

LAWS OF SEYCHELLES

MERCHANT SHIPPING ACT CHAPTER 127A

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CHAPTER 127A

MERCHANT SHIPPING ACT

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PART I

PRELIMINARY

1. *This Act may be cited as the Merchant Shipping Act
.
 2. (1) This Act comes into operation on such date as the Minister may, by notice published in the Gazette, appoint.

(2) The Minister may, pursuant to subsection (1), appoint different dates for the coming into operation of different provisions of this Act
-

**This Act has been brought into operation from 1st June, 1995 (SI. 54 of 1995)*

1. In this Act, unless the context otherwise requires -

'authorized officer', in relation to any provision of this Act, means a person designated pursuant to section 238 to be an authorized officer for the purposes of this Act, or for the purposes of any provision of this Act;

'cargo ship' means a ship which is not a passenger ship;

'Certificate of Competency' means a certificate issued to a person under Part IX which entitles the person to be employed in the capacity stated in the certificate;

'Certificate of Registry' means a certificate by that name granted pursuant to section 27;

'the Collisions Convention' means the International Regulations for Preventing Collisions at Sea, 1972, as affected by any amendment, other than an amendment objected to, or not accepted, by the Republic, made under Article 6 of that Convention;

'company' means a company defined in the Companies Act;

'consular' includes any person authorised to exercise diplomatic functions on behalf of Seychelles in a foreign country;

'crew agreement' means an agreement entered into pursuant to regulations made under section 134;

'declaration of transfer' means a declaration made and signed under section 35;

'declaration of transmission' means a declaration authenticating the transmission of property under section 37;

designated ship' means a ship for the time being designated pursuant to section 17;

'Director General' means a Director General of Port and Marine Services Division appointed under section 5;

'distressed Seaman' includes any Seychelles seaman in distress in any place outside Seychelles and any seaman whether a citizen of Seychelles or not shipwrecked from a Seychelles ship or having been discharged or left behind from any such ship is otherwise in distress in any place outside Seychelles;

'employer' in relation to a seaman, means the person who has entered into a crew agreement with the seaman for the employment of the seaman on a ship;

'equipment', in relation to a ship, includes everything or article belonging to or used in connection with, or necessary for the navigation and safety of, the ship;

'existing ship' means any ship other than a new ship;

'fishing vessel' means a vessel which is for the time-being used for or in connection with fishing;

'foreign country' means a country other than Seychelles;

'foreign ship' means a ship registered in a foreign country or, where it is not registered in Seychelles is owned by a person who, or by persons each of whom, is not a qualified person;

'free board' means the distance measured vertically downwards amidships, from the upper edge of the deck line to the upper edge of the related load line;

'freight' includes passage money and hire; and references to damage or loss caused by the fault of the vessel shall be considered or including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damage;

'Government ship' means a ship that belongs to the Republic or to an authority or instrumentality of the Republic, or that is held by any person on behalf of, or for the benefit of, the Republic but does not include a vessel belonging to the Defence Forces;

'grain' includes millet, wheat, maize (corn), oats, rye, barley, rice, pulse, sesame and seeds;

'Harbour Master' means the Harbour Master of the Port of Victoria or any other designated port in Seychelles appointed under section 5;

'Indian Ocean Commission State' means a state member of the Indian Ocean Commission;

'inspector' includes Harbour Master, Surveyor, nautical inspector and other marine officers appointed under section 5;

'international voyage' means a voyage from a port or place in Seychelles to a port or place outside the territorial limits of Seychelles, or conversely;

'Licensing Authority' means the Licensing Authority established by section 3 of the Licenses Act;

'lien' means an instrument preserving rights under section 69;

'the Load Line Convention' means the International Convention on Load Lines, 1966, as affected by any amendment to it, other than an amendment objected to or not accepted by the Republic;

'Load Line Convention Ship' means a ship that is -

- (a) of a kind to which the Load Line Convention applies, and
- (b) registered in a country the government of which has accepted or acceded to the Load Line Convention and has not denounced that Convention;

'local certificate of registry' means a certificate by that name issued under regulations made for the purpose of section 87;

'local load line certificate' means a certificate by the name issued under regulations made for the purpose of section 87;

'local safety certificate' means a certificate by that name issued under regulations made for the purpose of section 87;

'local voyage' means a voyage between Mahe and any of the islands mentioned in the first schedule or between any of those islands;

'Marine Board' means the Board by that name established by section 227;

'Master', in relation to a ship, means the person having lawful command or charge of the ship, but does not include a pilot;

'mortgage' means an instrument of security of the kind referred to in section 63 (1);

'National Flag' means the National Flag of Seychelles;

'new ship' means a ship -

- (a) the keel of which was laid; or
- (b) that has been substantially -
 - (i) altered; or
 - (ii) reconstructed,

after the date of commencement of Part I;

'nuclear ship' means a ship provided with a nuclear power plant;

'Official Log-Book' means the official log-book required to be kept under section 168;

'outer islands' means all the islands comprised within the Republic of Seychelles other than the islands of Mahe, St. Anne, Cerf, Long Island, Round Island;

'owner' means -

- (a) in relation to a ship,
 - (i) the person to whom the ship or share in the ship belongs;
 - (ii) the Charterer of a bare boat which is chartered for a definite period of not less than 12 months;
 - (iii) the agent of the owner of the ship; and
- (b) in relation to a ship, being a sailing vessel, the person to whom the sailing vessel belongs;

'passenger' means a person carried on board a ship with the knowledge or consent of th

Short title

e owner or master of the ship but does not include -

Commence- ment

- (a) a person engaged in any capacity on board the ship in the business of the ship; or
- (b) a child under the age of one year;

'passenger ship' means a ship, that is carrying or capable of carrying more than twelve passengers;

'pilot', in relation to the ship, means any person, not belonging to the ship, who has the lawful conduct of the ship;

'Port of Registry' in relation to a ship or sailing vessel means the port at which she is registered or is to be registered;

'proceeding' in relation to Parts XIII and XVI includes any suit, approval or application;

'proper return port', in relation to a seaman means -

- (a) the port of which he was shipped;
- (b) in case of a seaman (other than a seaman shipped in Seychelles), a port in the country to which he belongs; or
- (c) in the case of a discharged seaman, a port agreed by the seaman at the same time of his discharge;

'property of a seaman' means any moneys due to a seaman, his personal effects, the proceeds of the sale of such effects and the balance of any wages due to a seaman;

'qualified person' means a person of the kind referred to in section 15;

'Receiver of Wrecks' means a person appointed under section 177 to be a Receiver of Wrecks;

'the Register' means the Register of Ships referred to in section 12;

'the Registrar' means a person appointed as Registrar of Shipping pursuant to section 5;

'the Regulations' means the regulations made under this Act;

'the Safety Convention' means the International Convention for the Safety of Life at Sea, 1974 as affected by any amendment other than an

amendment objected to or not accepted by the Republic, made under Article VIII of the Convention and include the Protocol 1978 relating to the Convention;

'Safety Convention Ship' means -

- (a) a ship of a kind to which the Safety Convention applies; and
- (b) registered in a country, the government of which has accepted or acceded to the Safety Convention and has not denounced that Convention;

'Sailing vessel' means any description of a vessel provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion, and includes a rowing boat or canoe but does not include a pleasure craft;

'salvage' includes all expenses properly incurred by the salvor in the performance of salvage services;

'seagoing' in relation to a vessel, means a vessel proceeding to sea beyond inland waters or beyond waters declared to be smooth or partially smooth waters by the Government by notification in the Gazette;

'Seychelles Ship' means a ship registered under this Act or a ship not so registered but owned by a person who, or by persons each of whom, is a qualified person;

'ship registered under this Act' means a ship registered under Part III;

'Shipping Master' means the Shipping Master referred to in section 5; but in relation to any seaman for the purpose of section 134 means a shipping master appointed -

- (a) for the port at which the seaman entered into, or is believed to have entered into, a crew agreement; or
- (b) where the seaman did not enter into a crew agreement in Seychelles, for the port to which the seaman has returned, or is expected to return, on the completion of his latest voyage;

'the S.T.C.W. Convention' means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as affected by any amendment made under Article XII of that Convention;

'surveyor' means a surveyor of ships appointed under sections 60 and 237 and includes a person in respect of whom a notification given pursuant to section 237(3) has been notified in the Gazette and has not been cancelled;

'tanker' means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;

'tonnage certificate' means a certificate granted pursuant to section 21.

'vessel' includes any ship, boat, sailing vessel, or other description of vessel used in navigation;

'voyage' for the purposes of Part VI means the whole distance between the ship's port or place of departure and her final port or place of arrival;

'wages' includes emoluments;

'wreck' means the following when found in the sea or in tidal water or on the shores thereof -

- (a) goods which have been cast into the sea and then sink and remain under water;

- (b) goods which have been cast or fall into the sea and remain floating on the surface;
- (c) goods which are sunk into the sea, but are attached to a floating object in order that they may be found again;
- (d) goods which are thrown away or abandoned; and
- (e) a vessel abandoned without hope or intention of recovery;

'young person' means a person under the minimum employment age as specified under the Employment Act 1990.

Employment Act.

4. (1) Unless otherwise expressly provided, this Act shall apply to:-

- (a) Seychelles ships wherever they may be;
- (b) All other ships while in a port or place in, or within the territorial waters of, Seychelles.

(2) This Act shall not apply to:-

- (a) vessels of the Seychelles Police Navy Patrol; Cap 113
- (b) vessels of the Seychelles People's Navy or the Navy of a foreign country;
- (c) Any other ships belonging to or under the control of the Government while employed, otherwise than for profit, in the service of the Government.

PART II

ADMINISTRATION OF THE ACT

5. (1) There shall be established Department of Government to be called the Port and Marine Services Division.

(2) For the purposes of administration of the Port and Marine Services Division the following public officers shall be appointed who shall be marine officers -

- (a) Director General of Port and Marine Services Division, who shall exercise supervision over all matters of the Division;
- (b) Harbour Master who shall exercise general supervision over all matters to which this Act relates;
- (c) Senior Assistant Harbour Master;
- (d) Assistant Harbour Master;
- (e) Superintendent of Marine Services;
- (f) Registrar of Shipping;
- (g) Shipping Master;
- (h) Registrar of Seamen;
- (i) Examiners;
- (j) Surveyors;
- (k) Receiver of Wreck;
- (l) Inspectors;
- (m) Such other officers as the Minister may determine, from time to time.

(3) The Harbour Master may delegate the exercise of any powers or the performance of any duties conferred or imposed on him by or under this Act to such person or persons as he may think fit.

(4) Any act done by, to or before a deputy or assistant to the Harbour Master in exercise or performance of any power, right or duty conferred or imposed by this Act shall have the same effect as if done by, to or before the Harbour Master.

6. The Minister may from time to time give the Harbour Master such general directions, not inconsistent with the provisions of this Act or any regulations made thereunder, on the policy to be pursued in the administration of this Act, as he may consider necessary, and the Director General and the Harbour Master shall forthwith take such steps as are necessary and expedient to give effect thereto.

7. (1) There may be appointed, for the purposes of this Act, such number of marine officers as may be necessary.

(2) A marine officer shall exercise his powers and duties under the direction of the Harbour Master.

(3) There may be appointed an assistant or assistants to any marine officer, either generally for the purposes of this Act or for the purposes of particular provisions of this Act.

(4) Any act done by, to or before a deputy appointed under subsection (3) in exercise or performance or purported exercise or performance of any power, right or duty conferred or imposed by this Act shall have the same effect as if done by, to or before a marine officer.

8. (1) Surveyors and inspectors of ships shall have the powers and shall perform the functions and duties prescribed by this Act.

(2) The functions of surveyors and inspectors of ships shall be performed under the directions of the Harbour Master, and in accordance with any directions gives by the Minister.

9. (1) The Harbour Master may be appointed the Registrar of Shipping.

(2) The Registrar shall perform his duties under the direction of the Minister.

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

(2) A delegation in the terms of subsection (1) shall not affect the exercise of such powers or the performance of such duties by the Minister.

(3) Every officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of such delegation.

(4) The provisions of subsections (1) and (2) of this section shall be without prejudice to the provisions of section 4 of the Transfer and Delegation of Statutory Functions Act.

11 The Harbour Master may be appointed a Registrar of seaman and a shipping Master.

PART III

REGISTRATION OF SHIPS

The Register of Ships

12. (1) The Registrar shall cause to be kept at Victoria a register, in such form as the Registrar determines, to be known as the Register of Ships.

(2) The Registrar shall cause to be entered in the Register particulars of all ships registered under this Act and such other entries as may be required by this Act to be entered in the Register.

(3) Any person may inspect the Register at any time during the hours of official attendance by the Registrar on payment of the fee (if any) which is prescribed.

Registration of Ships

13. The following provisions apply to, and in relation to, the registration of ships under this Part -

- (a) the property in a ship shall be divided into 64 shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than 64 persons shall be entitled to be registered at the same time as owners of any ship but this provisions shall not affect the beneficial title of any number of persons or of a corporation represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship but any number of persons, not exceeding five, may be registered as joint owners of a ship or of any share or shares in this ship;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall

not be entitled to dispose severally of any interest in a ship, in respect of which they are jointly registered; and

(e) a corporation shall be registered as owner by its corporate name.

1. The port of registry of every ship registered under this part is Port Victoria.

2. For the purposes of this Act -

(a) a person who is a citizen of Seychelles; or

(b) a corporation that is established under, and is subject to the laws of Seychelles,

is a qualified person and no other is a qualified person.

1. (1) Where a ship, other than an exempt ship -

(a) is owned by -

(i) a person who is a qualified person; or

(ii) persons each of whom is a qualified person; and

(b) is not registered in any other country,

that owner or those owners shall apply for the registration of the ship under this Part.

(2) Where subsection (1) would apply in relation to a ship owned by a qualified person or qualified persons if it were not an exempt ship, the owner or owners of the ship may apply for registration of the ship under this Part, but that owner or those owners are not required to so apply.

(3) In this section, a reference to an 'exempt ship' is a reference to a ship -

(a) that is less than 10 metres in length;

(b) that is prescribed, or belong to a class or description of ships that is prescribed; or

- (c) that is engaged in any class of navigation or trading, or used for any purpose, that is prescribed.

17. (1) The Minister may -

- (a) by order published in the Gazette;
- (b) designate a ship for the purposes of this Act,

and if he does so, the owner or owners of the ship may -

- (c) within the period of 60 days after the date of publication of the order,

apply for the registration of the ship under this Part.

(2) Without prejudice to the powers of the Minister under subsection (1), the Minister may, with the consent of the persons wholly owning a ship, by order published in the Gazette, designate the ship for the purposes of this Act where he is satisfied that the ship is

- (a) customarily engaged in international voyages and is wholly owned by a person who is or by persons each of whom, is a citizen of an Indian Ocean Commission State resident in that State;
- (b) hired out on bareboat charter to a citizen of Seychelles or a corporation that is established under and subject to the Laws of Seychelles; or
- (c) owned by a person in bona fide joint venture shipping enterprise relationships with a citizen of Seychelles or a corporation established under and subject to the Laws of Seychelles,

and the owner or owners of the ship may within a period of 60 days after the publication of the order apply for the registration of the ship under this part.

(3) A ship ceases to be a designated ship if an application is not made in respect of the ship as provided in subsection (1) or (2).

(4) Where a ship designated under subsection (2) ceases to be a ship of the description set out in paragraph (a), (b), or (c) of subsection (2), the Minister, may under subsection (5) revoke the designation.

(5) A ship ceases to be a designated ship if the Minister revokes the designation by -

- (a) publishing a notice of revocation in the Gazette; Cap 69
and
- (b) giving written notice thereof Application of Act
to the owner or owners,

and the ship so ceases to be designated on the date on which the notice is published pursuant to paragraph (a) or is given pursuant to paragraph (b), whichever is the later.

18. The Regulations shall provide for the regi
exempt any other Government ship or a class of description of Government ships from the whole stration of Government ships other than Government ships referred to in section 4 (2) and may or any of the provisions of this Act.

19. (1) Except as provided in sections 13, 16, 17 and 18, the Registrar shall not register a ship under this Part.

(2) Where the Minister has reasonable cause to believe, and does believe, that any ship registered under this Part should not continue to be so registered, he may direct the Registrar to require the master and owner of the ship, or either of them, to produce evidence to the satisfaction of the Minister that the ship should continue to be so registered.

20. If within such time as may be determined by the Minister, not being less than 30 days, the evidence referred to

in section 19(2) is not produced, the ship shall be removed from the register and may be liable to forfeiture.

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Director of Port and
Marine Services

21. (1) Subject to subsection (4) a ship shall, before registry, be surveyed by a surveyor and subject to that subsection, its tonnage shall be ascertained by the surveyor in accordance with regulations made under section 55 and the surveyor shall grant a certificate specifying the ship's tonnage and build and such other particulars as may be prescribed in those regulations.

(2) A tonnage certificate granted pursuant to subsection (1) in respect of a ship shall, before the ship is registered, be produced before the Registrar.

(3) The fees to be paid by the owner or owners of a ship to a surveyor in respect of a survey under this section are as prescribed.

(4) Subject to subsection (5), where a ship which is not registered under this Part has been measured and registered under the law of a foreign country, or has already been measured without having been so registered, the surveyor may, for the purposes of subsection

(1), accept and use any suitable figures of measurement contained in the latest register relating to that ship or, in the case of an unregistered ship, in the latest certificate of measurement relating to that ship.

(5) Before acting under subsection (4), a surveyor shall satisfy himself that there have been no changes of measurement since the making of the register or certificate which he proposes to use, and where any such changes have been made, he shall remeasure the ship to the extent made necessary by those changes.

22. (1) A ship in respect of which an application for registration is made shall not be registered unless the ship has first been marked permanently and conspicuously under section 61 in the prescribed manner.

(2) The marks required by this section to be placed on a ship shall be permanently continued and no alteration shall be made to those marks except as provided by this Act.

(3) An owner or master of a ship registered under this Part who fails to keep that ship marked as required by this section is guilty of an offence.

(4) A person who conceals, removes, alters, defaces or erases any mark required by this section to be placed or kept on a ship, except as provided by this Act or for the purposes of escaping, from an enemy, is guilty of an offence.

Power of Minister
to give directions

(5) The Minister may, by notice published in the Gazette, exempt the owner or master of any ship or class or description of ships from complying, either in whole or in part, with the requirements of this section.

Marine officers

23. (1) An application may, for the registration of a ship under this Part shall be made by the owner or owners of the ship to be Registrar in the prescribed form.

(2) An application under subsection (1) shall be made -

- (a) where the owner is a corporation, by the agent of the corporation; or
- (b) in the case of an agent otherwise appointed, under the hand of the persons seeking the registration of the ship or by his or their agent.

Duties and powers
of surveyors and
inspectors

(3) The authority of an agent referred to in subsection (2) shall be in writing and -

- (a) in the case of an agent appointed by a corporation, under the common seal of the corporation; and

Registrar of
Seychelles Ships

(b) in the case of an agent otherwise appointed,
under the hand of the person or persons
appointing the agent.

(4) The Registrar may require proof, to his satisfaction

Minister may
delegate certain
powers and duties

(a) of the ownership; and
(b) of the seaworthiness of a ship,

before proceeding with the registration of the ship under this
Part.

