation of Liability

Scheduled Convention to have effect subject to provisions of Part II of the First Schedule

301.(1) The provisions of the Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974 and the 1976 Protocol relating thereto as set out in Part I of the *First Schedule* (hereinafter in this section and in the *First Schedule* referred to as “the Convention”) shall have effect subject to the provisions of Part II of that Schedule.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and subsection (1) shall have effect subject to the provisions of that Part.

Limitation of liability

302.(1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of the *Second Schedule* (hereinafter in this section and in Part II of that Schedule referred to as “the Convention”) shall have the force of law in Barbados.

(2) The provision of Part II of that Schedule shall have effect in connection with the Convention and subsection (1) shall have effect subject to the provisions of that Part.

Exclusion of liability

303.(1) Subject to subsection (3) the owner of a Barbadian ship shall not be liable for any loss or damage in the following cases, namely

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or

- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.
- (2) Subject to subsection (3) where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of
 - (a) the master, member of the crew or servant; and
 - (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph the person whose servant he is.
- (3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention in Part I of the *First Schedule*.
- (4) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

Provisions supplementary to sections 302 and 303

304. Nothing in sections 302 and 303 or in the *Second Schedule* shall apply in relation to any liability arising out of an occurrence which took place before the coming into force of those sections.

Extension of limitation of liability

305.(1) The provisions having the force of law under section 302 of this Act shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in

question or employed in connection with that ship or with the salvage operations in question if

- (a) he is so on board or employed under a contract of service governed by the laws of Barbados; and
- (b) the liability arises from an occurrence which took place after the coming into force of this subsection.

(2) In this section “ship” and “salvage operations” have the same meaning as in the provisions referred to in section 302.

Limitation of liability of Port Authority and owners of docks

306.(1) Where, without the actual fault or privity of the owners of any dock or canal or any harbour or port authority, any loss or damage is caused to any vessel or vessels or to any goods, merchandise or other things whatsoever on board any vessel or vessels, such owners shall not be liable to damage beyond any aggregate amount equivalent to 66.67 units of account for each ton of the tonnage of the largest Barbadian 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 dock or canal owner or port or harbour authority performs any duty or exercises any power.

(2) For the purpose of this section, a ship shall not be deemed to have been within the area over which a port or harbour authority performs any duty or exercises any power by reason only 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 mail or passengers within that area.

(3) The limitation of liability under this section shall relate to the whole of any loss and damage which may arise upon any 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 written law, and notwithstanding anything contained in any written law.

(4) For the purposes of this section, the expression “owner of a dock or canal” includes any person or authority having the control and management of any dock or canal and any ship repairer using the same, as the case may be.

(5) Nothing in this section shall impose any liability in respect of any loss or damage on any such owners or authority in any case where no such liability would have existed if this Act had not been enacted.

Release of ship with security

307.(1) Where

- (a) a ship or other property is arrested in connection with a claim that appears to the High Court to be founded on a liability to which a limit is set by section 303, or
 - (b) security is given, to prevent or obtain release from such an arrest, the High Court may, and in the circumstances mentioned in subsection (4) shall, order the release of the ship, property or security, if the conditions specified in subsection (3) are satisfied.
- (2) Where the release is ordered under subsection (1) the person on whose application the release is ordered is to be deemed to have submitted to the jurisdiction of the High Court to adjudicate on the claim.
- (3) The conditions referred to in subsection (1) are
- (a) that a guarantee has first been given; that is to say, security that in the opinion of the High Court is satisfactory, whether in Barbados or elsewhere, in respect of the liability or any other liability incurred on the same occasion, and the High Court is satisfied that, if the claim is established, the amount for which the guarantee was given, or such part thereof as corresponds to the claim, would be actually available to the claimant; and
 - (b) that either the guarantee is for the amount of the claim not being less than the limit, or further security is given that together with the guarantee is for an amount that is not less than that limit.

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- (4) The circumstances mentioned in subsection (1) shall be that the guarantee was given in a port which, in relation to the claim, is the relevant port.
- (5) For the purposes of this section
- (a) a guarantee that is given by the giving of a security in more than one country is presumed to have been given in the country in which security was last given;
 - (b) any question whether the amount of any security is, either by itself or together with any other amount, not less than any limit set by section 303 is to be decided as at the time when the security is given; and
 - (c) where part only of the amount for which a guarantee was given will be available to the claimant, that part shall not be taken to correspond to his claim if any other part might be available to a claimant in respect of a liability to which no limit is set.
- (6) In this section “relevant port” means
- (a) in relation to any claim, the port where the event giving rise to the claim occurred, or if that event did not occur in a port, the first port of call after the event occurred; and
 - (b) in relation to a claim for loss of life or personal injury or damage to cargo, the port of disembarkation or discharge.

Division of Liability

Division of liability

308.(1) Where by the fault of 2 or more vessels damage or loss is caused to 1 or more of those vessels, or to their cargoes or freight, or to any property on board, the liability to make good the damage or loss is in proportion to the degree in which each vessel was in fault.

(2) Notwithstanding subsection (1)

- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- (b) nothing in this section operates to render any vessel liable for loss or damage to which her fault has not contributed; and
- (c) nothing in this section affects the liability of any person under a contract of carriage, or any contract, nor shall this section be construed
 - (i) to impose upon any person any liability from which he is exempted by any contract or by any law, or
 - (ii) to affect the right of any person to limit his liability in the manner provided by law.

(3) In this section

- (a) “freight” includes passage money and hire; and
- (b) a reference to damage or loss caused by the fault of a vessel includes a reference to any salvage or other expenses consequent upon that fault and recoverable at law by way of damages.

Joint and several liability

309.(1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels is joint and several.

(2) Subsection (1) does not deprive any person of any right of defence on which, independently of this section, he might have relied in any action brought against him by the person injured, or any person entitled to sue in respect of such loss of life; nor does it affect the right of any person, in cases to which this section relates, to limit his liability in the manner provided by law.

Right of contribution

310.(1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damage is recovered against the owners of one of the vessels that exceeds the proportion in which that vessel was in fault, those owners may recover by way of contribution the amount of the excess from the owners of the other vessels to the extent to which the other vessels were respectively in fault.

(2) No amount is recoverable pursuant to subsection (1), by reason of any statutory or contractual limitation of, or exemption from liability, or for any other reason, it could not have been recovered in the first instance as damages by the person entitled to sue therefor.

(3) In addition to any other remedy provided by law, the persons entitled to any contribution referred to in subsection (1) have, for the purpose of recovering contributions that are subject to this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

Extended meaning of owners

311.(1) Sections 308 to 310 apply to persons who, though not owners in fact, are responsible for the fault of the vessel.

(2) The expression “owners” in sections 308 to 310 includes the persons referred to in subsection (1) and all persons responsible for the navigation and management of vessels pursuant to a demise character.

PART VII
CONVENTIONS AND LEGAL PROCEEDINGS
Conventions

Application of Conventions

312.(1) Sections 313 and 314 apply in respect of the following international conventions and international regulations, namely

INTERNATIONAL CONVENTIONS

- (a) The International Convention for the Safety of Life at Sea, 1960, as amended.
- (b) The International Convention on Load Lines, 1966.
- (c) The Constitution and Convention of the International Telecommunications Union (NICE) 1989, and the Radio Regulations, 1990.
- (d) The Convention on Facilitation of International Maritime Traffic, 1965.
- (e) The International Convention on Tonnage Measurement of Ships, 1969.
- (f) The International Health Regulations (Geneva), 1969.
- (g) The International Regulations for Preventing Collisions at Sea, 1972.
- (h) The International Convention for Safe Containers, 1972.
- (i) The International Convention for the Safety of Life at Sea, 1974, and the Protocol of 1978 relating thereto.
- (j) The International Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol of 1976 relating thereto.

