



*EXTRAORDINARY*  
**OFFICIAL GAZETTE**  
**THE BAHAMAS**  
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29<sup>th</sup> December, 2021

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# MERCHANT SHIPPING ACT, 2021

## Arrangement of Sections

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No. 33 of 2021

## **MERCHANT SHIPPING ACT, 2021**

**AN ACT TO PROVIDE FOR THE REGISTRATION OF BAHAMIAN SHIPS; TO PROVIDE FOR PROPRIETARY INTERESTS IN SHIPS; TO PROVIDE FOR TRAINING, CERTIFICATION, AND WATCHKEEPING RELATING TO SEAFARERS; TO PROVIDE FOR THE CONDITIONS OF EMPLOYMENT OF SEAFARERS AND THE HEALTH AND WELL-BEING OF MASTERS AND SEAFARERS; TO PROVIDE FOR THE PREVENTION OF COLLISIONS, THE SAFETY OF NAVIGATION, THE SAFETY OF CARGOES, AND CARRIAGE OF BULK AND DANGEROUS CARGOES; TO PROVIDE FOR THE PREVENTION OF POLLUTION, MARITIME SAFETY AND SECURITY, THE LIABILITY OF SHIPOWNERS, AND INVESTIGATIONS INTO MARINE CASUALTIES; TO REGULATE AND DEVELOP MERCHANT SHIPPING AND RELATED SERVICES; TO INCORPORATE INTERNATIONAL CONVENTIONS INTO THE LAWS OF THE BAHAMAS; TO REPEAL THE MERCHANT SHIPPING ACT, 1976 AND THE MERCHANT SHIPPING (MARITIME CLAIMS LIMITATION OF LIABILITY) ACT, 1989, AND FOR CONNECTED PURPOSES**

[Date of Assent - 23<sup>rd</sup> December, 2021]

**Enacted by the Parliament of The Bahamas**

### **PART I – PRELIMINARY**

#### **1. Short title and commencement.**

- (1) This Act may be cited as the Merchant Shipping Act, 2021.
- (2) This Act shall come into force on such date as the Minister may appoint by Notice, published in the *Gazette*.

## 2. Interpretation.

In this Act —

- “**allotment note**” means the note referred to under section 81;
- “**apparatus**” includes any ship, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;
- “**authorised officer**” in relation to any function or activity, means an officer authorised by the Minister or other appropriate authority to perform the function or activity under this Act;
- “**Authority**” means The Bahamas Maritime Authority established under section 3 of The Bahamas Maritime Authority Act (*Ch. 283*);
- “**Bahamian fishing vessel**” means any vessel, or other craft —
- (i) used for, equipped to be used for, or intended to be used for, fishing or fishing related activity, and
  - (ii) licensed under the Fisheries Act, 2020;
- “**Bahamian ship**” means a ship registered, or required to be registered under this Act;
- “**Bahamian waters**” means all areas of water subject to the jurisdiction of The Bahamas, and includes internal waters, archipelagic waters, territorial sea and exclusive economic zone;
- “**bareboat charter**” means the contract for the chartering by way of lease or sublease of a ship for a stipulated period of time by the terms of which the charterer shall exercise full control and possession of the ship including the right to appoint the master and the crew of the ship for the duration of the charter but excluding the right to sell or mortgage the ship;
- “**bareboat charterer**” means a person who hires a ship on bareboat charter terms;
- “**bareboat charter ship**” means a ship which is hired on bareboat charter terms;
- “**beneficial interest**” includes interests arising under a contract and other equitable interests;
- “**casualty**” means a collision of ships, a stranding, another incident of navigation or another event involving a ship, whether on board a ship or not, which results in —
- (i) loss of life or injury or an imminent threat of loss of life or injury,
  - (ii) material damage to a ship or its cargo or an imminent threat of material damage to a ship or its cargo,

(iii) damage to the environment or an imminent threat of damage to the environment;

**“certificate of competency”** means a certificate issued to a person under Part III showing their competency as a master or crew;

**“certificate of registry”**, in relation to a Bahamian ship, means the certificate granted under section 19;

**“consular officer”** means a person appointed to be, or to perform the functions of, a Bahamian consular officer in a foreign country, and in any place where no such person has been appointed, means a consul-general, consul or vice-consul;

**“court”** means a court of competent jurisdiction exercising such jurisdiction in relation to admiralty, insolvency or other functions, as the case may be;

**“crew”** means the persons employed on board a ship including seafarers;

**“customs officer”** has the meaning assigned to it under the Customs Management Act;

**“damage to the environment”** means any physical damage to human health or marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, air emission, noise, contamination, fire, explosion or any other incident;

**“Director”** means the Managing Director of The Bahamas Maritime Authority appointed under section 4 of The Bahamas Maritime Authority Act (*Ch. 283*);

**“exclusive economic zone”** has the meaning assigned to it under the Archipelagic Waters and Maritime Jurisdiction Act (*Ch. 282*);

**“foreign ship”** means a ship which is not a Bahamian ship;

**“Government”** means the Government of The Commonwealth of The Bahamas;

**“Government ship”** means any ship owned by the Government or held by any person on behalf of, or for the benefit of, the Government;

**“gross tonnage”** means, for a ship having its tonnage determined, the measurement of a ship calculated in accordance with the —

(i) International Convention on Tonnage Measurement of Ships, 1969, or

(ii) regulations relating to tonnage measurement;

**“hazardous substance”** means —

(i) oil of any description including spirits produced from oil of any description, and coal tar,

(ii) any other substance which creates a hazard to human health, harms living resources or marine life, damages amenities or interferes with lawful use of the sea, and

(iii) any other substance prescribed;

**“IMDG Code”** means the International Maritime Dangerous Goods (IMDG) Code;

**“IMO”** means the International Maritime Organization, 1948;

**“inspector”** means a person appointed under section 180;

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

**“insolvency”** means the process of bankruptcy of an individual and the process of liquidation or court-approved administration or rehabilitation of a body corporate by reason of its insolvency;

**“LLMC Convention”** means the Convention on Limitation of Liability for Maritime Claims, 1976;

**“Load Line Convention”** means the International Convention on Load Lines, 1966, and its Protocol of 1988;

**“manager”** means a person other than the owner of the ship who undertakes the day-to-day management of the ship on behalf of the owner;

**“Maritime Labour Convention”** means the Maritime Labour Convention, 2006;

**“master”** means a person in command or charge of a ship;

**“marine investigator”** means a person appointed under section 180;

**“Minister”** means the Minister responsible for Maritime Affairs;

**“net tonnage”** in relation to a ship, means the net tonnage shown or to be shown on the certificate of registry of a ship and ascertained in accordance with the tonnage regulations;

**“official log book”** means the log book kept in respect of a ship under section 95;

**“owner”** means, in relation to —

(i) an unregistered ship, the actual owner,

(ii) a registered ship, the registered owner, and

(iii) a bareboat charter ship, the bareboat charterer;

**“PAL Convention”** means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and its 1976 Protocol;

**“passenger”** means a person carried on a ship other than —

- (i) the master, crew or a person employed or engaged in any capacity on the business of the ship,
- (ii) a child under one year of age, or
- (iii) shipwrecked or distressed persons carried on board the ship;

**“passenger ship”** means a ship carrying or capable of carrying more than twelve passengers;

**“person”** means —

- (i) an individual, and
- (ii) a public body and any body of persons, corporate or unincorporate;

**“pilot”** in relation to a ship, means a person who does not belong to the ship but has the lawful conduct of the ship;

**“pollution”** means the introduction, directly or indirectly, by human activity, of air emissions, noise, hazardous substances and wastes into the sea which results or is likely to result in deleterious effects such as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

**“port”** includes a port or harbour, whether natural or artificial, estuaries, navigable rivers, piers, jetties or other works in or at which ships can obtain shelter, or ship or unship goods or passengers;

**“Port Authority”** has the meaning assigned to it under the Ports Authorities Act (*Ch. 269*);

**“Port Controller”** has the meaning assigned to it under the Ports Authorities Act (*Ch. 269*);

**“receiver”** means a person appointed as the receiver of wreck under section 163;

**“recognised organization”** means an organization authorised by the Authority to perform, on its behalf, statutory certification and services under —

- (i) applicable international instruments,
- (ii) this Act, or
- (iii) any regulations made under this Act,

in accordance with such criteria and standards as specified by the Authority including the standards of the “Code for Recognised Organisations” published by the Maritime Safety Committee of the IMO as Resolution MSC.349(92) and any subsequent editions;

**“register”** means the register of Bahamian ships referred to under section 16;

- “**registrar**” means a registrar of Bahamian ships;
- “**Registrar General**” means the Registrar General appointed under section 4 of the Registrar General Act (*Ch. 186*);
- “**Safety Convention**” or “**SOLAS**” means the International Convention for the Safety of Life at Sea, 1974 and its Protocol of 1988;
- “**Salvage Convention**” means the International Convention on Salvage, 1989;
- “**ship**” means a vessel, boat or craft or any other description of ship designed, used or capable of being used for navigation;
- “**ship being built**” means a ship under construction whose keel has been laid;
- “**STCW Convention**” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978;
- “**submersible apparatus**” means an apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters;
- “**supporting apparatus**” means an apparatus used, or designed for use, in connection with the operation of any submersible apparatus;
- “**surveyor**” means a person appointed under section 180;
- “**tidal water**” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;
- “**territorial sea**” has the meaning assigned to it under the Archipelagic Waters and Maritime Jurisdiction Act (*Ch. 282*);
- “**Tonnage Convention**” means the International Convention on Tonnage Measurement of Ships, 1969;
- “**wages**” includes emoluments;
- “**wreck**” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water, the whole or any portion of a ship lost, abandoned, stranded or in distress, any portion of the cargo, stores or equipment of the ship, and any portion of the personal property on board the ship when it was lost, stranded, abandoned or in distress;
- “**Wreck Commissioner**” means a person appointed by the Minister to conduct formal investigations;
- “**Wrecks Convention**” means the Nairobi International Convention on the Removal of Wrecks, 2007.

### **3. Application of Act.**

- (1) This Act shall, except as otherwise provided, apply to —
  - (a) Bahamian ships; and
  - (b) foreign ships in Bahamian waters.
- (2) This Act shall not apply to —
  - (a) Government ships; and
  - (b) naval, military or air forces of a foreign country.

### **4. National colours and flag.**

- (1) The national colours of a Bahamian ship shall be the flag provided for the use of ships owned by Bahamians and Bahamian ships under the Flags and Coat of Arms (Regulation) Act (*Ch. 32*), and that ship shall fly no other flag.
- (2) A Bahamian ship shall hoist the flag referred to under subsection (1) on —
  - (a) entering or leaving any port; and
  - (b) a signal being made to the ship by any ship in the service of the Government.
- (3) Subsections (1) and (2) shall not apply to a Bahamian ship that is bareboat chartered and registered for flag state purposes, in the name of the bareboat charterer under the laws of a foreign country for the duration of the charter and the ship shall be considered a foreign ship for the duration of the charter.
- (4) A master of a Bahamian ship who, without reasonable cause, contravenes subsection (2), commits an offence.
- (5) A person who uses or permits a person to use any flag of The Bahamas on board a foreign ship for the purpose of making that ship appear to be a Bahamian ship commits an offence.

### **5. Duty to declare nationality and flag of ship.**

- (1) The master or owner of a ship shall declare to a customs officer the name of the country to which the ship belongs, and the customs officer shall —
  - (a) grant a clearance or transire for the ship; and
  - (b) enter the name of the country on the clearance or transire.
- (2) If the master or owner attempts to take the ship to sea without a clearance or transire, if required, the ship may be detained until the declaration referred to under subsection (1) is made.

## **6. Offences relating to Bahamas character of ship.**

- (1) Subject to subsections (2) and (3), if the master or owner of a ship that is not a Bahamian ship or any other person does anything, or permits anything to be done, to cause the ship to appear to be a Bahamian ship, that ship shall be liable to forfeiture and the master, owner, and charterer of the ship or any other person commits an offence.
- (2) No liability arises under subsection (1) where the assumption of Bahamian nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (3) Where the registration of a ship has been terminated by the registration regulations, any marks prescribed under the registration regulations displayed on the ship within a period of fourteen days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1).
- (4) If the master or owner of a Bahamian ship or any other person does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, owner and charterer or any other person commits an offence.
- (5) Without prejudice to the generality of subsections (1) and (4), subsections (1) and (4) shall apply in particular to acts or deliberate omissions as respect —
  - (a) the flying of a national flag;
  - (b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; and
  - (c) the display of marks required by the law of any country.
- (6) In any proceedings under this section, the burden of proving the right to use the national flag and assume the character of a Bahamian ship shall be on the person using and assuming the character of the ship.

## **PART II – REGISTRATION OF SHIPS, PROPRIETARY INTERESTS IN REGISTERED SHIPS AND TONNAGE**

### **7. Application of Part II.**

This Part shall not apply to fishing vessels.



## **8. Recognition as a Bahamian ship.**

For the purposes of this Act, a ship, shall not be recognised as a Bahamian ship or enjoy the rights and privileges of a Bahamian ship unless the ship is registered under section 9.

### **DIVISION 1 - REGISTRATION**

## **9. Registration of ships.**

(1) Subject to subsection (3), a ship shall be eligible to be registered as a Bahamian ship, if the ship is wholly owned by persons (referred to as “persons qualified to own Bahamian ships”) who are —

- (a) citizens of The Bahamas;
- (b) bodies corporate established under the laws of The Bahamas, and having their principal place of business in The Bahamas, of which the beneficial ownership belongs wholly to citizens of The Bahamas,

and the Minister may approve the registration of a ship if it is owned otherwise than as referred to under paragraph (a) or (b).

(2) Subject to subsection (3) —

- (a) any ship may, regardless of the nationality or place of incorporation of its owner, register as a Bahamian ship, if the ship is 500 or more gross tonnage and is engaged on international voyages; and
- (b) where a ship —
  - (i) is seagoing and engaged on international voyages, or
  - (ii) is ordinarily characterised or classified as a yacht and which may be engaged in commercial or non-commercial activities (other than under a charter for the carriage of persons for pleasure), and
  - (iii) may qualify for registration but for being less than 500 or more gross tonnage,

and the Minister may approve the registration of the ship if it is owned otherwise than as referred to under subsection (1).

(3) No ship shall be first registered without the approval of the Minister, if —

- (a) the ship is less than 500 gross tonnage; or
- (b) the completion of the ship’s first construction occurred more than twelve years before the year in which application for registration is first made under this Act.

(4) A ship registered under the law of a foreign country shall, on application, if the ship is bareboat chartered to —

- (a) a citizen of The Bahamas;
- (b) a body corporate established under the laws of The Bahamas; or
- (c) a body corporate as approved by the Minister,

in addition to being registered under the law of that foreign country, be registered as a Bahamian ship for flag state purposes, for the period of the bareboat charter and a registrar shall notify the authorised officer of the foreign country of such registration.

- (5) A ship that is under construction whose keel has been laid —
  - (a) which is wholly owned by persons who are —
    - (i) citizens of The Bahamas, or
    - (ii) bodies corporate established under the laws of The Bahamas, and having their principal place of business in The Bahamas of which the beneficial ownership belongs wholly to citizens of The Bahamas; or
  - (b) which regardless of the nationality or place of incorporation of its owner, when built shall be a ship of 500 or more gross tonnage,may be temporarily registered as “a ship being built” and sections 10 to 12 shall not apply in relation to such ship.
- (6) A ship of 500 or more gross tonnage, that is not a ship to which subsection (1) applies, and engages in voyages in Bahamian waters may regardless of the nationality of its owners be registered with the written approval of the Minister.
- (7) For the purposes of this Part, “**ship**” includes any structure capable of use in a marine environment which the Director or a registrar may consider appropriate for registration as a ship.

## **10. Survey and measurement of ships.**

A ship shall, before being registered, be surveyed by a surveyor as specified in the registration regulations, and its tonnage ascertained in accordance with the tonnage regulations.

## **11. Change of construction between surveys.**

The owner or master of a Bahamian ship shall advise the Director or a registrar of any alteration, change or reconstruction or conversion of the ship that may affect the ship’s classification, measurement, tonnage or load line within thirty days from the completion of the alteration, change, or reconstruction or conversion.

**12. Marking of ship.**

A ship shall, before being registered, be marked permanently and conspicuously to the satisfaction of the surveyor as prescribed in the registration regulations.

**13. Application for first registration.**

An application for the first registration of a ship shall be made to a registrar or the Director in the prescribed manner —

- (a) in the case of a person, by the person applying to be registered as owner or his agent; or
- (b) in the case of a body corporate, by its agent,

and the authorisation of an agent shall be in writing.

**14. Declaration of ownership.**

A person shall not be entitled to be registered as owner of a Bahamian ship or of a share in the ship until the person, or in the case of a body corporate, the person authorised to make declarations on behalf of the body corporate, has made and signed a declaration of ownership as prescribed in the registration regulations and which contains the following particulars —

- (a) the person's name and address;
- (b) a statement of the number of shares in the ship of which the person or the body corporate, as the case may be, is entitled to be registered as owner; and
- (c) any other particulars as prescribed in the registration regulations.

**15. Evidence of title.**

On the application of a ship for registration, the evidence shall be produced in addition to the declaration of ownership as prescribed in the registration regulations.

**16. Register of Bahamian ships.**

A registrar shall keep and maintain a register for The Bahamas known as the register of Bahamian ships in such form and manner as prescribed in the registration regulations.

**17. Documents to be retained.**

A registrar shall retain all documents received on the registration of the ship as prescribed in the registration regulations.

**18. Port of Registry.**

The port of registry of a Bahamian ship shall be Nassau unless otherwise determined by the Minister.

**19. Certificate of registry.**

On the completion of the registration of a ship under this Act, and the payment of the prescribed fees, a registrar shall grant a certificate of registry which shall specify the particulars entered in the register.

**20. Use of certificate.**

- (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest, had or claimed by any owner, mortgagee, or other person to, on, or in, the ship.
- (2) A master or owner who uses or attempts to use, for the navigation of a ship, a certificate of registry that is not legally granted commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year, or to both.