(5) An application for the registration of a ship under
this Part shall be accompanied by such evidence in respect of
the ship as may be prescribed.

24. Where a ship forfeited under section 20 is released
from forfeiture or the registration of a ship is otherwise
cancelled, the owner or owners of such ship may apply for the
re-registration of that ship and section 23 shall, mutatis
mutandis, apply to such application.

25. A person shall not be entitled to be registered as
owner of a ship until he, or, in the case of a corporation, a
person authorised under the common seal of the corporation
to make declarations on behalf of the corpo

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ration, has made and signed a declaration of ownership referring to the ship, as described in
the surveyor's certificate, and containing the prescribed particulars.

26. (1) Where the requirements of this Act
preliminary to registry have been complied with, the
Registrar shall, upon payment of the prescribed fee, register
the ship by allotting to the ship a registry number and by
entering in the Register the name of the ship, the registry
number allotted to the ship and such other particulars in
respect of the ship as are prescribed.

Register of Ships

(2) The Registrar shall not register a ship by a name by
which a ship is already registered under this Part or, except in
accordance with the direction of the Minister, by a name that

is, in the opinion of the Registrar, undesirable.

(3) Where a ship has been registered under subsection (1), the Registrar shall retain those documents submitted in connection with the application for registration as are prescribed.

27. (1) As soon as practicable after the registration of a ship the Registrar shall grant to the owner or owners a Certificate of Registry in the prescribed form.

(2) The Certificate of Registry of a ship Provisions relating to Registration

-

- (a) shall be kept in a safe place in the ship;
- b) shall be used only for the lawful navigation of the ship; and
- (c) shall not be subject to detention by reason of any title, lien, charge or interest had or claimed by any owner, mortgagee or other person to, on or in the ship.

(3) A master or owner of a ship who uses, for the navigation of the ship a Certificate of Registry not legally granted in respect of the ship is guilty of an offence.

(4) A person -

- (a) who has in his possession or under his control the Certificate of Registry of a ship; and
- (b) who refuses, or fails without reasonable cause, to deliver the certificate on demand to-
 - (i) the person entitled to the custody for the purposes of the lawful navigation of the ship; or
 - (ii) an authorised officer

is guilty of an offence.

Port of Registry

(5) The Minister may make regulations relating to -

Meaning of
'qualified person'

- (a) the obligation to register ships and failure to comply therewith;
- (b) the manner in which Seychelles ships or any class of those ships may be registered under this Act.

28. The Registrar may, upon the delivery to him of a Certificate of Registry of a ship, grant a new certificate in its place.

Registration of
ships

29. (1) Where, at a place outside Seychelles, a ship becomes wholly owned by a qualified person, or by persons each of whom is a qualified person, a diplomatic or consular representative of Seychelles in or for that place may grant to the master of the ship, on his application, a provisional Certificate of Registry stating -

- (a) the name of the ship;
- (b) the time and place of the ship's purchase and names of her purchasers'
- (c) the name of the ship's master;
- (d) the best particulars respecting the ship's tonnage, build and description which the representative is able to obtain.

(2) A diplomatic or consular representative of Seychelles shall forward a copy of any provisional Certificate of Registry granted by him pursuant to subsection (1) to the Registrar at the first convenient opportunity.

(3) A provisional certificate of registry

granted under subsection (1) is deemed to be a Certificate of Registry granted under section 27 -

- (a) until the expiry of 90 days after the date on which it was granted; or

- (b) until the expiry of 30 days after the first arrival, subsequent to the grant of the certificate, of the ship in Seychelles,

Designated Ships

whichever is the earlier.

(4) If the period referred to in subsection (3) (b) has not begun to run, the Minister may, by instrument in writing, grant to the master of a ship, on his application, an extension of the period referred to in subsection (3) (a), and in the event and in the particular case, the reference in paragraph (a) to 90 days shall be read as a reference to the extended period.

(5) A master of a ship who fails to deliver to the Registrar a provisional certificate of registry granted under subsection (1) in respect of the ship, within 30 days after the first arrival, subsequent to the grant to the certificate, of the ship in Seychelles is guilty of an offence.

30. (1) Where a certificate of registry of a ship is lost, mislaid or destroyed the Registrar shall grant a new certificate in its place.

(2) A diplomatic or consular representative of Seychelles in or for any place, upon receiving, from the master of a ship or some other person having knowledge of the facts of the case, a declaration giving details of a lost, mislaid or destroyed certificate of registry of the ship together with particulars of the ship and its owner or owners, shall grant a provisional certificate of registry containing a statement of the circumstances under which it was granted.

(3) A provisional certificate of registry granted under subsection (2) shall be valid -

- (a) until the expiry of 90 days after the date on which it was granted; or
- (b) until a new certificate is granted in place of the certificate of Registry,

whichever is the earlier.

31. Where a change occurs in the ownership of a ship registered under this Part by reason of the transfer of the ship to a qualified person, or by reason of the transfer of a designated ship, whether to a qualified person or otherwise -

- (a) notification of the change shall be given to the Registrar; and
- (b) the certificate of registry shall be endorsed in the prescribed manner.

32. (1) Where -

- (a) a ship registered under this Part is either actually or constructively lost, taken by the enemy, burnt or broken up;
- (b) a person who is the owner of a ship (other than a designated ship) registered under this Act, whether alone or jointly with other persons, ceases to be a qualified person;
- (c) the Minister, pursuant to section 17(5) revokes the designation of a ship;
- (d) a ship is forfeited under section 20; or
- (e) a person who is the owner of a ship (other than a designated ship) registered under this Part transfers ownership of the ship to a person who is not a qualified person,

the owner of the ship, or, if the ship is owned by more than one person, each of those persons shall, immediately on obtaining knowledge of the event (if notice therefore has not already been given to the Registrar) give notice therefore to the Registrar.

(2) The Registrar shall, upon receipt of a notice stating that an event referred to in subsection (1) (a) has occurred in

relation to a ship, make or cause to be made an entry in the Register of the event, and the

registry in the Register shall be deemed to be closed except insofar as relates to any unsatisfied mortgage of the ship.

Survey and measurement of ships

(3) The Registrar shall, upon receipt of notice that a circumstance specified in subsection (1) (b), (c), (d) or (e) has occurred or is applicable in relation to the owner or owners of a ship registered under this Part make or cause to be made an entry in the Register that the notices has been received and subject to this section, the registry of the ship shall be deemed to be closed.

(4) Where, at the time when the Registrar receives notice that a circumstance referred to in subsection 1(b), (c), (d) or (e) has occurred or is applicable in relation to the owner or owners of a ship registered under this Part, the ship is subject to an undischarged mortgage entered in the Register, the Registrar shall give to the mortgagee a notice in writing specifying the occurrence of the circumstances as applicable.

Registration of Government Ships

(5) If, within 30 days after notice is given to the mortgagee under subsection (4) or within such further time as the Court, on an application made before or after the expiration of the period of 30 days, may allow, an application is not made to the Court for an order under subsection (6), the registry of the ship in the Register shall, subject to subsection (8), be deemed to be closed on the expiration of that period.

Restriction of registration of ships

(6) A mortgagee to whom a notice has been given under subsection 4 may, within the period specified in, or allowed under, subsection (5), make an application to court for an order for the sale of the ship that is subject to the undischarged mortgage and the Court may order the sale of the ship and direct that the proceeds of the sale, after deducting the expenses of the sale, be paid

Marking of ships

of the ship
Cancellation of registration

first to the mortgagee or, if there are two or more mortgagees, to the mortgagees in order of priority and, after satisfaction of the mortgagee or mortgagees, to the owners of the ship in case where there is no forfeiture under section 20 or to the Republic in case of forfeiture under that section.

(7) Where the Court grants an application for an extension of time within which an application for an order under subsection (6) may be made, it may grant the extension on such terms and conditions as to costs and otherwise as it thinks just.

(8) On an application for an order under subsection (6), the Court may give such directions with respect to the closure of the registry of the ship as it thinks fit, and the Registrar shall give effect to any directions given by the Court.

Application for
registration

(9) A person who refuses, or fails without reasonable cause, to comply with subsection (1) is guilty of an offence.

33. (1) Where a ship registered under this Part is so altered as not to correspond with the particulars relating to the tonnage certificate or to the description of the ship contained in the Register, the owner of the of the ship shall within 21 days, make, or cause to be made, to the Registrar an application in writing to register the alteration.

(2) An owner of a ship who refuses or fails to comply with the provision of subsection (1) is guilty of an offence.

(3) An application made under subsection (1) shall be accompanied by a tonnage certificate; and section 21(1) applies in relation to the grant of a tonnage certificate before the registry of a ship.

(4) The Registrar upon receipt of an application under subsection (1) and upon receipt of the prescribed fee (if any), shall cause alteration to be registered.

(5) In causing the alteration of a ship to be registered, the Registrar shall cancel the certificate of registry and shall

grant a new certificate of registry and shall make the prescribed entries in the Register.

Transfer and Transmission

34. (1) Where a ship registered under this Part is to be disposed of by way of transfer to a qualified person, or to persons each of whom is a qualified person, or a designated ship is to be disposed of by way of transfer whether to a qualified person or otherwise, the ship shall be transferred by a bill of sale.

(2) A bill of sale for the transfer of a ship shall -

- (a) be in the prescribed form; and
- (b) be executed by the transferor and the transferee in the presence of, and be attested by, a witness or witnesses.

35. (1) Subject to subsection (2), where a ship registered under this Part is transferred, the transferee is not entitled to be registered as owner of the ship until he, or in the case of a corporation, a person authorised by this Act to make declarations on behalf of the corporation, has made and signed a declaration of transfer in the prescribed form referring to the ship and containing,

- (a) statements that show that the transferee is a qualified person, or, where there is more than one transferee, that each transferee is a qualified person; and
- (b) a statement that, to the best of his knowledge and belief, only a qualified person, or persons each of whom is a qualified person, is or are entitled as owners to any legal or beneficial interest in the ship or a share in the ship.

(2) This section does not apply in relation to the transfer of a designated ship.

36. (1) Every bill of sale for the transfer of

a ship registered under this Part, when duly executed, shall be produced to the Registrar with the declaration of transfer referred to in section 35 where required and the Registrar shall enter in the Register the name of the transferee as owner of the ship, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour of the entry.

(2) Bills of sale for the transfer of a ship registered under this Part shall be entered in the Register in the order of their production to the Registrar.

Application for re-registration

37. (1) Where the property in a ship registered under this Part is transmitted to a qualified person, or to persons each of whom is a qualified person, or in the case of a designated ship, is transmitted to a person whether or not a qualified person, on the death or bankruptcy of any registered owner, or by any lawful means other than by a transfer made under this Act, that person shall authenticate the transmission by making and signing a declaration of transmission in the prescribed form identifying the ship, and the declaration of transmission shall contain such statements and shall be accompanied by such documents as are prescribed.

Declaration of ownership of registry

Registration of ships, procedure

(2) The Registrar, on receipt of the declaration of transmission under subsection (1), accompanied by the statement and documents referred to in that subsection, shall enter in the Register the name of a person entitled under the transmission as owner of the ship the property in which has been transmitted and where there is more than one such person, the Registrar shall enter the names of all such persons, but those persons, however numerous, shall, for the purposes of the provisions of this Act with

respect to the number of persons entitled to be registered as owners, be considered as one person.

38. (1) Where the property in a ship (other than a designated ship) registered under this Part is transmitted on death or bankruptcy or otherwise to a person who is not a qualified person, or to persons one or more of whom is not a qualified person, the Court may, on application by or on behalf of that person or one or more of those persons, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses of the sale, be paid to the person or persons entitled under the transmission or otherwise as the Court directs.

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

(3) An application under this section shall be made within 30 days after the occurrence of the event on which the transmission has taken place or within such further time (not exceeding in the whole 365 days from the date of the occurrence) which the Court allows.

(4) If the application is not made within the time specified in subsection (3) or if the court refuses an order for sale, the ship (not being a designated ship) transmitted is liable to forfeiture.

39. (1) Where the Court orders the sale of a ship registered under this Part, the order shall contain a vesting in a person or persons specified in the order the right to transfer the ship, and that person is entitled to transfer the ship in the manner and to the same extent as if he was the registered owner of the ship.

(2) The Registrar shall obey the requisition of the person named in a declaration under subsection (1) in respect of any such tr

ansfer to the same extent as if that person were the registered owner. Power to grant new certificate

40. (1) The Court may, if it thinks fit, and without prejudice to any other of its powers, on the application of a person claiming an interest in a ship registered under this Part, make an order prohibiting for the time specified in the order, any dealing with that ship. Provisional registration

(2) The Court may make an order under subsection (1), on any terms or conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) The Registrar, after being served with a copy of an order made under this section, shall not register any dealing prohibited by the order.

National Character and Flag

41. (1) If a person uses the National Flag or assumes Seychelles national character on board a ship owned in the whole or part by a person who is not a qualified person, or which is not a designated ship, for the purpose of making the ship appear to be a ship registered under this Part, the ship is liable for forfeiture unless the use or assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some diligent right.

(2) In any proceeding for the enforcement of the forfeiture of a ship under subsection (1), the burden of proving a right of use of the National Flag or to assume Seychelles national character lies on the person using that flag or assuming that character.

42. (1) A master or owner of a ship registered under this Part who -

(a) does anything or permits anything to be done; or

(b) carries or permits to be carried on a sh

ip, any papers or documents,

with intent to -

(c) conceal the Seychelles character of the ship from a person entitled by Seychelles law to inquire into the character of the ship; or

(d) deceive a person referred to in paragraph (c);

Loss of Certificate of Registry

is guilty of an offence.

43. If a person, other than a qualified person, acquires as owner any interest, either legal or beneficial, otherwise than by such transmission as is provided for in this Act, in a ship (other than a designated ship) registered under this Part, that interest is liable to forfeiture.

44. (1) Where a ship that is required to be registered under this Part is not so registered, the ship shall not be entitled to any benefit, privilege, advantage or protection usually enjoyed by a ship registered under this Part or to use the National Flag or to assume Seychelles national character.

(2) In the case of a ship to which subsection (1) applies, the owner and the master of the ship shall, in relation to -

(a) the payment of dues;

(b) the liability to fines and forfeiture;

(c) the punishment of offences committed on board the ship; and

(d) offences committed by persons belonging to the ship,

Change in Ownership

be dealt with in the same manner in all respects as if the ship were registered under this Part.

(3) The regulations may make provision with respect to the application of any provision of this Act, specified in the regulations, to any ships to which subsection (1) applies and to masters and seaman employed by them, with such exceptions, adaptations and modifications as may be so specified.

45. (1) The National Flag shall be the proper n

Delivery of
Certificate where
ship is lost, etc.

ational colours for a ship registered under this Part.

(2) A master of a ship registered under this Part who, except where it would be unreasonable having regard to all the circumstances to do so, fails to cause the National Flag to be hoisted at all times on the ship, is guilty of an offence.

(3) Where, except with the consent of the Minister, any distinctive national colours other than the National Flag are hoisted on board a ship registered under this Part -

- (a) the master of the ship;
- (b) the owner if he is on board the ship; and
- (c) any person hoisting those colours;

are each guilty of an offence.

Miscellaneous

46. (1) The Registrar may, where he has reason to believe that the Register does not contain accurate particulars in respect of the ship registered under this Part, direct the owner of the ship, or any other person in possession of information relating to the ship, to furnish him with information in respect of the ship.

(2) A person who, after having been given a direction under subsection (1) fails, to the extent to which he is able to do so, to comply with that direction, is guilty of an offence.

47. (1) No notice of any trust, express, implied or constructive, shall be entered in the Register or shall be received by the Registrar.

(2) Subject to this Act, and subject to any rights and powers appearing on the face of the Register to be vested in any other person, the registered owner of a ship has absolute power to dispose of the ship and to give effectual receipts for any money paid or advanced by way of consideration.

48. The expression 'beneficial interest' where used in this Act includes interests arising under contract and other equitable interest; 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;
- (b) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees; and
- (c) the provision of this Act relating to the exclusion of unqualified persons from the ownership of ships registered under this Part,

interests arising under contract or other equitable interests may be enforced by or against the owner or mortgagee of any ship in respect of his interest in the ship in the same manner as in respect of any other personal property.

49. (1) Subject to subsection (2), where a person has a beneficial interest in a ship registered under this Part and that ship is registered in the name of some other person as owner, the person having the interest shall, as well as the registered

owner, be subject to all pecuniary penalties imposed by this Act on the owners of ship, and proceedings may be taken for the enforcement of any such penalties against both or either of those persons, with or without joining the other of them.

(2) Subsection (1) does not apply to a person having a beneficial interest by way of mortgage, except in the case of a mortgagee in possession of a ship.

50. (1) The name and address of the managing owner for the time being of every ship registered under this Part shall be registered with the Registrar. ^{Registry of alternations}

(2) Where there is not a managing owner, there shall be registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner, and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations and be subject to the same liabilities as if he were the managing owner.

51. (1) An owner or master of a ship registered under this Part who suffers or permits the ship to be described by a name other than that by which is for the time being registered is guilty of an offence.

(2) The Minister may by regulations provide for or in relation to, the change of the name of a ship.

52. (1) The fee payable on the registration of a ship under this Part shall be as prescribed.

(2) The owner of a ship registered under this Part is liable, on the expiration of a period of 12 months after date of registration of the ship and on expiration of similar periods thereafter, to pay the prescribed annual registration fee (if any). ^{Transfer by bill of Sale}

(3) Where an annual registration fee (if prescribed) is not paid within 30 days of the date on which the fee becomes due and payable, the Court may, upon application by the Registrar, direct the amount remaining unpaid to be levied by distress or by the sale of the ship or the equipment of the ship.

(4) The Minister may make regulations relating to -

- (a) the grant of a new Certificate of Registry;
- (b) the loss of a Certificate of Registry;
- (c) the keeping of a record of masters;
- (d) the endorsement of a change of ownership on a Certificate of Registry;
- (e) the delivery of the Certificate of Registry when a ship is lost or broken up or has ceased to be a Seychelles ship.

Declaration of
Transfer

PART IV

LICENCING, SURVEYS AND MEASUREMENTS

Licensing

53. (1) Subject to subsection (2), every Seychelles ship required to be licensed as a vessel under the Licences Act shall be licensed under that Act and the provisions of that Act shall apply to a licence granted under that Act in respect of a ship.

(2) Before the granting of a licence, the Licensing Authority shall satisfy itself that the ship has been registered in accordance with this Act.

Registration of
transfer

(3) An owner of a ship who refuses to return to the Licensing Authority, the licence revoked under the Licences Act after due notification by the licensing authority is guilty of an offence.

54. The tonnage certificate shall be produced before the Licensing Authority before licensing.

Survey and Tonnage Measurement

55. (1) The Minister may by regulations, hereinafter referred to as 'tonnage regulations' -

- (a) provide for ascertaining the tonnage of ships; Transmission of ship on death, bankruptcy etc.
- (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 conditions to be evidenced in such manner as may be specified in the regulations;
- (d) prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a ship and provide for making the master and the owner each guilty of an offence.

(2) 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 provis

ions of the regulations, a lower tonnage applicable where the ship is not to be loaded to the full depth to which it can otherwise be safely loaded;

Order for sale on transmission to unqualified person

- (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; and

- (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 Seychelles.

(3) 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.