- (k) The International Convention on Limitation of Liability for Maritime Claims, 1976.
 - (l) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.
 - (m) The International Convention on Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 and the Protocol of 1988.
 - (n) The Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147).
 - (o) Such other international conventions or regulations as the Minister may prescribe.
- (2) If the Minister by notice in the *Official Gazette* declares that a convention or regulation enumerated or described in subsection (1) is not applicable to Barbados, this section and section 311 thereupon cease to apply thereto.
- (3) The Director and Principal Registrar shall maintain in their offices a copy of
- (a) all international conventions and international regulations that have application in Barbados; and
 - (b) all regulations or directions made pursuant to this Act;

and the copies must be made available for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public, seafarers or persons being concerned with or having an interest in vessels or merchant shipping.

Convention prevails

313. Where a provision of an international convention or international regulation and a provision of this Act or any regulation in force by virtue of this Act conflict in any manner, the provision of the international convention or international regulation prevails unless the Minister otherwise provides by such regulations as he may make in that behalf.

*Offences***Contravention of conventions**

314.(1) Subject to subsection (2), where in respect of any Barbadian ship, there is any contravention of a requirement of any international convention or international regulation, a Registrar or an inspector may, with the approval of the Principal Registrar, suspend the certificate of registry of the ship until the contravention is rectified.

(2) Where in respect of a Barbadian ship registered by the Director pursuant to section 14(4) or 15(1), there is any contravention of a requirement of any international convention or international regulation, the Director may suspend the certificate of registry of the ship until the contravention is rectified.

[2001-9]

Contravention of regulations

315. A person who contravenes any regulation made under this Act, or any of the regulations, rules or orders mentioned in this Act is guilty of an offence, and, unless a specific penalty is otherwise provided by this Act or by the regulation, rule or order concerned, is liable on summary conviction to a fine of \$50 000, or to imprisonment for 6 months, or to both.

[2001-9]

General penalty

316.(1) Subject to this section, every person who without lawful excuse contravenes a provision of this Act or any regulation thereunder by wilfully doing an act that it forbids, or by wilfully omitting to do an act that it requires to be done, is guilty of an offence and is liable on summary conviction to a fine of \$200 000 or to imprisonment for 18 months, or to both.

- (2) Subsection (1) does not apply to any contravention for which a penalty is expressly provided elsewhere under this Act otherwise than as an additional penalty.
- (3) A person does not commit an offence under subsection (1) when
- (a) the contravention is by an act or omission that is solely of a legislative, judicial, administrative, ministerial or procedural nature, or
 - (b) it would be otherwise inconsistent with the context of the contravened provision, or with the intent and purpose of this Act, that the contravention be regarded as an offence.

[2001-9]

Limitation of time

317. Subject to any specific provision of this Act, neither a conviction for an offence nor an order for payment of money may be made under this Act in proceedings instituted in Barbados, unless those proceedings are commenced within 3 years after commission of the offence or after the cause of action arises, as the case may be.

Liability of agents

318. Where

- (a) an owner or charterer of a ship appoints or nominates a person who is resident in Barbados to act as his agent or otherwise on his behalf in respect of the management for the time being of the ship, and
- (b) the person acting on behalf of that owner or charterer does anything, or omits to do anything, in respect of the ship, in contravention of this Act or in contravention of any regulations made or deemed to be made under this Act,

that person is liable to the same extent as the owner or charterer would be liable in respect of the contravention had he done or omitted to do that thing and was within the jurisdiction of the court.

Jurisdiction

Jurisdiction in offences

319.(1) For the purpose of giving jurisdiction under this Act, every offence is deemed to have been committed, and every cause of action to have arisen, either in the place in which the same actually was committed or arose or in any place in which the offender or person complained against might be.

(2) Where in any proceedings under this Act a question arises whether any ship or person is or is not governed by the provisions of this Act or of some Part of this Act, that ship or person is deemed, in the absence of evidence to the contrary, to be within those provisions.

Ship lying off coast

320.(1) A court that has jurisdiction in any part of Barbados has jurisdiction

- (a) over any vessel being in or lying or passing off Barbados; and
- (b) over all persons on board that vessel or for the time being belonging thereto;

in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court.

(2) The jurisdiction conferred by subsection (1) may only be exercised in conformity with any international convention to which for the time being Barbados is a party.

(3) The jurisdiction conferred by subsection (1) is in addition to, and not in derogation of, any jurisdiction or power afforded by any other law.

Offence on board ship

321. Notwithstanding anything contained in any other enactment, where any person on board a Barbadian ship does any act or makes any omission that would be an offence if done or made in Barbados, that person is, regardless of the position of the ship at the time of the act or omission, guilty of that offence, and may be tried by any court having jurisdiction in Barbados.

*Damage Occasioned by Foreign Ships***Power to detain foreign ship**

322.(1) Where

- (a) any injury has in any part of the world been caused to any property belonging to a person resident in Barbados by any foreign ship; or
- (b) a claim is made for damages by or on behalf of any person resident in Barbados in respect of personal injuries, including fatal injuries against the owners of a foreign ship,

and at any time thereafter the foreign ship is found in any port or place in Barbados, the High Court may, upon it being shown to the High Court by any person applying that the damage or injury was probably caused by the misconduct or want of skill of the master or crew of the ship, issue an order directed to any person named in the order.

(2) An order under subsection (1) shall require the person named therein to detain the ship until such time as the owner, master or agent thereof

- (a) has made satisfaction in respect of the damage or injury, or
- (b) has given security, approved by the court, to abide the event of any proceedings that might be instituted in respect of the damage or injury, and to pay all costs and damages that might be awarded thereon.

(3) Any person to whom an order is directed under this section shall detain the ship accordingly.

(4) Where it appears that before an application can be made under this section the ship in respect of which the application is to be made will have departed from Barbados, the ship may be detained for such time

(a) as will allow the application to be made, and

(b) the result thereof to be communicated to the officer detaining the ship, and that officer is not liable for any costs or damages in respect of the detention unless the detention is proved to have been made without reasonable grounds.

(5) In any proceedings in relation to any damage or personal injury, the person giving security must be made defendant, and must be stated to be the owner of the ship that has occasioned the damage or injury; and the production of the order of the High Court made in relation to the security is conclusive proof of the liability of the defendant to the proceeding.

Conveyance of offender and witnesses

323.(1) When a complaint is made to a consular officer that

(a) an offence against property or person has been committed at any place outside Barbados by any master, seaman or apprentice who at the time when the offence was committed was employed in a Barbadian ship; or

(b) an offence on the high seas has been committed by any master, seaman or apprentice belonging to a Barbadian ship,

the consular officer may inquire into the complaint upon oath, and if the case so requires, may take any steps in his power for the purposes of placing the offender under the necessary restraint and sending him as soon as practicable in safe custody to Barbados.

(2) The consular officer may order the master of any Barbadian ship bound for Barbados to receive and afford passage and subsistence during the voyage to

any offender mentioned in subsection (1), and to any witnesses; but the master need not receive more than 1 offender for every 100 tonnes of his ship's gross register tonnes nor more than 1 witness for every 50 tonnes of that tonnage.

