

CHAPTER 268**MERCHANT SHIPPING**

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CHAPTER 268

MERCHANT SHIPPING

An Act to make provision for the registration of ships; for the control, regulation and orderly development of merchant shipping; to make provision for the proper qualification of persons employed in the sea service; to regulate the terms and conditions of service of persons so employed; and for matters connected with and incidental to the foregoing.

*[Assent 29th November, 1976]
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5 of 1982
6 of 1983
5 of 1988
6 of 1989
7 of 1989
17 of 1989
7 of 1990
16 of 1991
5 of 1992
18 of 1995
34 of 2000
10 of 2001
S.I. 83/2001
S.I. 141/2001
1 of 2003*

PART I PRELIMINARY

1. This Act may be cited as the Merchant Shipping Act. Short title.
2. In this Act, unless the context otherwise requires — Interpretation.
 - “allotment note” means a note mentioned in section 96;
 - “apprentice” means an apprentice to the sea service;
 - “approved” means approved by the Director;
 - “Bahamian ship” means a ship for the time being registered as a Bahamian ship under section 3;
 - “Bahamian waters” means all areas of water subject to the jurisdiction of The Bahamas, and includes territorial waters, internal waters and archipelagic waters;
 - “bareboat chartered” means leased without master and crew and for a given period of time; *6 of 1989, s. 2 and Sch.*
 - “certificate of competency” means a certificate issued to a person under Part III showing his competency as a master or a seaman, and includes a licence issued under section 69;

“certificate of registry”, in relation to a Bahamian ship, means the certificate granted under section 16 in respect of that ship;

“Classification Society” means a society nominated as such under subsection (2) of section 66;

5 of 1979, s. 2.

“consular officer” means a person appointed to be, or to perform the functions of, a Bahamian consular officer in a foreign country;

“contravene”, in relation to any provision, includes a failure to comply with that provision;

“the Court” means the Supreme Court exercising its admiralty jurisdiction;

“crew agreement” means an agreement between the master of a ship and the crew thereof entered into in pursuance of section 80;

“customs officer” means any public officer assigned to customs duties in the Customs Department of Government;

18 of 1995, s. 2.

Ch. 283.

“the director” means the Director of Maritime Affairs appointed under The Bahamas Maritime Authority Act;

“foreign country” means any country or place other than The Bahamas and “foreign port” shall be construed accordingly;

“foreign-going ship” means a ship employed in voyages beyond the limits of a home-trade voyage;

“foreign ship” means a ship which is registered under the law of a foreign country;

“Government” means the Government of The Bahamas;

“Government ship” means a ship or vessel that is owned by and is in the service of the Government;

“gross tonnage” is the gross tonnage stated in the certificate of registry of a ship, or, where a ship is not registered, the figure found in accordance with the rules for the time being in force for the measurement of ships in respect of tonnage;

“home-trade ship” means a ship employed solely in the home-trade;

“home-trade voyage” means the carriage of goods or passengers on a sea voyage solely from any place on the coast of The Bahamas to any other place or places in The Bahamas or to another place or places on the coast of East Florida between the limits of Jupiter Inlet in the north to Key West in the South;

“inspector” means the Director, a surveyor and a Nautical Inspector appointed under section 169; *7 of 1989, s. 3 and Sch.*

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

“master” includes every person (except a pilot) having command or charge of a seaplane or other craft when it is on or in close proximity to the water;

“Minister” means the Minister for the time being responsible for Maritime Affairs;

“motor ship” includes a steamship and any other ship propelled by machinery, but not a sailing ship;

“official log book” means the log book kept in respect of a ship under section 143;

“original registrar”, in relation to a Bahamian ship or its certificate of registry, means the registrar by whom the ship was first registered and the certificate first issued, or his successor in office;

“owner” as applied to an unregistered vessel means the actual owner, and as applied to a registered ship means the registered owner and, where any such vessel or ship is bareboat chartered, “owner” includes the person so chartering the vessel or ship; *6 of 1989, Sch.*

“Part” means a Part of this Act;