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

Transfer of ship or sale by order of Court (2) The tonnage of a ship as ascertained under subsection (1) shall be entered 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 of those cases the ship shall be remeasured and her tonnage ascertained and registered according to the tonnage regulations.

Court may prohibit transfer

57. (1) Where it appears to the Minister that a foreign country has promulgated rules on tonnage that are substantially the same as those under the tonnage regulations made under this Part, the Minister may order that a

ship of that country, without being remeasured in Seychelles, be deemed to be of the tonnages denoted in her Certificate of Registry or other national certificates relating to tonnage in the

same manner, to the same extent and for the same purposes as the tonnages denoted in the Certificate of Registry of a Seychelles ship is deemed to be the tonnages of that ship.

(2) Any space shown by the Certificate of Registry or other certificates relating to tonnage of any foreign ship 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 Seychelles ships, unless a surveyor inspects the ship and certified to the Minister that the construction and the equipment of the ship in respect of that space do not meet the standard required of a Seychelles ship under this Act, in which case the ship shall be remeasured and assigned a tonnage in accordance with this Act.

Penalty for unduly assuming Seychelles character

(3) Where it appears to the Minister that the tonnage of a foreign ship as measured by the rules as to tonnage of the country to which it belongs materially differs from that which would be its tonnage if measured under this Act, the Minister may order that any of the ships of that country be remeasured in accordance with this Act, for all or any of the purposes of this Act.

Penalty for concealment of Seychelles character etc.

58. (1) Where a ship has been measured and registered as a foreign ship or has already been measured without being registered as a Seychelles ship, a surveyor may, for the purposes of section 57 accept and use any suitable figures of measurement contained in the latest register relating to that ship, or in the case of an unregistered ship, in the

latest tonnage certificate relating to that ship.

(2) Before acting under subsection (1), the surveyor shall satisfy himself that there have been no changes of measurement since the making of the register or certificate

Penalty for
acquiring
ownership if
unqualified

that he proposes to use; and where any such changes have been made he shall remeasure the ship to the extent made necessary by the changes.

Liabilities of
unregistered ship

59. Where any alteration or reconstruction of a Seychelles ship is made that could affect the ship's classification, measurement, tonnage or load line, the owner or master of the ship shall, within thirty days (30) after the completion of the alteration or reconstruction, advise the Registrar of the alteration or reconstruction and give him details thereof.

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

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

61. Every ship shall, before being registered in Seychelles be marked permanently and conspicuously in accordance with the regulations made under this Part.

62. (1) Where the Registrar is satisfied that a ship is insufficiently or inaccurately marked, he may suspend the Certificate of Registry of the ship or in the absence of such certificate he may detain the ship until the insufficiency or inaccuracy has been remedied to his satisfaction.

National colours

(2) The Minister may make regulations exempting any class of ship from all or any of the requirements of this section.

PART V

MORTGAGES AND LIENS

Mortgages

63. (1) A ship registered under this Part may be made a security for a loan or other valuable consideration, and the instrument creating the security shall be in the prescribed form.

(2) The Registrar, upon the production to him of a mortgage, shall register the mortgage by making an entry of the mortgage in the Register.

(3) The Registrar shall register mortgages in the order in which they are produced to him for that purpose and he shall endorse and sign a memorial on each mortgage, stating the date and time that it was produced to him. Registrar may require information

64. The Registrar, after production to him of a discharge of mortgage in the prescribed form, shall make an entry in the Register that the mortgage has been discharged, and on that entry being made the estate (if any) which passed to the mortgagee vests in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested if the mortgage had not been made. Notice of trust not received

65. (1) Where there are more than one mortgages registered in respect of the same ship registered under this Part, the mortgagees are, notwithstanding any express, implied, or constructive notice, entitled in priority one over the other, according to the date and time at which each mortgage is produced to the Registrar and not according to the date of each mortgage itself.

(2) A registered mortgage shall not be affected by any act of bankruptcy committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the Equities not excluded by Act

mortgagor, where he is adjudicated bankrupt, at the commencement of his bankruptcy had the ship in his possession, order or disposition or was the reputed owner of the ship and the mortgage shall be preferred to any right, claim or interest in the ship of the other creditors of the insolvent or any trustee or assignee on their behalf.

66. (1) Except as may be necessary for making a mortgaged ship available as a security for the mortgage debt, a mortgagee shall not by reason of the mortgage be deemed to be the owner of the ship nor shall a mortgagor be deemed to have ceased to be the owner of the ship.

Liability of owners

(2) Subject to subsections (3) and (4), a registered mortgagee shall have power absolutely to dispose of the ship in respect of which he is registered and to give effectual receipts of the purchase money.

(3) Where there are more persons than one registered as mortgagee of the same ship, a subsequent mortgagee shall not, except under an order of the Court, sell the ship without the concurrence of every prior mortgagee.

(4) The mortgagee shall not sell the ship subject to the mortgage without the leave of the Court.

67. (1) A registered mortgage of a ship may be transferred to any person by registration of the instrument of transfer in the prescribed form.

Ships managing
owner to be
registered

(2) On the production to the Registrar of an instrument of transfer of a registered mortgage and of the mortgage to which the instrument of transfer relates, the Registrar shall register the transfer by making an entry of the transfer in the Register and shall endorse and sign on the mortgage and on the instrument of transfer a memorial stating the date and time of the production to him of the instrument of transfer and mortg

age.

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

(2) A declaration referred to in subsection (1) shall be in the prescribed form and shall contain a statement of the manner in which, and the person to whom, the interest has been transmitted, and shall be accompanied by such evidence as is prescribed.

(3) The Registrar after receipt of the declaration and accompanying evidence, shall enter the name of the person entitled under the transmission in the Register as the mortgagee of the ship.

Maritime Liens

69. Subject to the provisions of this Act the following claims may be secured by maritime liens -

- (a) wages and other sums due to the master, officer and other members of the ship's complement, in respect of their employment on the ship;
- (b) port, canal and other waterway dues and pilotage dues;
- (c) claims against the owner in respect of loss of life or personal injury occurring, whether on land or water, in direct connection with the operation of the ship;
- (d) claims against the owner, based on a wrongful act and not 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.

Names of registered ships

(2) In subsection (1), 'owner' includes, in relation to a ship, the charterer, manager or operator of such ship.

70. The maritime liens set out in section 69 shall take priority over mortgages and preferential rights registered under this Part, or arising under the law relating to bankruptcy, and except as provided in section 72 no other claim shall take priority over them.

Registration fee

2. The maritime liens set out in section 69 shall rank as follows -

- (a) maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to such liens were performed;
- (b) in the case of claims arising under paragraphs (a), (b), (c) and (d) of section 69, the claims rank pari passu among themselves;
- (c) in the case of claims arising under paragraph (e) of section 69, the claims rank in the reverse order of the time when the claim secured thereby accrued; and for this purpose claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated, and claims for general average shall be deemed to have accrued on the day on which the general average was performed.

Licensing of
Seychelles ships
Cap 113

71. Where a preferential right arises, pursuant to the provisions of the law relating to bankruptcy, in respect of a ship in the possession of -

- (a) a ship builder, in order to secure claims for the building of the ship; or
- (b) a ship repairer, in order to secure claims for the repair of the ship, affected during such possession of,

such rights shall be postponed to all the maritime liens set out in section 69 but may take precedence over any mortgage or other preferential right registered under this P

art so long as the ship is in the possession of the ship builder or ship repairer, as the case may be.

Production of
tonnage certificate

72. The Maritime liens set out in section 69 shall arise whether the claims secured by such liens are against the owners, the demise or other charterer, manager or operator of the ship and such liens shall (subject to the provisions of section 77) remain attached to the ship, notwithstanding any change of ownership or of registration.

Minister to make
tonnage regulations

74. A maritime lien shall not be attached to a ship to secure a claim under paragraph (c) or (d) of section 69 where such claim arises out of or results from the radioactive properties (or a combination of the radioactive properties with toxic, explosive or other hazardous properties) of nuclear fuel or of radioactive products or waste.

75. (1) The maritime liens relating to a ship set out in section 69 shall be extinguished after a period of one year from the time when the claims secured thereby arose unless, prior to the expiry of such period, the ship has been arrested and the arrest has led to a forced sale pursuant to the provisions of the rules of court or any other law for the time being in force relating to the sale of property in admiralty proceedings.

(2) The one year period referred to in subsection (1) shall not be subject to interruption or suspension except that time shall not run during the period the lien holder is legally prevented from arresting the vessel.

76. Prior to the forced sale of a ship as described in section 75, the executing officer shall give or cause to be given thirty days written notice of the time and place of such sale to -

(a) all holders of mortgages and other preferential rights registered under this Part w

hich have not been issued to bearer;

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

(c) the holders of maritime liens set out in section 69, whose claims have been notified to the officer; and

(d) the Registrar.

77. (1) In the event of the forced sale of a ship as described in section 75 and in accordance with the provisions of this part-

(a) all mortgages and other preferential rights registered under this Part, except those assumed by the purchaser with the consent of the holders thereof; and

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

Tonnage once
ascertained to be
tonnage of ships

shall cease to attach to the ship.

(2) No charter party or contract for the use of the ship shall be deemed a lien or encumbrance for the purpose of this section.

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

Tonnage of foreign
ship

- (a) the holders of maritime liens under section 69;
- (b) the holders of preferential rights under section 72; and
- (c) the holders of mortgages and other preferential rights registered under this Part,

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

79. When a ship, registered in any country or a territory thereof, has been the subject of a forced sale in Seychelles the executing officer shall, at the request of the purchaser, and on being satisfied that the provisions of this Part have been complied with, issue a certificate to the effect that the

ship is sold free of all mortgages, liens and other encumbrances (except those assumed by the purchaser), provided that the proceeds of such forced sale have been deposited with the authority competent to distribute such proceeds to the persons entitled therefor.

PART VI

LOCAL VOYAGES

80. (1) The Minister may exempt a particular ship or a particular class or description of ships from any requirement

of this Part which would otherwise apply in relation to the ship.

(2) An exemption under subsection (1) may be given in respect of -

- (a) a particular period;
- (b) one, or more than one, particular local voyage; Foreign and other measure-ments
or
- (c) generally.

81. (1) Subject to section 80, this section applies in relation to a ship which under the regulations -

- (a) requires in respect of a local voyage -
 - (i) any local safety certificate; or
 - (ii) any local load line certificate; or
- (b) requires a local certificate of registry to be in force when the ship engages in a local voyage.

Alterations between surveys

(2) The Harbour Master may before a ship, in relation to which the section applies, goes to sea on a local voyage direct the master of the ship to produce to him for inspection -

- (a) the local safety certificate, the local load line certificate or appropriate exemption certificate required Appointment of surveyors by the Regulations; or
- (b) as the case maybe, the Certificate of Registry required by the Regulations and authorizing the use of the ship in the trade concerned,

and the Harbour Master may refuse to give c

learance to the ship until the appropriate certificate is so produced.

(3) A master of a ship who refuses, or fails without reasonable cause, to comply with a direction given under subsection (2) is guilty of an offence.

82. (1) Subsection (1) of section 81 applies for the purposes of this section as it applies for the purposes of section 81.

(2) Where a ship in relation to which this section applies engages in local trading and at any time and when it does so there is not in force in relation to the ship -

- (a) the local safety certificate, local load line certificate or appropriate exemption certificate required by the Regulations; or
- (b) as the case may be, the certificate of registry required by the Regulations and authorizing the use of the ship in the trade concerned,

the owner and master of the ship are each guilty of an offence.

(3) For the purposes of this section, a ship is deemed to be engaged in local trading where the ship takes on board passengers or cargo at a port or place in Seychelles to be carried to or landed at a port or place in Seychelles.

83. (1) The Minister may, by order published in the Gazette, issue directions with respect to the local procedures to be followed -

- (a) in relation to the clearance of ships before going to sea on a local voyage; and
- (b) for reporting the completion, or the completion of any stage, of a local voyage by a ship.

(2) Where any of the requirements of directions given under subsection (1) with respect to the clearance of a ship or respecting the completion, or the completion of any stage, of a

local voyage by a ship is not complied with the owner and master of the ship

Marking of ships

are each guilty of an offence.

(3) The Harbour Master or any customs, trades tax or police officer may stop, search and detain any ship if he has reasonable cause to believe that an offence against section 82 or subsection (2) of this section is about to be or has been committed in relation to the ship.

Insufficient or inaccurate marking of a ship

(4) Any person aggrieved by the detention of a ship under the powers conferred by subsection (3) may appeal to the Minister, who may order the release of the ship or confirm its detention.

(5) Directions issued under subsection (1) -

- (a) may make different provision to relation to -
 - (i) different ships or classes or descriptions of ship; or
 - (ii) local voyages between different places;
- (b) may specify circumstances in which it shall be lawful to refuse to give clearance to any ship; and
- (c) shall not affect the exercise of the power under section 81 (2).

Method of mortgage of ship

84. (1) The Minister may by regulations make provision for and in relation to, or confer powers on any named authority to make orders to give directions for or in relation to -

Entry of discharge of mortgage

- (a) the manner of survey or inspection of ships;
- (b) the period or periods within which ships shall be surveyed or inspected;
- (c) the circumstance in which, at the request of

the owner of a ship, a survey or inspection may be carried out;

- (d) the issue of certificates of registry and their cancellation; Priority of mortgages
- (e) any matter of which provision may be made in regulations in relation to a ship registered under Part III.

(2) Regulations made under subsection (1) shall not apply in relation to -

- (a) a ship registered under Part III;
- (b) a ship registered in a foreign country;
- (c) a pleasure vessel, that is to say a vessel -
 - (i) exclusively used for pleasure; and
 - (ii) not used for hire, reward or any commercial purpose;
- (d) a vessel that is licensed under the Control of Hire Craft Act; Powers of Mortgagee
- (e) a fishing vessel registered under the law for the time being in force requiring the registration of any such vessels.

PART VII

SAFETY

Conventions and their Implementation

85. (1) Subject to this Act and to any other law, the Collisions Convention, the Load Line Convention and the Safety Convention shall have the force of law in Seychelles.

(2) Where the President is satisfied -

Transfer of mortgage

(a) that the government of any country has ratified, acceded to or denounced any convention referred to in subsection (1); or

(b) that any such Convention has been applied or has ceased to apply to any country,

he may, by notice published in the Gazette, make a declaration to that effect.

(3) The President may, by instrument in writing, certify that an amendment to any Convention referred to in subsection (1) is an amendment that is objected to, or that it is not accepted, by Seychelles.

Transmission of interest in mortgage by death, etc.

(4) A notice published pursuant to subsection (2) or a certificate given pursuant to subsection (3) shall be received in any proceedings as evidence of the matter so declared or, as the case may be, so certified.

(5) The Regulations may make provision for, or in relation to the implementation of, or giving effect to, any Convention referred to in subsection (1).

86. (1) Where, in respect of a ship that is -

(a) registered under this Act; and

(b) a Safety Convention ship,

there is a failure to comply with a requirement of the Safety Convention, the master and the owner of the ship are each guilty of an offence.

Maritime liens

(2) Where, in respect of a ship that is -

(a) registered under this ; and

(b) a Load Line Convention ship,

there is a failure to comply with a requirement of the Load Line Convention, the master and the owner of the ship are each guilty of an offence.

(3) Where, in respect of -

- (a) a ship that is registered under this Act; or
- (b) any other ship or vessel that is within the territorial waters of Seychelles,

the owner or the master, of the ship or vessel, or any other person, fails to comply with a requirement of the Collisions Convention, the master or owner of the ship or vessel, or that other person, as the case may be, is guilty of an offence.

(4) Where, in respect of a ship to which subsection (1) or (2) applies, there is a failure to comply with a requirement of the Safety Convention or, as the case may be, the Load Line Convention then, without prejudice to any liability which is or may be incurred under subsection (1) or (2) in respect of the failure, the Registrar may suspend the Certificate of Registry of the ship until the failure is rectified.

Local Certificates

87. (1) The Minister may by ^{Priority of liens} regulations make provision, or provide for the making of provision with respect to -

- (a) prescribing safety requirements and providing for surveys and inspections and the issue of ^{Order of priority of liens} local safety and load line certificates, in respect of any ship -
 - (i) that is registered under this Act;
 - (ii) that is not a Safety Convention ship; and
 - (iii) that is engaged in international voyages or local voyages; and
- (b) prescribing the period during which any such certificate is to remain in force, and providing for the renewal and cancellation of any such certificate.

(2) The regulations may confer powers on any named authorities to make orders to give directions for or in relation to any matter referred to in subsection (1).

Proceeding to Sea

88. (1) Subject to subsection (2), this section applies in relation to a ship that is -

Rights of ship
builders and ship
repairers

- (a) a Load Line Convention ship;
- (b) a Safety Convention ship; or
- (c) a ship which, under the Regulations, requires in respect of an international voyage -
 - (i) any local Safety Certificates; or
 - (ii) any local Local Load Line Certificates.

(2) A ship which -

- (a) is not subject to -
 - (i) the Load Line Convention; or
 - (ii) the Safety Convention; or
- (b) does not require a local safety certificate or local Load Line Certificate,

Overriding nature
of maritime liens

at the time of its departure on any voyage shall not become subject to this section on account of any deviation from its intended voyage due to stress of weather or any other cause of force majeure.

Claims arising from
radioac- tive
products etc.

(3) The Harbour Master may, before a ship in relation to which this section applies, goes to sea on an international voyage direct the master of the ship to produce to him for inspection the appropriate certificate in respect of the ship, and the Harbour Master may refuse to give clearance to the ship until certificate is so produced.

(4) A master of a ship who refuses, or fails without reasonable cause, to comply with a direction given under

subsection (3) is guilty of an offence.

(5) Nothing in this section affects any control which may be exercised in respect of a Load Line Convention ship or a Safety Convention ship under Article 21 of the Load Line Convention or, as the case may be, Regulation 19 of Chapter 1 of the Safety Convention.

(6) For the purposes of this section, 'appropriate certificate' means, in respect of a ship -

- (a) to which subsection (1) (a) refers, an International Load Line Certificate (1986) or, where appropriate, an International Load Line Exemption Certificate, required by that Convention to be in force in respect of the ship;
- (b) to which subsection (1) (b) refers, the Safety Convention certificates (including exemption certificates where appropriate), required by that Convention to be in force in respect of the ship; or
- (c) to which -
 - (i) subsection (1) (c) (i) refers, the local Safety Certificates (including exemption certificates where appropriate), required by the Regulations to be in force in respect of the ship; or
 - (ii) subsection (1) (c) (ii) refers, a local Load Line Certificate, or a local Load Line Exemption Certificate required by the Regulations to be in force in respect of the ship,

and where more than one of the paragraphs in subsection (1) apply in relation to a ship, the 'appropriate certificate', in relation to that ship, means the certificates specified in the relevant paragraphs of this subsection.

89. (1) This section applies in relation to an

any ship that is at a port or place in Seychelles.

(2) Where, whether on complaint, ^{Limitation period} representation or otherwise, the Harbour Master has reasons to believe that a ship in relation to which this section applies is unsafe, he may cause the ship to be detained until he is satisfied that the ship can go to sea without danger to the crew or any passengers on the ship, having regard to the voyage proposed.

(3) A ship is deemed to be unsafe for the purposes of this section if, by reason of -

- (a) the defective condition of the hull, machinery or equipment;
- (b) undermanning;
- (c) overloading or improper ^{Notice of sale to be given} loading; or
- (d) any other matter,

the ship cannot proceed to sea without danger to the crew or any passengers on the ship, having regard to the voyage proposed.