**21. Power to grant new certificate.**

The Director or a registrar may grant a new certificate in the manner as prescribed in the registration regulations.

**22. Surrender of certificate.**

- (1) Where a Bahamian ship —
  - (a) is actually or constructively lost;
  - (b) is taken by the enemy;
  - (c) is burnt or broken up; or
  - (d) ceases to be a Bahamian ship,the owner of the ship or of any share in the ship shall immediately, notify a registrar, and the —
  - (i) registrar shall make an entry thereof in the register, and
  - (ii) registration of the ship shall be considered closed except so far as it relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.
- (2) If an event referred to under subsection (1) occurs, the master of the ship shall, as soon as practicable, deliver the certificate of registry to a registrar or a consular officer in the absence of a registrar, except that certificate is lost or destroyed.

- (3) Where the certificate of registry is delivered to a consular officer, the consular officer shall immediately send the certificate to a registrar.

**23. Transfer of ship to foreign registry.**

The owner of a Bahamian ship who wishes to transfer the ship to a foreign registry —

- (a) shall apply to a registrar in the manner as prescribed in the registration regulations; and
- (b) may transfer the ship if there are no claims outstanding in favour of the Government.

**24. Suspension of certificate on registration in foreign country.**

A registrar shall, on notification from the authorised officer, that a Bahamian ship is bareboat chartered to —

- (a) a citizen of a foreign country; or
  - (b) a body corporate established under the laws of a foreign country,
- and is registered for flag state purposes under the laws of that country —
- (i) suspend the certificate of registry of the ship for that period, and
  - (ii) notify the authorised officer of the suspension and any mortgage instrument which is recorded in the register for that ship.

**25. Termination of registration.**

- (1) The Director or a registrar may terminate the registration of a ship registered as a Bahamian ship —
- (a) on application by the owner;
  - (b) in the case of a bareboat charter ship, on the ship no longer being eligible to be registered;
  - (c) on the ship being destroyed;
  - (d) where any annual fee has remained unpaid for a period of more than three months;
  - (e) if the ship is registered in a foreign country other than in accordance with section 24; and
  - (f) any other condition as may be determined by the Minister.
- (2) Where a registrar has terminated the registration of a ship under subsection (1)(a), the registrar may —
- (a) immediately issue a closure certificate to the owner of the ship; and
  - (b) notify a mortgagee of the closure of the registration.

- (3) On receipt of a closure certificate, the owner shall immediately surrender the ship's certificate of registry to a registrar.

**26. Endorsement of change of ownership.**

- (1) When a change occurs in the registered ownership of a ship, the change of ownership may be endorsed on the ship's certificate of registry, by a registrar.
- (2) Where an endorsement is required under subsection (1) —
  - (a) a registrar may request the master to deliver to him the ship's certificate of registry; and
  - (b) the master shall deliver the certificate of registry to a registrar as soon as practicable after the change occurs.

**27. Provisional registration.**

When a ship is first registered, a registrar shall provisionally register the ship and grant a provisional certificate of registry as prescribed in the registration regulations.

**28. Registration regulations.**

The Minister may make regulations (referred to as "registration regulations") —

- (a) prescribing the manner in which applications for registration shall be made;
- (b) prescribing the information and evidence to be provided in relation to applications for registration and any supplementary information or evidence required;
- (c) prescribing the information and evidence to be provided during a ship's registration (including details of its management and persons responsible for its management);
- (d) providing for the shares in the property, and the numbers of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;
- (e) respecting the restriction and regulation of the names of ships registered or to be registered and any change in the name of such ships;
- (f) respecting the production, use, custody, and loss (including provisional certificates) of registry;
- (g) prescribing the issue of certificates (including provisional certificates) of registration, their production, endorsement and surrender;

- (h) respecting matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
- (i) providing for the refusal, suspension and termination of registration in specified circumstances;
- (j) providing for the charging of fees in connection with the registration of ships and the continued registration of ships, including annual fees and such other fees as determined by the Authority;
- (k) providing for the transfer of the registration of ships;
- (l) respecting inspection of the register;
- (m) prescribing forms including forms of instruments and documents;
- (n) providing for declarations including declarations of ownership particulars;
- (o) respecting bareboat chartered ships registered with the Authority;
- (p) respecting re-registration of wrecked ships and registration anew;
- (q) providing for insolvency, infancy or other incapacity;
- (r) providing for penalties and detention of ships;
- (s) providing for limiting the age and tonnage of ships;
- (t) providing the requirements for a corporate owner to disclose to a registrar such particulars and in such manner as may be specified before making an application to register a ship;
- (u) respecting a registrar's authority to close the registry of a Bahamian ship and cancel its certificate of registry for contravention of this Act or regulations made under this Act;
- (v) prescribing any other matter under this Part as determined by the Minister.

## **29. Ship's name.**

- (1) A ship registered in the register shall have a name, and two or more ships of the same type shall not have the same name.
- (2) A Bahamian ship shall not be described by any name other than the name by which the ship is registered.
- (3) The Director or a registrar may, in accordance with the registration regulations, refuse the registration of a ship by the name under which it is proposed to register the ship, if it is already the name of a registered ship or the name so similar as to be calculated to deceive or for any other reason as determined by the Director or a registrar.
- (4) If a person —

- (a) acts, or permits any person under his control to act in contravention of this section; or
- (b) omits to do, or permits any person under his control to omit to do, anything required under this section,

the person commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, and the ship's certificate of registry may be suspended until the requirements under this section are complied with.

### **30. Change of name of ship.**

Any change to the name of a Bahamian ship shall be as prescribed in the registration regulations.

### **31. Registration of alterations.**

- (1) When a Bahamian ship is so altered as not to correspond with the particulars relating to its tonnage or description in the register, notification of the alteration may be given to a registrar within thirty days after the completion of the alteration.
- (2) The notice referred to under subsection (1) shall be accompanied by a certificate from a surveyor stating the particulars of the alteration.
- (3) A registrar shall, on receipt of the notice referred to under subsection (1), cause the alteration to be registered.
- (4) A master or owner who contravenes subsections (1) and (2), commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year.

### **32. Alterations noted on certificate of registry.**

A ship's certificate of registry shall, on the registration of an alteration in the ship, be produced to a registrar within sixty days after the registration, and the registrar may —

- (a) retain the certificate and grant a new certificate of registry containing a description of the ship as altered; or
- (b) endorse and sign on the existing certificate.

### **33. Registration anew.**

Where the ownership of a ship is changed, a registrar may, on the application of an owner of the ship, register the ship anew as prescribed in the registration regulations.



**34. Registration of ship's manager.**

- (1) The name and address of a manager of a Bahamian ship shall be registered.
- (2) The owner of a Bahamian ship shall inform a registrar of any change of address of the manager referred to under subsection (1) and the registrar shall amend the register accordingly.
- (3) Where there is no manager, the name of such other person to whom the management of the ship is entrusted by, or on behalf of, the owner shall be registered.
- (4) For the purposes of this Act, a person referred to under subsection (3) shall, be under the same obligations and subject to the same liabilities as if the person was the manager.

**35. Inspection of register and admissibility of documents.**

A person may, on application to a registrar and on payment of the prescribed fee —

- (a) inspect any register during the office hours or as otherwise prescribed in the registration regulations; and
- (b) obtain copies, certified by a registrar, of any entry in the register or of any documents relating to a registered ship that are in the custody of the registrar.

**36. Forms.**

The forms of the instruments and documents referred to under this Part shall be as prescribed in the registration regulations.

**37. Directions.**

The Minister or Authority may give directions to a registrar as to the manner of making entries in registers, the execution and attestation of powers of attorney, any evidence required for identifying a person, or the referring to him of any question involving doubt or difficulty, and generally, any act or thing to be done or not to be done under this Part, and the registrar shall give effect to the directions.

**38. Forgery of documents.**

A person who forges or fraudulently alters any register, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or any entry or endorsement made in or on any document, commits an offence and is liable on summary conviction to a fine not exceeding ten

thousand dollars or to imprisonment for a term not exceeding five years, or to both.

**39. False declaration.**

A person who, in the case of a declaration made in the presence of, or produced to, a registrar under this Part, or in any document or other evidence produced to a registrar —

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

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both.

**DIVISION 2 - PROPRIETARY INTERESTS IN REGISTERED SHIPS**

**40. Rights of owners and mortgagees.**

- (1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in the ship and the mortgagee shall have power absolutely to dispose of it provided the disposal is made in accordance with this Act.
- (2) Notwithstanding subsection (1), holders of interests arising under a contract or of other equitable interests may enforce such interests by or against owners and mortgagees of ships in the same manner as shall be applicable to any other personal property.
- (3) A registered owner of a ship or of a share in the ship may give effectual receipts for any money paid or advanced by consideration on disposal of the ship or share in the ship.

**41. Transfers of registered ships by bill of sale.**

- (1) Any transfer of a registered ship, or of a share in the ship, shall be effected by a bill of sale satisfying the prescribed requirements.
- (2) A bill of sale —
  - (a) shall contain the description of the ship as in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of a registrar; and
  - (b) may be executed by the transferor in the presence of a witness, and be attested by a witness.

- (3) A bill of sale for the transfer of a registered ship, or of a share in the ship, when executed shall be produced to a registrar, and the registrar shall thereupon —
  - (a) enter in the register the name of the transferee as owner of the ship or share in the ship; and
  - (b) endorse on the bill of sale that the entry was made with the day and hour of the entry.
- (4) Where there are multiple bills of sale of a ship or of a share in a ship the bills of sale shall be entered in the register in the order in which the bills of sale are produced to the registrar.

#### **42. Transfers of registered ships other than by bill of sale.**

- (1) Where a registered ship, or a share in the ship, is transmitted to another person on the death, bankruptcy or insolvency of any registered owner, or by any lawful means other than by a voluntary transfer —
  - (a) that person shall authenticate the transmission by making and signing a declaration (“declaration of transmission”) identifying the ship and containing a statement of the manner in which, and the person to whom, the property has been transmitted;
  - (b) if the transmission is consequent on —
    - (i) bankruptcy or insolvency, the declaration of transmission shall be accompanied by such evidence as is acceptable by a court as proof of the title of persons claiming under bankruptcy or insolvency, and
    - (ii) death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract therefrom.
- (2) A registrar, on receipt of the declaration of transmission and accompanying matter shall enter in the register —
  - (a) the name of the person entitled under the transmission to be registered as owner of the ship or share in the ship, and the property which has been transmitted; and
  - (b) in the case of more than one person, the names of the persons, but the persons, shall for the purpose of this Act which relate to the number of persons entitled to be registered as joint owners, be considered as one person.

#### **43. Transfers of registered ships by court order.**

Where a court orders the sale of a ship or share in the ship —

- (a) the order of the court shall contain a declaration of vesting in a person named by the court of the right to transfer that ship or share in the ship;
- (b) that person shall thereupon be entitled to transfer the ship or share in the ship in the same manner and to the same extent, as if the person were the registered owner thereof; and
- (c) a registrar shall process the application relating to the transfer of the ship or share in the ship made by the person so named, as if that person was the registered owner.

**44. Power of court to prohibit transfer.**

The court may, without prejudice to the exercise of any other power of the court on the application of an interested person —

- (a) make an order prohibiting, for a time specified, any dealing with a ship or any share in the ship, and on any terms or conditions;
- (b) refuse to make the order; or
- (c) discharge the order when made, with or without costs; and
- (d) generally act in the case as the justice of the case requires,

and a registrar, without being made a party to the proceeding shall, on being served with an order or an official copy thereof, give effect to the order.

**45. Mortgages of registered ships.**

- (1) A registered ship or share in the ship may be made a security for a loan or other valuable consideration and on the submission of the prescribed mortgage instrument a registrar shall record it in the register.
- (2) A mortgage shall be recorded in the order in time in which the mortgage is submitted to a registrar for that purpose, and the registrar shall, by memorandum under his hand, endorse on the mortgage that it has been recorded by him, stating the date and hour of that record.
- (3) Notwithstanding anything to the contrary under this Act, if a ship has been previously registered in a foreign country and —
  - (a) mortgages were registered against the ship; and
  - (b) at the time of its registration as a Bahamian ship, there is submitted to a registrar a written consent of every mortgagee,
 on the submission of the prescribed instruments, the mortgages, on being registered, shall be recorded in the order of precedence as was stated in the previous register.
- (4) No mortgage shall be recorded in the register for a bareboat chartered ship that —

- (a) has been registered for proprietary purposes under the law of a foreign country; and
  - (b) has an existing registration as a Bahamian ship under section 9(4).
- (5) For the purpose of this section, a registered ship includes a provisionally registered ship.

**46. Discharge of mortgage.**

Where a registered mortgage of a ship is discharged, a registrar shall, on the production of the mortgage instrument with a receipt for the mortgage money or other release endorsed thereon signed and attested —

- (a) make an entry in the register that the mortgage has been discharged; and
- (b) on that entry being made, the estate, if any, formerly held by the mortgagee shall vest in the person in whom having regard to intervening acts and circumstances, it would have vested if the mortgage had not been made.

**47. Mortgages not affected by bankruptcy or insolvency.**

A registered mortgage of a ship or share in the ship shall not be affected by the bankruptcy or insolvency of the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of the bankruptcy or insolvency had the ship or share in the ship in his possession, order or disposition or was the reputed owner thereof, and the mortgage shall be preferred to all other debts, claims, rights or interests of any other creditor of the bankrupt or insolvent, or any trustee, receiver or assignee on their behalf.

**48. Priority of registered mortgages.**

Where there are more mortgages than one registered for the same ship or share in the ship, the mortgages shall, notwithstanding any express, implied or constructive notice, be entitled in priority between each other according to the date that each mortgage is recorded in the register and not the date of each mortgage.

**49. Mortgagee's power of sale.**

- (1) Subject to subsection (2), a registered mortgagee shall have power absolutely to sell the ship or share in the ship for which he is registered, and give effectual receipts for the purchase money.
- (2) If more persons than one are registered as mortgagees in respect of the same ship or share in the ship, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share in the ship without the concurrence of every prior mortgagee.

**50. Mortgagee not treated as owner.**

Where a ship or share in the ship is subject to a registered mortgage —

- (a) except so far as may be necessary for making the ship or share in the ship available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship or share in the ship; and
- (b) the mortgagor shall be treated as not having ceased to be the owner of the ship or share in the ship.

**51. Transfer of registered mortgage.**

A registered mortgage of a ship or share in the ship may be transferred to a person, and on the submission of an instrument of transfer in the prescribed form, a registrar shall —

- (a) record it by entering in the register the name of the transferee as mortgagee of the ship or share in the ship; and
- (b) endorse on the instrument of transfer a note that it has been recorded by him, stating the date and hour of the record.

**52. Transmission of interest of mortgagee on death, bankruptcy or insolvency.**

- (1) Where the interest of a mortgagee in a ship or share in the ship is transmitted on death, bankruptcy or insolvency, or by any lawful means other than by a voluntary transfer, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, and shall be accompanied by the like evidence as is required in the case of a transmission of an interest in a ship or share in the ship under section 42.
- (2) A registrar, on receipt of the declaration and the submission of the evidence referred to under subsection (1), shall enter the name of the person entitled under the transmission in the register as mortgagee of the ship or share in the ship for which the transmission has taken place.

**53. Registration of mortgage on provisional registration.**

- (1) A provisionally registered ship or share in the ship may be made security for a loan or other valuable consideration and on the submission of the prescribed mortgage instrument to a registrar, the registrar shall —
  - (a) record it in the register; and
  - (b) by memorandum under his hand, endorse on each mortgage that it has been recorded by him, with the date and hour of that record,and such record of the register shall have effect as if made for the purpose of section 48.

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

**54. Trusts not recognized.**

No notice of a trust, express, implied or constructive, shall be entered in the register or be receivable by a registrar.

**DIVISION 3 – MEASUREMENT OF SHIP AND TONNAGE**

**55. Tonnage ascertained for registration to be tonnage of ship.**

When the tonnage of a ship has been ascertained and registered in accordance with the tonnage regulations, that tonnage shall be treated as the tonnage of the ship except so far as the registration regulations provide, in specified circumstances, for the ship to be remeasured and the register amended accordingly.

**56. Tonnage of ships of foreign countries adopting tonnage regulations.**

- (1) The Minister may make regulations in relation to the ships of a foreign country if it appears to the Minister that rules relating to tonnage which are substantially the same as the tonnage regulations have been adopted by the foreign country and are in force in the foreign country.
- (2) The Minister may order that the ships of a foreign country shall, without being re-measured in The Bahamas, be deemed to be of the tonnage denoted in their certificates of registry or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a registered ship is deemed to be the tonnage of that ship, if it appears to the Minister that the foreign country has brought in rules as to tonnage substantially the same as the tonnage regulations.
- (3) Where an order referred to under subsection (2) is in force in relation to the ship of a foreign country, any space shown in the ship's certificate of registry or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a Bahamian ship depends on —
  - (a) compliance with any conditions; or
  - (b) the compliance being evidenced in any manner,be treated as complying with such conditions and as being so evidenced, unless the Authority considers, on the advice of the surveyor, that the

construction and equipment of the ship as respects that space do not comply with the standard required if the ship was a Bahamian ship.

- (4) An order referred to under subsection (2) may —
  - (a) operate for a limited time; and
  - (b) be subject to such conditions and qualifications (if any) as the Authority may consider necessary.
- (5) If it appears to the Authority that the tonnage of a foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, the Authority may order that, notwithstanding any order in force under this section, any ship from that country may, for the purposes of this Act, be re-measured in accordance with the tonnage regulations.