(3) The consular officer must endorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the Registrar may prescribe.

(4) The master of a ship to whose charge an offender has been committed, shall, on the ship's arrival in Barbados, give the offender into the custody of a member of the Police Force, and he shall take the offender before a court.

(5) The expenses of confining any offender and of conveying him and the witness to Barbados in any manner other than in the ship to which they respectively belong shall, when not paid as part of the costs of the prosecution, be paid out of the Consolidated Fund.

Reciprocal Jurisdiction

Authority under foreign law

324.(1) Subsection (2) applies in any case where the law of a foreign country provides, in terms that would extend to ships of the foreign country

- (a) while they are in Barbados,
- (b) after they have been in Barbados, or
- (c) while they are at sea,

that a described body or person in Barbados has the authority or obligation to execute such request, exercise such right or power, or perform such function, in relation to those ships or to the owners, masters or crews thereof, as is set out in the law of the foreign country.

(2) In relation to the ships of the foreign country referred to in subsection (1) and to the owners, masters and crews thereof, the court, Registrar, customs officer, inspector or other functionary in, for, or of Barbados as specified in the

foreign country's law may, or as the circumstances require, shall, in like manner as if the authority, power or duty to do so were conferred or imposed by this Act

- (a) execute a request made under the foreign country's law,
- (b) execute any right or authority arising under the foreign country's law, or
- (c) perform any function required to be performed under the foreign country's law.

Authority under Barbadian law

325.(1) Subsection (2) applies in any case where the law of a foreign country provides, in terms that would extend to Barbadian ships

- (a) while they are in a foreign country,
- (b) after they have been in the foreign country, or
- (c) while they are at sea,

that a court or other authority or functionary in, for, or of the foreign country may or shall execute any request, exercise any right or authority or perform any function that this Act confers or imposes upon or directs to be done by a similar court, authority or functionary in relation to Barbadian ships or the owners, masters or crews thereof.

(2) In relation to Barbadian ships and to the owners, masters and crews thereof described in subsection (1) in respect of a foreign country, any court, authority or functionary in the foreign country that executes any request, exercises any right or authority or performs any function

- (a) that this Act makes or purports to make, or confers, or imposes upon or directs to be done by a similar court, authority or functionary, and
- (b) that can be related to the law of that foreign country,

shall be deemed to have been done by force of the law of the foreign country if the things done by the court, authority or functionary were done in the form required or authorised pursuant to this Act.

Effect of powers

326. Where any provisions of this Act that permits, authorises, requires or directs any court, authority or functionary is permissive merely, all things done by the court, authority or functionary pursuant to this Act shall be deemed to have been validly done for all the purposes of this Act.

Jurisdiction over Foreign Ship

Applying Act to foreign ships

327. Where

- (a) it appears to the Minister that the government of a foreign country is desirous that any of the provisions of this Act that do not apply to the ships of that country should apply; and
- (b) there are no special provisions in this Act for that application,

the Minister may, by order, direct that any specified provisions of this Act, apply, subject to any limitations contained in the order, to the ships of that country and to the owners, masters and crew of those ships when not locally within the jurisdiction of the government of that country, as if those ships were Barbadian ships.

Inquiry into Causes of Death

Inquiry into death on board

328.(1) When a death occurs on board a Barbadian ship, the master shall report the death to the authorities at the first port of arrival and shall submit to the Registrar a statement and log extract signed by the master.

(2) If the Registrar decides to hold an investigation into the cause of death, a Registrar or any person appointed by the Registrar for that purpose shall, on the arrival of the ship at a port, inquire into the cause of the death, and make in the official logbook an endorsement either to the effect that the statement of the cause of death in the official logbook is in his opinion true, or to the contrary effect, according to the results of the inquiry.

(3) The Registrar or persons appointed under subsection (1) has, for the purpose of the inquiry, all the powers of a person making a preliminary inquiry under section 293.

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(4) If in the course of the inquiry it appears to the Registrar or person holding the inquiry that the death was caused on board the ship by violence or improper means, he shall report the matter to the Registrar, and, if the urgency of the situation so requires, take immediate steps for bringing the offenders to justice.

Depositions in Legal Proceedings

When witness not available

329.(1) Notwithstanding any other law, but subject to subsection (2), where, in the course of any proceedings that were for the purposes of this Act instituted in Barbados before a court or before any person authorised by law or by consent of the parties to receive evidence, the testimony of any witness is required in relation to the subject matter of those proceedings and it is proved that the witness cannot be found in Barbados, any deposition that the witness might have previously made an oath in relation to the same subject matter before a court or consular officer elsewhere is admissible in evidence.

(2) When the deposition referred to in subsection (1) was made in Barbados

(a) the deposition is not admissible in any proceedings instituted in Barbados, and

- (b) if the proceedings are criminal proceedings, the deposition is not admissible unless it was made in the presence of the person accused or his Attorney-at-Law.
- (3) A deposition referred to in subsection (1) must be authenticated by the seal of the court or the signature of the consular officer before whom it was made, and the court or consular officer must certify, if it is so, that the accused or his Attorney-at-Law was present when the deposition was taken.
- (4) It is not necessary in any case to prove the seal or official signature or official character of the person appearing to have signed the deposition; and in criminal proceedings a certificate under this section is, in the absence of evidence to the contrary, sufficient proof that the accused or his Attorney-at-Law was present in the manner certified.

Detention of Ship and Distress on Ship

Detention of ship

- 330.(1)** The Principal Registrar may with the approval of the Minister at such places as he considers advisable appoint fit and proper persons to be detaining officers for the better execution of the provisions of this Act that provide for the detention of ships under this Act.
- (2) Where a ship is to be, or may be, detained under this Act, a detaining officer may detain the ship, and if the ship, after being detained or after service on the master of a notice, or order for detention, proceeds to sea before it is released by a competent authority, the master of the ship and the owner and any person who sends the ship to sea are guilty of an offence and unless the accused proves that the ship proceeded to sea without his consent and without any negligence on his part.
- (3) When any ship so proceeding to sea takes any detaining officer to sea when he is aboard the ship in the course of his duty, the owner and master of the ship are each liable to pay all expenses of and incidental to the officer being so taken to sea.

(4) When a ship is to be detained under this Act, a customs officer shall refuse to clear that ship outwards, and when under this Act a ship may be detained, a customs officer may refuse to clear that ship outwards.

(5) When a foreign ship is detained under this Act, a copy of the notice of, or order for, detention must be served on the consular officer of the country to which the ship belongs, if one is present at the port of detention.

(6) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine \$50 000.

Seizure and sale

331.(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, and, after reasonable notice, sold by any customs officer or any person authorised for that purpose in writing by the Registrar, and the customs officer or person may, by sale, give to the purchaser a valid title to the owner's interest in the ship.

(2) Any surplus remaining from the proceeds of a sale pursuant to subsection (1), after paying the amount of the fine and the cost of conviction, together with costs of seizure and sale, shall be paid to the person who was owner of the ship before the sale or to the mortgagee of the ship, as the case may be.

Distress of ships

332. Where a 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 the party so directed to make the payment is the master or owner of the ship and the payment is not made at the time and in the manner prescribed in the order, the court that made the order may, in addition to exercising any powers it might have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship and her tackle, furniture and apparel.

*Evidence, Service of Documents and Declarations***Proof of attesting witnesses**

333. Where any document is required by this Act to be executed in the presence of, or to be attested by, any witnesses, the document may be proved by the evidence of any person who is able to bear witness to the needed facts without calling any of the attesting witnesses.