(4) In considering for the purposes of this section whether or not a ship is unsafe, regard shall be had -

- (a) to the Load Line Convention;
- (b) to the Safety Convention;
- (c) to the STCW Convention; or
- (d) to the Regulations,

where applicable in relation to the ship ^{Effect of sale on mortgage} concerned.

90. (1) Where a ship is detained

pursuant to section 89, the Harbour Master shall give notice in writing to the owner or master setting out the reasons for the detention.

Disposition of
proceeds of sale

(2) Where a ship that is registered in a country other than Seychelles is detained pursuant to section 89, the Harbour Master shall, in addition, so inform the Minister and the Minister shall cause the Consul or other diplomatic representative of the country, (resident in Seychelles, or if no representative is so resident, in the country nearest to Mahe) in which the ship is registere

d to be informed of the detention and of the reasons for the detention.

92. (1) This section applies in relation to -

- (a) a ship registered under this Act;
- (b) a ship which, under the Regulations, requires, in respect of a local voyage, a local Certificate of Registry; or
- (c) a ship registered in a country other than Seychelles.

(2) Where -

Issue of a
certificate that a
ship is free of
mortgagees, liens,
etc.

- (a) a ship referred to in subsection (1) (a) goes to sea on any voyage;
- (b) ship referred to in subsection (1) (b) goes to sea on a local voyage; or
- (c) a ship referred to in subsection (1) (c) goes to sea on a local voyage,

and the ship is unsafe,

- (d) any person who has sent, or attempted to send; and
- (e) the master of the ship who has taken, or attempted to take,

the unsafe ship to sea are each guilty of an offence.

(3) It is a defence to a prosecution for an offence under subsection (2) if the accused person proves that -

Exemptions

- (a) he used all reasonable means to ensure that the ship was being sent or taken to sea in a safe state; or
- (b) having regard to the circumstances, the sending or taking of the ship to sea, was reasonable and justifiable.

(4) The provisions of section 89 (3) and (4) apply for the purposes of this section as they apply for the purposes of section 89.

Production of appropriate certificate in respect of local voyages

93. (1) This section applies in relation to -

- (a) a ship registered under this Act;
- (b) a ship such as is referred to in section 91 (1) (b); or
- (c) any other ship.

(2) Where -

- (a) a ship referred to in subsection (1) (a) goes to sea on any voyage;
- (b) a ship referred to in subsection (1) (b) goes to sea on a local voyage or;
- (c) a ship referred to in subsection (1) (c) goes to sea on a local voyage,

and the ship -

- (d) does not carry the equipment sufficient to meet the requirements of any of the following instruments which apply in relation to the ship namely -

Engaging in local trading

- (i) the Regulations;
- (ii) the Collision Convention;
- (iii) the Load Line Convention;
- (iv) the Safety Convention,

and required by those instruments to be carried on or fitted to the ship on the voyage; or

- (e) carried any such equipment, so required to be carried or fitted, which is not in good order and ready for use,

the master and owner of the ship are each guilty of an offence.

General Safety and Precautions

94. (1) The Master of a ship, not being an exempt ship, at sea within the territorial waters of Seychelles shall make by radio a report -

- (a) in the prescribed manner; and
- (b) to the prescribed officer,

of any serious danger to navigation which comes to his notice while the ship is so at sea.

Clearance of ships for local voyages and detention of ships

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

(3) The Minister may, by order published in the Gazette, exempt any ship, or class or description of ships, from the requirements of subsection (1), and the reference in subsection (1) to an 'exempt ship' shall be construed accordingly.

96. (1) Subjection to subsection (2), the master of the ship, not being an exempt ship, w

ho refuses or fails without reasonable excuse, when the ship is at sea within the territorial waters of Seychelles, to make by radio -

- (a) in the prescribed manner;

(b) to the prescribed officer; and

(c) within the prescribed periods,

reports of the position of the ship and of the movements of the ship is guilty of an offence.

(2) The Minister may, by order published in the Gazette, exempt any ship, or class or description of ships, from the requirements of subsection (1), and the reference in subsection (1) to 'an exempt ship' shall be construed accordingly.

95. A person who, except in the case of a ship that is in distress and requires assistance, exhibits a signal that is prescribed in the Collisions Convention as being a signal used to designate a vessel that is in distress and that requires assistance is guilty of an offence.

96. (1) This section applies in relation to -

(a) a ship registered under this Act;

(b) a ship such as is referred to in section 91 (1) (b); or

(c) a ship which is within the territorial waters of Seychelles.

(2) The Master of a ship in relation to which this section applies, shall render ^{Regulations} assistance to any person who is found at sea in distress.

(3) A master of a ship in relation to which this section applies, who without reasonable cause (the burden of proof of which is on him) fails to comply with subsection (2) is guilty of an offence.

(4) It is a defence in a prosecution for an offence under subsection (3) if the master proves that compliance with the requirement of subsection (2) would have caused serious danger to his ship or to any person ther

ein.

97. (1) In every case of collision between two ships it shall be the duty of the person in charge of each ship, if and in so far as he can do so without danger to his own ship, crew and passengers (if any) -

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

(2) Where a person in charge of a ship fails without reasonable cause to comply with subsection (1), he is guilty of an offence.

98. Compliance by the master of a ship with the requirement of section 96 or 97 of this Act or with Regulation 10 of the Safety Convention, shall not affect his right, or the right of any other person, to salvage.

Load Line and Loading

99. For the purposes of sections 100 and 101 'Load Lines' means the lines marked on a ship in accordance with and for the purpose of -

- (a) the Load Line Convention; or
- (b) the Regulations,

and indicating the maximum depth to which the ship may be safely loaded.

100. (1) A person who wilfully conceals, alters or defaces any load line marked on a ship is guilty of an offence.

(2) The owner or master of a ship who suffers or permits any load line marked on a ship to be concealed, altered or defaced is guilty of an offence.

101. (1) This section applies in relation to:-

- (a) a Load Line Convention ship that is registered under this Act and marked with a load line;
- (b) a Load Line Convention ship that is marked with a load line but not registered under this Act; or
- (c) a ship marked with a load line for the purpose of the Regulations.

(2) A ship referred to -

- (a) in subsection (1) (a) or (c); or
- (b) in subsection (1) (b) which is within a port in Seychelles,

shall not be so loaded that if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged.

(3) Subject to subsection (5), where any ship in relation to which this section applies is loaded in contravention of subsection (2) the owner and master are each guilty of an offence.

Conventions to
have the force of
law

(4) Where any ship in relation to which this section applies is loaded in contravention of subsection (2) and goes to sea -

- (a) the master of the ship; and
- (b) any other person who, having reason to believe that the ship is so loaded, sends or is a party to sending the ship to sea,

are each guilty of an offence, without prejudice to any offence under subsection (3).

(5) It is a defence to a prosecution for an offence under subsection (3) if the accused proves that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner of the ship could have prevented or forestalled.

(6) Without prejudice to any proceeding under this section, any ship which is loaded in contravention of subsection (2) may be detained pursuant to section 89 and where appropriate, section 90 applies in relation to any such detention.

appropriate, section 90 applies in relation to any such detention.

Grains and Bulk Cargoes

102. The Minister may make regulations relating to -

- (a) the safe carriage and storage of bulk cargoes having due regard to the Code of Safety Practice for Bulk Cargoes issued by the International Maritime Organization and amendments thereto or replacements thereof; Offence of failing to comply with conventions
- (b) the safe carriage and storage of grain in compliance with the International Convention for the Safety of Life at Sea, 1974, and amendments thereto or replacements thereof, as they came into force for Seychelles;
- (c) the requirements to be complied with when cargo is carried in any uncovered space on the deck of a load line ship.

103. (1) Where grain is loaded on board a Seychelles ship or is loaded in Seychelles on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and, if such precautions are not taken,

the owner or the master or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, is guilty of an offence, and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

(2) Any person authorized by the Shipping Master to ensure the observance of the provisions of this section may go on board any Seychelles ship or any ship that is in port in Seychelles and inspect any grain loaded in the ship and the manner in which it is stowed and shall have all the powers of a Surveyor of Ships under this Act.

(3) Where any ship, loaded with grain outside Seychelles without necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port

Local certificates

in Seychelles so laden, the owner or master is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

104. No offence is committed under section 103 (3) where the ship would not have entered any such port but for stress of weather or any other cause or force majeure, which neither the master, the owner nor the charterer if any, could have prevented or forestalled.

Dangerous Goods and Safety

105. In sections 106, 107, 108 and 109 'dangerous goods' means any goods, listed as dangerous goods in the International Maritime Dangerous Goods Code (IMDGC) published by the International Maritime Organization, London, 1977, or any such code so published subsequently, from time to time.

106. The master or owner of a ship at a port or place in Seychelles may -

- (a) refuse to take on board any package which he suspects may contain dangerous goods;

(b) open and inspect any package which he suspects may contain dangerous goods; and

Production of appropriate certificate in respect of international voyages

(c) discharge, destroy, render innocuous or otherwise deal with any good which -

(i) in his opinion are dangerous goods; and

(ii) have been shipped on board the ship without his knowledge and consent,

and shall not be subject to any liability of any kind for doing so.

107. (1) A 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 without

-

(a) distinctly marking their nature on the outside of the package containing the goods; and

(b) 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 and address of the sender or carrier of the goods, is guilty of an offence.

(2) Any person who knowingly sends or attempts to send by, or carries or attempts to carry in, any ship dangerous goods under a false description, or falsely describes the sender or carrier of any dangerous goods, is guilty of an offence.

108. (1) Where any dangerous goods have been sent or carried, or an attempt has been made to send or carry dangerous goods, on board any ship in contravention of this act, the Court trying an offence under section 107 may order the goods and any packages or container in which they are contained, to be forfeited to the Republic.

(2) The Court may exercise the power conferred by subsection (1) notwithstanding -

- (a) that the owner of the goods has not committed any offence in respect of the goods, or is not before the Court, or has no notice of the proceedings; or
- (b) that there is no evidence as to the ownership of the goods,

but the Court may require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

109. Provision may be made in the regulations for regulation in the interests of safety -

- (a) the procedures to be followed in relation to a ship carrying dangerous goods, and proposing to call at a port or place in Seychelles;
- (b) the loading or unloading of ships within the territorial limits of Seychelles, and the storage of dangerous goods; and
- (c) the determination by the Harbour Master or an authorised officer with respect to the requirements for the packing, stowage, marking and carriage of dangerous goods in ships

ips, other than Safety Convention ships.

Passengers

110. (1) This section applies in relation to -

- (a) a ship registered under this Act;
- (b) a ship such as is referred to in section 91 (1) (b); or

(c) any other ships engaged on a local voyage.

(2) Where in the opinion of the Harbour Master or an authorized officer there could be danger to the safety, comfort, health or well-being of any passenger on a ship in relation to which this section applies, by reason of the manner in which the ship is -

(a) equipped;

(b) manned;

(c) carrying;

(i) cargo;

(ii) livestock; or

(iii) ballast; or

(d) provided with -

(i) passenger or hospital accommodation;

(ii) sanitary, health or medical services; or

(iii) provisions, water or stores,

the Harbour Master or the authorized officer may notify the master or the ship accordingly.

(3) Where notification is given under subsection (2), the carriage of passengers in the ship in respect of which the notification is given is prohibited until such time as the Harbour Master or, as the case may be, the authorized officer, is satisfied that passengers may be carried without danger to their safety, comfort, health or well-being.

(4) The master of a ship carrying passengers who takes the ship to sea while the carriage of passengers is prohibited under subsection (2) is guilty of an offence.

111. (1) The Regulations may, in relation to a ship carrying passengers, make provision for an

d in relation to -

- (a) the accommodation of passengers;
- (b) the manner of notification of the carriage of unberthed passengers;
- (c) provisions, water, medical stores and medical inspection;
- (d) the carriage of medical staff and the provision of hospital accommodation;
- (e) sanitary facilities;
- (f) sale of alcohol;
- (g) passenger lists;
- (h) the cargo which may be carried and the method of stowing cargo;
- (i) the maintenance of good order in respect of the passengers;
- (j) the prevention of wilful damage and injury to the machinery or equipment of a ship by a passenger;
- (k) the prevention of any obstruction to any crewman in the execution of his duty; or
- (l) the prevention of the molesting of or interference with any person on board the ship.

112. Regulations made pursuant to section 111 shall apply only in relation to -

Notice to be given
to detention of
unsafe ships

- (a) a ship registered under this Act; or
- (b) a ship such as is referred to in section 91 (1) (b); or
- (c) any other ship engaged on a local voyage.

PART VIII

SEAWORTHINESS OF SHIPS

Offences in relation
to unsafe ships

113. In this Part 'unseaworthy ship' means a ship that is by reason of the defective condition of its hull, equipment or machinery, or by reason of undermanning, overload 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.

114. (1) Any person who sends or attempts to send any Seychelles or foreign ship to sea from any port in Seychelles in such an unseaworthy state that the life of any person is likely to be thereby endangered is guilty of 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 in the circumstances reasonable and justifiable.

(2) Any master of a ship, Seychelles or foreign, who knowingly takes such ships to sea from any port in Seychelles in such an unseaworthy state that the life of any person is likely to be thereby endangered, is guilty of an offence, unless he proves that taking the ship to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.

(3) Prosecution under this section shall not be instituted except with the consent of the Attorney-General.

115. (1) In every contract of service express or implied, between the owner of a ship and the master or any seaman thereof, or in any instrument of apprenticeship whereby any person is bound to serve on board ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner

of the ship and the master and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship at the time when the voyage commences and to keep the ship in a seaworthy condition during the voyage.

(2) Nothing in this section shall subject the owner of a ship to any liability by reason of the ship sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

116. (1) Where, whether on a complaint or representation made to him or otherwise, the Harbour Master or a surveyor has reason, to believe that any Seychelles ship, or any foreign ship at a port in Seychelles is an unseaworthy ship, he shall, if the complaint or representation is made in sufficient time before the sailing of the ship, ascertain whether or not the ship ought to be detained.

(2) Where the Harbour Master or surveyor is satisfied that the ship is an unseaworthy ship, he may -

- (a) in the case of any ship, cause the ship to be detained; and
- (b) in the case of a Seychelles ship, cause its Safety Certificates to be suspended, until he is satisfied that the ship is fit to proceed to sea.

(3) Where the ship is detained pursuant to subsection (2), the Harbour Master may adopt any measure or means he thinks suitable or necessary to prevent the ship from sailing while it is an unseaworthy ship.

117. (1) The Harbour Master, if he has reason to believe (whether on a complaint or otherwise) that a ship in

any port in Seychelles is an unseaworthy ship, may by order provisionally detain it for the purpose of being surveyed.

(2) Where a ship has been provisionally detained by order under subsection (1) -

Notification of
hazards to
navigation

- (a) a written statement of the ground of the detention of such ship shall forthwith be served on the master of the ship;
- (b) in the case of a foreign ship, a copy of such order shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which the ship may be;
- (c) the Harbour Master may, if he thinks fit, appoint some competent person or persons to survey the ship and report thereon to hi

m;

Notification of
position

- (d) the owner or master of the ship may, at any time before any person or persons appointed under paragraph (c) to survey the ship make such a survey, require such person or persons to be accompanied by such person as the owner or master may select from the list of assessors approved for purposes of inquiries under section 170 or 206 for the port at which the ship is detained and in that case, if all such persons agree the Harbour Master shall cause the ship to be detained or released accordingly as the circumstances may require but without prejudice to any appeal under subsection (4) or, if they do not agree, shall act as if such requisition has not been made;
- (e) in the case of a foreign ship, the consular officer referred to in paragraph (b) may, on the request of the owner or master of the

ship, require that any person or persons appointed under paragraph (c) shall be accompanied by such person as the consular officer selects and, if all such persons agree, the Director shall cause the ship to be detained or released as the circumstances may require (but without prejudice to any appeal under subsection (4) or, if they do not agree, shall act as if such requisition had not been made.

(3) The Harbour Master, on receiving the report, on a ship referred to in subsection (2), may -

- (a) order the ship to be released; or
- (b) if in his opinion the ship is unseaworthy, subject to subsection (4), order her to be finally detained, either absolutely or until the compliance with such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship as he thinks necessary for the protection of human life, and may vary or add to any such order

(4) Before an order for the final detention of a ship under subsection (3) is made, a copy of the report on the ship referred to in paragraph (c) of subsection (2) shall be served upon the master of the ship and within seven days of such service the owner or master of the ship may appeal in the prescribed manner to the Minister.

Duty of ships to assist in case of collision

(5) Where a ship has been provisionally detained under subsection (1), the Harbour Master may at any time, if he thinks it expedient, refer the matter to the Marine Board constituted under Part XIV.

(6) The Harbour Master may at any time, if satisfied that a ship detained under this section is not unseaworthy order her to be released either upon or without any condition.

118. (1) An order for the detention of a ship, whether provisional or final, and any order varying such order, shall be served as soon as may be on the master of the ship.

(2) A ship detained under this Act shall not be released by reason of the Seychelles registry of such ship being closed.

119. (1) Every marine officer and surveyor shall have the same power as the Harbour Master has under section 117 to order the provisional detention of a ship for the purpose of survey or for ascertaining the sufficiency of her crew, and of appointing a person or persons to survey the ship; and if he thinks that a ship so detained by him is not unseaworthy he may order the release of that ship.

(2) Any officer detaining a ship under subsection (1) shall forthwith report to the Harbour Master any order made by him for the detention or release of a ship.

(3) Any person surveying a ship under section 117 (2) (c), and any officer detaining a ship under subsection (1) of this section, shall, for the purpose of such survey and detention, have the same power as a person authorised or appointed to conduct an inquiry under section 170 or a marine inquiry under Part XI, and the provisions of this Act with respect to a person so authorised or appointed shall apply accordingly; and the powers exercisable by such person or officer shall include power to muster the crew of the ship.

120. (1) If it appears that there was no reasonable and probable cause, by reason of the condition of a ship or the act or default of the owner thereof, for the provisional detention under this Part of a ship as an unseaworthy ship, the Government shall be liable to pay to the owner of the ship -

- (a) his costs of and incidental to the detention and survey of the ship; and
- (b) compensation for any loss or damage sustained by him by reason of the detention and survey.

(2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was at the time of such detention unseaworthy, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable in the same manner as salvage is recoverable.

(3) For the purposes of this Act, the costs of and incidental to any proceeding before a Court or the Marine Board constituted under Part XIV, and a reasonable amount in respect of the remuneration of the persons appointed as surveyors under section 117 (2) (c), or any persons appointed to represent the Government, shall be part of the costs of the detention and survey of the ship.

(4) Any dispute as to the amount of the costs of the detention and survey of a ship may be referred to a Judge of the Supreme Court who shall, on the request of the Minister, ascertain and certify the proper amount of those costs.

(5) An action for any costs or compensation payable by the Government under this section may be brought against the Attorney General.

121. (1) Where a complaint is made to the Harbour Master, a marine officer or a surveyor, that a Seychelles ship is unseaworthy, such officer may require the complainant to give security to the satisfaction of such officer, for any costs and compensation which he may become liable to pay as mentioned in subsection (3).