## **57. Tonnage regulations.**

- (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with the tonnage regulations.
- (2) The Minister may make regulations (referred to as “tonnage regulations”) to give effect to the International Convention on Tonnage Measurement of Ships, in particular —
  - (a) respecting the determination of gross and net tonnages;
  - (b) providing for the issue of the International Tonnage Certificate including the issue of the certificate by another government;
  - (c) providing for the acceptance, form, cancellation and delivery up of certificates;
  - (d) providing for penalties;
  - (e) prohibiting or restricting the carriage of goods or stores in spaces not included in the registered tonnage;
  - (f) providing for the measurement and survey, and inspection of ships to be undertaken, in such circumstances as may be specified, by persons appointed by the organisations as may be authorised for that purpose by the Authority.
- (3) The tonnage regulations may make provision for —
  - (a) assigning to a ship, either instead of, or as an alternative to, the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;
  - (b) indicating on the ship, by such mark as may be specified in the regulations, that the lower tonnage has been assigned to it; and



- (c) where the lower tonnage has been assigned to it as an alternative, indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.

## **PART III - MASTERS AND SEAFARERS**

### **DIVISION 1- TRAINING, CERTIFICATION AND WATCHKEEPING**

#### **58. Seafarers to be qualified.**

A Bahamian ship shall be manned with seafarers —

- (a) in sufficient numbers; and
- (b) with the necessary qualifications and competency,

so as to ensure the safety of life at sea and the protection of the marine environment.

#### **59. Training, certification, manning and watchkeeping regulations.**

- (1) The Minister may make regulations (referred to as the “training, certification, manning and watchkeeping regulations”) to give effect to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, in particular —
  - (a) requiring ships to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seafarers or qualified seafarers of any description;
  - (b) prescribing minimum standards for watchkeeping for seafarers on ships;
  - (c) providing for minimum manning levels which shall be specified in the Minimum Safe Manning Document;
  - (d) prescribing the standards of competence to be attained and other conditions to be satisfied (subject to any exceptions) by officers and other seafarers of any description;
  - (e) respecting the grades of certificates of competency;
  - (f) prescribing examinations for certificates of competency including the time and place of such examinations, appointment of examiners, and the conduct of examinations;
  - (g) respecting foreign certificates;
  - (h) providing for the recognition, validity, recording, loss and surrender of certificates, revalidation of certificates, licence and endorsement issued to masters, officers and other trained persons, and appropriate certificates;

- (i) providing for training and qualifications of masters, officers and other personnel on —
    - (i) tankers,
    - (ii) passenger ships,
    - (iii) high-speed crafts,
    - (iv) ships subject to the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels,
    - (v) ships subject to the Polar Code, or
    - (vi) any other ship as determined by the Minister;
  - (j) providing for familiarisation training and instruction, basic safety training and instruction, training in survival craft, rescue boat and fast rescue boat, training in advanced fire-fighting, security and medical first aid and medical care;
  - (k) providing for the approval of training and seagoing service;
  - (l) prescribing the schedule of duties and rest periods, duties of master and seafarer, exemption for emergencies, watchkeeping arrangements and inspection of foreign registered ships;
  - (m) respecting marine casualties;
  - (n) providing for penalties;
  - (o) providing that existing certificates shall, except in such cases as are specified in the regulations, be deemed for the purposes of this Act to be issued in pursuance of this section and to confer on the persons to whom the certificates are issued such qualifications as may be specified in the regulations.
- (2) The standards of competence or other conditions prescribed in the training, certification, manning and watchkeeping regulations may be expressed by reference to other documents.
- (3) Without prejudice to the generality of paragraph (d) of subsection (1), the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision for the —
- (a) manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
  - (b) conduct of any examinations, the conditions for admission to the examinations and the appointment and remuneration of examiners; and
  - (c) issue, form and recording of certificates and other documents.

**60. Grades of certificates of competency.**

A certificate of competency shall be granted in accordance with this Act in each of the following grades —

- (a) master;
- (b) chief mate;
- (c) officer in charge of a navigational watch;
- (d) chief engineer officer;
- (e) second engineer officer;
- (f) officer in charge of an engineering watch;
- (g) radio operator,

and in respect of such other grades as prescribed in the training, certification, manning and watchkeeping regulations to give effect to any international convention relating to maritime matters.

**61. Special certificate of competence.**

The Director may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation notwithstanding that the standard is not prescribed under the training, certification, manning and watchkeeping regulations.

**62. Offences relating to certificates of competency.**

A person who —

- (a) makes any false representation for the purpose of obtaining for the person or for any other person any certificate of competency or of service as a deck officer or engineer;
- (b) forges or fraudulently alters any certificate or any official copy of a certificate;
- (c) fraudulently makes use of any certificate which is forged, altered, cancelled or suspended or to which he is not justly entitled; or
- (d) fraudulently lends the certificate or licence to, or allows the same to be used by, any other person,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year.

**63. Record of certificates of competency.**

A record of certificates of competency and the suspension, cancellation, or alteration of such certificates shall be kept in such manner as the Minister may determine.

**64. Production of certificates and other documents of qualification.**

- (1) A person who —
  - (a) serves or is engaged to serve in a ship; and
  - (b) holds a valid certificate or other document which is evidence that the person is qualified under the training, certification, manning and watchkeeping regulations,shall on demand produce the certificate or other document to the master of the ship.
- (2) A person who contravenes subsection (1) without reasonable cause, commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

**65. Unqualified seafarers going to sea as qualified officers.**

If a person goes to sea as a qualified master, officer or seafarer without being a qualified master, officer or seafarer, that person commits an offence and is liable on summary conviction, to a fine not exceeding ten thousand dollars.

**66. Prohibition of going to sea undermanned.**

- (1) No ship shall, except with the prior written approval of the Minister, go, or attempt to go, to sea without carrying the number of crew as required under the training, certification, manning and watchkeeping regulations.
- (2) An owner or master of the ship who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

**67. Crew's knowledge of working language of a ship.**

- (1) If in the opinion of the Director or authorised officer, the crew consists of persons who may not understand orders given to them in the course of their duty because of —
  - (a) insufficient knowledge of the selected working language of the ship; and
  - (b) the absence of adequate arrangements for transmitting the orders in a language of which the crew have sufficient knowledge,then if —
  - (i) the master has been informed of the insufficient knowledge of the language, the ship shall not go to sea, and
  - (ii) the ship is a Bahamian ship or a ship within Bahamian waters, the ship may be detained.

- (2) Where a ship goes, or attempts to go, to sea in contravention of subsection (1), the owner or master commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

**68. Written language of a ship to be English.**

- (1) Any correspondence, documents or forms shall be in the English language; and if necessary, a foreign language version shall be appended.
- (2) Any written sign displayed on board a Bahamian ship shall be in the English language and, if necessary, a foreign language version shall be appended.

**DIVISION 2 - MARITIME LABOUR CONVENTION**

**69. Maritime labour convention regulations.**

The Minister may make regulations (referred to as the “maritime labour convention regulations”) to give effect to the Maritime Labour Convention, in particular —

- (a) respecting the implementation of any international convention relating to the employment, welfare, security, certificate or status of seafarers;
- (b) prescribing the conditions of employment of seafarers on Bahamian ships particularly seafarer’s employment agreements, hours of work, wages, manning levels, leave entitlements, repatriation and financial security;
- (c) prescribing the minimum requirements for seafarers to work on a ship including minimum age, training, qualifications and standards of medical fitness;
- (d) prescribing the form of any document or certificate that may be required relating to the employment of seafarers;
- (e) providing for the operation, management, control and use of seafarer recruitment and placement services and the requirements to be placed on such services;
- (f) respecting the workplace, accommodation, recreational facilities, food and catering including water;
- (g) providing for health protection, medical care on board a ship and ashore, welfare and social security protection, and shipowners’ liability;
- (h) providing for compliance and enforcement particularly, inspection and surveys;
- (i) respecting the maritime labour certificate and the declaration of maritime labour compliance;

- (j) prescribing on-board complaint procedures and onshore seafarer complaint-handling procedures;
- (k) providing for the issuance of allotment notes by seafarers, the form of allotment notes and conditions regarding allotment notes;
- (l) prescribing the standards relating to occupational health and safety on board a ship and the requirements for the reporting of any occupational accident, injury or disease on board a ship;
- (m) providing for the inspection and detention powers of authorised officers relating to a ship's non-compliance;
- (n) respecting the maintenance of records relating to seafarers' employment and work on board a ship;
- (o) respecting the establishment of a system of financial security for seafarers' wages, repatriation, long term disability, death and other associated liabilities;
- (p) providing for the procedures for approval of documents;
- (q) providing for penalties.

**70. Jurisdiction of court.**

- (1) The court shall have jurisdiction to hear and decide any proceedings brought by the master of a ship, a seafarer or any other person employed in a Bahamian ship relating to any matter under this Act or maritime labour convention regulations.
- (2) The court's jurisdiction under subsection (1) shall be conditional on the fact that a seafarer is employed under a seafarer's employment agreement not subject to the laws of The Bahamas.

**71. Discharge of seafarers.**

The Minister may make regulations prescribing the procedure to be followed in relation to the discharge of seafarers from Bahamian ships, in particular —

- (a) requiring a notice of discharge to be given at such time and place as may be specified to the authorised officer or the Director;
- (b) requiring the discharge to be recorded, whether by entries in the seafarers employment agreement and seafarers record book or otherwise, and requiring copies of any such entry to be given to an authorised officer or the Director.

**72. Discharge of seafarers when ship ceases to be registered in The Bahamas.**

Where a Bahamian ship ceases to be registered, a seafarer employed in the ship shall be discharged from the ship unless the seafarer consents in writing to

continue his employment in the ship and the terms in the seafarer's employment agreement shall continue to apply in relation to wages earned whilst serving on the Bahamian ship.

**73. List of crew.**

- (1) A master of a Bahamian ship shall make and maintain a list of the crew containing such particulars as may be required in the regulations.
- (2) The Minister may make regulations —
  - (a) specifying the particulars to be entered in a list of the crew;
  - (b) providing for limiting the time for which a list of the crew may remain in force;
  - (c) providing for the maintenance by such persons in such manner and place as may be specified in the regulations or, if it is so specified, in the ship, of a copy of a list of the crew, and for the notification of any changes therein;
  - (d) providing for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified;
  - (e) providing for the delivery to an authorised officer or registrar, in such circumstances as may be specified, of a list of the crew or a copy thereof; and
  - (f) providing for a list of the crew to be in the same document as a seafarer's employment agreement and may treat any particulars entered in the seafarer's employment agreement as forming part of the particulars entered in the list.

**74. Seafarer's identification card.**

- (1) A Bahamian seafarer may on application, be issued an identification card in such form and containing such particulars as determined by the Director.
- (2) The Minister may make regulations —
  - (a) providing for application for, the form and particulars of, The Bahamas seafarer's identification cards;
  - (b) requiring the holders of The Bahamas seafarer's identification cards to produce them to such persons and in such circumstances as specified;
  - (c) providing for the surrender of The Bahamas seafarer's identification cards in such circumstances as specified;
  - (d) providing for any matter relating to The Bahamas seafarers' identification cards;

- (e) providing for penalties for false statements or false documents relating to The Bahamas seafarers' identification cards.

**75. Seafarer's record books.**

- (1) A seafarer record book may, on application, be issued to persons who are qualified as determined by the Director.
- (2) The Minister may make regulations —
  - (a) respecting the issue of seafarer record books;
  - (b) providing for the application for seafarer record books;
  - (c) prescribing the form of a seafarer record book and the particulars in the book;
  - (d) requiring the holder of a seafarer record book to produce it to such persons and in such circumstances as specified;
  - (e) providing for the surrender of seafarer record books in such circumstances as specified and the re-issue of such books;
  - (f) providing for the disqualification of a person to hold a seafarer record book;
  - (g) providing for any matter relating to seafarer record books;
  - (h) providing for penalties for false statements or false documents.

**76. Handing over of documents by master.**

If a person ceases to be the master of a Bahamian ship during a voyage of the ship, the person shall deliver to his successor the documents relating to the ship or its crew that is in that person's custody.

**77. Payment of wages.**

Except as otherwise provided under this Act or regulations made under this Act, a master or owner of a ship shall pay to the seafarer employed on board the ship under a seafarers employment agreement, his wages due or accruing to him.

**78. Restrictions on assignment of wages.**

- (1) The following provisions apply to wages due or to become due to a seafarer employed on a Bahamian ship —
  - (a) the wages shall not be subject to attachment by a court;
  - (b) an assignment or sale made before the wages accrued shall not bind the person making it;
  - (c) a power of attorney or authority for the receipt of the wages is not irrevocable;



- (d) a payment of the wages to a seafarer shall be valid despite any previous assignment, sale, attachment or encumbrance.
- (2) Nothing in subsection (1) shall affect the provisions under this Act relating to allotment notes.

**79. Disputes on wages.**

- (1) Any dispute relating to the amount payable to a seafarer employed under a seafarer's employment agreement may, if all parties agree in writing, be submitted by the parties to the Director of Labour for a decision.
- (2) The Director of Labour shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if the Director of Labour is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought to be decided by a court of law, but in either case the dispute should be settled in accordance with the seafarer's employment agreement.

**80. Power of court to award interest on wages due.**

In any proceedings by the master or seafarer, other than under a seafarer's employment agreement for the recovery of any sum due to him as wages, the court, unless it appears to it that the delay in paying the sum was due to —

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act or default of the person claiming the amount; or
- (d) any other cause, not being the wrongful act or default of the person liable to make the payment, or his servants or agents,

may order the person liable to pay, in addition to the sum due, interest on the sum, at such rate as the court thinks just.

**81. Allotment notes.**

- (1) A seafarer may, by an allotment note, allot to a person part of the wages to which the seafarer shall be entitled to in the course of his employment in a Bahamian ship.
- (2) A seafarer's entitlement to make an allotment shall be subject to such limitations as prescribed in the maritime labour convention regulations.

**82. Compensation to seafarer improperly discharged.**

If a seafarer who signed a valid seafarer's employment agreement to serve on a Bahamian ship is discharged otherwise than in accordance with the terms of the seafarer's employment agreement before the commencement of the voyage or before one month's wages are earned without —

- (a) fault on his part justifying the discharge; and
- (b) his consent,

the seafarer shall be entitled to receive from the employer, in addition to any earned wages, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover such compensation as if such wages were earned by the seafarer.

### **83. Wages on termination of service by illness.**

Where the service of a seafarer terminates before the date contemplated in the seafarer's employment agreement, by reason of the seafarer being left ashore at any place outside the port of return under a medical certificate of unfitness or inability to proceed on a voyage, the seafarer's entitlement to the payment of wages shall not be less than the wages due for the period of sixteen weeks from the day of termination or the commencement of the sickness.

### **84. Right, or loss of right, to wages in certain circumstances.**

- (1) Where a Bahamian ship is —
  - (a) wrecked or lost, a seafarer, who is employed on the ship and whose employment is terminated before the date contemplated in the seafarer's employment agreement, shall be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which the seafarer is unemployed in the two months after that date; and
  - (b) sold while outside The Bahamas or ceases to be a Bahamian ship and by reason thereof a seafarer's employment in the ship is terminated before the date contemplated in the seafarer's employment agreement, unless otherwise provided in the agreement, the seafarer shall be entitled to wages at the rate payable under the agreement at the date on which the employment is terminated for every day on which the seafarer is unemployed in the two months after that date.
- (2) Notwithstanding subsection (1), a seafarer shall not be entitled to wages for a day on which the seafarer was unemployed, if it is proven —
  - (a) that the unemployment was not due to the wreck or loss of the ship or the termination of employment on the sale of the ship or its ceasing to be a Bahamian ship; or
  - (b) that the seafarer was able to obtain suitable employment for that day but refused such employment.

**85. Protection of certain rights and remedies.**

- (1) Subject to subsection (2), a seafarer's lien, remedies for the recovery of wages, right to wages in case of the wreck or loss of the seafarer's ship, and any right to have or obtain in the nature of salvage shall not be capable of being renounced by an agreement.
- (2) Subsection (1) shall not affect any term of any agreement made with a seafarer belonging to a ship which in accordance with the agreement, is to be employed on salvage service which then relates to the remuneration to be paid to the seafarer for such services rendered by that ship.

**86. Remedies of a master for remuneration, etc.**

A master shall have the same lien for remuneration, and all disbursements or liabilities made or incurred by the master on account of the ship, as a seafarer has for wages.

**87. Obligation of shipowners as to seaworthiness.**

- (1) In the contract of employment between the owner of a Bahamian ship and the master of, or a seafarer employed in, the ship there shall be implied despite any agreement to the contrary an obligation on the owner of the ship that —
  - (a) the owner; and
  - (b) the master,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 for the duration of the voyage.
- (2) No liability on the owner of a ship arises under subsection (1) in respect of the ship being sent to sea in an unseaworthy state where, due to special circumstances as determined by the Minister, the sending of the ship to sea in such state was reasonable and justifiable.
- (3) A master or owner who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

**88. Obligation of shipowners as to operation and maintenance.**

- (1) Notwithstanding section 87, the owner of a ship shall take all reasonable steps to ensure that the ship is operated in a safe manner and is maintained in a seaworthy state.
- (2) An owner who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

## **89. Misconduct endangering life or ship.**

- (1) If a master, or seafarer belonging to a Bahamian ship by wilful breach of duty or by neglect of duty or by reason of being under the influence of drink or drugs —
- (a) does any act which causes or is likely to cause —
    - (i) the loss or destruction of or serious damage to the ship or its machinery, navigational equipment or safety equipment,
    - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
    - (iii) the death of or serious injury to any person; or
  - (b) refuses or omits to do any lawful act required to be done by him to —
    - (i) preserve the ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged,
    - (ii) preserve any person on board the ship from death or serious injury,
    - (iii) prevent the ship from causing the loss or destruction of or serious damage to any other ship or any structure, or
    - (iv) prevent the death of or serious injury to any person not on board the ship,

the master or seafarer commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or to both.

- (2) For the purpose of this section “**structure**” means any fixed or movable structure (of whatever description) other than a ship.

## **90. Concerted disobedience and neglect of duty.**

If a seafarer employed in a Bahamian ship joins with other seafarers employed in that ship to —

- (a) disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
- (b) neglect any duty which is required to be discharged at the time; or
- (c) impede, at the time, the progress of a voyage or the navigation of the ship,

the seafarer commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both.