Admissibility of documents

334.(1) Where a document is by this Act declared to be admissible in evidence, the document

- (a) on its production from the proper custody is admissible in evidence in any court or before any person authorised by law or by consent of parties to receive evidence, and
- (b) subject to all just exceptions, is proof of the matters stated in it, pursuant to this Act by any officer in pursuance of his duties.

(2) A copy of any document referred to in subsection (1) or of an extract from that document is also admissible in evidence, if

- (a) it is proved to be an examined copy or extract, or
- (b) it purports to be signed and certified as a true copy or extract by the officer in whose custody the original document was.

(3) The officer who has the custody of the original document shall, upon payment of a reasonable sum therefor, supply a certified copy thereof, or certified extract therefrom, to any person applying for it at a reasonable time.

(4) An officer referred to in subsection (3) who wilfully certifies any document as being a true copy or extract, knowing the same not to be a true copy or extract, is guilty of an offence.

- (5) A person who, knowing the same to be false or counterfeit
- (a) forges the seal, stamp or signature of any document referred to in this section, or
 - (b) tenders in evidence any such document with a false or counterfeit seal, stamp or signature thereto,

is guilty of an offence triable on indictment, and is liable to imprisonment for 7 years.

- (6) If a document described in subsection (5) has been admitted in evidence, the court or the person who admitted it may on request direct that it be impounded and kept in custody of some officer of the court, or other person, for such period, or subject to such conditions, as the court or person thinks fit.

Service of documents

335.(1) Where for the purposes of this Act any document is to be served on any person

- (a) the document may be served in any case, by delivering it to him personally or by leaving it at his latest known place of abode;
- (b) if the document is to be served on the master of a ship, if the ship has one, or on a person belonging to a ship, the document may be served by leaving it for him on board the ship with the person who is, or appears to be, in command or charge of the ship;
- (c) if the document is to be served on the master of the ship and the ship is in Barbados, but there is no master, the document may be served
 - (i) in the manner provided by paragraph (a), on the managing owner of the ship or if no managing owner is known, on some agent of the owner who is residing in Barbados; or
 - (ii) if no managing owner or agent is known or can be found, by affixing a copy of the document to the mast of the ship and to

some other conspicuous place on board where it may be seen by persons who enter the ship.

(2) Any person who obstructs the service of a document that is to be served on the master of a ship under this Act is guilty of an offence and is liable on summary conviction to a fine of \$500, and, if the owner or master of a ship is party or privy to the obstruction, he is likewise guilty of an offence.

Protection of Officers

Protection of officers

336. Every officer appointed under this Act and any person of Classification Society appointed or authorised under this Act is immune from suit in respect of anything done by him or it in good faith in the exercise or performance of any function or authority conferred or imposed on him under this Act.

Limitation of Actions in Civil Proceedings

Limitation of time

337.(1) No action may be brought to enforce any claim or lien against a vessel or her owners after the end of 2 years from the date on which the right of action accrued in respect of

- (a) any damage or loss to another vessel or to cargo or freight or to any property on board, or
- (b) damage for loss of life or personal injuries suffered by any person on board the vessel,

that was caused by the fault of the first mentioned vessel, irrespective of whether that vessel is wholly or partly in fault.

(2) No action may be brought to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries after the end of 1 year from the date of payment.

(3) Any court having jurisdiction to deal with an action to which this section relates may extend any period limited by subsection (1) or (2) to such extent and on such conditions as the court thinks fit.

(4) Where the court is satisfied that during any period limited under this section there has not been any reasonable opportunity of arresting the defendant's vessel within

(a) the jurisdiction of the court, or

(b) the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business,

the court may extend any such period sufficiently to enable a reasonable opportunity to be given to arrest the defendant's vessel.

PART VIII

MARITIME LIENS

Sources of maritime liens

338.(1) The following claims shall be secured by maritime liens on a ship

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

(b) port, canal, and other waterway dues and pilotage dues and any outstanding fees payable under this Act in respect of the ship;

(c) claims against the owner in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the ship;

- (d) claims against the owner, based on tort and not capable of being based on contract, in respect of loss of or damage to property occurring, whether on land or on water, in direct connection with the operation of the ship;
 - (e) claims for salvage, wreck removal and contribution in general average.
- (2) The word “owner” mentioned in this section shall be deemed to include the demisee or other charterer, manager or operator of the ship.

Priority of maritime liens in general

339. Subject to section 341 the maritime liens set out in section 338 shall take priority over mortgages registered under this Act or any preferential rights arising under the *Bankruptcy Act*, Cap. 303 and no other claim shall take priority over such mortgages or rights.

Order of priority of maritime

- 340.(1)** The maritime liens set out in section 338
- (a) shall rank in the order listed therein save that liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to the said liens were performed;
 - (b) shall as respect those set out in each of paragraphs (a), (b), (c) and (d) of subsection (1) of the said section rank *pari passu* as between themselves;
 - (c) shall as respect those set out in paragraph (e) of subsection (1) of the said section rank in the inverse order of the time when the claims secured thereby accrued.
- (2) Claims for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed; claims for salvage

shall be deemed to have accrued on the date on which the salvage operation was terminated.

Processory liens

341. Any lien exercisable by a ship-builder or repairer over a ship or the appurtenances thereof in his possession shall take priority over all claims arising after such possession was taken but shall be postponed to those claims which were created before the time of taking possession.

Claims to proceeds of sale of ship

342. Anything to the contrary notwithstanding in this Act or in any other law, any sum awarded by a court as costs arising out of any proceedings in respect of the arrest of a ship or the subsequent sale thereof, including such charges or expenses incurred in effecting the arrest or sale shall have priority over all claims in payment out of the proceeds of the sale or of any moneys paid into court for the release of the ship from that arrest and, subject to such payment, the court shall determine the order of priority of the claims in accordance with the foregoing provisions of this Part.

PART IX SUPPLEMENTAL

Exemption of Government ships

343.(1) This Act and any regulations made thereunder shall not, except as specifically provided, apply to Government ships.

(2) The Minister may make regulations providing that Government ships either generally or as respects any special class thereof, be registered as Barbadian ships and in respect thereto such regulations may

- (a) prescribe the manner in which such registration shall be carried out; and

- (b) provide for the application of any provisions of this Act subject to such exceptions or modifications.
- (3) For the purposes of subsection (2) the expression “Government ship” means
 - (a) ships not forming part of the Barbados Defence Force; or
 - (b) ships which are held by any person on behalf of or for the benefit of the Government and for that reason cannot but for subsection (2) be registered under this Act:

Powers of inspectors

344.(1) For the purpose of ensuring that the provisions of this Act and of any regulations made or deemed to be made thereunder, or that the provisions of any international convention and regulations are duly observed and complied with, and for the effective carrying out of the powers and duties of an inspector under this Act and the regulations, an inspector in Barbados may

- (a) go on board any ship and inspect the ship or any part thereof, or any of the machinery, boats, equipment or articles on board thereof to which the provisions apply;
 - (b) by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and to examine.
 - (c) require answers or returns to be given or made by the master of any other member of the crew of a ship to any inquiries the inspector is required or thinks fit to make;
 - (d) require the production of any books, papers or documents; and
 - (e) administer oaths for obtaining sworn testimony.
- (2) An inspector in Barbados, if he considers it necessary in consequence of accident or for any other reason, may require any ship to be taken into dock at the expense of the owner of the ship, for a survey of her hull or machinery.