(2) The security referred to in subsection (1) shall not be required where the complaint relating to a ship -

- (a) is made by one-fourth, being not less than three of the seamen belonging to the ship; and
- (b) is not in the opinion of the Harbour Master, marine officer or surveyor, as the case may be frivolous or vexatious,

but in such case the Harbour Master, marine officer or surveyor, if the complaint is made in sufficient time before sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint under subsection (1), and the circumstances are such that the Government is liable under section 120 to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

122. (1) If in any proceedings against any seaman of any ship for the offence of desertion or absence without leave, it is alleged by one-fourth, or if their number exceeds twenty, by not less than five, of the seamen belonging to the ship -

- (a) that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or any other reason, not in a fit condition to proceed to sea; or
- (b) that the crew accommodation in the ship is insufficient or does not comply with the requirement imposed by any regulations made under section 142,

the Court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth of the allegation, and for that purpose -

- (i) shall receive the evidence of the person making the allegation;
- (ii) may summon any other witnesses whose evidence it thinks desirable to hear;
- (iii) shall, if satisfied that the allegation is groundless, adjudicate the case; and
- (iv) shall, if satisfied that the allegation is not groundless, before adjudication cause the ship to be surveyed.

(2) A seaman charged with desertion or with absence from his ship without leave shall not have a right to apply for a survey under this section unless he has, before leaving the ship, complained to the master of the circumstances alleged by him to justify a survey of the ship.

123. (1) For the purposes of section 122, the Court shall require -

- (a) any surveyor; or
- (b) if a surveyor cannot be obtained without reasonable expense or delay, or is not in the opinion of the Court competent to deal with the special circumstances of the case, then, any other impartial surveyor appointed by the Court and having no interest in the ship, her freight or cargo,

to survey the ship which is the subject of an allegation under that section, and to answer any question concerning such ship which the Court thinks fit to ask.

(2) A surveyor appointed under subsection (1) to survey any ship shall survey the ship, make a written report thereon to the Court, and include in his written report an answer to every question put to him by the Court.

(3) On receiving a report under subsection (2), the Court shall

- (a) communicate the report to the parties; and
- (b) unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, determine the question before it in accordance with those opinions.

(4) Any person carrying out a survey of a ship under this section shall have for the purposes thereof all the powers conferred on an inspector by section 8.

124. (1) The costs, if any, of a survey of a ship made under section 123 shall be determined by the Harbour Master according to a prescribed scale of fees.

(2) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation therein is sufficient or complies with such requirements as may be prescribed, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and such costs may be deducted by the master or owner of the ship from the wages due or to become due to that person, and shall be paid to the Government.

(3) If it is proved that the ship is not in a fit condition to proceed the sea, or that the accommodation therein is not sufficient or does not comply with such requirements as may be prescribed, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Government, and in addition be liable to pay to the seamen who has been charged in any proceedings referred to in section 122 such compensation as the Court may award.

PART IX

MASTER AND SEAMEN

Introduction

125. (1) Subject to this Part, sections 131 to 175 apply unless otherwise specified in relation to -

- (a) a ship that is registered under this Act; and
- (b) any class or description of ships identified in an order made subsection (2) to the extent that the order so provides.

(2) The Minister may make an order for the purposes of subsection (1) (b) which shall be published in the Gazette.

126. (1) Subject to subsection (3), the Minister may, by order published in the Gazette, exempt a particular ship or a particular class or description of ships from any requirement of this Part which otherwise apply in relation to the ship.

(2) An exemption under subsection (1) may be given in respect of -

- (a) a particular period;
- (b) one, or more than one, particular voyage; or
- (c) generally.

(3) No exemption shall be given under subsection (1) in relation to the requirement of section 135.

(4) The Minister may give an exemption under subsection (1) in respect of the manning requirements under section 131 only if he is satisfied that, by reason of the ship's size and conditions of voyage, those requirements are unreasonable or impracticable.

Certification

127. In sections 128 to 130 'crewman' means a master or a seaman.

2. A crewman may be qualified in one, or more than one, of the grades which may be prescribed.

3. Where the Minister is satisfied that certificates of competency or service are issued in any other country on similar principles as those applicable in relation to the issue of like certificates under this Division, the Minister may, by order published in the Gazette,

- (a) declare that the said certificates shall be of the same force as if they had been issued under this Act
- (b) declare that all or any of the provisions of this Act shall apply to the certificates referred to in the order; and
- (c) impose such conditions with respect to the certificates as are prescribed in the order.

130. The Regulations may make provision for and in relation to -

- (a) the standards of competency to be attained by a crewman and other conditions to be satisfied in order for a crewman to attain a particular grade;
- (b) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidence;
- (c) the manner and conduct of any examinations and the conditions for admission to examinations;
- (d) the appointment and remuneration of examiners;
- (e) the authority that may issue, and the issue, form and recording of certificates of competency and other documents;
- (f) the endorsement of certificates of competency and other documents;

- (g) the revocation of certificates of competency;
- (h) the replacement of lost certificates of competency;
- (i) savings in respect of existing certificates of competency; and
- (j) the issue of certificates of service and the effect of any such certificate.

Manning Levels

131. (1) Subject to this section, the scale of qualified persons to be carried on a ship when engaged in any prescribed trade shall be as prescribed.

(2) Subject to subsection (3), the Marine Board may issue in writing a dispensation permitting a specified person to serve in the specified ship in a capacity for which he does not hold the appropriate certificate.

(3) The power of the Marine Board to issue any dispensation under subsection (2) is subject to the conditions set out in Article VIII of the S.T.C.W. Convention.

(4) For the purpose of the application, pursuant to subsection (3) of Article VIII of the S.T.C.W. Convention, the reference in that Article to 'Administration' or 'the Administrator' shall be deemed to be a reference to the Marine Board.

132. Subject to section 131, a person who goes to sea to serve on a ship as a person of a particular grade and who does not hold the appropriate certificate for that grade is guilty of an offence.

133. Subject to section 131, an owner or master of a ship who suffers or permits the ship to go to sea on a voyage without carrying the prescribed scale of qualified persons in respect of that voyage is guilty of an offence.

134. The Regulations may make provision, for and in relation to a ship referred to in section 125, with respect to -

- (a) the conditions and particulars to be included in crew agreements.
- (b) the form of a crew agreement and the manner in which an agreement shall be made;
- (c) the manner in which a crew agreement shall be -
 - (i) amended; or
 - (ii) lodged with the Shipping Master;
- (d) the circumstances in which a crew agreement or a copy of an agreement, shall be carried in a ship;
- (e) the requirements for a crew agreement, or a copy of an agreement, to be delivered to an authorised officer;
- (f) the requirements for a crew agreement or a copy of an agreement, to be made available for perusal by an authorised officer;
- (g) the conditions under which a person not under 16 years of age but less than 18 years of age may enter into a crew agreement;
- (h) the notice required to be given to the Shipping Master before a crew agreement is entered into or terminated;
- (i) the procedures and practices to be followed on the termination of a crew agreement; and
- (j) the circumstances under which, other than by reason of termination of a crew agreement, a seaman may be left behind from a ship outside Seychelles.

135. The Provisions of the Employment Act shall have effect with respect to the employment of persons under the minimum age of employment in a ship.

136. A person who demands or receives, directly or indirectly, from another person seeking employment as a seaman on any ship any remuneration or reward, whether in cash or otherwise, for providing such employment to that other person is guilty of an offence.

Wages

1. Subject to this Act, a seaman on a ship shall be paid wages in accordance with the terms of a crew agreement.

2. An employer who refuses, or fails without reasonable cause, to deliver to a seaman employed on a ship and covered by a crew agreement an exact account of the -

(a) wages due to the seaman under the crew agreement; and

(b) deduction (if any) made from those wages,

is guilty of an offence.

139. A provision in a crew agreement, whether express or implied, which purports to modify, vary or negative the rights of a seaman employed on a ship referred to in Section 125 applies is void and of no effect.

140. The regulations may make provision in relation to a ship referred to in Section 125 with respect to -

(a) the deductions which may be made from the wages due to a crewman;

(b) the manner in which deductions may be made;

(c) the manner in which wages are to be paid;

- (d) the manner in which wages are to be accounted for where a seaman leaves a ship otherwise than on termination of an agreement;
- (e) the form and manner in which accounts of wages are to be prepared by an employer and delivered to a seaman;
- (f) the form of allotment notes; and
- (g) the circumstances in which allotments may be made.

Crew Accommodation

141. (1) A ship referred to in Section 125 shall have accommodation exclusively reserved for the use of the crew.

(2) The accommodation referred to in subsection (1) shall be known as the crew accommodation.

(3) The crew accommodation of a ship shall be of the prescribed standard.

(4) An owner or master of a ship who suffers or permits the ship to go to sea without crew accommodation of prescribed standard is guilty of an offence.

142. The Regulations may make provision for and in relation to -

- (a) the crew accommodation requirements for new and existing ships;
- (b) the minimum space per man which must be provided by way of sleeping accommodation in a ship for a seaman and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;

- (c) the position in a ship in which the crew accommodation or any part of the crew accommodation is to be located;
- (d) the standards to be observed in a ship in the construction, equipment, ventilation, lighting, heating and furnishing of crew accommodation;
- (e) the provisions of washing, sanitary, toilet, messing and hospital facilities for seaman in a ship;
- (f) the standards of maintenance of crew accommodation in a ship
- (g) the prohibition on restriction of the use of crew accommodation in a ship for purposes other than those for which it is designed.

Welfare

143. (1) An employer or master of a ship referred to in Section 125 shall ensure that the provisions and water supplied for the use of a seaman are as prescribed.

(2) When three or more seamen are of the opinion that the provisions or water supplied for the use of seamen in a ship referred to in Section 125 are not as prescribed, they may complain to the Shipping Master.

(3) Where such a complaint is made the Shipping Master shall forthwith cause the complaint to be investigated.

(4) For the purpose of an investigation under this section the Shipping Master may cause the provisions or water to be examined.

(5) Where, after an investigation under this section, the Shipping Master is of the opinion that the provisions or water are not as prescribed, he shall direct the employer or the master to replace them.

(6) An employer or master shall comply with a direction given under this section and if he fails to do so he is guilty of an offence.

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

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

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

145. An owner or master of a ship referred to in Section 125 and not exempt under section 126 who suffers or permits the ship to go to sea without carrying the prescribed number of qualified first-aid attendants, medicines and medical and surgical stores is guilty of an offence.

146. (1) Where, in the opinion of a seaman, the seaman has cause to complain about -

- (a) the master of a ship;

- (b) any other seaman on a ship; or
- (c) the conditions on board a ship,

he may complain to the master of the ship.

(2) Where a seaman -

- (a) has made a complaint under subsection (1); and
- (b) is dissatisfied with -
 - (i) the action taken by the master of the ship on that complaint; or
 - (ii) the failure of the master of the ship to take any action,

the seaman may -

- (c) state his dissatisfaction to the master of the ship; and
- (d) request the master of the ship to make adequate arrangements for the seaman to complain to the Shipping Master as soon as the service of the ship permits.

(3) A master of the ship to whom a request has been made under subsection (2) who refuses, or fails without reasonable cause, to make the adequate arrangements referred to in that subsection is guilty of an offence.

147. (1) Where -

- (a) a person employed as a seaman in a ship under a crew agreement entered into in Seychelles, or engaged as a master in Seychelles, is left behind in any country outside Seychelles or is taken to such a country on being shipwrecked; or
- (b) a person who becomes so employed under a crew agreement entered into outside

Seychelles, or so engaged outside Seychelles, is left behind in Seychelles or is taken to Seychelles on being shipwrecked,

the person who last employed him as a seaman or engaged him as a master shall make such provision for his return and his relief and maintenance until his return as is prescribed, and the regulations may provide for the determination of the place to which the seaman or the master is to be returned.

(2) The provision is to be made to include the prepayment of expenses incurred in bringing a shipwrecked seaman or master ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman or master who dies before he can be returned.

(3) A person who fails to make the provision referred to in subsection (1) is guilty of an offence.

148. Where expense is incurred in respect of a matter for which a person is required to make provision under section 147, then, unless it can be proved that the seaman or master would not have been left behind but for his own wrongful act or neglect -

- (a) if the expense is incurred by, or on behalf of the Republic, the Republic; or
- (b) if the expense is incurred by the seaman or master, the seaman, or as the case may be, the master,

may recover the expense from the person who is required to make that provision.

149. Where a person left behind in or taken to any country as mentioned in section 147 (1) remains there after the end of the period of three months the person who last employed him as a seaman or engaged him as a master shall not be liable to make provision for his return or for any matter

arising after the end of that period, unless the person has before the end of that period been under an obligation imposed on him by the Regulations to make provision with respect to the seaman or master.

150. (1) The master of a ship in which there is any property of a deceased seaman, who refuses, or fails without reasonable cause, the property to be delivered up in the prescribed manner to the Shipping Master, is guilty of an offence.

(2) Where any property of a deceased seaman has come into the possession of the Shipping Master, he shall deal with the property as prescribed.

(3) After deduction of any costs or expenses incurred in respect of a deceased seaman or the property of a deceased seaman, the assets or the proceeds of the assets of the deceased seamen held by the Shipping Master shall be deposited in court to be dealt with according to law and the Shipping Master shall thereupon be discharged from any liability in respect of the assets.

151. The regulations may make provision for and in relation to -

- (a) the quality and quantity of the provisions and water to be supplied for the use of seamen on a ship;
- (b) the manner of checking and inspecting provisions and water supplied for the use of seamen on a ship;
- (c) the manner and conduct of medical examinations of seamen on a ship and of persons seeking employments as seamen on a ship;
- (d) the medicines and medical and surgical stores (including books containing

instructions and advice) to be carried in a ship and the manner in which such medicines, and stores are to be carried, or stored and used in a ship;

- (e) the appointment and certification of first-aid attendants and the circumstances in which first-aid attendants are to be carried on a ship;
- (f) the manner in which medical expenses incurred in respect of a seaman on a ship while at a place outside the country may be recovered from an employer;
- (g) the circumstances and the manner in which the Shipping Master shall make provisions for the relief, maintenance and return to a proper return port of a seaman, on a ship;
- (h) the manner in which any wages due to a distressed seaman and any property left on board a ship by a distressed seaman are to be dealt with;
- (i) the manner in which any expenses incurred in bringing ashore a seaman who has been shipwrecked, or in maintaining him after he has been brought ashore, may be recovered from the person who last employed him as a seaman; and
- (j) the manner in which the property of a deceased seaman is to be -
 - (i) held in custody; or
 - (ii) sold, converted into cash or otherwise disposed of.

Discipline

152. (1) This section applies where a master or seaman -

- (a) does any act which causes, or is likely to cause -
 - (i) the loss or destruction of, or serious damage to; or
 - (ii) the death of, or serious injury to, a person on board a ship;
- (b) fails to do anything required to be done by him to preserve -
 - (i) a ship from loss destruction, or serious damage; or
 - (ii) any person on board the ship from death or serious injury.

(2) Where the act, or failure to act by the master or seaman referred to in subsection (1) -

- (a) is deliberate; or
- (b) amounts to a breach or neglect of duty or disobedience to a lawful command; or
- (c) occurs when the master or seaman is under the influence of alcohol, or a drug,

the master or, as the case may be, the seaman is guilty of an offence.

153. Where a seaman on a ship -

- (a) persistently and wilfully -
 - (i) neglects his duty; or
 - (ii) disobeys lawful commands; or
- (b) combines with other seaman to -
 - (i) disobey a lawful command; or

- (ii) neglect his duty; or
- (iii) impede the navigation of the ship or the progress of a voyage,

he is guilty of an offence.

154. Where -

- (a) a seaman from a ship is absent without leave;
- (b) his absence is -
 - (i) due to his recklessness; or
 - (ii) deliberate and without reasonable cause;and
- (c) the ship -
 - (i) is thereby delayed; or
 - (ii) goes to sea without him,

the seaman, is guilty of an offence.

155. Notwithstanding any other provision of this Act, where -

- (a) a person is carried to sea in a ship without the consent of the master or of any other person authorised to give consent to his being so carried; or
- (b) a distressed seaman is carried on a ship for the purpose of being returned to his proper return port,

he is for the purposes of Sections 152 to 154 and Sections 156 to 160 deemed to be a seaman on the ship.

156. It is a defence to a charge for an offence against section 152 if the person charged proves that -

- (a) at the time of the alleged act or failure to act, he was under the influence of a drug taken by him for medical purposes; and
- (b) either -
 - (i) he took a drug on medical advice and complied with any directive given as part of that advice; or
 - (ii) he had no reason to believe that the drug might have the influence it had.

157. (1) The master of a ship who finds that a seaman has committed an offence against discipline shall make a report of his findings in the prescribed form to the Shipping Master.

(2) Where -

- (a) two or more reports under subsection (1) have been made within the prescribed time in respect of a seaman; or
- (b) a seaman has committed an offence under section 152, 153 or 154,

the Shipping Master may declare the seaman to be a suspended person.

158. (1) Where -

- (a) the Shipping Master has declared a seaman to be a suspended person; and
- (b) the period of suspension exceeds 12 months,

the seaman may, within 30 days of receiving the prescribed notification of his suspension or where he is at sea at the time of receiving the prescribed notification, within 30 days after his arrival at any port in Mahe, appeal to the Supreme Court.

(2) Where an appeal is made under subsection (1), the Supreme Court shall make such orders as the justice of the case requires.

(3) Section 211 (2) shall apply to an appeal under this section.

159. (1) The Shipping Master shall keep a list known as the List of Suspended Persons.

(2) Where a seaman is suspended for a period -

(a) of 12 months or less; or

(b) exceeding 12 months; and -

(i) no appeal to the Court is made within the period of 30 days referred to in section 158; or

(ii) an appeal is made under that section and the Court orders that the appeal be dismissed,

the Shipping Master shall include the name of the seaman in the List of Suspended Persons.

160. The regulations may make provision for and in relation to -

(a) misconduct on board a ship which is an offence against discipline;

(b) the procedures under which a master may find that a seaman has committed an offence against discipline;

(c) the manner in which a declaration of suspension shall be made and the manner in which the declaration shall be notified to -

(i) a suspended person; and

(ii) the person who last employed him as a seaman;

- (d) the manner in which the name of a suspended person shall be included in a list of suspended persons; and
- (e) the manner in which a list of suspended persons is -
 - (i) to be kept; and
 - (ii) to be made available for inspection by any person appearing to the Shipping Master to be interested.

General

161. A person who, without the consent of -

- (a) the master of a ship; or
- (b) a person authorised by the master to give that consent,

goes to sea or attempts to go to sea in a ship is guilty of an offence.

162. A person, not being the holder of an office referred to in section 5 or an authorised officer, who -

- (a) without the consent of the master of a ship or of a person authorised by the master to give that consent goes on board a ship in port in Seychelles; or
- (b) remains on board a ship after being requested to leave by the master, the Harbour Master, the Shipping Master, a police officer, a customs officer or a trades tax officer,

is guilty of an offence.

163. The master of a ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest or safety

or for the preservation of good order or discipline on board the ship.

164. The master of a ship registered under this Act who refuses or fails without reasonable cause to make a return in the prescribed form to the Shipping Master of any -

- (a) birth occurring in; or
- (b) death occurring, or presumed to have occurred, in,

the ship, is guilty of an offence.

165. (1) In this section, 'ship' means a ship registered in a country other than Seychelles.