### **91. Defence of drugs taken for medical purposes.**

In any proceedings for an offence under sections 89 and 90, it shall be a defence to prove that at the time of the act or omission alleged against the defendant he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had reason to believe that the drugs would not have the influence it had.

### **92. Disqualification of certificates.**

- (1) If it appears to the Director that a master or seafarer —
  - (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason;
  - (b) has been seriously negligent in the discharge of his duties; or
  - (c) has failed to comply with section 89 or 90,the Director may, after consultation with the Authority, suspend or cancel any certificate issued to the master or seafarer under the training, certification, manning and watchkeeping regulations and require the master or seafarer to deliver the certificate to the Authority.
- (2) Where a certificate has been cancelled or suspended under this Part, the Director may —
  - (a) re-issue the certificate;
  - (b) reduce the period of suspension and return the certificate, or
  - (c) grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.
- (3) The Minister may —
  - (a) cause an inquiry to be held by one or more persons appointed to conduct the inquiry; and
  - (b) pending the outcome of the inquiry, determine whether the certificate shall be suspended or re-issued to the master or seafarer, and where the certificate is suspended, require the master or seafarer to deliver the certificate to the Authority.
- (4) If a person fails to deliver a certificate as required under this Part without reasonable cause, that person commits an offence.

### **93. Rules for inquiries.**

- (1) The Minister may make rules for the conduct of inquiries and re-hearing under this Part.
- (2) The rules made under subsection (1) may provide for the appointment and summoning of assessors, the manner in which any facts may be proved,

the persons allowed to appear before the inquiry, and the notices to be given to the persons affected.

**94. Inquiries into fitness or conduct of a master or seafarer.**

- (1) An inquiry into the fitness of a master or seafarer shall be conducted in accordance with the rules made under section 93.
- (2) The persons holding the inquiry referred to under subsection (1) —
  - (a) may suspend or cancel any certificate issued to the master or seafarer under the training, certification, manning and watchkeeping regulations or censure the master or seafarer;
  - (b) may make such order with regard to the costs of the inquiry as the persons think just; and
  - (c) shall make a report on the case to the Minister,and if the certificate is cancelled or suspended the master or seafarer shall deliver the certificate immediately to the persons holding the inquiry or to the Minister, unless it was delivered to the Authority under section 92.
- (3) Any costs which a person is ordered to pay under subsection (2)(b) may be recovered from the master or seafarer by the Authority.
- (4) Where an inquiry has been held under this section, the Minister may order the whole or part of the case to be re-heard, if —
  - (a) new and important evidence has been discovered; or
  - (b) it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice may have occurred.

**95. Official log books.**

- (1) An official log book shall be kept in a Bahamian ship in a form as determined by the Director.
- (2) The Minister may make regulations —
  - (a) prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and amendments to, or cancellations of, such entries;
  - (b) providing for the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein;
  - (c) providing for penalties.

## **PART IV - SAFETY OF LIFE AT SEA AND SECURITY**

### **96. Compliance with the Safety Convention.**

- (1) The master, manager and owner shall comply with the Safety Convention and any Code thereof adopted by the IMO and the safety regulations.
- (2) A master, manager or owner who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars.

### **97. Safety regulations.**

- (1) The Minister may make regulations (referred to as “safety regulations”) to give effect to —
  - (a) the Safety Convention; and
  - (b) Article 52 and section 3 of Part II of the United Nations Convention on the Law of the Sea.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations —
  - (a) providing for the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment, compatible with their safety;
  - (b) providing for the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
  - (c) providing for the carrying out of any operation involving a ship, compatible with their safety;
  - (d) providing for the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
  - (e) respecting the manning of ships;
  - (f) providing for submersibles and supporting apparatus including the operation and registration of submersible craft, inquiries, investigation, offences and legal proceedings in relation to submersible craft and supporting apparatus, construction requirements, and requirements for carriage of equipment and stores;
  - (g) prescribing the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;

- (h) prescribing the standards of construction and equipment of ships including the provision of life-saving and fire-fighting appliances and radio installations;
- (i) respecting the surveying and periodical inspection of ships at regular intervals;
- (j) respecting the manner and frequency of the survey or inspection and the issue, suspension, cancellation, endorsement, extension and period of the validity of certificates and exemption certificates and the recognition of certificates or exemption certificates issued by or under the authorisation of the government of a foreign country;
- (k) respecting the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
- (l) respecting the ventilation, temperature and lighting of different parts of a ship;
- (m) prescribing the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
- (n) prescribing the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
- (o) respecting the steps to be taken in the case of —
  - (i) any ship sustaining or causing any accident occasioning loss of life or any serious injury to any person,
  - (ii) any damage to a ship, or
  - (iii) the non-appearance or loss of a ship and any search related thereto, and the reporting thereof;
- (p) providing for the safety of navigation and aids to assist with marine navigation;
- (q) providing for the loading and carriage of goods, including grains;
- (r) providing for the carriage and marking of dangerous goods in ships in accordance with parts A and A-1 of chapter VII of the Safety Convention and the International Maritime Dangerous Goods (IMDG) Code, inclusive of restrictions, false descriptions, refusal and disposal, offences and penalties, forfeiture of dangerous goods improperly sent or carried;
- (s) prescribing the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance;



- (t) respecting the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
- (u) prescribing the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
- (v) providing for the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation or improve the safety of the ship;
- (w) providing for the keeping of registers and the issue of certificates in cases for which registration or a certificate is required;
- (x) respecting the provision of information;
- (y) prescribing the management for the safe operation of ships;
- (z) prescribing safety measures for ships operating in polar waters;
- (aa) providing for penalties for false statements or false documents;
- (bb) providing for special measures to enhance maritime safety and security.

#### **98. Security of ships and port facilities.**

The Minister may make regulations to give effect to the International Code for the Security of Ships and Port Facilities, and in particular —

- (a) providing for the declaration of security and security levels;
- (b) prescribing the obligations of the company, company security officer and designated person;
- (c) providing for ship security, including ship security assessment, ship security plan, ship security officer and training, drills and exercises on ship security;
- (d) respecting the format, working language, access or disclosure, and period of maintenance, of records of activities addressed in the ship security plan;
- (e) providing for port facility security including port facility security assessment, port facility security plan, port facility security officer, and training, drills and exercises on port facility security;
- (f) prescribing the steps for the verification and certification for ships;
- (g) providing for penalties.

#### **99. Safe container.**

The Minister may make regulations to give effect to the International Convention for Safe Containers.

# **PART V – PREVENTION OF POLLUTION FROM SHIPS, ETC.**

## **DIVISION 1 - POLLUTION**

### **100. Prevention of pollution from ships, etc.**

- (1) Notwithstanding any other Act, the owner or master of a ship shall take certain actions, including omissions, as specified for prevention of pollution from ships.
- (2) The Minister may make regulations to give effect to any of the maritime pollution conventions which have been ratified or accepted by the Government of The Bahamas, including —
  - (a) the United Nations Convention on the Law of the Sea (UNCLOS), 1982;
  - (b) the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (the Intervention Convention);
  - (c) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (BUNKER) including its protocols, annexes and appendices;
  - (d) the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM);
  - (e) International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;
  - (f) any international agreement not mentioned in paragraphs (a) to (e) which relates to the prevention, reduction or control of pollution of the sea or other waters or the air by matter from ships or which regulates the liability of any person arising from the pollution of the sea or waters or the air.

## **DIVISION 2 - HANDLING OF CARGO**

### **101. Handling of cargo in Bahamian territorial waters.**

The Minister may make regulations to give effect to the handling of cargoes including ship-to-ship transfers in Bahamian territorial waters, in particular —

- (a) prohibiting handling of cargo or transfers of any specified description or handling of cargo or transfers if, or except, carried out in specified areas, circumstances or manner;
- (b) providing for operations and plans and the requirement of an inspector;

- (c) respecting ship-to-ship service providers;
- (d) providing for floating storage of cargoes;
- (e) providing for proposed transfers to be notified to and approved by the authorised officer and for the supervision of handling of cargo or transfers, and the inspection of ships and equipment, by persons appointed by the authorised officer;
- (f) prescribing navigational warnings and reporting of an incident;
- (g) prescribing designated lightering zones;
- (h) providing for —
  - (i) the procedure to be followed in relation to the approval of handling of cargo or transfers, and
  - (ii) references to any document so specified to operate as references to that document as revised or re-issued;
- (i) providing for appeals for a person aggrieved of a decision of the Port Controller to refuse the grant of a permit;
- (j) prescribing fees for carrying out handling of cargo or ship-to-ship transfer operations;
- (k) providing for penalties;
- (l) providing for forms including application and notice forms.

### DIVISION 3 - SELF REPORTING

#### **102. Self reporting.**

- (1) The owner or master of a ship shall report any contravention of this Part or regulations made under this Part, to the Minister.
- (2) An owner or master who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both.

## PART VI – LOAD LINES

#### **103. Load line certificate.**

A ship shall not proceed to sea on a voyage unless it is surveyed, marked and provided with a Bahamian or International Load Line Certificate or, where appropriate, a Bahamian or International Load Line Exemption Certificate as prescribed in the regulations.

#### **104. Load Line Convention.**

- (1) The Minister may make regulations to give effect to the Load Line Convention and its articles and annexes, in particular —
  - (a) respecting repairs, alterations and modifications to a ship;
  - (b) providing for the zones, areas and seasonal periods described in Annex II;
  - (c) prescribing the determination of freeboards to be assigned to ships;
  - (d) prescribing the determination, in relation to any ship —
    - (i) of the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description specified, and
    - (ii) by reference to the mark and the freeboards for the time being assigned to any ship, of the positions in which each side of the ship is to be marked, indicating the various maximum depths to which the ship may be loaded in certain circumstances;
  - (e) providing for the manner and frequency of the survey or inspection and the issue, suspension, cancellation, endorsement, extension and period of the validity of certificates and exemption certificates, and the recognition of certificates or exemption certificates issued by or under the authorisation of the government of a foreign country;
  - (f) providing for penalties.
- (2) Without prejudice to the generality of paragraphs (1)(b) and (c), the Minister, may make regulations —
  - (a) specifying the requirements for the hulls, superstructures, fittings and appliances of ships relating to the assignment of freeboards, and the requirements that are to be recorded, and compliance with the conditions of the assignment of freeboards;
  - (b) requiring such information relating to the stability of a ship to which freeboards are assigned thereunder, and such information relating to the loading and ballasting of such ship to be provided for the guidance of the master of the ship.

## **PART VII - PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION**

### **105. Collision regulations.**

The Minister may make regulations to give effect to the COLREGs Convention, in particular —

- (a) prescribing the steps to be taken to prevent collisions at sea and in navigable waters involving a ship;
- (b) providing for proper look-out and safe speed;
- (c) prescribing traffic separation schemes;
- (d) providing for the steering and sailing rules to be observed by ships;
- (e) providing for the conduct of vessels in sight of one another;
- (f) providing for the conduct of vessels in restricted visibility;
- (g) regarding the lights to be carried and exhibited by ships;
- (h) respecting the fog signals and any other signal including signals of distress to be carried and used;
- (i) prescribing signals of distress;
- (j) prescribing liability for collision damage, including damage to ships, cargoes, the effects or other property of the crew, passengers or other persons on board the ship, or to third parties;
- (k) providing for offences and penalties.

### **106. Inspection to enforce compliance with collision regulations.**

A surveyor or inspector may inspect —

- (a) any ship in The Bahamas; or
- (b) a Bahamian ship,

to determine whether the ship is properly provided with lights and the means of making sound signals as required by the collision regulations, and if the surveyor or inspector finds that the ship is not so provided, the surveyor or inspector shall —

- (i) give the owner or master written notice stating the action required to rectify the deficiency, and
- (ii) detain the ship until such deficiency is so rectified.

### **107. Signals of distress.**

- (1) The signals of distress which shall be used by a ship are the signals set out in Annex IV to the COLREGs Convention or prescribed under the collision regulations.

- (2) Where a master of a ship uses or displays, or causes, or permits a person under his authority to use or display any signal —
  - (a) prescribed under this section except in circumstances and for the purposes prescribed; or
  - (b) that may be mistaken for a prescribed signal,  
the master commits an offence and is liable —
    - (i) on summary conviction to a fine not exceeding two thousand dollars, and
    - (ii) to pay compensation for any labour undertaken, risk incurred or loss sustained as a result of the use or display of the distress signal and such compensation maybe recovered in the same manner as that of salvage compensation.

#### **108. Report of dangers to navigation.**

- (1) The master of a Bahamian ship shall, encountering any of the dangers to navigation specified under subsection (2), send information of such dangers by any means of communication to the appropriate shore based authorities for the purpose of advising ships in the vicinity.
- (2) The dangers to navigation referred to under subsection (1) are as follows —
  - (a) dangerous ice;
  - (b) dangerous derelict;
  - (c) tropical storm;
  - (d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;
  - (e) winds of force 10 or above on the Beaufort scale for which no storm warning has been received; or
  - (f) any other direct danger to navigation.
- (3) For purposes of this section “**tropical storm**” means a hurricane, typhoon, cyclone or other storm of a similar nature.

#### **109. Duty of ship to assist the other ship in case of collision.**

- (1) In the case of collision between ships, it shall be the duty of the master of each ship involved, if and so far as he can do so without danger to his own ship, crew and passengers (if any) —
  - (a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and necessary to save them from any danger caused by the collision, and to stay by the other

- ship until the master has ascertained that such ship or ships have no need of further assistance; and
- (b) to give to the master of the other ship the name of his ship and the ports from which the ship has sailed and to which the ship is bound.
- (2) If the master contravenes subsection (1), without reasonable excuse, the master commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars and if the master is a certificated officer, an inquiry may be held, and the certificate may be cancelled or suspended.
  - (3) The master's compliance with this section shall not affect any right, or the right of any other person, to salvage.

#### **110. Duty to assist ships or aircraft in distress.**

- (1) The master of a Bahamian ship, on receiving at sea a signal from any source that a ship or aircraft or a survival craft is in distress, shall —
  - (a) send information of such distress by any means of communication to the appropriate shore based authorities; and
  - (b) proceed to the assistance of the ship or aircraft or a survival craft in distress and inform the master of such ship or aircraft, if possible, that he is doing so, and if the master —
    - (i) is unable to proceed to assist,
    - (ii) in the special circumstances of the case, considers it unreasonable, to proceed to assist,the master shall notify the parties and enter in the log book of the ship the reason for not proceeding to the assistance of the ship or aircraft in distress.
- (2) The master of a ship shall be released from the duty imposed under subsection (1) as soon as he is informed of the designation of one or more ships other than his ship under section 111 and that the designation is being complied with by the ship or ships requisitioned.
- (3) The master of a Bahamian ship shall enter or cause to be entered in the official log book every signal of distress or message that a ship, aircraft or person is in distress at sea.
- (4) A master who contravenes, without reasonable excuse, subsection (1) commits an offence and is liable on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both.
- (5) The master's compliance with this section shall not affect any right, or the right of any other person, to salvage.

### **111. Designation of ship when in distress.**

- (1) The master of a ship in distress, after consultation, so far as may be possible, with the masters of the ships which answer his call for assistance, has the right to designate one or more of the ships as he considers best able to render assistance, and it shall be the duty of the masters of the ships designated to comply with the designation by proceeding to the assistance of the persons in distress.
- (2) The master of a ship shall be released from the duty imposed under section 112 (1) and, if the ship has been designated, from the duty imposed under subsection (1), if he is informed by the persons in distress, or by the master of another ship which has reached the persons in distress, that his assistance is no longer required.

### **112. Duty to assist persons in danger at sea.**

- (1) The master of a ship shall, so far as possible, without serious danger to the ship or persons on the ship, render assistance to any person at sea in danger of being lost.
- (2) A master who contravenes, without reasonable excuse, subsection (1) commits an offence and is liable on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both.

## **PART VIII - UNSAFE SHIP, ETC**

### **DIVISION 1 – UNSAFE SHIP**

### **113. Dangerously unsafe ship.**

- (1) For the purposes of this Part, a ship is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the conditions referred to under subsection (2) —
  - (a) in the case of a ship in a port in The Bahamas or any Bahamian ship in any other port, unfit to go to sea without serious danger to human life;
  - (b) in the case of a Bahamian ship at sea, either unfit to —
    - (i) remain at sea, or
    - (ii) proceed on a voyage,without serious danger to human life.
- (2) The conditions referred to under subsection (1) are as follows —
  - (a) the unsuitability for its purpose, of —



- (i) the ship or its machinery or equipment, or
- (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;
- (d) any other condition relevant to the safety of the ship.

**114. Power to detain dangerously unsafe ship.**

- (1) Where a ship which is —
  - (a) in a port in The Bahamas;
  - (b) in Bahamian waters; or
  - (c) a Bahamian ship,appears to the Minister, Director or inspector to be a dangerously unsafe ship, the ship may be detained by the Minister, Director or inspector.
- (2) The power of detention referred to under subsection (1) is not exercisable in relation to a foreign ship while the ship is legally and safely exercising —
  - (a) the right of innocent passage; or
  - (b) the right of transit passage through straits used for international navigation.
- (3) The Minister, Director or inspector detaining the ship shall serve on the master of the ship a detention notice which shall —
  - (a) identify the ship;
  - (b) state that the ship is a dangerously unsafe ship;
  - (c) specify the matters which make the ship a dangerously unsafe ship;
  - (d) specify any conditions to which the detention of the ship is subject; and
  - (e) require the owner or master of the ship to comply with the terms of the notice until the ship is released by the Minister, Director or inspector.
- (4) In the case of a ship which is not a Bahamian ship, the Minister detaining the ship shall notify the flag State of such detention.

**115. Releasing a ship from detention.**

The Minister, Director or inspector may release a detained ship —

- (a) subject to the conditions as determined by the Minister, Director or inspector; or
- (b) if the Minister, Director or inspector is satisfied that further detention is no longer necessary.

**116. Costs of detention.**

- (1) If a ship is detained under this Part, the owner of the ship is liable —
  - (a) to pay any costs incurred in relation to the detention of the ship; and
  - (b) to reimburse the Authority for any costs incurred by the Government in relation to the detention of ship.
- (2) Unless otherwise determined by a court in The Bahamas no compensation shall be payable to the owner for the detention of a ship under this Part.