- (3) The powers conferred upon an inspector by subsection (1)(*a*), (*c*), (*d*) and (*e*) and subsection (2) may be exercised by a Registrar or an inspector on or in respect of a Barbadian ship outside Barbados.
- (4) Powers conferred by this section may not be exercised to detain or delay any ship unnecessarily.
- (5) Where any person is summoned under paragraph (*b*) of subsection (1), the law for the time being in force in relation to magistrates' courts applies to that person as if he were a witness summoned by a magistrate, and the inspector was the magistrate by whom he was summoned.
- (6) A person is guilty of an offence and is liable on summary conviction to a fine of \$2 500 who
- (*a*) obstructs any inspector or Registrar in the exercise of his powers under this section or under any other power conferred by this Act or any regulations made or deemed to be made thereunder,
 - (*b*) without reasonable excuse fails to comply with any requirement made under this section, or
 - (*c*) knowingly gives a false answer to any question put to him by an inspector or Registrar.

Suspension of certificate of registry

- 345.**(1) Where under any of the provisions of this Act the certificate of registry of a Barbadian ship is suspended, the person by whom the suspension is made shall give to, or cause to be served on, the master of the ship a written notice of the suspension; and thereupon it is unlawful for the ship to proceed to sea, and the master shall forthwith deliver up the certificate of registry to the person by whom it was suspended, or, if that person is not immediately available, to a Registrar or consular officer.
- (2) If there is any contravention of this section, the master of the ship is guilty of an offence.

(3) Notwithstanding the provisions of subsection (1), where the certificate of registry of a Barbadian ship is suspended for a period pursuant to the provisions of this Act the ship is not during such period prohibited from proceeding to sea, or entering or leaving any port in Barbados or in any foreign country and the Registrar may record in the register any mortgage instrument in respect of that ship but, save as otherwise provided under the provisions of this Act, during such period such ship shall not

- (a) be recognised in Barbados or for the purposes of this Act as a Barbadian ship;
- (b) be entitled to the rights and privileges accorded to Barbadian ships; or
- (c) wear or hoist the national colours of a Barbadian ship.

(4) Notwithstanding any suspension of a certificate of registry of a Barbadian ship for a period pursuant to the provisions of section 38 there shall be paid to the Registrar the registration fee and the annual fee payable under the provisions of section 32 in respect of that ship.

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Forms

346. Subject to this Act and any regulations made or deemed to have been made thereunder, the Principal Registrar or the Director as the case may be, may determine the forms of documents to be used for the purposes of this Act and the regulations.

Exemptions for limited period

347.(1) Notwithstanding any other provision of this Act, but subject to subsection (2), the Minister may, by notice in the *Official Gazette* which must give his reason for so doing, exempt a particular vessel or class of vessels from all or any of the provisions of this Act for a limited period, if in his opinion special circumstances exist for so doing.

(2) When any such provision is in conformity with an international convention applicable to Barbados, the exemption may only be given if, and to the extent that, it is allowable under the terms of that convention.

Production to customs

348. Where, under this Act or any regulations made or deemed to have been made thereunder, a certificate or other document is required to be produced to a customs officer before clearance inwards or outwards, the production of a statement given under the hand of a Registrar, consular officer or inspector to the effect that the certificate or other documents have been produced to him is sufficient evidence that this Act or such regulations have been complied with; and the customs officer may proceed to grant clearance thereon.

General regulations

349.(1) Without limiting any other power in that behalf conferred by any other provision of this Act, the Minister may make regulations

- (a) unless otherwise provided by this Act, prescribing
 - (i) the forms to be used, and
 - (ii) the fees or sums to be paid, and the manner in which, or the person by whom such fees or sums are to be determined,

in respect of any services performed or things done under or for the purposes of this Act or any regulations made, or deemed to have been made, thereunder;

- (b) providing for matters relating to the waiver or sovereignty over Barbados ships registered under section 9(1) when the control of such a ship may, with the written approval of the original Registrar, be committed by the owner thereof to the government of another country for requisition, purchase or charter in time of war or other state of emergency of such country.

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- (c) prescribing anything that under this Act is to be prescribed; and

- (d) generally for carrying out the purposes of this Act.
- (2) Unless otherwise provided by this Act, regulations made under any of the provisions thereof may prescribe penalties not exceeding a fine of \$5 000 or imprisonment for a term not exceeding 6 months, or either, or both, for contravention of any of the provisions of the regulations.
- (3) The regulations, rules and orders enumerated in the *Third Schedule* and as from time to time amended are deemed to have been made under this Act and shall have full force and effect accordingly until replaced by regulations made under this Act.
- (4) In regulations deemed to have been made under this Act
- (a) any reference in the regulations to British ships or to ships registered in the United Kingdom is to be construed as a reference to Barbadian ships, and any reference to ships in port in the United Kingdom is to be construed as a reference to ships in Barbados;
 - (b) any reference in the regulations to the Secretary of State is to be construed as a reference to the Minister;
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 - (c) the regulations are to be otherwise construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with this Act and the relevant Conventions to which the Government is a party;
 - (d) any certificate, form or code of instructions printed and officially published for use in compliance with the regulations apply in similar manner; and
 - (e) the regulations may be amended by regulations made under this Act.
- (5) The Minister may by notice in the *Official Gazette* add to, or amend, the *Third Schedule*.

Transitional

350. Ships registered under the *Shipping Act*, Cap. 296, shall be deemed to have been registered under this Act.

FIRST SCHEDULE*(Section 301)*

*CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND
THEIR LUGGAGE BY SEA 1974 AND 1976 PROTOCOL RELATING
THERE TO*

PART I**TEXT OF CONVENTION***ARTICLE 1**Definitions*

In this Convention the following expressions have the meaning hereby assigned to them

1. (a) “carrier” means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;
(b) “performing carrier” means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performed by him or by a performing carrier.
2. “contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the cases may be.
3. “ship” means only a seagoing vessel, excluding an aircushion vehicle.
4. “passenger” means any person carried in a ship
 - (a) under a contract of carriage, or

- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention.

5. “luggage” means any article or vehicle carried by the carrier under a contract of carriage, excluding

- (a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and
- (b) live animals.

6. “cabin luggage” means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle.

7. “loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger without a reasonable time after the arrival of the ship on which luggage has been or should have been carried, but does not include delays resulting from labour disputes.

8. “carriage” covers the following periods

- (a) with regard to the passenger and his cabin luggage, the period during which the passenger and or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice versa, if the cost of such transport is included in the fare or if the vessel used for the purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which it is in a marine terminal or station or on a quay or in or on any other post installation;

- (b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;
 - (c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent ashore or on board until the time of its re-delivery by the carrier or his servant or agent.
9. “international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State.

ARTICLE 2

Application

1. This Convention shall apply to any international carriage if
- (a) the ship is flying the flag of or is registered in a State Party to this Convention, or
 - (b) the contract of carriage has been made in a State Party to this Convention, or
 - (c) the place of departure or destination, according to the contract of carriage, is a State Party to this Convention.
2. Notwithstanding paragraph 1 of this Article, this Convention shall not apply when the carriage is subject, under any other international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

3. Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of loss of or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall be with the claimant.

ARTICLE 3

Liability of the carrier

1. The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

2. The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.

3. Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of loss of or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant.