(2) The master of a ship who refuses, or fails without reasonable cause to make a return in the prescribed form to the Shipping Master of -

- (a) birth occurring in; or
- (b) death occurring or presumed to have occurred in,

the ship on a voyage to a port or place in Seychelles, is guilty of an offence.

166. (1) The Shipping Master may issue to a person who is a citizen of Seychelles a card to be known as a Discharge Book.

(2) A person to whom a Discharge Book has been issued who refuses, or fails without reasonable cause -

- (a) to keep the book securely; and
- (b) to produce it when so required to such persons in such circumstances as are prescribed,

is guilty of an offence.

167. (1) The Shipping Master shall cause to be kept at Victoria a book to be known as the Register of Seamen.

(2) The Shipping Master shall cause to be entered into the Register of Seamen -

- (a) particulars of any period during which a person is a suspended person; and
- (b) such other particulars as may be prescribed.

(3) Any person may inspect the Register of Seamen at any time during the hours approved by the Shipping Master.

168. (1) The master of a ship shall keep a book to be known as the Official Log Book.

(2) Subject to this Act, the master of a ship who fails without reasonable cause -

- (a) to keep the Official Log Book in the prescribed manner; and
- (b) to carry the Official Log Book in the ship,

is guilty of an offence.

(3) Any person who wilfully destroys or mutilates or renders illegible any entry in an Official Log Book is guilty of an offence.

169. (1) An employer or the master of a ship shall make and, in the prescribed manner, maintain a list of the crew of the ship.

(2) A list referred to in subsection (1) is to be known as a Crew List.

170. (1) Where -

- (a) a person dies or suffers a serious injury in a ship; and
- (b) the master of the ship fails, without reasonable cause, as soon as is reasonably

practicable, to notify the Shipping Master of the death or serious injury,

the master of the ship is guilty of an offence.

(2) Subject to section 171(2), where -

- (a) a person dies or suffers a serious injury in a ship; or
- (b) a seaman belonging to a ship dies or suffers a serious injury away from the ship,

an inquiry into the circumstances surrounding the death or serious injury shall, unless the Minister otherwise directs, be held by the Marine Board or by a person so authorised by the Marine Board at the next port in Seychelles at which the ship calls.

(3) No inquiry shall be held under this section in a case where an inquest by a coroner, is to be, or is required to be, held under any law of Seychelles.

171. (1) For the purpose of holding an inquiry under section 170, the Marine Board or the person authorised pursuant to that section, as the case may be, may -

- (a) in the case of the Board, through a person appointed by it for the purpose, or the person so authorised, go on board a ship at any time and inspect the ship or any article on board the ship;
- (b) summon any person to appear before the Board or, as the case may be, the person so authorised; and
- (c) require the production of any document which in the opinion of the Board or, as the case may be, the person so authorised, is relevant to the inquiry.

(2) Where an inquiry has been held the Marine Board or the person who held it shall make a report in writing of the findings to the Minister who may make a copy of the report available -

- (a) in the case of a person who has died -
 - (i) to the next of kin of the deceased person; or
 - (ii) to any other person who requests such a copy and who appears to the Minister to be interested; and
- (b) in the case of a person who has suffered a serious injury -
 - (i) to that person, or to a person acting on his behalf; or
 - (ii) to any other person who requests such a copy and who appears to the Minister to be interested.

172. (1) In this section, 'seaman' means a seaman who is absent from a ship at a time when, under a crew agreement, he is required to be on board.

(2) Where a seaman proves -

- (a) that his absence from a ship was due to -
 - (i) accident;
 - (ii) mistake; or
 - (iii) some cause beyond his control; and
- (b) that he took all reasonable precautions to avoid being absent,

his absence is not a breach of contract.

(3) Where, in an action for breach of contract arising from the absence of a seaman from a ship, a seaman fails to

prove the matters referred to in subsection (2), if special damages are -

- (a) not claimed by his employer, his civil liability is limited to Rs1,000.00; or
- (b) claimed by his employer, his civil liability is limited to Rs10,000.00

173. (1) Where it appears to the Minister that due facilities will be given by the government of a country for apprehending and receiving seamen who desert in that country from ships registered under this Act, the Minister may, by order, declare that this section shall apply in relation to that country, subject to any conditions stated in the order.

(2) Where, in Seychelles, a seaman deserts from a ship registered in a country to which, pursuant to subsection (1), this section applies, the master of the ship may apply to the Court for aid in apprehending the deserter, and the Court and its officers shall give all aid within their power, and for that purpose the Court may, on information given on oath, issue a warrant for the deserter to be conveyed on board the ship, or delivered to the master, or owner of the ship or his agent, to be so conveyed.

174. Where -

- (a) a ship is at a place in Seychelles or within the territorial waters of Seychelles; and
- (b) the Harbour Master is of the opinion that the owner or the master of the ship or an employer, has failed to comply with a requirement of this Part, the ship may be detained.

(2) Where the ship is detained under subsection (1), the ship may be detained until such time as the Harbour Master issues a certificate showing that -

- (a) the Harbour Master is satisfied that the owner, the employer and the master have complied with the provisions of this Part; and
- (b) the ship may go to sea without a contravention of any provision of this Part.

175. The regulations may make provision for and in relation to -

- (a) the circumstances, manner and form in which the Shipping Master shall issue and record a Discharge Book;
- (b) the circumstances and manner in which a Discharge Book is to be delivered up to the Harbour Master; and
- (c) the issue and form of Employment Record Books;
- (d) entries to be made in the Register of Seamen;
- (e) endorsements to be made in Employment Record Books;
- (f) the particulars required to be entered in an Official Log Book;
- (g) the person by whom entries in an Official Log Book are to be made, signed or witnessed;
- (h) the procedure to be following in making of entries in an Official Log Book;
- (i) the production, or delivery of an Official Log Book to such person, in such circumstances and within such times as may be specified;

- (j) the particulars to be entered in the Crew List;
- (k) the time during which a Crew List may remain in force;
- (l) the manner of notification to specified persons of changes in a Crew List;
- (m) the place and manner in which a Crew List or copy thereof is to be maintained; and
- (n) the manner in which a Crew List, or a copy thereof, is to be made available on demand to specified persons.

PART X

WRECK AND SALVAGE

Introductory

176. In this Part, unless the context otherwise requires -

'owner' in relation to a vessel wrecked, means any person or persons to whom the vessel wrecked -

- (a) belongs;
- (b) belonged at the time at which it became a vessel wrecked; or
- (c) has belonged at any time after the time at which it became a vessel wrecked;

'receiver', in respect of any area, means the person appointed under section 177 to be the Receiver of Wrecks in respect of that area;

'salvage' includes all expenses properly incurred by a salvor in the performance of the salvage services;

'vessel' includes a ship or boat and any other description of vessel whatsoever used in navigation by water;

'vessel wrecked' means any vessel that is wrecked, stranded, sunk or abandoned or which is lying on the sea-bed within the territorial waters of Seychelles and includes wreck;

'wreck' includes -

- (a) jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal waters; and
- (b) any articles or goods of whatever kind, cast ashore within the ebb and flow of the tide, that belonged to or came from any vessel wrecked, stranded or in distress, or any portion of the hull, machinery or equipment of any vessel wrecked.

177. The Minister may by notice published in the Gazette appoint any person to be the Receiver of Wrecks in respect of any area in Seychelles identified in the notice.

178. The receiver in respect of any area is not liable for any loss or damage suffered as a result of -

- (a) any act done; or
- (b) any failure to do anything required to be done,

by him in exercising or performing his functions for the purposes of this Part.

Dangerous Wrecks

179. (1) Where, in the opinion of the Minister -

- (a) a vessel wrecked is, or is likely to be, an obstruction or danger to navigation; or

(b) it is in the public interest to do so,

the Minister may -

- (c) require the owner of the vessel wrecked to -
- (i) raise;
 - (ii) remove; or
 - (iii) destroy,

the whole or any part of the vessel or any items of tackle, equipment, cargo, stores or ballast of, or belonging to, the vessel; or

(iv) to light; or

(v) buoy,

any such vessel, part or item until it is raised, removed or destroyed;

- (d) where the owner of a vessel wrecked fails to comply with the requirements made under paragraph (c) raise, remove, destroy or deal with the vessel wrecked or any part or item of the vessel wrecked in such manner as he thinks fit;
- (e) sell, in such manner as he thinks fit, any vessel wrecked or any part or item thereof so raised or removed together with any other property recovered in the raising or removal and, out of the proceeds of sale, to pay after deduction of any expenses incurred by him the net proceeds of such sale to the persons entitled thereto; or
- (f) recover from the owner any and all expenses incurred by him in the lighting, buoying, raising, removal or destruction of the vessel

wrecked and not recovered from the proceeds of any sale under paragraph (e).

(2) The powers given to the Minister under this section for the removal of vessels wrecked shall be in addition to and not in derogation of any powers given under this Part.

180. (1) Where the Minister is satisfied that -

(a) because of any thing contained within a vessel wrecked, the vessel wrecked is in a condition which makes it a potential danger to life or to property; and

(b) the vessel wrecked ought to be protected from unauthorised interference,

he may, by notice published in the Gazette, declare an area around the vessel to be a prohibited area.

(2) A notice published under subsection (1) shall contain a description of the vessel wrecked, the place where the vessel is and the extent of the area declared to be a prohibited area.

(3) Subject to subsection (4), a person who, without the authority in writing of the Minister, enters a prohibited area is guilty of an offence.

(4) A person is not guilty of an offence under subsection (3) if he enters a prohibited area -

(a) in the exercise of his functions under or for the purpose of any laws;

(b) out of necessity due to stress of weather or navigation hazard.

181. (1) Where a vessel is wrecked, stranded or in distress on or near any area of the coast of Seychelles, the receiver in respect of the area shall, subject to subsection (2), take such action as he considers necessary for the preservation of -

- (a) the vessel;
- (b) the lives of persons belonging to the vessel;
and
- (c) any wreck coming from the vessel,

until it can be removed to a safe place.

(2) The receiver in respect of the area shall not, pursuant to subsection (1), interfere between the master and crew in reference to the management of the vessel unless requested to do so by the master.

(3) For the purposes of subsection (1), the receiver in respect of the area may -

- (a) requisition -
 - (i) the services of any person;
 - (ii) the services of any vessel; or
 - (iii) the use of any vehicle, machinery or equipment that is available;
- (b) enter and pass, with or without other persons, vehicles, machinery and equipment, over any land; and
- (c) deposit wreck on any land.

(4) A person who -

- (a) fails to comply with a requisition under subsection (3);
- (b) obstructs a receiver in the exercise of any rights or powers under that subsection; or
- (c) prevents wreck from remaining on land until it can be removed to a safe place,

is guilty of an offence.

182. Where the receiver in respect of any area, in relation to a vessel that is wrecked, stranded or in distress -

- (a) made a requisition under section 181; or
- (b) caused damage to land as a result of the exercise of his powers under that section,

the cost of the requisition or damages shall be a charge on -

- (c) the vessel including its cargo and any property on board; and
- (d) any wreck from the vessel,

as if it were salvage.

183. (1) A person, other than a receiver in respect of any area in the exercise or performance of his functions, or a person acting under the instruction of a receiver, who without the leave of the master, boards or attempts to board a vessel that is wrecked, stranded or in distress is guilty of an offence.

(2) A person attempting to board a vessel in contravention of subsection (1) may be repelled by the master using force as is reasonable in the circumstances.

184. A person who, in relation to a vessel that is wrecked or stranded or in danger of becoming wrecked or stranded, or is otherwise in distress -

- (a) impedes or hinders or endeavours in any way to impede or hinder the saving of the vessel or the life of a person belonging to the vessel or any property from it;
- (b) plunders any vessel;
- (c) secrets any wreck or defaces or obliterates any marks thereon; or
- (d) wrongfully removes or carries away any wrecks,

is guilty of an offence.

Dealing with Wreck

185. (1) A person including the owner of wreck, who -

- (a) finds or takes possession of any wreck within the jurisdiction of Seychelles; or
- (b) having found or taken possession of any wreck outside that jurisdiction brings the wreck into that jurisdiction,

shall notify, in writing, the receiver in respect of the area where he found or took possession of the wreck or, in the case referred to in paragraph (b), in respect of the area where he brought the wreck into the jurisdiction on finding or taking possession of it outside that jurisdiction.

(2) A person who fails or refuses without reasonable cause (the burden of proof of which is on him) to give the notice required under subsection (1) is guilty of an offence.

186. (1) The receiver in respect of any area may -

- (a) take possession of any wreck within that area; or
- (b) by written notice require a person to deliver up to him any wreck within that area.

(2) A person who fails to refuse without reasonable cause (the burden of proof of which is on him) to comply with a notice under subsection (1) is guilty of an offence.

187. (1) Where a receiver in respect of an area in the exercise or performance of his functions takes possession of any wreck, he shall, within 48 hours of doing so, transmit to the Collector of Customs a description of the wreck and of any marks by which it is distinguished.

(2) The Collector of Customs shall, as soon as possible after the description of any wreck is transmitted to him pursuant to subsection (1), cause a notice giving that description to be posted in the Customs House.

188. (1) The owner of any wreck in possession of a receiver, upon establishing his claim to the wreck to the satisfaction of the receiver within 12 months from the time at which the wreck came into the possession of the receiver, shall, upon paying the salvage, fees and expenses due, be entitled to have the wreck or the proceeds thereof delivered to him.

(2) For the purposes of subsection (1), in the absence of the owner or an agent appointed by him, where -

- (a) any wreck from a foreign vessel that immediately before becoming wreck was not cargo, the diplomatic representative of the country to which the vessel belongs resident in Seychelles or, if no such representative is so resident, resident in the country nearest to Mahe, is deemed to be the agent of the owner; and
- (b) any wreck from a foreign vessel that, immediately before becoming wreck, was cargo owned by a person who was, at the time, a citizen of a country other than Seychelles, the diplomatic representative of the country of which the person was a citizen resident in Seychelles or, if no such representative is so resident, resident in the country nearest to Mahe, is deemed to be the agent of the owner.

189. (1) A receiver may, at any time, sell wreck in his custody if in his opinion -

- (a) it is under the value of Rs.1,000.00;
- (b) it is so much damaged or of so perishable nature that it cannot with advantage be kept;
or

(c) it is not of sufficient value to pay for warehousing,

and the proceeds of the sale shall, after defraying the expenses thereof, be held in such manner as the receiver so directs for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

(2) When a wreck has been in the possession of a receiver for a period of 12 months and no claim to the ownership of the wreck has been proved to the satisfaction of the receiver, he may sell the wreck and pay the proceeds (if any) into the Consolidated Fund.

190. (1) Where, in respect of wreck that comes into his possession, a receiver has complied with sections 185 to 189, he is discharged from liability in respect of that wreck.

(2) The discharge from liability of a receiver under subsection (1) shall not prejudice or affect any question that may be raised by third parties concerning the right or title to any wreck.

191. Where a dispute arises as to the title to any wreck, it may be determined as if it were a dispute as to salvage under sections 195 to 200.

192. A person who, without the prior written approval of the Minister, removes from the jurisdiction of Seychelles -

- (a) any vessel that has been wrecked, stranded or abandoned; or
- (b) any wreck that is found or has been brought, within the jurisdiction,

is guilty of an offence.

SALVAGE

193. Where -

- (a) within the jurisdiction of Seychelles, any services are rendered in saving life from a vessel; or
- (b) outside the jurisdiction of Seychelles, any services are rendered in saving life from a vessel that is registered under this Act,

and a vessel, or any cargo, machinery or equipment from the vessel, is saved, the salvor is entitled to the payment of salvage by the owners of the vessel, cargo, machinery or equipment.

(2) Salvage in respect of the saving of life is payable in priority to all other claims for salvage.

(3) Where -

- (a) salvage is payable in respect of the saving of life; and
- (b) the value of the vessel, cargo, machinery or equipment saved (if any) is insufficient to pay the amount of salvage payable;

the Minister may, in his discretion, pay to the salvor from funds appropriated for the purposes such sum as he thinks fit in whole or part satisfaction of the amount of salvage.

194. Where a vessel is wrecked, stranded or in distress within the jurisdiction of Seychelles and services are rendered by a person -

- (a) assisting the vessel;
- (b) saving cargo or property from the vessel; or
- (c) saving any wreck,

salvage is payable to the salvor by the owner of the vessel, cargo, property or wreck.

Procedure in Salvage

195. Where there is a dispute as to salvage, whether in respect of the saving of life or of property and the dispute is not settled by agreement, arbitration or otherwise, the dispute shall be determined by the Court.

196. (1) Where salvage is due to a person under this Part, the receiver concerned shall -

- (a) in the case of salvage due in respect of services rendered in -
 - (i) assisting a vessel;
 - (ii) saving life from the vessel; or
 - (iii) saving cargo or property from the vessel;

detain the vessel, the cargo or property; and

- (b) in the case of salvage due in respect of the saving of any wreck, and the wreck is not sold as unclaimed, detain the wreck.

(2) Where a vessel, cargo or property is detained under subsection (1), the receiver concerned shall

- (a) notify the owner of any detained vessel, cargo or property, if the owner is known to him, of its detention; and
- (b) retain possession of the detained vessel, cargo or property until payment is made for the salvage or until otherwise ordered by the Court.

(3) A receiver may release any detained vessel, cargo or property on receipt of adequate security.

197. (1) Where a dispute as to salvage has been referred to the Court, the receiver concerned shall deal with any vessel, cargo or property detained under section 196 as the Court orders.

(2) Where, subject to subsection (1), in the case of vessels, cargo or property detained under section 196 the amount of salvage due to a salvor is not disputed, and the amount due is not paid within 20 days of the date agreed for payment, the receiver may sell the detained vessel, cargo or property.

(3) After payment of -

- (a) any fees payable to, and any expenses incurred by, the receiver in respect of the vessel, cargo or property and of its sale; and
- (b) salvage,

the balance proceeds (if any) of the sale of detained vessel, cargo or property shall be paid to the person legally entitled to the proceeds.

198. (1) Where -

- (a) services are rendered for which salvage is claimed and the salvor voluntarily agrees to abandon his lien on the vessel, cargo or property alleged to be salvaged; and
- (b) the master or owner, whether principal or agent -
 - (i) enters into a written agreement to abide the decisions of the Court or of a court of competent jurisdiction in another country; and
 - (ii) gives security on that behalf in an amount agreed on by the parties to the agreement,

the agreement shall bind the vessel, cargo and property, and the respective owners of the vessel, cargo and property, and the owners for the time being thereof, for the salvage that may be adjudged to be payable to the extent of the security given.

(2) Where security has been given for the performance of an agreement under this section, the person with whom the security is lodged shall deal with it as the court adjudicating on the agreement directs.

(3) Where an agreement that corresponds to an agreement under this section is made under the corresponding provisions of the law in force in another country, and that agreement provides that the parties thereto will abide by the decision of a court of competent jurisdiction in Seychelles, the Court shall have power to adjudicate on and enforce the agreement.

(4) The Court shall have power to enforce, and shall assist a court of competent jurisdiction in another country in enforcing an agreement made under this section or under the corresponding provisions of the law of any other country.

199. (1) Where two or more persons claim payment of the salvage, the Court may, on the application of a claimant, cause the amount of salvage to be apportioned amongst the persons entitled to it in such a manner as it thinks fit.