**117. References of detention notices to appeal.**

- (1) Any question as to whether any of the matters specified in relation to a ship in a detention notice made under section 114(3) in relation to an opinion formed by the inspector constituted a valid basis for that opinion shall, if the master or owner of the ship so requires by a notice given to the inspector within thirty days from the service of the detention notice, be referred to the Minister or Director for that question to be decided.
- (2) Where a notice is given by the master or owner of the ship in accordance with subsection (1), the giving of the notice shall not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the Minister or Director decides otherwise.
- (3) The Minister or Director shall have regard, in coming to a decision, to any other matter not specified in the detention notice which appear to be relevant to whether the ship was or was not a dangerously unsafe ship.
- (4) Where on a reference under this section the Minister or Director decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion, the Minister or Director shall either cancel the detention notice or affirm it with such modifications as the Minister or Director thinks fit; and in any other case the Minister or Director shall affirm the notice in its original form.
- (5) The Minister or Director shall include in the decision a finding whether there was or was not a valid basis for the detention of the ship as a dangerously unsafe ship.

**118. Liability for dangerously unsafe ship.**

- (1) If a ship that is —
  - (a) in a port in The Bahamas; or
  - (b) a Bahamian ship,is dangerously unsafe, subject to subsection (2), the master and the owner of the ship commits an offence and is liable on conviction to a fine not

exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

- (2) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence —
  - (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge; or
  - (b) it was reasonable for such arrangements not to have been made.

## DIVISION 2 - FISHERIES TRANS-SHIPMENT

### 119. Requirements for ships engaged in fisheries trans-shipment.

- (1) The Minister may, after consultation with the Director of Marine Resources, make regulations in respect of trans-shipment operations by ships registered in The Bahamas or foreign ships in Bahamian waters for the purpose of —
  - (a) securing the safety of ships;
  - (b) protecting the health and safety of persons on board such ships;
  - (c) securing the safety of any other persons or property;
  - (d) preventing or mitigating pollution; and
  - (e) preventing, deterring and eliminating illegal, unreported and unregulated fishing.
- (2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may apply, in relation to a ship in respect of which a trans-shipment licence is in force, to any requirements in any applicable law or international agreement whether or not the requirements may otherwise apply in relation to the ship.
- (3) A Bahamian fishing vessel or Bahamian ship shall not —
  - (a) accept trans-shipments from any ship or vessel, which is, or is suspected of being, involved in illegal, unreported and unregulated fishing; or
  - (b) provide assistance to any ship or vessel that is listed on a regional fisheries management organization list of ships engaged in illegal unreported and unregulated fishing, except to the extent a distress situation exists and the master has a duty to assist, according to Regulation 33 of Chapter V of the Safety Convention.
- (4) For the purpose of this Part —

**“trans-shipment”** means fisheries trans-shipment;

**“trans-shipment licence”** means any authorisation or licence for fisheries trans-shipment operations granted under the Fisheries Act, 2020 or any other relevant law or international agreement.

**120. Contravention of the requirements prescribed for a ship engaged in fisheries trans-shipment.**

- (1) If the master contravenes any requirement specified in regulations made under section 119, the Director may serve a notice on the master.
- (2) A notice referred to under subsection (1) shall —
  - (a) state the reasons for the notice; and
  - (b) prohibit —
    - (i) the receiving by a ship of fish trans-shipped from another ship,
    - (ii) the processing of fish on a ship, and
    - (iii) any other operations in contravention of the requirements specified in regulations.
- (3) The Director may revoke a notice served under subsection (1), if the Director is satisfied that —
  - (a) the contravention has been remedied; and
  - (b) the ship is otherwise compliant with the applicable requirements.
- (4) An owner or master who, without reasonable excuse, contravenes or allows a person to contravene this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

## **PART IX - SAFETY DIRECTIONS**

**121. Directions.**

- (1) The Minister or Authority may give a direction in respect of a ship, if —
  - (a) a casualty has occurred to or in the ship; and
  - (b) the casualty has created a risk —
    - (i) to safety,
    - (ii) to security,
    - (iii) of pollution; or
  - (c) the Minister or Authority considers that the direction is necessary to remove or reduce a risk.
- (2) The direction referred to under subsection (1), may be given to —

- (a) the owner of the ship;
  - (b) the manager of the ship;
  - (c) a person in possession of the ship;
  - (d) the master of the ship;
  - (e) a pilot;
  - (f) the owner of a hazardous substance in the ship;
  - (g) a salvor in possession of the ship;
  - (h) a person who is the servant or agent of a salvor in possession of the ship and who is in charge of the salvage operation;
  - (i) where the ship is in, or has been directed to move into, waters which are regulated or managed by a port authority, the relevant port authority; or
  - (j) any other person as the Minister or Authority may determine.
- (3) The direction may require the person to whom it is given to —
- (a) take or refrain from taking any specified action in relation to —
    - (i) the ship,
    - (ii) anything that is or was in the ship, forms or formed part of the ship, or is or was being towed by the ship, or
    - (iii) a person on the ship;
  - (b) ensure that —
    - (i) a ship or other thing is moved or not moved,
    - (ii) a ship or other thing is moved or not moved to or from a specified place or area or over a specified route,
    - (iii) cargo is or is not unloaded or discharged,
    - (iv) a substance is or is not unloaded or discharged,
    - (v) specified salvage measures are taken or not taken,
    - (vi) a person is put ashore or on board a ship,
    - (vii) the ship is moved or not moved to or from a specified place or area, or over a specified route in Bahamian waters,
    - (viii) the ship does not enter or use any port or a specified port or ports in The Bahamas, or
    - (ix) the ship is removed from Bahamian waters.
- (4) Notwithstanding subsection (1), the Minister may give such other directions for a ship as the Minister considers necessary and subsections (2) and (3) shall apply.
- (5) The Minister or Authority may, before giving a direction under this section —

- (a) give the person to whom it proposes to give the direction an opportunity to make representation; and
  - (b) consider any representation made.
- (6) A person to whom a direction is given under this section shall comply with the direction.
- (7) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

**122. Action in lieu of direction.**

- (1) Where the Minister or Authority gives a direction under section 121 and the direction is not likely to achieve, or has not achieved, a sufficient result, the Minister or Authority may —
  - (a) cause a ship to be detained;
  - (b) authorise a person to assume control of a ship; or
  - (c) take such other action as the Minister or Authority considers necessary.
- (2) Any person who obstructs a person acting on behalf of the Minister or Authority in relation to a direction or an action in lieu of a direction under this Part commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

**123. Variation or revocation of direction.**

If the Minister or Authority is of the opinion that a direction made under this Part is wholly or partly no longer necessary for the purpose for which it was given, the Minister or Authority may vary or revoke such direction by a further direction.

**124. Service of direction.**

A direction shall be in writing and —

- (a) served on the person or a person acting on behalf of that person; or
- (b) sent by registered post or electronic transmission to the person or a person acting on behalf of that person, at the person's usual or last known address or place of business.

### **125. Liability for costs incurred.**

- (1) A person to whom a direction is given or an action in lieu of a direction is taken under this Part shall be entitled to recover the costs of compliance with the direction from the owner of the ship.
- (2) The Minister or Authority —
  - (a) may make payments to a person on account of sums recoverable by that person under subsection (1); and
  - (b) shall recover the costs from the owner of the ship.
- (3) An entitlement to recover any sums under subsection (1) or (2) shall not permit duplicate recovery of the same costs under any other enactment or agreement.

## **PART X - CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS**

### **126. Offences in respect of ships.**

- (1) A person commits an offence if in relation to a ship, the person —
  - (a) being drunk or disorderly, has been on that account refused admission to the ship by the owner or a person acting on behalf of the owner, goes on board the ship;
  - (b) being drunk or disorderly on board the ship, is, on that account, requested by the owner or a person acting on behalf of the owner to leave the ship at any place at which that person can conveniently do so and does not comply with the request;
  - (c) attempts to gain access to a restricted area or to an area to which that person is not authorised and being warned to cease or denied such access by the owner or a person acting on behalf of the owner, goes on board the ship;
  - (d) molests or after warning by the master or other officer continues to molest any person;
  - (e) commits an act which, under this Act or any other law, is a criminal offence.
- (2) A person on board a ship, who intentionally does or causes to be done anything in the manner as to —
  - (a) obstruct or damage any part of the machinery or equipment of the ship;

- (b) obstruct, impede or molest the crew, or any member of crew, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship; or
  - (c) obstruct or impede the safe operation of the ship, commits an offence.
- (3) The master or any other officer of a ship, and any person who assists the master or other officer, may without warrant detain a person who commits an offence under subsection (1) or (2) and whose name and address are unknown to the master or officer, and if necessary, deliver that person to a police officer.

### **127. Offences in respect of passenger ships.**

In addition to an offence referred to under section 126, a person commits an offence if, in relation to a passenger ship, the person —

- (a) being drunk or disorderly, has been on that account refused admission to the ship by the owner or a person acting on behalf of the owner, and after having the amount of any fare paid, if any, returned or tendered to that person, goes on board the ship;
- (b) being drunk or disorderly on board the ship, is on that account, requested by the owner or a person acting on behalf of the owner to leave the ship at any place at which that person can conveniently do so, and after having the amount of any fare paid, if any, returned or tendered to that person, does not comply with the request;
- (c) after having been refused admission to the ship by the owner or a person acting on behalf of the owner, on account of the ship being full, and having had the amount of any fare, if any, returned or tendered to that person, goes on board the ship;
- (d) having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or a person acting on behalf of the owner, to leave the ship before it has left that place, and having had the amount of any fare, if any, returned or tendered to that person, does not comply with that request;
- (e) on arriving in the ship at a place to which he has paid a fare, knowingly and intentionally refuses or neglects to leave the ship;
- (f) on board the ship, fails when requested by the master or other officer, either to pay the required fare or show such ticket or other receipt, if any, of the payment of such fare for the ship;
- (g) deliberately crosses the ship's railings without the consent of the master or without reasonable excuse.



**128. Exclusion of drunk or disorderly persons, etc.**

- (1) The master of a passenger ship may refuse to receive on board a person who is drunk, or disorderly, or conducts himself in a manner, so as to cause harm to a person on board.
- (2) If the person referred to under subsection (1) is on board the ship, the master may put that person on shore at any convenient place.
- (3) A person referred to under subsection (1) shall not be entitled to the return of any fare that has been paid.

**129. Stowaways.**

A person who, without the consent of —

- (a) the owner;
- (b) the master; or
- (c) a person authorised by the owner or master to give such consent,

goes to sea or attempts to go to sea in a Bahamian ship, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, in addition to liability for any other offence or penalty under this Part.

**130. Unauthorised presence on board ship.**

A person, not being an authorised person or an inspector, 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 The Bahamas; or
- (b) remains on board a ship after being requested to leave by the master, a police officer or a customs officer,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

**131. Offence relating to safety.**

Where a person goes to sea in a ship without the consent of the owner, master or any other person authorised to give such consent or is conveyed in a ship under the direction of the Director, sections 89 and 90 shall apply as if that person was a seafarer employed in the ship.

**132. Master's power of arrest.**

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

### **133. Jurisdiction**

Nothing in this Part shall limit the jurisdiction of any court in The Bahamas to deal with an offence under this Part which has been committed on a Bahamian ship in a country outside The Bahamas by a person who is not a Bahamian citizen.

### **134. Regulations relating to persons on board ships.**

The Minister may make regulations to give effect to matters relating to persons on board ships.

### **135. Passenger returns to be made by the master.**

- (1) The master of a ship which carries any passenger —
  - (a) to a place in The Bahamas from any place outside The Bahamas; or
  - (b) from a place in The Bahamas to any place outside The Bahamas,shall provide to the Director in such manner as determined by the Minister —
  - (i) a return giving the total number of passengers so carried, and if so directed, differentiate the total number of any class of passengers, and
  - (ii) particulars with respect to such passengers.
- (2) A passenger shall provide the master of the ship with the information required for the purpose of the return.
- (3) If —
  - (a) the master of a ship does not make a return as required under this section, or makes a false return;
  - (b) a passenger refuses to give information required by the master for the purpose of the return required under this section, or for that purpose, gives to the master information which is known to be false or recklessly gives information which is false,the master or passenger commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

### **136. Returns of births and deaths in ships, etc.**

- (1) The master of a Bahamian ship shall —
  - (a) make a return in the prescribed form to the Director of the birth or death of a person occurring in the ship;
  - (b) conduct an investigation to determine the nature and cause of the death that occurred on the ship;

- (c) make a report to the Director with the determination of such investigation; and
  - (d) notify any such death to such person, if any, as the deceased may have named as their next of kin or designate for such notification.
- (2) A master of a foreign ship which calls at a port or place in The Bahamas in the course of a voyage shall make a return to the Director of any birth or death of a Bahamian citizen which has occurred in the ship during the voyage.
- (3) A master of a ship referred to under subsections (1) and (2) who fails without reasonable cause to make a return to the Director commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.
- (4) The Director shall send a certified copy of every return referred to under subsection (1) to the Registrar General.
- (5) The Registrar General may —
- (a) establish a marine register; and
  - (b) record the information received from the Director relating to every return referred to under subsection (1) in the marine register.
- (6) The Minister may make regulations to give effect to matters relating to births and deaths on board ships.

## **PART XI – LIMITATION AND DIVISION OF LIABILITY**

### **137. Limitation of liability.**

The Minister may make regulations to give effect to —

- (a) the PAL Convention;
- (b) the LLMC Convention; and
- (c) any other liability convention or protocol signed, ratified or acceded to by The Bahamas.

### **138. Division of loss in case of collision.**

- (1) When by the fault of two or more ships damage or loss is caused to —
- (a) one or more of the ships;
  - (b) cargoes or freight on board the ships; or
  - (c) any property on board the ships,
- the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault.

- (2) Notwithstanding subsection (1) —
  - (a) if having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
  - (b) this section shall not —
    - (i) operate so as to render any ship liable for loss or damage to which the fault of the ship has not contributed, and
    - (ii) affect the liability of a person under a contract of carriage or contract, or shall be construed as imposing on a person any liability from which the person is exempted by contract or law, or affecting the right of a person to limit that person's liability in the manner provided by law.
- (3) For the purposes of this section —

“**freight**” includes passage money and hire;

“**reference to damage or loss caused by the fault of a ship**” includes a reference to any salvage or other expenses as a result of that fault recoverable at law by way of damages.

### **139. Damages for personal injury.**

- (1) Where loss of life or personal injury is suffered by a person on board a ship as a result of the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.
- (2) Nothing in this section shall —
  - (a) be construed as depriving a person of any right of defence on which, independently of this section, the person might have relied in an action brought against that person, by the injured person, or any person entitled to sue for the loss of life; or
  - (b) affect the right of a person to limit liability in cases to which this section applies in the manner provided by law.

### **140. Right of contribution.**

- (1) If a person on board a ship suffers loss of life or personal injury as a result of 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 which exceeds the proportion in which the ship was in fault, the person 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 the ships were, respectively, in fault.
- (2) Notwithstanding subsection (1), no amount shall be recovered if, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in

the first instance as damages by the persons entitled to sue for that amount.

- (3) In addition to any other remedy provided by law, the person entitled to any contribution under this section shall, for the purpose of recovering the contribution under this Act, have the same rights and powers as the persons entitled to sue for damages in the first instance.

#### **141. Calculation of limitation for fixed claims.**

Where the amount calculated in respect of claims for loss of life or personal injury is insufficient to pay the claims mentioned therein in full, the amount calculated in respect of any other claims shall be available for payment of the unpaid balance of claims in respect of claims for loss of life or personal injury and such unpaid balance shall rank rateably with any other claims.

#### **142. Requirement for insurance or security.**

- (1) A Bahamian ship or a foreign ship anchoring or trading in or from Bahamian waters or in a port in The Bahamas shall —
  - (a) carry an insurance cover against risks of loss or damage to third parties as prescribed in regulations; or
  - (b) such other security as may be prescribed in regulations.
- (2) An owner who contravenes this section, commits an offence and is liable, on conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year, or to both.

## **PART XII - SALVAGE AND WRECK**

### **DIVISION 1 - SALVAGE**

#### **143. Reasonable salvage payable.**

- (1) Where —
  - (a) services are rendered wholly or in part within Bahamian waters in saving life from any aircraft or ship, or elsewhere in saving life from any Bahamian ship; or
  - (b) within Bahamian waters, any aircraft or ship is wrecked, abandoned, stranded or in distress and services are rendered by any person in assisting such ship or saving wreck,

the owner of the aircraft, ship, cargo or apparel saved shall pay to the salvor a reasonable amount of salvage, including expenses properly incurred, to be determined in the manner set out under this Part, and in accordance with the Salvage Convention.

- (2) Salvage in respect of the preservation of life when payable by the owner of a ship or aircraft shall have priority over all other claims for salvage.

#### **144. Exclusion from salvage.**

A person shall not be entitled to salvage remuneration —

- (a) for salvage services rendered contrary to any express and reasonable prohibition of such services on the part of the ship or aircraft or by the owner of property to which such services are rendered;
- (b) for services rendered by a tug to, or in respect of, the ship or aircraft which the tug is towing or the cargo thereof, except where such services are of an exceptional character such as are outside the scope of the contract of towage;
- (c) if the person has caused the distress giving rise to the salvage, either intentionally or through negligence;
- (d) if and to such extent as it appears that the person has concealed or unlawfully disposed of any property salvaged.

#### **145. Conditions for salvage remuneration.**

- (1) Except as otherwise provided in section 143(1)(a), no remuneration shall be due under this Act if the salvage operations had no useful result.
- (2) A salvor shall be entitled to remuneration under this Part even if the ship performing the salvage operation and the ship, cargo or other property salvaged belong to the same owner.