*ARTICLE 4**Performing Carrier*

1. If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Convention. In addition, the performing carrier shall be subject and entitled to the provisions of this Convention for the part of the carriage performed by him.
2. The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.
3. Any special agreement under which the carrier assumes obligations not imposed by this Convention or any waiver of rights conferred by this Convention shall affect the performing carrier only if agreed by him expressly and in writing.
4. Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.
5. Nothing in this Article shall prejudice any right or recourse as between the carrier and the performing carrier.

*ARTICLE 5**Valuables*

The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewelry, ornaments, works of art, or other valuables, except where such valuables, have been deposited with the carrier for the agreed purpose of safekeeping in which case the carrier shall be liable up to

the limit provided for in paragraph 3 of Article 8 unless a higher limit is agreed upon in accordance with paragraph 1 of Article 10.

ARTICLE 6

Contributory fault

If the carrier proves that the death of or personal injury of a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

ARTICLE 7

Limit of liability for personal injury

1. The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 46,666 units of account per carriage. Where in accordance with the law of the court seized of the case, damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.

2. Notwithstanding paragraph 1 of this Article, the national law of any State Party to this Convention may fix, as far as carriers who are nationals of such State are concerned, a higher per capita limit of liability.

ARTICLE 8

Limit for liability for loss of or damage to luggage

1. The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 833 units of account per passenger, per carriage.

2. The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 3 333 units of account per vehicle, per carriage.
3. The liability of the carrier for the loss of or damage to luggage other than, that mentioned in paragraphs 1 to 2 of this Article shall in no case exceed 1 200 units of account per passenger, per carriage.
4. The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 117 units of account in the case of damage to a vehicle and not exceeding 13 units of account per passenger in the case of loss or damage to other luggage, such sum to be deducted from the loss or damage.

ARTICLE 9

Unit of Account and Conversion

The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 7 and 8 shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date of the judgment or the date agreed upon by the Parties.

(1) For the purpose of converting from special drawing rights into dollars the amounts mentioned in Articles 7 and 8 of the Convention in respect of which a judgment is given, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for

- (a) the day on which the judgment is given; or
- (b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.

- (2) A certificate given by or on behalf of the Central Bank stating
- (a) that a particular sum in dollars has been fixed as mentioned in the preceding sub-paragraph for a particular day; or
 - (b) that no sum has been so fixed for that day and a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day.

shall be conclusive evidence of those matters for the purposes of Articles 7 to 9 of the Convention; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

ARTICLE 10

Supplementary provisions on limits of liability

1. The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Articles 7 and 8.
2. Interest on damages and legal costs shall not be included in the limits of liability prescribed in Articles 7 and 8.

ARTICLE 11

Defences and limits for carrier's servants

If no action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Convention, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Convention.

*ARTICLE 12**Aggregation of claims*

1. Where the limits of liability prescribed in Articles 7 and 8 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.
2. In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.
3. In any case where a servant or agent of the carrier or of the performing carrier is entitled under Article 11 of this Convention to avail himself of the limits of liability prescribed in Articles 7 and 8, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

*ARTICLE 13**Loss of right to limit liability*

1. The carrier shall not be entitled to the benefit of the limits of liability prescribed in Articles 7 and 8 and paragraph 1 of Article 10, if it is proved that the damage resulted from an omission of the carrier done with the intent to cause such damage, recklessly and with knowledge that such damage would probably result
2. The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted

from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

ARTICLE 14

Basis for claims

No action for damage for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Convention.

ARTICLE 15

Notice of loss or damage to luggage

1. The passenger shall give written notice to the carrier or his agent
 - (a) in the case of apparent damage to luggage
 - (i) for the cabin luggage, before or at the time of disembarkation of the passenger,
 - (ii) for all other luggage, before or at the time of its re-delivery,
 - (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.
2. If the passenger fails to comply with this Article, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.
3. The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

*ARTICLE 16**Time-bar for actions*

1. Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a personal injury to a passenger or, for the loss of or damage to luggage shall be time-barred after a period of 2 years.
2. The limitation period shall be calculated as follows
 - (a) in the case of personal injury, from the date of disembarkation of the passenger;
 - (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation from the date of death, provided that this period shall not exceed 3 years from the date of disembarkation;
 - (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.
3. The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of a period of 3 years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.
4. Notwithstanding paragraphs 1, 2 and 3 of this Article the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

*ARTICLE 17**Competent jurisdiction*

1. An action arising under this Convention shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to this Convention

- (a) the court of the place of permanent residence or principal place of business of the defendant, or
- (b) the court of the place of departure or that of the destination according to the contract of carriage, or
- (c) a court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State, or
- (d) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.

2. After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

*ARTICLE 18**Invalidity of contractual provisions*

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in paragraph 4 of Article 8, and any such provision purporting to shift the burden of proof which rests on the carrier, or

having the effect or restricting the option specified in paragraph 1 of Article 17, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Convention.

ARTICLE 19

Other conventions on limitation of liability

This Convention shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in international conventions relating to the limitation of liability of owners of seagoing ships.

ARTICLE 20

Nuclear damage

No liability shall arise under this Convention for damage caused by a nuclear incident

- (a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July, 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28 January, 1964, or the Vienna Convention of 21 May, 1963 on Civil Liability for Nuclear Damage, or
- (b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or Vienna Conventions.

*ARTICLE 21**Commercial carriage by public authorities*

This Convention shall apply to commercial carriage undertaken by States or Public Authorities under contracts of carriage within the meaning of Article 1.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule any reference to a numbered Article is a reference to the article of the Convention which is so numbered and any expression to which a meaning is assigned by Article 1 of the Convention has that meaning.

Provisions adapting or supplementing specified Articles of the Convention

2. For the purposes of paragraph 2 of Article 2, provisions of such an international convention as is mentioned in that paragraph which apart from this paragraph do not have mandatory application to carriage by sea shall be treated as having mandatory applications to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.

3. The reference to the law of the court in Article 6 shall be construed as a reference to the *Contributory Negligence Act*, Cap. 195 of the Laws of Barbados.

4. The Minister may by order provide that, in relation to a carrier whose principal place of business is in Barbados, paragraph 1 of Article 7 shall have

effect with the substitution for the limit for the time being specified in that paragraph of a different limit specified in the Order (which shall not be lower than the limit specified in that paragraph at the passing of this Act).

5. The values which in pursuance of Article 9 shall be considered as the official values in Barbados of the amounts in units of account for the time being specified in Articles 7 and 8 shall be in such amounts in Dollars as the Minister may from time to time by order specify.

6. It is hereby declared that by virtue of Article 12 the limitation on liability there mentioned in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing liabilities or any of them which may be brought whether in Barbados or elsewhere.

7. (a) Article 16 shall apply to an arbitration as it applies to an action.

(b) For the purpose of Article 16, an arbitration shall be deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

(c) Any such notice as aforesaid may be served either

(i) by delivering it to the person on whom it is to be served; or

(ii) by leaving it at the usual or last known place of abode in Barbados of that person; or

(iii) by sending it by post in any other manner provided in the arbitration agreement; and where a notice is sent by post in manner prescribed by paragraph *(c)*, service thereof shall, unless the contrary is proved, be deemed to have been effective at the time

at which the letter would have been delivered in the ordinary course of post.