(2) Where a dispute arises under subsection (1), between the owner of, or the master of, or any other person in the service of a foreign vessel, the Court shall, in apportioning salvage, have regard to the laws of the country to which the vessel belonged at the time the salvage services were rendered.

200. 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.

201. Where a receiver has -

- (a) attended at the site of a stranded vessel or wreck;
- (b) taken possession of any wreck under this Part;

- (c) acted in pursuance of his powers under this Part in relation to a vessel that is wrecked, stranded or in distress,

fees as prescribed shall be payable to the receiver.

202. (1) Where -

- (a) a receiver is entitled to fees payable under section 201; or
- (b) a receiver has incurred costs and expenses in acting in pursuance of his powers under this Part, and those costs and expenses are not otherwise recovered,

the receiver may institute proceedings for the payment of fees or recovery of costs and expenses, as the case may be.

(2) In addition to his rights and remedies under subsection (1), a receiver has, in respect of costs and expenses incurred under this Part, the same rights and remedies as a salvor has in respect of salvage.

(3) In the event of a dispute concerning the nature or amount of costs and expenses incurred by a receiver under this Part, the matter shall be determined by the Minister, whose decision is final.

203. The Regulations may make provision for and in relation to -

- (a) the manner in which notice or wreck found or taken possession of shall be given to a receiver;
- (b) the manner in which a receiver shall give notice that he has taken possession of wreck;
- (c) the manner in which a receiver may sell, deal with or otherwise dispose of any wreck in his possession; and

- (d) the fees and expenses, and the payment thereof, for services rendered by a receiver.

PART XII

SHIPPING CASUALTIES

204. (1) Where any of the following casualties have occurred, 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 occurred, the ship was registered under this Act, or a ship in relation to which section 81 applies, or the ship or boat was within Seychelles or the territorial waters thereof,

- (d) the owner or master of the ship shall, as soon as practicable report the casualty to the Harbour Master, provide to him or to such other person as he may specify a report in writing; and
- (e) the Minister may -
 - (i) cause a preliminary investigation into the casualty to be held by a person appointed for the purpose by the Minister; and
 - (ii) whether or not preliminary investigation into the casualty has been held, cause a Marine Inquiry to be held.

(2) If the owner or master fails without reasonable cause to comply with subsection (1) (d) he is guilty of an offence.

(3) Nothing in subsection (1) shall preclude the Harbour Master from investigating into the casualty and making such order as he may deem just or necessary in the interest of safety of shipping, protection of life or the environment, and where the orders are not complied with by the owner or master of the vessel, from taking such measure as may be just or necessary in the circumstances.

205. Where the Minister causes a preliminary investigation to be carried out under section 204 the person carrying out the preliminary investigation -

- (a) may -
 - (i) go on board any ship involved in the casualty;
 - (ii) require any person to answer questions relating to the casualty; and
 - (iii) require the production to him of any certificate relating to any ship involved in the casualty; and
- (b) shall upon conclusion of the investigation send to the Minister a report containing a full statement of the case and of his opinion thereon, accompanied by such report on or extracts from the evidence and such observations as he thinks fit.

206. (1) Where the Minister causes a Marine Inquiry to be held under section 204 he shall -

- (a) appoint a person to conduct the Marine Inquiry; and
- (b) nominate two assessors to assist that person.

(2) In any case where a question as to the cancellation or suspension of a certificate of competency is likely to arise, the assessors nominated pursuant to subsection (1) (b) shall hold certificate of equivalent or higher rank to those held by the person whose certificate may be cancelled suspended; but the proceedings before a Marine Inquiry shall not be challenged on the ground of alleged failure to comply with the requirement of this subsection.

(3) The person appointed and any assessor nominated under subsection (1) may -

- (a) go on board any ship;
- (b) require any person to answer questions relating to the casualty; and
- (c) require the production to him of any document or certificate relating to any ship involved in the casualty.

(4) On the conclusion of an inquiry under section 204 the person appointed under subsection (1) shall make a full report in writing to the Minister setting out the results of the inquiry.

(5) The Regulations may make provision with respect to proceedings in any Marine Inquiry.

207. (1) Where, as a result of a Marine Inquiry, the person conducting the inquiry is satisfied that a master or a qualified officer or seaman -

- (a) is unfit to discharge his duties because of -
 - (i) incompetence;
 - (ii) misconduct; or
 - (iii) any other reasons;
- (b) has been seriously negligent in the discharge of his duties; or

- (c) has failed to give assistance and information required by section 97, and, in a case coming under paragraph (a) or (b), is further satisfied that the unfitness or negligence caused or contributed to the casualty,

that person may -

- (d) order the cancellation or suspension of any certificate of competency of the master, qualified officer or other seaman; or
- (e) censure the master, qualified officer or other seaman.

208. (1) Subjection to subsection (5), where it appears to the Marine Board that a person who is the holder of a certificate issued under regulations made pursuant to section 130 is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, the Board may give the holder notice in writing that it is considering the cancellation or suspension of the certificate.

(2) The notice must state the reasons why it appears to the Marine Board that the holder is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Board may allow, the holder may make written representations to the Board or make oral representations to the Board.

(3) After considering any representations made in accordance with subsection (2) the Board shall decide whether or not to cancel or suspend the certificate and shall give the holder written notice of its decision.

(4) Where the decision is to cancel or suspend the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Marine Board not later than the date so specified.

(5) The Marine Board shall not exercise the power under subsection (1) on the basis of any behaviour which has been taken into account in a Marine Inquiry conducted pursuant to section 206.

209. Where a certificate is ordered to be cancelled or suspended or is cancelled or suspended and the holder fails to deliver up the certificate as required under this Part, he is guilty of an offence.

210. (1) Where a Marine Inquiry has been held under this Part, the Minister may order the whole or part of a case to be reheard, and shall do so if -

- (a) new and important evidence which could not be produced at the inquiry has been discovered; or
- (b) there appears to the Minister to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) Where a certificate has been cancelled or suspended under this Part by a Marine Inquiry under section 207 or by the Marine Board under section 208, the Minister may -

- (a) on the recommendation of the Marine Inquiry or the Marine Board; or
- (b) if he is of the opinion that the circumstances of the case require it,

order the issue to the master, qualified officer or other seaman concerned of a new certificate of a lower grade in place of the cancelled or suspended certificate.

211. (1) Subject to subsection (2), where under this Part -

- (a) the certificate of a master, qualified officer or other seaman is cancelled or suspended;
- (b) any such person is censured;

- (c) the costs or part of the costs of an inquiry are awarded by a Marine Inquiry against any person; or
- (d) the Marine Inquiry has found that the casualty has been caused or contributed to by the wrongful act of any person,

the master, qualified officer or other seaman in the case of (a) or (b), and in the case of (c) or (d) any person who has appeared at the hearing and is affected by the decision of the Marine Inquiry, may appeal to the Supreme Court and the Court may make such order as the justice of the case required.

(2) The Chief Justice may make rules of court regulating the procedure in appeals under subsection (1) and until such rules are made the procedure relating to appeals to the Supreme Court from a decision of a magistrates' court in civil proceedings shall apply.

PART XII

LIMITATION AND DIVISION OF LIABILITY

Limitation of Liability

212. (1) In this Part -

'gold franc' means a unit consisting of 65.5 milligrams of millesimal fineness of 900;

'motor ship' includes a steamship and other ship propelled by machinery;

'sailing ship' means a ship having sufficient sail area to be capable of being navigated under sail whether fitted with mechanical means of propulsion or not;

'ship' includes every description of lighter, barge or like vessel, however propelled, and any structure launched and intended for use in

navigation as a ship or a part of a ship, and any vessel belonging to the Defence Forces.

(2) The Minister may, from time to time, by notice published in the Gazette, specify the amounts which, for the purposes of this Part, are to be taken as equivalent to any specified number of gold francs.

(3) Where money has been paid into court in respect of any liability to which a limit is set by this Part, the ascertainment of that limit shall not be affected by a subsequent variation of the amounts specified under subsection (2) unless the amount so paid was less than the limit as ascertained in accordance with the order then in force under the subsection.

(4) For the purposes of this Part -

- (a) the tonnage of a motor ship shall be the registered tonnage of the ship, with the addition of any engine-room space deducted from the purpose of ascertaining that tonnage, and the tonnage of a sailing ship shall be the registered tonnage of the ship;
- (b) where a foreign ship has been or can be measured according to this Act, her tonnage shall be that ascertained by the measurement;
- (c) the tonnage of a ship that is less than 300 tons shall be deemed to be 300 tons; and
- (d) the tonnage of any Seychelles ship not registered under this Act shall be ascertained in the same way as the tonnage of a foreign ship.

(5) Where a foreign ship has not been, and cannot be, measured according to this Act, the Minister shall, on receiving from or by the direction of the court hearing the case, in which the tonnage of the ship is in question, such evidence

concerning the dimensions of the ship as it may be practicable to furnish, give a certificate under his hand stating what would in his opinion have been the tonnage of the ship if she had been so measured, and the tonnage so stated shall be deemed for the purposes of this Part to be the tonnage of the ship.

(6) Sections 214, 215 and 216 apply to any persons, other than the owners, who are responsible for the fault of the ship, as though 'owners' included those persons and all persons responsible for the navigation and management of the ship pursuant to a charter or demise.

(7) An insurance effected against the happening, without the owners actual fault or privity, of any or all of the events in respect of which the liability of owners is limited under this Part is not invalid by reason of the nature of the risk.

213. (1) Where any of the following occurrences take place without the actual fault or privity of the owners or a ship, whether a Seychelles ship or foreign ship, namely, where any -

- (a) loss of life or personal injury is caused to any person being carried in the ship;
- (b) damage or loss is caused to any goods, merchandise or other things whatsoever on board the ships;
- (c) loss of life or personal injury is caused to any person not carried in the ship, through -
 - (i) the act or omission of any person, whether on board the ship or not, in the navigation or management of the ship, in the loading, carriage or discharge of its cargo or in the embarkation, carriage or disembarkation of its passengers, or
 - (ii) any other act or omission of any person on board that ship;

- (d) loss or damage is caused to any property, other than property described in paragraph (b), or any rights are infringed, through -
 - (i) the act or omission of any person, whether on board the ship or not, in the navigation or management of the ship, in the loading, carriage or discharge of its cargo or in the embarkation, carriage or disembarkation of its passengers; or
 - (ii) any other act or omission of any person on board that ship,

the owners of the ship shall not be liable for damages beyond the following amounts, namely -

- (e) in respect of loss of life or personal injury, either alone or together with such loss, damage or infringement as is mentioned in paragraphs (b) and (d), an aggregate amount not exceeding an amount equivalent to 3,100 gold francs for each ton of the ship's tonnage; and
- (f) in respect of such loss, damage or infringement as is mentioned in paragraph (b) and (d), whether or not there be in addition loss of life or personal injury, an aggregate amount not exceeding an amount equivalent to 1,000 gold francs for each ton of the ship's tonnage.

(2) The limits set by this section to the liabilities mentioned therein apply to the aggregate of those liabilities which are incurred on any distinct occasion, shall so apply in respect of each distinct occasion without regard to any liability incurred on any other occasion.

(3) For the purposes of subsection (1), where any obligation or liability arises -

- (a) in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned, or of anything on board such a ship; or
- (b) in respect of any damages (however caused) to harbour works, basins or navigable waterways,

the occurrence giving rise to the obligations or liability shall be treated as one of the occurrences mentioned in paragraphs (b) and (d) of subsection (1) and the obligation or liability as a liability to damages.

(4) The application of this section to any liability shall not be excluded by reason only that the occurrence giving rise to the liability was not due to the negligence of any person.

(5) Nothing in this section applies to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property or infringement of any right of, a person who is on board or employed in connection with the ship under a contract of service with all or any of the persons whose liabilities are limited by this section, if that contract is governed by the law of any foreign country and that law either does not set any limit to that liability or sets a limit exceeding that set by this section.

214. (1) Where any liability is alleged to have been incurred by the owner of a ship in respect of any occurrence in respect of which his liability is limited by section 213 and several claims are made or apprehended in respect of that liability, the court may -

- (a) on the application of the owner, determine the amount of his liability, and distribute that amount among several claimants (if appropriate);

- (b) stay any proceedings pending in any other court, in relation to the same matter; and
- (c) proceed in such manner and subject to such rules of court as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not apply to be joined in the proceedings within a certain time, and as to requiring security from the owner, and as to the payment of any costs, as the court thinks just.

(2) In making any distribution in accordance with this section, the court may, if it thinks fit, postpone distribution of such part of the amount to be distributed as it deems appropriate having regard to the claims that may be established before the court of any country outside Seychelles.

(3) No lien or other right in respect of any ship shall affect the proportions in which, under this section, any amount is distributed amongst several claimants.

215. (1) The persons whose liability in connection with a ship is limited or excluded by this Part shall include any charterer and any person interested in, or in possession of, the ship, and in particular any manager or operator of the ship.

(2) In relation to a claim arising from the act or omission of 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 owners of any such person as is mentioned in subsection (1) -

- (a) the persons whose liability is so limited or excluded shall also include the master, member of the crew or servant, and, in a case where the master or member of the crew is the servant of a person whose liability would be limited apart from this

paragraph, the person whose servant he is;
and

- (b) the liability of the master, member of the crew or servant himself shall be so limited notwithstanding his actual fault or privity in that capacity.

216. (1) Where a ship or other property, is arrested in connection with a claim which appears to the Court to be founded on a liability to which a limit is set by section 213 or security is given to prevent or obtain release from such an arrest, the Court may, and in the circumstances mentioned in subsection (3) shall, order the release of the ship, property or security if the conditions specified in subsection (2) are satisfied, but where the release is ordered the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim.

(2) The conditions referred to in subsection (1) are -

- (a) the security which in the opinion of the court is satisfactory (in this section referred to as 'guarantee') has previously been given, whether in Seychelles or elsewhere, in respect of liability or any other liability incurred on the same occasion, and the 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 claims would be actually available to the claimant; and
- (b) that either the guarantee is for an amount not less than the paid limit, or further security is given which, altogether with the guarantee, is for an amount not less than that limit.

(3) The circumstances referred to in subsection (1) are that the guarantee was given in a port which, in relation to the claim, is the relevant port, or, as the case may be, a relevant port, that is in a Convention country.

(4) For the purposes of this section -

- (a) a guarantee given by giving a security in more than one country, is deemed 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 213 shall 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 may be available to a claimant in respect of a liability to which no limit is set as mentioned in subsection (1).

(5) In this section -

'Convention country' means a country in respect of which the International Convention relating to the Limitation of the Liability of Owners of Sea-going Ships signed in Brussels on the 10th October 1957, is in force, including any country to which that Convention extends by virtue of Article 14 thereof;

'relevant port' -

- (a) in relation to any claim means 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 of cargo, includes the port of disembarkation or discharge.

Division of Liability

217. (1) Where, by the fault of two or more of ships, damage or loss is caused to one or more of those ships, any of their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault, but -

- (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 so as to render any ship liable for loss or damage to which the fault of the ship has not contributed; and
- (c) nothing in this section affects the liability of any person under a contract of carriage or any contract, or shall be construed as imposing upon any contract or by any law, or affecting the right of any person to limit his liability in the manner provided by law.

(2) In this section, 'freight' includes passage money and hire, and any reference to damage or loss caused by the fault of a ship includes a reference to any salvage or other expenses consequent upon that fault, recoverable at law by way of damages.

218. (1) Where loss of life or personal injury is suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owner of the ships shall be joint and several.

(2) Subsection (1) shall not be construed as depriving 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 the loss of life, nor shall it affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

219. (1) Where loss of life or personal injury is suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damage is recovered against the owners of one of the ships that exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.

(2) No amount shall be recovered if, 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 therefore.

(3) In addition to any other remedy provided by law, the person entitled to any contribution under this section shall have for the purposes of recovering contribution subject to this Act, the same rights and powers as the persons entitled to sue for damage in the first instance.

220. (1) Where, without the actual fault or privity of the owners of any dock or any harbour or port authority, any loss or damage is caused to any ship or to any goods, merchandise or other things whatsoever on board any ship or ships, those owners shall not be liable to damages beyond an aggregate amount not exceeding an amount equivalent to 1,000 gold francs for each ton of tonnage of the largest ship registered under this Act that at the time of such loss or damage occurring is in or has within the proceeding 5 years

been within, the area over which such dock 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 taken 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 where it has taken shelter within such area, or where it has taken shelter within or passed through such area on voyage between two places both situated outside that area, or that it has loaded or unloaded mail or passengers within that area.

(3) This section does not impose any liability in respect of any case where no such liability exists apart from this Act.

(4) The limitation of liability under this section shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although the loss or damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any Act, and notwithstanding anything contained in any Act.

(5) In this section, 'owner of any dock' includes any person or authority having control and management of any dock and ship using the same, as the case may be.

PART XIII

LEGAL PROCEEDINGS

Offences and Limitations

1. (1) An offence under a provision of this Act specified in column 1 of the Second Schedule is punishable as indicated in the corresponding entry in column 2.

(2) Subject to any special provision of this Act, no conviction for an offence shall be made under this Act in proceedings instituted in Seychelles, unless those proceedings

are commenced within one year after the commission of the offence.

1. (1) No action shall be maintainable to enforce any claim or lien against a ship or her owners in respect of any damages or loss to another ship, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former ship, whether such ship be wholly or partly in fault, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused.

(2) No action shall be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

(3) Any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant ship within the jurisdiction of the court, or within 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, extend any such period to an extent sufficient to give such reasonable opportunity.

(4) For the purposes of this section, the expression 'freight' includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

1. Nothing in this Act shall -

(a) authorize -

- (i) proceedings in respect of any claim against the Republic; or
 - (ii) the arrest, detention or sale of any Government ship or any vessel belonging to the Defence Force; or
- (b) give to any person any lien on any Government ship or on any vessel belonging to the Defence Forces or on any cargo or other property belonging to the Republic.

Jurisdiction

1. (1) For the purpose of giving jurisdiction under this Act, every offence under this Act shall be deemed to have been committed either in the place in which the same actually was committed or in any place in which the offender may be.

(2) Any proceedings for an offence under this Act may be instituted in the Supreme Court or, subject to the limitations set out in the Criminal Procedure Code, in a Magistrates' court and any other proceedings under this Act, unless otherwise provided, shall be instituted in the Supreme Court.

1. (1) A court which has jurisdiction in any part of the coast of Seychelles shall have jurisdiction over any ship being on or lying or passing off that part, and over all persons on board the ship, in the same manner as if the ship or persons were within the limits of the original jurisdiction of the court.

(2) The jurisdiction conferred by subsection (1) is in addition to and not in derogation of any jurisdiction or power of a court under any other law.

1. (1) A person who does an act or makes an omission on board a ship registered under this Act is liable to be prosecuted for any offence for which he could be prosecuted in respect of the act or omission if it were done or made in Seychelles and, in any such prosecution, it is not a defence to

prove that the act was done or the omission made beyond the territorial waters of Seychelles.

(2) For the purposes of a prosecution pursuant to subsection (1), any court, which would have jurisdiction in respect of the offence if the act or omission concerned were done or made in Seychelles, shall have jurisdiction in respect of the offence.

PART XIV

GENERAL

1. (1) There shall be a Marine Board consisting of such members as the Minister may, from time to time, in writing appoint.