#### **146. Duties of salvor.**

The duties of the salvor to the owner of the ship or other property in danger are to —

- (a) carry out the salvage operation with due care;
- (b) exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a);
- (c) seek assistance from other salvors when the circumstances reasonably so require; and
- (d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the ship or other property in danger, provided that the amount of his reward shall not be prejudiced where the salvor proves that the request was unreasonable.

#### **147. Duties of owner and master.**

The duties of the owner and master of the ship or the owner of other property in danger are —

- (a) to cooperate fully with the salvor during the course of the salvage operations;
- (b) in performing the duty specified in paragraph (a), to exercise due care to prevent or minimise damage to the environment; and
- (c) when the ship or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

#### **148. Criteria for fixing salvage rewards.**

The salvage rewards shall be fixed and take into account the following criteria —

- (a) the salvaged value of the ship and other property;
- (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success achieved by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the ship, other property and life;
- (f) the time used and the expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations; and
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

#### **149. Payment of award.**

- (1) The payment of a reward fixed in accordance with section 148 shall be made by the owner of the ship and other property interests in proportion to their respective salvaged values.
- (2) Notwithstanding subsection (1), the owner of the ship shall pay the reward on behalf of all interests subject to a right of recourse of his interest against the other interests for their respective shares.
- (3) The owner of the ship who makes the payment under subsection (2) shall be entitled to satisfactory security from the other salvaged interests not

exceeding the values of their respective salvaged interests plus interest and costs.

- (4) The salvaged ship and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after completion of salvage operations until satisfactory security has been put up for the salvor's claim against the relevant ship or other property.

#### **150. Quantum of reward.**

The salvage award, excluding any interest and recoverable legal costs that may be payable on that award, shall not exceed the salvaged value of the ship and other property salvaged.

#### **151. Special compensation.**

- (1) If a salvor has carried out salvage operations in respect of a ship which by itself or its cargo threatened damage to the environment, and has failed to earn a reward under this Part equivalent at least to the special compensation assessable under subsection (2), the salvor shall be entitled to special compensation from the owner of that ship equivalent to his expenses as defined under subsection (3).
- (2) If, in the circumstances referred to under subsection (1), the salvor by his salvage operations has prevented or minimised damage to the environment —
  - (a) the special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of thirty percent of the expenses incurred by the salvor; and
  - (b) the court or person determining the award may —
    - (i) where deemed fair and just, and
    - (ii) taking into account the criteria under section 148, increase the special compensation, but in no event shall the total increase be more than one hundred percent of the expenses incurred by the salvor.
- (3) For the purposes of subsections (1) and (2), “**salvor's expenses**” mean the out of pocket expenses reasonably incurred by the salvor in the salvage operation, and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in section 148 (h), (i) and (j).
- (4) The total special compensation shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 150.
- (5) If the salvor, in carrying out the salvage operations, has acted negligently and failed to prevent or minimise damage to the environment, the salvor



may be deprived of the whole or a part of any special compensation payable under this section.

- (6) Nothing under this section shall affect any right of recourse available to the owner of the ship.

**152. Services rendered under existing contract.**

No payment is due under this Part unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger giving rise to the salvage operations arose.

**153. Salvor's maritime lien.**

- (1) Nothing under this Part shall affect a salvor's maritime lien under this Act or any other relevant Act.
- (2) Notwithstanding subsection (1), the salvor may not enforce his maritime lien when reasonable security for his claim, including interest and costs, has been provided.

**154. Disputes as to salvage.**

- (1) Any disputes as to salvage, whether of life or property, shall be heard and determined by and before a receiver or the court as provided for under this Part.
- (2) Where a dispute relating to salvage has been determined by a receiver or the court, any party aggrieved by the decision may appeal, in like manner as in the case of any other judgement.

**155. Determination of salvage.**

A receiver shall determine the amount of salvage, where the —

- (a) parties to the dispute consent;
- (b) value of the property salvaged does not exceed twenty thousand dollars;
- (c) amount claimed does not exceed six thousand dollars.

**156. Costs.**

Where in any proceedings for salvage, the claimant recovers an amount less than the maximum amount that might be claimed before a receiver, then unless the court certifies that the proceedings were unfit to be determined by a receiver, the claimant shall —

- (a) have no costs, charges or expenses incurred by him in the prosecution of his claim; and

- (b) pay to the other parties such costs, charges and expenses, if any, as the court directs.

**157. Valuation of salvaged property.**

- (1) Where any dispute relating to salvage arises, a receiver or the court shall —
  - (a) on the application of either party, appoint a valuer to value the property; and
  - (b) when the valuation has been made, give copies of the valuation to both parties.
- (2) A copy of the valuation signed by the valuer and certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceedings.
- (3) There shall be paid in respect of the valuation by the party applying for it, such fee as the receiver or court may direct.

**158. Seizure and detention of salvaged property.**

- (1) A receiver may seize property alleged to be liable for salvage (referred to as “detained property”), and detain it until —
  - (a) payment is made for salvage;
  - (b) process is issued for the arrest or detention of the property by the court; or
  - (c) security is given to the receiver’s satisfaction for such salvage, fees and costs.
- (2) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds ten thousand dollars and any question is raised as to the sufficiency of the security, to the satisfaction of the court.
- (3) Any security given for salvage under this section may be enforced by the court in the same manner as if bail had been given in the court.

**159. Sale of detained property.**

- (1) A receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention and the amount is —
  - (a) not disputed and payment of the amount due is not made within twenty days after the amount is due;
  - (b) disputed but no appeal lies from the court and payment is not made within twenty days after the decision of the court; or

- (c) disputed and an appeal lies from the decision of the court to some other court and within two months of the decision of the court of first instance, neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.
- (2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of expenses, fees and salvage, and any excess shall be paid to the owners of the property or any other person entitled to the proceeds or in the absence of any such owner or person into the Consolidated Fund.

**160. Voluntary agreement to pay salvage.**

- (1) Where services are rendered for which salvage is claimed and the salvor voluntarily agrees to abandon his lien on the ship and the cargo, and property alleged to be salvaged, the master or owner, whether principal or agent —
  - (a) entering into a written agreement attested by two witnesses to abide by the decision of the court or of any court of competent jurisdiction in another country; and
  - (b) giving security in that behalf to an amount agreed by the parties to the agreement,

that agreement shall bind the ship, cargo and property, and the respective owners of the ship, cargo and property, and the owners for the time being thereof for the salvage which may be adjudged to be payable to the extent of the security given and in accordance with the Salvage Convention.

- (2) Where security has been given for the performance of any agreement made under this section, the person with whom the security is lodged shall deal with it as the court adjudicating the agreement directs.
- (3) Where any agreement which corresponds to an agreement made 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 shall abide by the decision of a court of competent jurisdiction in The Bahamas, the court may adjudicate and enforce that agreement.

**161. Limitation period for salvage proceedings.**

- (1) An action relating to payment in respect of salvage services may be brought within two years from the date when the salvage services were terminated.
- (2) An action for indemnity by a person liable may be instituted after the expiration of the limitation period under subsection (1), save that any action shall be brought within two years from the date on which that right accrued.

## DIVISION 2 - WRECK REMOVAL CONVENTION

### 162. Wreck Removal Convention.

The Authority may make regulations to give effect to the Wrecks Convention and its articles, regulations and annexes, in particular —

- (a) providing for the reporting, locating and marking, and removal of wrecks including conditions regarding removal, and removal in default;
- (b) prescribing fees;
- (c) providing for liability for costs, limitation periods and suspended ship's registry under bareboat charter;
- (d) providing for compulsory insurance, wreck removal insurance certificate and third parties' rights against insurers;
- (e) respecting detention of ship and penalties.

## DIVISION 3 - RECEIVER OF WRECK

### 163. Competent Authority for wreck.

- (1) The Minister is the competent authority for all matters relating to wreck in The Bahamas.
- (2) The Minister may, appoint by notice published in the *Gazette*, any person to be a receiver of wreck and to perform the duties of a receiver under this Part.

### 164. Expenses and fees of receiver.

- (1) A receiver shall be paid —
  - (a) for expenses incurred by him in the exercise of his duties; and
  - (b) any fees as the Minister may determine.
- (2) The receiver —
  - (a) shall, in addition to all other rights and remedies for the recovery of expenses and fees, have the same rights and remedies in respect thereof that a salvor has in respect of salvage due; and
  - (b) may, if the property in respect of which any such expenses and fees are due is not under arrest in any court, seize or detain the property until —
    - (i) the expenses and fees are paid, or
    - (ii) security is given to his satisfaction.

- (3) Where a dispute arises as to the amount payable to the receiver in respect of expenses or fees, the dispute shall be determined by the Minister, and the Minister's decision shall be final.

#### **165. Duty of receiver.**

- (1) When a ship is wrecked, stranded or in distress at a place on or near the coast of The Bahamas, the receiver shall, being informed of the stranding or distress —
  - (a) immediately proceed to the place, and on arrival, take command of all persons present; and
  - (b) assign such duties and give such directions as the receiver deems fit for the preservation of the ship, the lives of the persons belonging to the ship and the cargo and apparel of the ship.
- (2) Notwithstanding subsection (1), the receiver shall not interfere with the management of the ship, unless the master requests his assistance.
- (3) Subject to subsection (2), a person who disobeys the directions of the receiver, commits an offence and is liable, on conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding one year, or to both.

#### **166. Powers of receiver.**

- (1) A receiver may, for the preservation of shipwrecked persons or the ship, cargo or wreck, require —
  - (a) such persons as deemed necessary to assist;
  - (b) the master, or other person having charge of a ship near at hand to give such assistance together with the crew, or ship, as may be practicable; and
  - (c) the use of any machinery, vehicle or equipment that is obtainable.
- (2) A receiver may —
  - (a) cause to be arrested and kept in custody any person who plunders, creates disorder or obstructs the preservation of a ship wrecked, stranded or in distress on or near the coast of The Bahamas, until the person can be taken before the court;
  - (b) use reasonable force for the suppression of plundering, disorder or obstruction; and
  - (c) request all persons in the vicinity to assist him.

#### **167. Passage over adjoining land.**

- (1) Where a ship is stranded, wrecked or in distress, any person may for the purpose of —

- (a) rendering assistance to the ship;
- (b) saving the lives of shipwrecked persons; or
- (c) saving the cargo or equipment of the ship,

pass and repass, with or without vehicles and equipment, over any adjoining land without being subject to interruption by the owner or occupier, unless there is some public road equally convenient, and also deposit on the land any cargo or other article recovered from the ship but shall not do any more damage than is reasonably necessary.

- (2) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred under this section shall be a charge on the ship, cargo or articles in respect of or by which the damage is caused and the amount payable in respect of such damage shall, in the case of a dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage determined and recoverable under this Part.
- (3) An owner or occupier of any property who hinders or obstructs any person exercising the rights conferred under subsection (1), commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding two years, or to both.

#### DIVISION 4 - DEALING WITH WRECK

##### **168. Duties of finder, etc. of wreck.**

- (1) If any person finds and takes possession of any wreck —
  - (a) in Bahamian waters; or
  - (b) outside Bahamian waters and brings it within Bahamian waters,the person shall as soon as possible give notice to the receiver that he has found or taken possession of the wreck and deliver the wreck to the receiver.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding double the value of the wreck and to forfeit any claim to salvage in relation to the wreck.

##### **169. Concealment of wreck.**

- (1) Where a ship is wrecked, stranded, or in distress at any place on or near the coasts of The Bahamas or any tidal water within Bahamian waters, any cargo or other articles belonging to or separated from the ship which are washed on shore or otherwise lost or taken from the ship shall be delivered to the receiver.

- (2) If a person, whether the owner or not —
  - (a) conceals or keeps possession of any cargo or article referred to under subsection (1); or
  - (b) refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver,the person commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.
- (3) A receiver or any person authorised by the receiver may take any such cargo or article, if necessary by force, from any person who refuses to deliver it.

**170. Notice of wreck.**

- (1) The receiver shall within forty-eight hours of taking possession of any wreck —
  - (a) make a record describing the wreck and any marks by which it is distinguished and transmit the record to the nearest customs office; and
  - (b) if there is reason to believe that the value of the wreck exceeds five thousand dollars, transmit a similar description to the Minister.
- (2) The record made by the receiver under subsection (1)(a) shall be kept available for inspection by any person during reasonable hours without charge.

**171. Claims of wreck by owner.**

- (1) Where a wreck is in the possession of the receiver, and its owner establishes a claim to the wreck to the satisfaction of the receiver within six months from the time the wreck came into the receiver's possession, the owner shall, on the payment of the customs duty, if any, salvage, fees and expenses due, be entitled to the wreck or the proceeds of the sale of the wreck.
- (2) Where any wreck is proved to the satisfaction of the receiver to belong to a foreign owner, the appropriate consular officer in The Bahamas of the country to which the owner of the wreck belongs shall, in the absence of the owner or his agent, be deemed to be the agent of the owner so far as relates to the custody and disposal of the wreck.

**172. Sale of wreck.**

- (1) Where a wreck is in the possession of a receiver, and it is, in his opinion, for the advantage of all parties to sell the wreck, or the wreck consists of goods of a dangerous or perishable nature, the receiver may immediately sell the wreck.
- (2) The proceeds of sale of the wreck shall, after defraying the expenses of the sale and levying customs duty, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

**DIVISION 5 - UNCLAIMED WRECK**

**173. Sale of unclaimed wreck.**

Where a wreck is in the possession of a receiver and no owner establishes a claim to it within six months after it came into his possession, the receiver may sell the wreck and pay the proceeds of sale to the Government after —

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

**174. Discharge of receiver.**

On the delivery of wreck to the owner or the payment to him of the proceeds of the sale under this Part, the receiver shall be discharged from all liability in respect thereof, but the delivery shall not prejudice or affect any question which may be raised by third parties concerning the wreck.

**DIVISION 6 - OFFENCES IN RESPECT OF WRECK**

**175. Taking wreck to foreign port.**

- (1) A person commits an offence if any of the following are taken into any foreign port and sold —
  - (a) any ship stranded, derelict or otherwise in distress found on or near the coasts of The Bahamas or any tidal water within Bahamian waters;
  - (b) any part of the cargo or equipment of, or anything belonging to, the ship; or
  - (c) any wreck found within Bahamian waters.
- (2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding five years.



**176. Interference with wreck.**

- (1) A person who —
  - (a) impedes or hinders or attempts to impede or hinder the saving of —
    - (i) any ship stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water,
    - (ii) any part of the cargo or equipment of such ship, or
    - (iii) any wreck;
  - (b) wrongfully takes or removes —
    - (i) any part of any ship stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water,
    - (ii) any part of the cargo or equipment of such ship, or
    - (iii) any wreck,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.
- (2) The master of a ship may repel any person who commits or attempts to commit an offence under subsection (1).

**177. Powers of entry etc.**

- (1) Where the receiver has reason to believe that —
  - (a) any wreck is being concealed by or is in the possession of a person who is not the owner of it; or
  - (b) any wreck is being otherwise improperly dealt with,

the receiver may apply to a magistrate for a search warrant.
- (2) Where a search warrant is granted under subsection (1), the receiver may —
  - (a) enter any house, or other premise or any ship; and
  - (b) search for, seize and detain any wreck.
- (3) If any seizure of wreck is made under this section in consequence of information given by any person to the receiver, the person giving the information shall be entitled, by way of salvage, to such sum, not exceeding one thousand dollars.

**DIVISION 7 - RELEASE FROM CUSTOMS CONTROL**

**178. Release of goods from customs control.**

- (1) The Comptroller of Customs shall, subject to taking security —

- (a) for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination; and
  - (b) permit all goods saved from any ship stranded or wrecked on the ship's outward voyage to be returned to the port at which they were shipped.
- (2) For the purpose of this section “**goods**” includes wares and merchandise.

## DIVISION 8 - REMOVAL OF WRECKS

### **179. Removal of wrecks in port.**

- (1) Where any ship is sunk, stranded or abandoned in, or near any port under the control of the Port Authority in the manner as in the opinion of the Port Authority to be, or likely to become, an obstruction or danger to navigation, the Port Authority may —
  - (a) take possession of, and raise, remove or destroy the whole or any part of the ship and any other property;
  - (b) mark the location of the ship or part of the ship and any other property until it is raised, removed or destroyed;
  - (c) sell, in such manner as the Port Authority thinks fit, the ship or part of the ship so raised or removed and any other property recovered in the exercise of the powers conferred under paragraph (a) or (b);
  - (d) deduct any expenses incurred in relation to the sale by the Port Authority from the proceeds of the sale.
- (2) A location may be marked by —
  - (a) buoys, lights or other physical devices;
  - (b) the transmission of information about the location.
- (3) Any surplus of the proceeds of a sale shall be held by the Port Authority on trust for the persons entitled thereto except that any surplus shall be forfeited to the Port Authority if the persons entitled thereto fail to make a claim within one year of sale.
- (4) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale shall be made under this section until at least seven days' notice of the intended sale has been given by advertisement in a local newspaper circulating in or near the area over which the Port Authority has control.
- (5) The owner of the property shall, before the sale of the property, be entitled to have it delivered on payment of its fair market value.
- (6) The market value of property for the purposes of subsection (5) shall —
  - (a) be the value agreed between the Port Authority and the owner; or

- (b) failing agreement, be the value determined by the Minister.
- (7) The sum paid to the authority in respect of any property under subsection (5) shall be treated as the proceeds of sale of the property.
- (8) Any proceeds of sale arising under this section from the sale of a ship and any other property recovered from the ship shall be as prescribed in regulations.
- (9) This section is without prejudice to any other powers of the Port Authority.
- (10) For the purposes of this section, “**other property**” means any article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the ship.

## **PART XIII – INSPECTION AND ENFORCEMENT**

### **DIVISION 1 - ENFORCEMENT OFFICERS**

#### **180. Appointment of surveyors, marine investigators, and inspectors.**

The Minister may —

- (a) appoint a person as a surveyor, a marine investigator or an inspector; and
- (b) revoke the appointment of a person appointed under paragraph (a).