8. The court before with proceedings are brought pursuant to Article 17 to enforce a liability which is limited by virtue of Article 12 may at any stage of the proceedings make such orders as appear to the court to be just and equitable in view of the provisions of Article 12 and of any other proceedings which have been or are likely to be begun in Barbados or elsewhere to enforce the liability in whole or in part; and without prejudice to the generality of the preceding provisions of this paragraph such a court shall, where the liability is or may be partly enforceable in other proceedings in Barbados or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court or to make any part of its award conditional on the results of any other proceedings.

Other provisions adapting or supplementing the Convention

9. Any reference in the Convention to a contract of carriage excludes a contract of carriage which is not for reward.

10. If the Minister by Order declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made by virtue of this paragraph, be conclusive evidence that the State is a party to the Convention in respect of that country.

11. The Minister may by order make provision

- (a) for requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the Order, notice of such of the provisions of Part I of this Schedule as are so specified;

- (b) for a person who fails to comply with a requirement imposed on him by the Order to be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding \$1 000.

Application of Part VI of this Act

12. Nothing in PART VI of this Act (which among other things limit shipowner's liability for loss or damage of goods in certain cases) shall relieve a person of any liability imposed on him by the Convention.

13. It is hereby declared that nothing in the Convention affects the operation of PART VI of this Act (which limit a shipowner's liability in certain cases of loss of life, injury or damage).

SECOND SCHEDULE*(Section 302)***CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS
1976****PART I****TEXT OF CONVENTION****CHAPTER I***The Right of Limitation***ARTICLE 1***Persons entitled to limit liability*

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term “shipowner” shall mean the owner, charterer manager or operator of a seagoing ship.
3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1 (*d*), (*e*) and (*f*).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.

5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.
6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

ARTICLE 2

Claims subject to limitation

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability
 - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), 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 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 Convention, and further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1 (d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

ARTICLE 3

Claims excepted from limitation

The rules of this Convention shall not apply to

- (a) claims for salvage or contribution in general average;
- (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November, 1969 or of any amendment thereto which is in force;
- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing 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 by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

*ARTICLE 4**Conduct barring limitation*

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.

*ARTICLE 5**Counterclaims*

Where a person entitled to limitation of liability under the rules of this Convention, has a claim against the claimant arising out of the same occurrence, their respective claims shall be set out against each other and the provisions of this Convention shall only apply to the balance if any.

*CHAPTER II**Limits of Liability**ARTICLE 6**The General Limits*

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows
 - (a) in respect of claims for loss of life or personal injury
 - (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons.

- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i)

for each ton from 501 to 3,000 tons, 500 Units of Account; for each ton from 3,001 to 30,000 tons, 333 Units of Account; for each ton from 30,001 to 70,000 tons, 250 Units of Account; and for each ton in excess of 70,000 tons, 167 Units of Account;

- (b) in respect of any other claims

- (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons,

- (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned for (i)

for each ton from 501 to 30,000 tons, 167 Units of Account, for each ton from 30,001 to 70,000 tons, 125 Units of Account; and for each ton in excess of 70,000 tons, 83 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(b).

3. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

ARTICLE 7

The Limit for Passenger Claims

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 of 46,666 Units of Account multiplied by the number

of passengers which the ship is authorised to carry according to the ship's certificate but not exceeding 25 million Units of Account.

2. For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean 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 carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

ARTICLE 8

Unit of Account

1. The Unit of Account referred to in Articles 6 and 7 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

ARTICLE 9

Aggregation of Claims

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion

- (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or

- (b) against the shipowner of a ship rendering 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 are responsible; 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 responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

ARTICLE 10

Limitation of Liability Without Constitution of a Limitation Fund

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

*CHAPTER III**The Limitation Fund**ARTICLE 11**Constitution of Fund*

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation liability can be invoked.
2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.
3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

*ARTICLE 12**Distribution of the Fund*

1. Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund 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 Convention.
3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law,
4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

*ARTICLE 13**Bar to Other Actions*

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from

exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or
- (d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

ARTICLE 14

Governing Law

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

*CHAPTER IV**Scope of Application**ARTICLE 15*

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

*PART II**PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION**Interpretation*

1. In this Part of this Schedule any reference to a numbered Article is a reference to the Article of the Convention which is so numbered.

Right to Limit Liability

2. This right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of Article 1 shall be construed accordingly.

3.(1) Paragraph 1(d) of Article 2 shall not apply unless provision has been made by an order of the Minister for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Minister to be necessary or expedient.

4.(1) The claims excluded from the Convention by paragraph (b) of Article 3 are claims in respect of any liability incurred under section 20 of the Barbados *Shipping (Oil Pollution) Act, Cap. 296A*.

(2) The claims excluded from the Convention by paragraph (c) of Article 3 are claims made by virtue of either sections 10 and 11 of the Nuclear Installations Act (U.K.) 1965 as extended to Barbados as modified and adapted in the Schedule thereto.

The General Limits

5.(1) In the application of Article 6 to a ship with a tonnage less than 300 tons that Article shall have effect as if

(a) paragraph (a)(i) referred to 166.667 Units of Account; and

(b) paragraph (b)(i) referred to 83,333 Units of Account.

(2) For the purposes of Article 6 and this paragraph a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Minister.

(3) Any order under this paragraph shall, so far as appears to the Minister to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969.

Limits for Passenger Claims

6. In paragraph 2 of Article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the *Accidents Compensation (Reform) Act, Cap. 193A* of the Laws of Barbados.

Units of Account

7.(1) For the purpose of converting the amounts mentioned in Articles 6 and 7 from special drawing rights into dollars one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being equivalent of one special drawing right for

- (a) the relevant date under paragraph 1 of Article 8; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Central Bank stating

- (a) that a particular sum in dollars has been fixed as mentioned in the preceding sub-paragraph for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in dollars has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those Articles; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Constitution of fund

8.(1) The Minister may, from time to time, with the concurrence of the Central Bank, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of Article II.

(2) Where a fund is constituted with the court in accordance with Article 11 for the payment of claims arising out of any occurrence, the Court may stay any proceedings relating to any claims arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of Fund

9. No lien or other right in respect of any ship or property shall affect the proportions in which under Article 12 the fund is distributed among several claimants.

Bar to Other Actions

10. Where the release of a ship or other property is ordered under paragraph 2 of Article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of "Court"

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are, in relation to Barbados, references to the Supreme Court.

Meaning of "Ship"

12. References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

Meaning of "State Party"

13. An Order made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention shall, subject to provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention.

THIRD SCHEDULE*(Section 349)**APPLIED REGULATIONS ETC.***United Kingdom Regulations, Rules and Orders**

<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
TONNAGE		
S.I. 1997 No. 1510	The Merchant Shipping (Tonnage) Regulations, 1997	82
COMPETENCY		
S.I. 1970 No. 294	The Merchant Shipping (Certificate of Competency as A.B.) Regulations, 1970	104
S.I. 1997 No. 2886	The Merchant Shipping (Master's Discretion) Regulations, 1997	88
S.I. 1997 No. 346	The Merchant Shipping (Disqualification of Holder of Seaman's Certificates) Regulations, 1997	88
S.I. 1997 No. 347	The Merchant Shipping (Section 63 Inquiries) Rules, 1997	88
CREW, ETC.		
S.I. 1989 No. 102	The Merchant Shipping (Provisions and Water) Regulations, 1989	139