(2) The Minister may, in writing designate any member to be chairman of the Board.

(3) A person appointed under subsection (1) -

(a) subject to subsection (4), holds office for -

(i) three years; or

(ii) such lesser period as may be specified by the Minister in the instrument of appointment; and

(b) is eligible for re-appointment.

(4) The Minister may -

(a) at any time;

(b) without giving reason; and

(c) with or without notice,

terminate the appointment of a person appointed under subsection (1).

1. (1) The Regulations may make provision with respect to -

- (a) the manner in which the Marine board shall exercise or perform any of its functions under this Act;
- (b) the manner in which the business and meetings of the Board shall be conducted; and
- (c) the payment of fees and allowances to, and the reimbursement of expenses of, members of the Board.

(2) Subject to regulations made pursuant to subsection (1)(b), the Marine Board may determine its own procedures.

1. (1) A declaration required by this Act may be made before the Registrar, a magistrate, a notary public or a diplomatic or consular representative of Seychelles.

(2) A declaration required by this Act may be made on behalf of a corporation by any person authorized in that behalf under the common seal of the corporation.

1. When under this Act any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the Registrar and it is shown to the satisfaction of the Registrar that for any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, on the production of such other evidence and subject to such terms as he may see fit, dispense with the declaration or evidence.

2. (1) A person who, in a declaration made under or for the purposes of this Act, or in any document or other evidence produced to the Registrar -

- (a) wilfully makes or assists in making, or procures to be made a false statement concerning the title to, or ownership of, or

the interest existing in, a ship registered under this Act; or

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

is guilty of an offence.

(2) Where, in a declaration made under or for the purposes of this Act, a person wilfully makes a false statement in relation either to his being a qualified person or to another person being a qualified person, the ship in respect of which that false statement has been made is liable to forfeiture to the extent of the interest in the ship of the declarant or unless it is proved that the declaration was made without authority, of a person on behalf of whom the declaration was made.

1. (1) All certificates or other documents (including endorsements on certificates or other documents) to which this section applies are admissible in evidence in the manner provided by section 233.

(2) This section applies to -

- (a) a certificate or other document issued, granted, given or made under this Act or purporting to be issued, granted, given or made under this Act and signed, or purporting to be signed, by any person required or authorised by this Act to issue, grant give or make such certificate or document;
- (b) an endorsement made, or purporting to be made, under this Act and signed, or purporting to be signed, by any person required or authorised by this Act to make any such endorsement; and

(c) a certificate given or made by the Registrar asserting the negative of any circumstance, fact or thing.

1. (1) Where a certificate or other document is by this Act declared to be admissible in evidence, it shall, on its production from proper custody, be admissible in evidence in any court, and, subject to all just exceptions, shall be conclusive evidence of the matters stated in it.

(2) A copy of any certificate or other document referred to in subsection (1) or an extract from any such certificate or document is also admissible in evidence if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer or person to whom custody of the certificate or other document is entrusted.

(3) Any person who is by this Act required or authorised to issue, grant, give or make any certificate or other, shall furnish a certified extract from the certificate or document to any person applying at a reasonable time for such certified copy or certified extract.

1. (1) Where a ship has become liable to forfeiture under this Act, the Minister may cause the ship to be seized and detained and may bring the ship for adjudication before the Court.

(2) The Court may, where a ship has been brought before it for adjudication under subsection (1), on such terms and conditions as it thinks just, order that the ship be forfeited to the Republic.

1. Where a court adjudges a person convicted of any offence against this Act to pay any fine or other moneys and that person is the master of a ship registered under this Act or the owner of the ship, and the fine or other moneys are not paid within the time and in the manner limited by the conviction or specified in the order of the court, the court may,

in addition to any other power it may have to compel payment, direct the amount remaining unpaid to be levied by distress or by the sale of the ship or the equipment of the ship, as the case requires.

2. (1) For the purpose of seeing that the provisions of this Act and any of the Conventions referred to in section 85 (1) or any other Convention having the force of law pursuant to an order under section 240 are complied with, the Harbour Master or an authorized officer in relation to any of those provisions, may exercise all or any of the prescribed powers.

(2) For the purposes of the effective exercise or performance of his functions under this Act or for the purposes of any of the Conventions referred to in subsection (1), the Harbour Master or an authorised officer may exercise all or any of the prescribed powers.

(3) The Harbour Master may, if he considers it necessary in consequences of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(4) The power under subsection (1), (2) or (3) may be exercised by the Harbour Master in respect of a ship registered under this Act notwithstanding that the ship is outside the jurisdiction of Seychelles.

(5) A person exercising a power under subsection (1) or (2) shall not unnecessarily delay a ship.

(6) Any person who obstructs a person in the exercise of his powers under this section or who fails to comply with a requirements made under subsection (3) is guilty of an offence.

(7) For the purposes of subsection (1) and (2), a prescribed power is a power -

- (a) at all reasonable times, to go on board a ship and inspect the ship or any part of the ship,

or any part of the machinery, boats, equipment of the ship, or any articles on board the ship;

- (b) to require the production of, and to inspect any document or certificate carried in the ship in pursuance of this Act or any of the Conventions referred to in subsection (1), or
- (c) to require any person to answer questions relevant to the exercise of a power, being exercised pursuant to paragraph (b) for a purpose, referred to in subsection (1) or (2).

1. (1) The Minister may, in the exercise of his powers under section 60, appoint as many corporations and unincorporated bodies of persons, to be surveyors of ships as, in his opinion, are necessary for the purpose of carrying out the provisions of this Act.

(2) Where a corporation or an unincorporated body of persons is appointed under subsection (1), it shall, if the Minister so directs, nominate a person to carry out surveys, issue certificates and do all other things necessary on its behalf.

(3) A nomination under subsection (2) shall be notified to the Principal Secretary to the Ministry and on receiving such notification the Principal secretary shall cause to be published in the Gazette notice of the matter in the notification.

(4) The power under this section includes a power to appoint corporations and unincorporated bodies or persons, outside Seychelles to be surveyors of ships.

(5) The Minister may, by notice published in the Gazette, cancel any notice published in the Gazette pursuant to subsection (3).

1. The Minister may, by notice published in the Gazette, designate any person to be an authorized officer for the purposes of this Act or for the purposes of any provision of this Act.

2. (1) This section applies in relation to -

(a) the holder of an office referred to in section 5 (2);

(b) a member of the Marine Board;

(c) a person designated pursuant to section 238.

(2) A person in relation to whom this section applies is not liable for any act or omission done or made by him in good faith under or for the purposes of this Act.

PART XV

CONVENTIONS

1. (1) The President may, by order published in the Gazette, declare that any Convention relating to shipping, other than a Convention referred to in section 85 as having the force of law in Seychelles, shall have effect in Seychelles, subject to the conditions, limitations or reservations, (if any), stated in the order and the Convention shall have effect accordingly.

(2) The President may, by order published in the Gazette, declare that an amendment to any Convention having, pursuant to an order under subsection (1), effect in Seychelles is an amendment which does to the extent stated in the order, or does not as the case may be, have effect in Seychelles.

(3) In this section, 'Convention' includes any Treaty or Agreement relating to shipping; and a Convention, Treaty or an Agreement which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from

ships shall be deemed to be a Convention, Agreement or Treaty, as the case may be, relating to shipping.

1. An order under section 240 may make provision for or in relation to, the implementation of, or giving effect to any Convention of the kind referred to in that section.

PART XVI

REGULATIONS, REPEALS, SAVINGS

AMENDMENTS AND TRANSITIONAL

1. (1) The Minister may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or that are necessary or convenient to be prescribed for the carrying out or giving effect to this Act and in particular for prescribing -

- (a) the manner of doing, and the fees payable in respect of, any matter or thing that is required or permitted to be done under this Act;
- (b) forms to be used for or in connection with this Act;
- (c) the means by which, and the conditions subject to which, a ship or class of ships may be exempted from compliance with the Regulations or any provisions of the Regulations;
- (d) procedures to be followed for the clearance of a ship leaving Seychelles, otherwise than on a local voyage;
- (e) offences and penalties in relation thereto, not exceeding a fine of Rs.10,000 or imprisonment for a term of 12 months or both; and

(f) savings with respect to anything done under the legislation in force before the commencement of this section.

(2) The regulations may amend the First and Second Schedules.

1. (1) The laws referred to in Part I of the Third Schedules are repealed.

(2) The savings in Part II of the Third Schedule shall have effect.

(3) The Act specified in column I of Part III of the Third Schedule is amended to the extent stated in the corresponding entry in column 2 of that Part.

1. The Minister, by regulations made under this section, may make whatever provisions seems necessary or desirable for a smooth transition from arrangements with respect to shipping existing before the commencement of this Act to arrangements under this Act. PART XVII

MARINE POLLUTION

1. (1) The provisions of this Act shall be without prejudice to the laws relating to the protection of the Marine Environment or any incident involving pollution from shipping.

(2) Where there is no law or where such law is deficient in Seychelles relating to the protection of the Marine Environment or any incident involving pollution from shipping the Minister may in consultation with the Minister responsible for environment make regulations for the protection of the marine environment and other activities relating to the safety of shipping.

(3) Regulations made under subsection (2) may create offences and provide penalties therefor -

- (a) not exceeding fine of SR200,000 or imprisonment not exceeding 5 years;
- (b) for forfeiture of vessel;
- (c) any may also provide for continuing offences for each day the offence is continued after conviction.

(4) The Harbour Master may issue directions to the owner or master of any vessel to prevent the occurrence of environmental damage and to minimize harmful effects to the marine environment, and to repair as far as possible any such damage.

(5) The owner or master of a vessel who fails to comply with any directions given under subsection (3) is guilty of an offence and liable to a penalty of a fine of SR200,000 or imprisonment not exceeding 5 years.

FIRST SCHEDULE

LOCAL VOYAGE

*(PART A)*Praslin

Praslin
La Digue
Curieuse
Aride
Denis

Felicite
Marianne
Fregate
Les Soeurs
Ils aux Vaches
(PART B)

Ile aux Recifs
Silhouette
North Island
Le Cousin
La Cousine

African Banks
Remire or Eagle Island
Daros and St. Joseph
Group
Poivre Island
Desroches
Maire Louise
Deneufs
Boudeuse or King Rose
Etoile

Alphonse
Bijoutier
St Francois or
Francis
Platte
Coetivy
Zemire Reef
Bertaud Reef
La Perle Reef

(PART C)

Providence and Carf
Island
St. Pierre
Astove
Providence Reef +
Banks

Farquhar
Cosmoledo Group
Assumption
Aldabra

SECOND SCHEDULE

PENALTIES

1	2
Section	Imprisonment or Fine or Both
22 (3)	Rs500 fine
22 (4)	Rs100 fine
27 (3)	Rs5000 fine together with 6 months imprisonment
27 (4)	Rs1000 fine
29 (5)	Rs1000 fine
32 (9)	Rs400 fine together with 3 months imprisonment
33 (2)	Rs200 fine
42 (1)	Rs10,000 fine together with 12 months imprisonments
45 (2)	Rs1000 fine
45 (3)	Rs1000 fine
46 (2)	Rs1000 fine
51 (1)	Rs10,000 fine together with 12 months imprisonment
53 (3)	Rs10,000 fine together with 12 months imprisonment
81 (3)	Rs500 fine
82 (2)	Rs10,000 fine together with 12 months imprisonment
83 (2)	Rs500 fine
86 (1)	Rs1000 fine
86 (2)	Rs100 fine
86 (3)	Rs1000 fine
88 (4)	Rs1000 fine
91 (2)	Rs10,000 fine together with 12 months imprisonment
92 (2)	Rs10,000 fine together with 12 months imprisonment
93 (2)	Rs8,000 fine together with 10 months imprisonment
94 (1)	Rs10,000 fine together with 10 months imprisonment
95	Rs10,000 fine
96 (3)	Rs20,000 fine
97 (2)	Rs10,000 fine
100 (1)	Rs10,000 fine together with 12 months of imprisonment
101 (3)	Rs20,000 fine
101 (4)	Rs20,000 fine together with 12 months imprisonment (for any other person)
103 (1)	Rs15,000 fine together with 18 months imprisonment
103 (3)	Rs15,000 fine together with 18 months imprisonment

1	Imprisonment or Fine or Both
	Rs20,000 fine together with 12 months imprisonment
Section	Rs20,000 fine together with 12 months imprisonment
107 (1)	Rs15,000 fine
107 (2)	Rs20,000 fine together with 24 months imprisonment
110 (4)	Rs20,000 fine together with 24 months imprisonment
114 (1)	Rs 5000 fine together with 6 months imprisonment
114 (2)	Rs10,000 fine together with 12 months imprisonment
132	(for 'owner')
133	3 years imprisonment
	Rs5000 fine
136	Rs1000 fine
138	Rs1000 fine
141 (4)	Rs5000 fine
143 (6)	Rs1000 fine
145	Rs5000 fine
146 (3)	Rs3000 fine
147 (3)	Rs50,000 fine together with 9 years imprisonment
150 (1)	(for 'master')
152 (2)	Rs25,000 fine together with 5 years imprisonment
	Rs1000 fine
153	Rs1000 fine
154	Rs2000 fine
161	Rs10,000 fine
162	Rs10,000 fine
164	Rs500 fine
165(2)	Rs10,000 fine
166 (2)	Rs15,000 fine together with 12 months imprisonment
168 (2)	Rs20,000 fine
168 (3)	Rs5000 fine together with 6 months imprisonment
170 (1)	Rs10,000 fine together with 12 months imprisonment
180 (3)	Rs10,000 fine together with 12 months imprisonment
181 (4)	Rs20,000 fine together with 24 months imprisonment
183 (1)	Rs20,000 fine together with 24 months imprisonment
184 (4)	Rs10,000 fine together with 12 months imprisonment
185 (2)	
186 (2)	

1	2
Section	Imprisonment or Fine of Both
192	Rs20,000 fine together with 24 months imprisonment
204 (2)	Rs5000 fine together with 6 months imprisonment
209	Rs5000 fine
231 (1)	Rs20,000 fine together with 36 months imprisonment
236 (6)	Rs5000 fine together with 6 months imprisonment

THIRD SCHEDULE

REPEALS, SAVINGS AND AMENDMENTS

Part I - Repeals

BritishShip(LifeSavingAppliances)Act	Cap.205(19 71 Ed)
British(Masters'andMates' Certificates) Act	Cap.206(19 71 Ed)
Inquiry into wrecks Act	Cap.211(19 71 Ed)
Local Trading Vessels Act	Cap.212(19 71 Ed)
Master' and Mates' Certificates Act	Cap.212(19 71 Ed)
MerchantShipping(Engineers' Certificate) Act	Cap.212(19 71 Ed)
Merchant Shipping (Interpretation) Act	Cap.213(19 71 Ed)
Merchant Shipping (Powers of Exemption and Dispensation) Act	Cap.213(19 71 Ed)
Superintendent of Mercantile Marine Act	Cap.214(19 71 Ed)
Unseaworthy Foreign Ship Act	Cap.214(19 71 Ed)
Unseaworthy Vessels Act	Cap.215(19 71 Ed)
Wrecks,Casualtiesand Salvage Act	Cap.215(19 71 Ed)
Merchant Shipping (Temporary Provisions) Act 1976	Cap.216(19 71 Ed)
Inter-Island Traffic Decree	Cap.217(19 71 Ed)
	Cap.218(19 71 Ed)
	Cap.219(19 71 Ed)
	Cap.220(19 71 Ed)
	At 21 of 1976
	Decree No.15 of 1979

Part II - Savings

1.(1) A certificate issued or issued to a master or a seaman pursuant to any Act referred to in Part I and in force at the commencement of this schedule, shall -

- (a) have, on and after that commencement, the same effect as a certificate or competency, having similar effect, issued or granted under this Act;
- (b) subject to paragraph (c), be valid for the same period for which it would have been valid if this Act has not been enacted; and
- (c) be subject to the provisions of this Act relating to the certificates of competency.

(2) A person, who pursuant to sub-paragraph (1), holds a certificate of competency is subject to the duties and liabilities of such a holder under this Act.

2.(1) In this paragraph -

'registered ship' means a ship which, immediately prior to the commencement of this schedule, is registered under the 1976 Act as a Seychelles Ship;

'the 1976 Act' means the Merchant Shipping (Temporary Provisions) Act, 1976 repealed by Part I of this schedule.

(2) On and after the commencement of this schedule, a registered ship, shall be deemed to be ship registered under this Act, and the Registrar shall make the necessary entries in the Register to record the registration.

(3) A registered ship which is a Government ship shall be entered in the Register, pursuant to sub-paragraph (2) as such

(4) Where the owner, or each of the owners, of a registered ship, at the commencement of the schedule, is not a qualified person, then, subject to sub-paragraph (3) the ship shall be deemed to be designated ship in respect of

which an order has been published, on that commencement, in the Gazette for the purposes of section 17 (3).

(5) Where, immediately prior to the commencement of this Schedule -

(a) a bill of sale for the transfer of a ship; or

(b) a mortgage,

lawfully subsists in respect of a registered ship, the bill of sale and the mortgage shall have effect on and after the commencement as if they were respectively a bill of sale or a mortgage for the purposes of this Act.

(6) Any certificates issued or given pursuant to the 1976 Act in respect of a registered ship which is -

(a) a Load Line Convention Ship; or

(b) a Safety Convention Ship,

subsisting immediately prior to the commencement of the schedule shall, and after that commencement, be deemed to be a certificate given pursuant to this Act; and the period of the validity of the certificate for the purpose of any requirement relating to its renewal, or otherwise, shall be ascertained by reference to the date of the issue or grant of the certificate pursuant to the 1976 Act.

3. Any person appointed before the commencement of this schedule to an office referred to in section 5 and holding that office at the commencement shall, on and after that commencement, be deemed to have been appointed to that office pursuant to that section.

4. Nothing in this Schedule shall be construed as affecting the operation of section 27 A or 28 of the Interpretation and General Provisions Act, in relation to any Act repealed under Part I of this schedule.

Part III - Amendments

Column 1	Column 2
The Commercial Code Act	Article 190 of the Commercial Code of Seychelles set out in the First Schedule is amended by deletion of the second sentence thereof

NO SUBSIDIARY LEGISLATION

Since this Act was brought into operation on 1st June 1995, the following subsidiary legislation have been made -

- Merchant Shipping (Tonnage) Regulations, 1995 (SI. 55 of 1995)*
 - Merchant Shipping (Manning and Certification) Regulations, 1995 (SI. 56 of 1995)*
 - Merchant Shipping (Registration of Non-Government Ships) Regulations (SI. 58 of 1995)*
 - Merchant Shipping (Registration of Government Ships) Regulations, 1995 (SI. 59 of 1995)*
 - Merchant Shipping (Appointment of Surveyors) Regulations, 1995 (SI. 60 of 1995)*
 - Merchant Shipping (Masters and Seamen) Regulations, 1995 (SI. 61 of 1995)*
 - Merchant Shipping (Local Safety and Local Line Certificate) Regulations, 1995 (SI. 62 of 1995)*
 - Merchant Shipping (Local Certificates of Registry) Regulations, 1995 (SI. 63 of 1995)*
 - Merchant Shipping (Local Voyages) (Safety) Regulations, 1995 (SI. 64 of 1995)*
 - Merchant Shipping (Exempt Ship) Order, 1995 (SI. 66 of 1995)*
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