### **DIVISION 2 – SURVEYS AND INSPECTIONS**

#### **181. Surveys and inspections.**

- (1) Subject to such conditions as the Director may determine, surveys and inspections of a ship may be carried out by an officer of a recognised organization, surveyor or inspector.
- (2) An inspector, a marine investigator or an officer of a recognised organization —
  - (a) shall report to the Director —
    - (i) on the nature and causes of any casualty or damage which any ship has or is alleged to have sustained or caused,
    - (ii) whether any requirements, restrictions or prohibitions imposed under this Act have been complied with or contravened,
    - (iii) on improvement and prohibition notices; and
  - (b) may act as a surveyor, when authorised by the Director.

## **182. Production of ships documents, etc.**

- (1) The inspector, surveyor, marine investigator or authorised officer may —
  - (a) require the owner, master, manager or any member of the crew to produce any books, certificates or other documents relating to the ship, persons on board the ship, or any member of the crew;
  - (b) require the master to produce a list of all persons on board the ship, and take copies of or extracts from books, certificates or other such documents;
  - (c) muster all persons on board any ship, including the crew; and
  - (d) require the master to appear and give any explanation concerning the ship or its crew or the books, certificates or other documents produced or required to be produced.
- (2) Where a person, on being required by an inspector, surveyor, marine investigator or authorised officer —
  - (a) to produce any book, certificate or other document, fails without reasonable excuse, to produce such book, certificate or other document;
  - (b) to muster the crew, impedes the muster; or
  - (c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer,the person commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

## **183. Powers of inspectors in relation to premises and ships.**

- (1) For the purposes of this section, a surveyor, marine investigator or authorised officer shall be deemed an inspector.
- (2) An inspector may —
  - (a) for the purposes of this Act —
    - (i) enter any premises, or
    - (ii) board any Bahamian ship or foreign ship in Bahamian waters;
  - (b) on entering any premises or on boarding a ship take any other person authorised for the purpose by the Director, and any required equipment or materials;
  - (c) make such examination and investigation as considered necessary;
  - (d) give a direction requiring that the premises or ship or any part of the premises or ship or anything in the premises or ship be left undisturbed, for the purposes of any examination or investigation under paragraph (c);

- (e) take such measurements and photographs and make such recordings as considered necessary for the purpose of any examination or investigation under paragraph (c);
- (f) view any relevant videos or security materials;
- (g) take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
- (h) in the case of any article or substance which is found in the premises or ship and which appears to have caused or is likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless that is in the circumstances necessary;
- (i) in the case of any article or substance referred to under paragraph (h), take possession of it and retain it for all or any of the following purposes —
  - (i) to examine it and do to it anything which the inspector has power to do,
  - (ii) to ensure that it is not tampered with before any examination is completed,
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any regulations made under this Act;
- (j) require any person who is able to give any information relevant to any examination or investigation under paragraph (c) to —
  - (i) attend at a place and time specified by the inspector or authorised officer,
  - (ii) answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector considers necessary, and
  - (iii) sign a declaration of the truth of the answers given;
- (k) require the production of, and inspect and take copies of, or of any entry in —
  - (i) any books, certificates or documents required to be kept under this Act, and
  - (ii) any other books, certificates or documents considered necessary to review for the purposes of any examination or investigation under paragraph (c);
- (l) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in

relation to which that person has responsibilities as the inspector considers necessary;

- (m) to do any other act or thing as shall reasonably be required to be done, as determined by the Director.
- (3) The Minister may, by regulations, make provision as to the procedure to be followed in connection with the taking of samples under subsection (2) (g) and subsection (5) and the way in which the samples that have been so taken are to be dealt with.
- (4) Where an inspector proposes to exercise the power conferred by subsection (2)(h), the inspector shall, if so requested by a person who at the time is present in, and has responsibilities in relation to, the premises or ship, cause anything which is to be done by that power to be done in the presence of that person unless the inspector considers that it being done in that person's presence would be prejudicial to the safety of that person.
- (5) Where, under the power conferred by subsection (2)(i), an inspector takes possession of any article or substance found in any premises or ship, the inspector shall leave, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that the inspector has taken possession of it under that power, and before taking possession of any such substance under that power an inspector shall, if it is practicable to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.
- (6) No answer given by a person in pursuance of a requirement imposed under subsection (2)(j) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings under section 184(1)(c) in respect of a statement in or a declaration relating to the answer, and a person nominated under subsection (2)(j) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

#### **184. Offences.**

- (1) A person who —
  - (a) intentionally obstructs an inspector in the exercise of any power available to the inspector under section 183;
  - (b) without reasonable excuse, does not comply with a requirement imposed under section 183 or prevents another person from complying with the requirement;

- (c) without prejudice to the generality of paragraph (b), makes a statement or signs a declaration which is known to be false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made under subsection (2)(j) of section 183,

commits an offence and is liable on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both.

- (2) Nothing in section 183 shall be taken to compel the production by any person of a document of which that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in a court.

### DIVISION 3- IMPROVEMENT NOTICES AND PROHIBITION NOTICES

#### **185. Improvement notices.**

- (1) Where an inspector is of the opinion that a person —
  - (a) is contravening this Act or regulations made under this Act; or
  - (b) has contravened this Act or regulations made under this Act in circumstances that make it likely that the contravention will continue or be repeated,the inspector may serve on that person an improvement notice.
- (2) An improvement notice shall —
  - (a) specify the provision identified under this Act or any regulations made under this Act, and the relevant particulars of the contravention; and
  - (b) require the person on whom the notice is served to remedy the contravention in question or the matters occasioning it within such period as may be specified in the notice.
- (3) The period specified under subsection (2)(b) shall not expire before the end of the period within which a notice can be given under section 188 requiring questions relating to the improvement notice to be referred to the Director.

#### **186. Prohibition notices.**

- (1) Where, as regards any relevant activities which are being or are likely to be carried on board a ship, an inspector is of the opinion that, as so carried on or as likely to be so carried on, the activities involve or will involve the risk of —
  - (a) personal injury;

- (b) pollution; or
- (c) any other damage,

the inspector may serve on the master or the owner a prohibition notice.

- (2) A prohibition notice shall —
    - (a) state that the inspector is of the opinion referred to under subsection (1);
    - (b) specify the matters which said opinion give or will give rise to the risk referred to under subsection (1);
    - (c) where there is reason to believe that any of the matters involve or will involve a contravention of this Act or regulations made under this Act, state that the inspector is of the opinion referred to under subsection (1), specify the provisions related to the opinion and give particulars and reasons for the opinion; and
    - (d) direct —
      - (i) that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served,
      - (ii) that the ship shall not go to sea, or
      - (iii) both subparagraph (i) and (ii),
- unless the matters specified in the notice under paragraph (b), and any associated contraventions referred to under paragraph (c), have been remedied.
- (3) A direction specified in a prohibition notice under subsection (2)(d) shall take effect —
    - (a) at the end of a period specified in the notice; or
    - (b) immediately, if the direction is given under subsection (2)(d)(ii) or the notice so declares.

### **187. Provisions supplementary to sections 185 and 186.**

- (1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates.
- (2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.
- (3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served —



- (a) the notice may be withdrawn by an inspector before the end of the period specified under section 185(2)(b) or 186(3); and
- (b) the period so specified may be extended or further extended by an inspector when an appeal in respect of the notice is not pending under section 188.

**188. References of notices to appeal.**

- (1) Any question as to whether —
  - (a) any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 185(2)(a) or 186(2)(b) or (c) in connection with any opinion formed by the inspector constituted a valid basis for that opinion; or
  - (b) directions included in an improvement notice or a prohibition notice in pursuance of section 187(1) were reasonable,shall, if the person on whom the improvement notice or prohibition notice was served so requires, by a notice given to the inspector within twenty-one days from the service of the improvement notice or prohibition notice, be referred to the Director for that question to be decided by him.
- (2) Where a notice is given by a person in accordance with subsection (1) —
  - (a) in the case of an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the Director is published to the parties or the reference is abandoned by that person;
  - (b) in the case of a prohibition notice, the giving of the notice shall have the effect of so suspending the operation of the prohibition notice if, but only if, on the application of that person the Director so directs, and then only from the giving of the direction.
- (3) Where, on a reference under this section, the Director decides as respects any reason, matter or direction to which the reference relates, that in all the circumstances —
  - (a) the reason or matter did not constitute a valid basis for the inspector's opinion; or
  - (b) the direction was unreasonable,the Director shall cancel or affirm the notice with such modifications as in the circumstances thought fit, and in any other case the Director shall affirm the notice in its original form.

**189. Offences.**

A person who contravenes any requirement imposed by —

- (a) an improvement notice commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars;
- (b) a prohibition notice commits an offence and is liable on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both.

## **PART XIV - INVESTIGATIONS OF MARINE CASUALTIES OR MARINE INCIDENTS**

### **190. Marine casualty or marine incidents.**

- (1) Where any of the following casualties has occurred —
  - (a) the loss or presumed loss, stranding, grounding, abandonment of or damage to a ship; and
  - (b) a loss of life or serious personal injury caused by fire on board or by a casualty to a ship or ship's boat or such other casualties involving a ship or ship's boat; or
  - (c) any damage caused by a ship,and, at the time it occurred, the ship was a Bahamian ship or a foreign ship in Bahamian waters, the Minister may cause a preliminary review or a marine investigation into the casualty by a marine investigator.
- (2) The Minister may, whether a preliminary review or a marine investigation into the casualty has been, or has not been, conducted under subsection (1), cause a formal investigation to be conducted and may appoint a Wreck Commissioner for that purpose.
- (3) The Minister or Director may recover the costs of an investigation from the owner of the ship.

### **191. Marine investigations regulations.**

The Minister may make regulations to give effect to marine investigations (referred to as marine investigations regulations), in particular —

- (a) respecting casualties or incidents;
- (b) imposing requirements as to the reporting of a casualty or an incident;
- (c) prohibiting, pending investigation, access to or interference with a ship or ship's boat involved in a casualty or an incident;
- (d) authorising a person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have

- access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any ship or ship's boat;
- (e) providing for the procedure to be followed for preliminary reviews or marine investigations;
  - (f) providing for the publication of reports and other information relating to casualties or incidents.

### **192. Formal investigation.**

- (1) A Wreck Commissioner holding a formal investigation into a marine casualty or incident shall consist of a Judge, Chief Magistrate or a counsel and attorney of at least ten years standing, who shall be assisted by one or more assessors, with the requisite skills and knowledge in maritime matters, appointed by the Minister.
- (2) Where in any formal investigation, a question as to the cancellation or suspension of the certificate issued to an officer is likely to arise, there shall be at least two assessors.
- (3) The Wreck Commissioner shall have the same powers conferred on an inspector under this Act.
- (4) For the purposes of this Part, sections 9 to 13 of the Commissions of Inquiry Act (*Ch. 184*) shall apply to a formal investigation as if the formal investigation was an inquiry under that Act in relation to which —
  - (a) the Wreck Commissioner was the President; and
  - (b) an order had already been made under section 10 of that Act.
- (5) A Wreck Commissioner may make such order with regard to the costs of a formal investigation as the commissioner thinks just, and any costs shall be paid by the person ordered to pay such costs.
- (6) Any costs directed by an order to be paid shall be paid to the court.
- (7) At the conclusion of a formal investigation, the Wreck Commissioner shall submit a written report on the investigation to the Minister.

### **193. Re-hearing and appeal.**

- (1) Where a formal investigation has been conducted under section 192, the Minister may order the whole or part of the case to be re-heard, if —
  - (a) new and important evidence which could not be produced at the investigation has been discovered; or
  - (b) it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice have occurred.
- (2) The re-hearing referred to under subsection (1) may be conducted —

- (a) by the person who conducted the initial formal investigation, or by the court; and
  - (b) in accordance with rules made under section 194 which applied to the initial formal investigation.
- (3) Where the Commissioner cancels or suspends the certificate of a person or has found any person at fault, then, if no application for an order under subsection (1) has been made or such an application has been refused, the person or any other person who, having an interest in the investigation has appeared at the hearing and is affected by the decision or finding, may appeal to the court.
- (4) The rules of re-hearings under section 194 which are held by the court, or of appeals to the court, may require the court, subject to such exceptions, if any, to hold the re-hearing or hear such appeal with the assistance of one or more assessors.

**194. Rules as to formal investigations and re-hearings.**

- (1) The Minister may make rules for the conduct of formal investigations under section 192 and for the conduct of any re-hearing under section 193 which is not held by a court.
- (2) Without prejudice to the generality of subsection (1), rules may provide for —
  - (a) the appointment and summoning of assessors;
  - (b) the manner in which any facts may be proved;
  - (c) the persons allowed to appear; and
  - (d) the notices to be given to persons affected.

## **PART XV – INTERNATIONAL CONVENTIONS**

**195. International conventions.**

- (1) The international conventions or regulations set out in the Schedule at the date of the commencement of this Act, shall —
  - (a) if incorporated into the laws of The Bahamas under the repealed Merchant Shipping Act, and the repealed Merchant Shipping (Maritime Claims Limitation of Liability) Act, continue to have the force of law, subject to regulations made by the Minister under the repealed Acts;
  - (b) if given effect to in terms of the repealed Merchant Shipping Act, and the repealed Merchant Shipping (Maritime Claims Limitation of Liability) Act, continue to have the force of law, subject to such

exemptions, restrictions, and modifications as may have been determined by the Minister under the repealed Acts;

- (c) if signed, accepted, ratified or acceded to by The Bahamas but not given effect to, have the force of law when it was made by the Minister.
- (2) If an international convention, after the date of the commencement of this Act, is modified by an amendment made under the enabling clause or article of that international convention, the Minister shall as soon as practicable, after the entry into force of the amendment, give effect to the amendment by —
  - (i) altering this Act, if applicable,
  - (ii) making new, or amending existing, regulations or notices made under this Act.

#### **196. Contravention of international conventions.**

- (1) Where, in respect of a Bahamian ship there is any contravention of any of the international conventions or regulations set out in the Schedule an inspector may suspend the certificate of registry of the ship until the contravention is rectified.
- (2) The Minister may, by notice published in the *Gazette*, amend, or add to, the Schedule.

## **PART XVI - LEGAL PROCEEDINGS AND MARITIME LIENS**

#### **197. Contravention of regulations.**

A person who commits an offence under this Act and any regulations or rules made under this Act, or contravenes any of the international conventions or regulations set out in the Schedule, is liable on conviction to the penalty provided under this Act or regulations or rules made under this Act.

#### **198. General penalty.**

A person who commits an offence under this Act for which no specific penalty is provided, or in respect of which a penalty is provided in addition, is liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding seven years.

#### **199. Liability of beneficial owner.**

- (1) A person who has a beneficial interest in any ship or a share in a ship which is registered in the name of another person as owner, shall be liable,

together with the registered owner for any pecuniary penalty imposed on the owners of registered ship under this Act.

- (2) The Authority may institute proceedings for the enforcement of any penalties against the person holding such interest and the registered owner or either of them, jointly, or jointly and severally.

## **200. Liability of agents.**

Where an owner or charterer of a ship appoints or nominates a person resident in The Bahamas to act as his agent or otherwise on his behalf for the management for the time being of the ship, and that person acting on behalf of the owner or charterer does anything or omits to do anything in respect of the ship, in contravention of this Act or any regulations made under this Act, the agent is liable to the same extent as the owner or charterer would have been liable for such contravention had the owner or charterer done or omitted to do that thing and was within the jurisdiction of the court.

## **201. Jurisdiction in case of offences.**

- (1) An offence under this Act that is committed —
  - (a) in The Bahamas; or
  - (b) on a Bahamian ship,shall be —
  - (i) deemed to have been committed within The Bahamas, and
  - (ii) prosecuted in the court.
- (2) Any complaint under this Act shall be deemed to have arisen in any place in The Bahamas where the person complained against is located.
- (3) The jurisdiction under this Part shall be in addition to and not in derogation of any jurisdiction or power of a court under any other law.

## **202. Jurisdiction over ship lying off coast.**

A court which has jurisdiction in an area that is situated on the coast of the sea or abuts on or projects into any bay, channel, or other navigable waters shall have jurisdiction, in relation to offences under this Act over —

- (a) any ship being on or lying or passing off, the coast of the sea or abuts on or projects into any bay, channel, or other navigable waters; and
- (b) any person on board the ship or belonging to the ship.

### **203. Jurisdiction in case of offence on board Bahamian ships.**

Notwithstanding any law to the contrary, where any person on board a Bahamian ship does any act, or makes any omission which would be considered an offence if done within The Bahamas, that person commits an offence and may be tried in any court having jurisdiction in The Bahamas in relation to that offence.

### **204. Detention of foreign ship that has occasioned damage.**

- (1) Where —
- (a) an injury has in any part of the world been caused to any property belonging to a person resident in The Bahamas, by a foreign ship; or
  - (b) a claim is made for damages by or on behalf of a person resident in The Bahamas, for personal injuries, including fatal injuries, against the owners of a foreign ship,

and at any time that ship is found in a port or place in The Bahamas, the court may, on application issue an order directing any person named to —

- (i) detain the ship until the owner, master or agent of the ship, has satisfied any claim for the damage or injury, or has given security to the satisfaction of the court, and
  - (ii) pay all costs and damages that may be awarded.
- (2) An applicant who claims under subsection (1) to have occasioned damage shall show the court on a balance of probabilities, that the injury complained of has been caused by the misconduct or want of skill of the master or seafarers of the foreign ship.
- (3) A person to whom an order is directed under this section shall detain the ship accordingly.
- (4) Where it appears that before an application can be made under this section, the ship in respect of which the application is to be made will have departed from The Bahamas —
- (a) the ship may be detained for such time as will allow the application to be made; and
  - (b) the result thereof to be communicated to the officer detaining the ship,
- and that officer shall not be liable for any costs or damages for the detention unless the detention is proved to have been made without reasonable grounds.
- (5) In any legal proceedings in relation to any damage or injury, the person giving security shall be —
- (a) made the defendant; and

- (b) stated to be the owner of the ship that has occasioned the damage or injury.