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<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
S.I. 1997 No. 1508	The Merchant Shipping (Crew Accommodation) Regulations, 1997	139
S.I. 1983 No. 808	The Merchant Shipping (Medical Examination) Regulations, 1983	138
S.I. 1985 No. 512	The Merchant Shipping (Medical Examination) (Amendment) Regulations, 1985	138
S.I. 1990 No. 1985	The Merchant Shipping (Medical Examination) (Amendment) Regulations, 1990	138
S.I. 1995 No. 1802	The Merchant Shipping and Fishing Vessels (Medical Stores) Regulations, 1995	141
S.I. 1996 No. 2821	The Merchant Shipping and Fishing Vessels (Medical Stores) (Amendment) Regulations, 1996	141
S.I. 1995 No. 1803	The Merchant Shipping (Ships' Doctors) Regulations, 1995	143
S.I. 1981 No. 569	The Merchant Shipping (Official Log Books) Regulations, 1981	160
S.I. 1991 No. 2145	The Merchant Shipping (Official Log Books) (Amendment) Regulations, 1991	160

<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
S.I. 1997 No. 1511	The Merchant Shipping (Official Log Books for Merchant Ships and Fishing Vessels) (Amendment) Regulations, 1997	160
S.I. 1981 No. 1076	The Merchant Shipping (Certification of Ships' Cooks) Regulations, 1981	140
S.I. 1998 No. 2411	The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations, 1998	103
S.I. 1987 No. 408	The Merchant Shipping (Seamen's Documents) Regulations, 1987	105
S.I. 1999 No. 3281	The Merchant Shipping (Seamen's Documents) (Amendment) Regulations, 1999	105
SAFETY		
S.I. 1999 No. 17	The Merchant Shipping (Pilot Transfer Arrangements) Regulations, 1999	211
S.I. 1998 No. 2514	The Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations, 1998	211
S.I. 1998 No. 2515	The Merchant Shipping (Passenger Ship Construction:	211

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<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
	Ships of Classes III to VI(A)) Regulations, 1998	
S.I. 1997 No. 1509	The Merchant Shipping (Cargo Ship Construction) Regulations, 1997	211
S.I. 1999 No. 643	The Merchant Shipping (Cargo Ship Construction) (Amendment) Regulations, 1999	211
S.I. 1995 No. 1210	The Merchant Shipping (Survey and Certification) Regulations, 1995	211
S.I. 1996 No. 2418	The Merchant Shipping (Survey and Certification) (Amendment) Regulations, 1996	211
S.I. 2000 No. 1334	The Merchant Shipping (Survey and Certification) (Amendment) Regulations, 2000	211
S.I. 1994 No. 2464	The Merchant Shipping (Gas Carriers) Regulations, 1994	211
S.I. 1999 No. 2721	The Merchant Shipping (Life- Saving Appliances for Ships Other than Ships of Classes III to VI(A)) Regulations, 1999	211
S.I. 2000 No. 2558	The Merchant Shipping (Life- Saving Appliances for Ships Other than Ships of Classes III to VI(A)) (Amendment) Regulations, 2000	211

<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
S.I. 1999 No. 2723	The Merchant Shipping (Life-Saving Appliances for Passenger Ships of Classes III to VI(A)) Regulations, 1999	211
S.I. 1998 No. 1012	The Merchant Shipping (Fire Protection: Large Ships) Regulations, 1998	211
S.I. 1999 No. 992	The Merchant Shipping (Fire Protection) (Amendment) Regulations, 1999	211
S.I. 1998 No. 1011	The Merchant Shipping (Fire Protection: Small Ships) Regulations, 1998	211
S.I. 1998 No. 2070	The Merchant Shipping (Radio Installations) Regulations, 1998	211
S.I. 2000 No. 1850	The Merchant Shipping (EPIRB Registration) Regulations, 2000	211
S.I. 1999 No. 2722	The Merchant Shipping (Musters, Training and Decision Support Systems) Regulations, 1999	211
S.I. 1998 No. 2647	The Merchant Shipping (Carriage of Nautical Publications) Regulations, 1998	211
S.I. 1993 No. 69	The Merchant Shipping (Navigational Equipment) Regulations, 1993	226

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<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
S.I. 1981 No. 571	The Merchant Shipping (Automatic Pilot and Testing of Steering Gear) Regulations, 1981	214
S.I. 1999 No. 1869	The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations, 1999	211
S.I. 1988 No. 1641	The Merchant Shipping (Safe Movement on Board Ship) Regulations, 1988	211
S.I. 1999 No. 2205	The Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations, 1999	211
S.I. 1997 No. 529	The Merchant Shipping (Minimum Standards of Safety Communication) Regulations, 1997	211
S.I. 1999 No. 1704	The Merchant Shipping (Minimum Standards of Safety Communications) (Amendment) Regulations, 1999	211
S.I. 1988 No. 2274	The Merchant Shipping (Safety at Work Regulations) (Non-UK Ships) Regulations, 1988	211
S.I. 1988 No. 1636	The Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations, 1988	211

<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
S.I. 1988 No. 1637	The Merchant Shipping (Means of Access) Regulations, 1988	211
S.I. 1988 No. 1638	The Merchant Shipping (Entry into Dangerous Spaces) Regulations, 1988	211
S.I. 1988 No. 1639	The Merchant Shipping (Hatches and Lifting Plant) Regulations, 1988	211
S.I. 1998 No. 1419	The Merchant Shipping (Navigation Bridge Visibility) Regulations, 1998	211
S.I. 1999 No. 336	The Merchant Shipping (Carriage of Cargoes) Regulations, 1999	251
S.I. 1999 No. 1644	The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations, 1999	211
S.I. 1998 No. 1692	The Merchant Shipping (Co-operation with Search and Rescue Services) Regulations, 1998	224
S.I. 1976 No. 940	The Merchant Shipping (Registration of Submersible Craft) Regulations, 1976	211
S.I. 1987 No. 306	The Merchant Shipping (Submersible Craft) (Amendment) Regulations, 1987	211
S.I. 1981 No. 1098	The Merchant Shipping (Submersible Craft)	211

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<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
	Construction and Survey) Regulations, 1981	
S.I. 1987 No. 311	The Merchant Shipping (Submersible Craft Operations) Regulations, 1987	211
S.I. 1996 No. 3188	The Merchant Shipping (High Speed Craft) Regulations, 1996	211
S.I. 2001 No. 152	The Merchant Shipping (Mandatory Surveys for Ro Ro Ferry and High Speed Passenger Craft) Regulations, 2001	211
S.I. 1999 No. 1957	The Merchant Shipping (Marine Equipment) Regulations, 1999	211
S.I. 1998 No. 1561	The Merchant Shipping (International Safety Management (ISM) Code) Regulations, 1998	211
NAVIGATION		
S.I. 1996 No. 75	The Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations, 1996	226
S.I. 1998 No. 1691	The Merchant Shipping (Distress Messages) Regulations, 1998	
S.I. 1996 No. 1749	The Merchant Shipping (Mandatory Ship Reporting) Regulations, 1996	222 to 226

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<i>Publication</i>	<i>Title</i>	<i>Relevant Section of the Shipping Act</i>
S.I. 1996 No. 1815	The Merchant Shipping (Navigational Warnings) Regulations, 1996	222 to 226
S.I. 1997 No. 1341	The Merchant Shipping (Mandatory Ships' Routeing) Regulations, 1997	222 to 226

LOAD LINES AND CARGOES

S.I. 1998 No. 2241	The Merchant Shipping (Load Line) Regulations, 1998	231
S.I. 2000 No. 1335	The Merchant Shipping (Load Line) (Amendment) Regulations, 2000	231

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