**205. Conveyance of offender and witnesses to The Bahamas.**

- (1) When a complaint is made to a consular officer that an offence —
  - (a) against property or person has been committed at any place outside The Bahamas by a master or seafarer who at the time when the offence was committed was employed in a Bahamian ship; or
  - (b) on the high seas has been committed by a master or seafarer belonging to a Bahamian ship,

the consular officer may inquire into the complaint on oath, and may if the case so requires take any steps in the consular officer's power for the purposes of placing the master or seafarer under the necessary restraint and of sending the master or seafarer as soon as practicable in safe custody to a port in The Bahamas.

- (2) The consular officer may order the master of a Bahamian ship bound for a port in The Bahamas to receive and afford a passage and subsistence during the voyage to the alleged offender and to any witnesses.
- (3) Notwithstanding subsection (2), the master shall not be required to receive —
  - (a) more than one alleged offender for every 100 tons of the ship's net tonnage; or
  - (b) more than one witness for every 50 tons of the ship's net tonnage.
- (4) The consular officer shall endorse upon the agreement of the ship such particulars with respect to any alleged offender or witness sent in the ship as the Director may require.
- (5) The master of a ship into whose charge an alleged offender has been committed, shall, on the ship's arrival in The Bahamas, hand over the offender into the custody of a police officer who shall charge and take the alleged offender before a court.
- (6) The expense of imprisoning an alleged offender, and conveying the alleged offender and witnesses to a port in The Bahamas in any manner other than in the ship to which the offender and witnesses respectively belong shall, where not paid as part of the costs of the prosecution, be paid out of the Consolidated Fund.

**206. Depositions in legal proceedings where witness cannot be produced.**

- (1) Where, the evidence of any person is required in the course of any legal proceedings before a court or any person authorised by law or by consent



of the parties to receive evidence in relation to the subject matter of the proceedings, and it is proved that the witness cannot be found in The Bahamas, any deposition that the witness may have previously made on oath in relation to the same subject matter shall be admissible in evidence in the proceedings.

- (2) Notwithstanding subsection (1) —
  - (a) if the deposition was made in The Bahamas, it shall not be admissible in any proceedings instituted in The Bahamas; and
  - (b) if the proceedings are criminal proceedings it shall not be admissible unless it was made in the presence of the person accused or the person's counsel and attorney.
- (3) A deposition so made shall be authenticated by the seal of the court or the signature of the consular officer before whom it is made, and the court or consular officer shall certify that the accused or his counsel and attorney was present when the deposition was taken.
- (4) No proof may be given of the signature or official character of the person appearing to have signed any such deposition.
- (5) In criminal proceedings a certificate under this section shall, unless the contrary is proved, be sufficient evidence that the accused or his counsel and attorney was present in the manner certified.
- (6) Nothing in this section affects the admissibility in evidence of depositions under any other law or the practice of the court.

#### **207. Power to detain ship.**

- (1) The Minister or Authority may appoint detaining officers.
- (2) Where a ship is to be or may be detained under this Act, a detaining officer may detain the ship.
- (3) If a ship which has been detained, or in respect of which notice of detention or an order for detention has been served on the master, proceeds to sea before it is released by the detaining officer or the Authority, the master, owner, and any person who sends the ship to sea, commits an offence.
- (4) If a ship goes to sea in contravention of subsection (3), and takes to sea a detaining officer who is on board the ship in the execution of his duty, the owner and master commit an offence, and shall each be liable to pay all expenses of, and incidental to, the officer being so taken to sea.
- (5) Where a ship —
  - (a) is to be detained, a customs officer shall refuse to clear that ship outwards, and

- (b) may be detained, a customs officer may refuse to clear that ship outwards.
- (6) Where a foreign ship is detained, a copy of the notice or order for detention shall be served on the consular officer of the country to which the ship belongs if one is present at the port of detention.

**208. Seizure and sale of ship if penalty not paid.**

- (1) Where the owner of a ship has been convicted of an offence under this Act and a fine has been imposed, and the fine is not paid immediately, the ship may be seized and, after reasonable notice, may be sold by a customs officer or any person authorised for that purpose in writing by the Minister, and the customs officer or person so authorised may, by bill of sale, give to the purchaser a valid title to the owner's interest in the ship.
- (2) Any surplus remaining from the proceeds of sale after paying the amount of the fine and the costs of conviction, together with costs of seizure and sale, shall be paid to the person who was the owner of the ship before the sale or to the mortgagee.

**209. Jurisdiction of Authority in respect of release from forfeiture or mitigation of penalties.**

- (1) The Authority may —
  - (a) direct that any ship or share in a ship or any goods detained, seized or forfeited under this Act, be released or delivered to the owner thereof; or
  - (b) mitigate or remit any penalty incurred under this Act, not being a sentence imposed after conviction by a court of law.
- (2) Notwithstanding subsection (1), if the owner of any ship, share or goods referred to under subsection (1)(a) accepts such conditions the owner shall not thereafter be entitled to institute or maintain any action or other proceedings for damages on account of the detention, seizure or forfeiture.

**210. Proceedings on forfeiture of a ship.**

- (1) Where any ship has either wholly or as to any share in the ship become liable to forfeiture under this Act —
  - (a) any commissioned naval or military officer; or
  - (b) any person appointed by the Minister for the purposes of this section,may seize and detain the ship and bring the ship for adjudication before the court.

- (2) Where a ship is subject to adjudication under this section, the court may—
  - (a) adjudge the ship and its equipment to be forfeited to the Government; and
  - (b) make such order as the court thinks just.
- (3) No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, even if the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.
- (4) If the court is not so satisfied as to the seizure or detention, the court may award costs and damages to the party aggrieved and make such other order as the court thinks just.

#### **211. Distress on ship for sums ordered to be paid.**

If a court makes an order directing payment to be made of any seafarer's wages, fines or other sums of money, and—

- (a) the party so directed to make the payment is the master or owner of the ship; and
- (b) the payment is not made in accordance with the order,

the court may, in addition to any other power for enforcing payment, direct—

- (i) the amount remaining unpaid to be levied in distress, and
- (ii) the arrestment and sale of the ship and its tackle, furniture and apparel.

#### **212. Admissibility of documents in evidence.**

- (1) Where a document is declared to be admissible in evidence, that document shall on its production from the proper custody, be admissible in evidence in any court or before any person authorised by law or by consent of the parties to receive evidence, and subject to all just exceptions shall be conclusive evidence of the matters stated in it.
- (2) A copy of or extract from any document referred to under subsection (1) is admissible in evidence, if—
  - (a) it is proved to be an examined copy or extract; or
  - (b) it purports to be signed and certified as a true copy or extract by the officer in whose custody the original document was entrusted.
- (3) A person who is required or authorised to issue, grant, give or make any document under this Act, shall provide a certified copy of the document to any person applying at a reasonable time for such certified copy or extract, and on payment of a prescribed fee.

- (4) If an officer wilfully certifies any document as being a true copy or extract knowing the same not to be a true copy or extract, that officer commits an offence.
- (5) If a person —
  - (a) forges the seal, stamp or signature of any document; or
  - (b) tenders in evidence any document with a false or counterfeit seal, stamp or signature thereto, knowing the same to be false or counterfeit,

that person commits an offence and if the document has been admitted in evidence, the court or the person who admitted it may on request direct that it shall be impounded and kept in the custody of an officer of the court or any other person for such period or subject to such conditions as the court or person thinks fit.

### **213. Service of documents and notice.**

- (1) A document or notice authorised or required to be served on any person, may be served on the person —
  - (a) by delivering it to him;
  - (b) by leaving it at his last known address; or
  - (c) by sending it by post or electronic transmission to him or a person authorised to act on his behalf, at his last known address or place of business.
- (2) A document required to be served on the master of the ship may be served —
  - (a) if there is a master, by electronic transmission or leaving it for the master on board the ship with the person who is, or appears to be, in command or charge of the ship; and
  - (b) if there is no master —
    - (i) on the manager of the ship,
    - (ii) if there is no manager, on any agent of the owner, or
    - (iii) if there is no agent, by affixing a copy of the document to the mast of the ship or some other conspicuous place on board the ship.
- (3) A person who obstructs the service of a document or notice required to be served on the master of a ship commits an offence, and the owner or master is liable if the owner or master authorised, or had knowledge of, the obstruction.

#### **214. Protection of officers.**

An officer appointed under this Act, shall have immunity from suit in respect of anything done in good faith or admitted to be done in good faith in the exercise or performance, or in the purported exercise or performance, of any power or duty conferred or imposed on that officer or person under this Act.

#### **215. Limitation of actions.**

- (1) Subject to the relevant convention set out in the Schedule and any regulations made under that convention, no action shall be brought to enforce any claim or lien against a ship or its owners for —
  - (a) any damage or loss to another ship, its cargo or freight, or any property on board; or
  - (b) damages for loss of life or personal injuries suffered by any person on board the ship,  
caused by the fault of the former ship, whether that ship is wholly or partly in fault, unless proceedings in the action are commenced within two years from the date when the damage or loss or injury was caused.
- (2) No action may be brought under this Act to enforce any contribution for an overpaid proportion of any damages for loss of life or personal injuries unless proceedings in the action are commenced within one year from the date of payment.
- (3) Any court having jurisdiction to deal with an action under subsection (1) —
  - (a) may extend any period to such extent and on such conditions as it thinks fit; and
  - (b) 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 sea 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.

#### **216. Sources of maritime liens.**

- (1) The following claims shall be secured by maritime liens on a ship —
  - (a) wages and other sums due to the master, officers and other members of the ship's complement for their employment on the ship;
  - (b) port, canal, and other waterway dues and pilotage dues and any outstanding fees payable for the ship under this Act;

- (c) claims against the owner for loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the ship;
  - (d) claims against the owner, based on tort and not capable of being based on contract, for loss of or damage to property occurring, whether on land or on water, in direct connection with the operation of the ship;
  - (e) claims for salvage, wreck removal and contribution in general average.
- (2) For the purpose of this section, “owner” includes the bareboat charterer or other charterer, manager or operator of the ship.

### **217. Priority of maritime liens in general.**

Subject to section 219, the sources of maritime liens specified under section 216 shall take priority over mortgages registered under this Act or any preferential rights arising under laws and regulations relating to insolvency in The Bahamas or elsewhere and no other claim shall take priority over such mortgages or rights.

### **218. Order of priority of maritime liens.**

- (1) The sources of maritime liens specified under section 216 shall —
- (a) rank in the order listed under that section, save that liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to the liens were performed;
  - (b) in relation to the liens specified under —
    - (i) section 216(1)(a), (b), (c) and (d), rank *pari passu* as between themselves, and
    - (ii) section 216(1)(e), in the inverse order of the time when the claims secured by the lien accrued.
- (2) Any claim for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed.
- (3) Any claim for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

### **219. Possessory liens.**

A lien exercisable by a ship-builder or repairer of a ship or the appurtenances thereof in his possession shall take priority over all claims arising after such

possession was taken but shall be postponed to the claims that were created before the time of taking possession.

## **220. Claims to proceeds of sale of ship.**

Notwithstanding anything to the contrary under this Act or in any other law, any sum awarded by a court as —

- (a) costs arising out of any proceedings in respect of the arrest of a ship; or
- (b) the subsequent sale of the ship,

including charges or expenses incurred in effecting the arrest or sale of the ship, shall have priority over all claims in payment out of the proceeds of the sale or of any money paid into court for the release of the ship from that arrest and, subject to such payment, the court shall determine the order of priority of the claims in accordance with this Part.

## **221. Dispute resolution.**

The Minister may make rules for the resolution of disputes relating to maritime between the parties, and in particular —

- (a) providing for claims relating to —
  - (i) the seafarers employment agreements inclusive of injury or death of seafarers and damage or loss of the seafarers' personal belongings,
  - (ii) the injury or death of passengers and damage or loss of passengers' luggage,
  - (iii) interpretations of charter parties or any contract of affreightment and bills of lading,
  - (iv) carriage of goods by sea,
  - (v) salvage,
  - (vi) towage of ships,
  - (vii) interpretation of shipping documents in relation to ownership of vessels, mortgages, marine pollution and removal of wreck;
- (b) prescribing the method of arbitration including the determination of arbitration, appointment of assessors, place of arbitration, governing law, costs of the reference and the award, including the remuneration of the arbitrator;
- (c) prescribing any other matter or thing as determined by the Minister.

**222. Case stated on question of law.**

- (1) An arbitrator may in the course of making a determination in a dispute refer a question of law arising from the dispute to the Supreme Court, by way of case stated for the opinion of that court.
- (2) A Judge of the Supreme Court may consider and determine any question of law so referred pursuant to subsection (1).

**PART XVII - MISCELLANEOUS**

**223. General power to exempt or dispense.**

- (1) Any regulations made under this Act may —
  - (a) make different provision for different descriptions of ship or for ships of the same description in different circumstances; and
  - (b) make provision for exempting any ship or ships from any of the regulations made under this Act, or for varying such regulations with regard to the ship or ships,  
subject to such conditions as the Minister or Authority thinks fit.
- (2) Where any differing provisions or exemptions or variances under subsection (1) are made in respect of an international convention applicable to The Bahamas, such provision shall only be made if, and to the extent that, it is permitted under the terms of that convention.
- (3) The Authority shall maintain a record of all differing provisions, exemptions and variances granted and such records shall be made available to the Minister.

**224. Offence relating to forms.**

Where a person prints, sells or uses any document purporting to be a form approved by the Minister or Director knowing that the document —

- (a) is not the form approved; or
- (b) has not been prepared or issued by the Authority,

that person commits an offence and is liable on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both.

**225. Retention of documents and data.**

Where no specific retention period is indicated for documents and data under this Act or regulations made under this Act, documents and data shall be retained



by the Authority for a period of seven years in a format as determined by the Director.

**226. Exemption from stamp duty.**

An instrument used for carrying into effect Part II, and any instruments which are required to be made in a form approved or determined by the Minister, or prescribed in regulations made under this Act, if made in that form, shall be exempt from stamp duty.

**227. Regulations.**

- (1) The Minister may make regulations generally for giving effect to the provisions of this Act or in particular, to make provision for the implementation of any or all of the conventions referred to in the Schedule.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations —
  - (a) prescribing fees to be charged under this Act;
  - (b) prescribing general health and safety precautions to —
    - (i) protect the safety of ships, and the health and safety of persons on board ships while in The Bahamas, and
    - (ii) protect the waters, shorelines and the natural environment of The Bahamas;
  - (c) prescribing forms;
  - (d) providing for reciprocal services relating to foreign ships;
  - (e) providing for the regulation of yachts including compliance with the Safety Convention and yachts codes;
  - (f) respecting regional and international agreements;
  - (g) prescribing matters relating to persons on board ships.

**228. Transitional provisions.**

- (1) On the commencement of this Act —
  - (a) any notice, certificate or licence issued under the repealed Merchant Shipping Act, 1976 or the repealed Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989 continues to be valid under the terms and for the period stated in the notice, certificate or licence;
  - (b) all subsidiary legislation made under the repealed Merchant Shipping Act, 1976 or the repealed Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989, and in force before the commencement of this Act, so far as it is not inconsistent with this

Act continues in force, until subsidiary legislation is made under this Act;

- (c) any person appointed by the Minister or Authority under the repealed Merchant Shipping Act, 1976 shall be deemed appointed under this Act;
  - (d) any staff appointed by the Director under the repealed Merchant Shipping Act, 1976 shall be deemed appointed under this Act;
  - (e) a ship registered in The Bahamas under the repealed Merchant Shipping Act, 1976 is deemed to be a ship registered in The Bahamas under this Act.
- (2) Any reference in any other written law to the Merchant Shipping Act or the Merchant Shipping (Maritime Claims Limitation of Liability) Act shall be a reference to this Act.
  - (3) Where the provisions of any enactments relating to shipping is inconsistent with the provisions of this Act, the provisions of this Act shall take precedence over such enactments.

#### **229. Repeals.**

- (1) The Merchant Shipping Act, 1976 is repealed.
- (2) The Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989 is repealed.
- (3) The Merchant Shipping Regulations, 1976 is repealed.

## **SCHEDULE**

### **(section 195)**

#### **INTERNATIONAL CONVENTIONS**

1. International Convention for the Unification of Certain Rules relating to the Arrest of Sea-Going Ships, 1952.
2. Convention on the International Maritime Satellite Organization (INMARSAT), 1976.
3. Convention on Facilitation of International Maritime Traffic (FACILITATION or FAL), 1965.
4. International Convention on Load Lines (LL), 1966 and the 1988 Protocol.
5. International Convention on Tonnage Measurement of Ships (TONNAGE), 1969.
6. International Convention on Civil Liability for Oil Pollution damage, 1969 (CLC) and the Protocols of 1976 and 1992.
7. International Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties (INTERVENTION), 1969 and the Protocol of 1973.
8. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND), 1971, Protocol of 1976 and Protocol of 1992.
9. Convention on the International Regulations for Preventing Collisions at Sea (COLREGS), 1972.
10. International Convention for Safe Containers (CSC), 1972.
11. International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, as modified by the Protocol of 1978 and Protocol of 1997 (Annexes I, II, III, IV, V & VI).
12. International Convention for the Safety of Life at Sea (SOLAS), 1960.
13. International Convention for the Safety of Life at Sea (SOLAS), 1974 and the Protocols of 1978 and 1988.
14. Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974 and 1976 Protocol.
15. International Convention on Limitation of Liability for Maritime Claims (LLMC), 1976.

16. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978.
17. International Telecommunication Convention (Montreux), 1965 and the Radio Regulations, 1968.
18. International Health Regulations (Geneva), 1969.
19. Maritime Labour Convention, 2006.
20. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), 1988 and the 1988 Protocol.
21. International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990.
22. International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM), 2004.
23. International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS Convention), 2001.
24. International Convention on Civil Liability for Bunker Oil Pollution Damage (Bunker Convention), 2001.
25. Nairobi International Convention on the Removal of Wrecks (Wrecks Convention), 2007.
26. Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2010.
27. Convention on Private International Law (Bustamante Code), 1928.
28. United Nations Convention on the Law of the Sea (UNCLOS), 1982.
29. International Code for the Security of Ships and Port Facilities.