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

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

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

“pilot” means any person not belonging to a ship who has the conduct thereof;

“port” includes a port or harbour properly so called, 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” means the person or authority responsible for the provision of port facilities in any port;

“proper officer”, in relation to any function, means any officer appointed to perform, and engaged in the performance of, that function;

“proper return port” has the meaning assigned thereto by section 162;

*34 of 2000, s.
2(b).*

“provisional certificate of registry” in relation to a Bahamian ship, means the certificate granted under section 26 in respect of that ship;

“receiver” means a receiver of wreck appointed under section 216;

“register” means a register of Bahamian ships kept under the provisions of this Act, and “registered” shall be construed accordingly;

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

5 of 1992, s. 2.

“registrar” means —

- (a) the Director; or
- (b) a person appointed under subsection (2) of section 5 to be a registrar of Bahamian ships;

“sailing ship” means a ship having sufficient sail area to be capable of being navigated under sail, whether fitted with mechanical means of propulsion or not;

“seaman” includes every person (except a master or pilot or an apprentice duly contracted or indentured and registered) employed or engaged in any capacity on board any ship;

“section” means a section of this Act;

“ship” includes every description of vessel used in navigation which is not propelled by oars, and in Parts II and VII includes every description of lighter, barge or like vessel however propelled;

“shipping casualty” means an event specified in subsection (1) of section 241;

“short international voyage” means an international voyage —

- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety; and
- (b) which does not exceed 600 nautical miles in length between the last port of call in the country where the voyage begins and the final destination, no account being taken of any deviation by the ship from her intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner, nor the charterer (if any), of the ship could reasonably prevent or forestall,

“surveyor” means a person appointed or authorized under section 66 to survey and measure ships;

“tonnage regulations” means the regulations made under subsection (1) of section 63;

“vessel” includes any ship or boat, or any other description of vessel used in navigation;

“wages” includes emoluments;

“wreck” includes flotsam, jetsam, lagan, and derelict found in, or on the shores of, the sea or of 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 such a ship; and any portion of the personal property on board such a ship when it was lost, stranded, abandoned or in distress; but does not include wreck to which the Abandoned Wreck Act applies; Ch. 274.

“wreck commissioner” means a person appointed as such under subsection (1) of section 243.

PART II REGISTRATION, ETC., OF SHIPS

Registration

Registration of ships.

3. (1) A ship shall on application be registered as a Bahamian ship if she is wholly owned by persons or authorities (whether singly or in association) who are —

- (a) citizens of The Bahamas; or
- (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.

34 of 2000,
s. 3(a).

(2) Subject to subsection (3) of this section, any ship may, regardless of the nationality of her owners, register as a Bahamian ship if she is a ship of 1600 or more net register tonnage and is engaged in the foreign-going trade:

16 of 1991, s. 2
and Sch.

Provided that subject as aforesaid where a ship is —

- (i) seagoing and engaged in the foreign-going trade; or
- (ii) ordinarily characterised or classified as a yacht and is not engaged in commercial activities (other than under a charter for the carriage of persons for pleasure).

and would be registered but for being less than 1600 net register tonnage the Minister may approve of the registration of that ship if it is owned otherwise than as mentioned in subsection (1).

34 of 2000,
s. 3(b).

(3) No ship shall be first registered otherwise than by, or with the permission of, the Minister if the completion of her first construction occurred more than twelve years before the commencement of the year in which application for registration is first made under this Act, and the Minister may refuse to register, or allow the registration of, any such ship.

6 of 1989, s. 2 and
Sch.

(4) A ship registered under the law of a foreign country shall on application, if she is bareboat chartered to any citizen of The Bahamas or to any body corporate

established under the laws of The Bahamas, in addition to being registered under the law of that foreign country, be registered for the period of the bareboat charter as a Bahamian ship and the registrar shall notify the proper officer of that foreign country of such registration as a Bahamian ship.

(5) Any ship that is under construction whose keel has been laid — *34 of 2001, s. 3(c).*

(a) which is wholly owned by persons or authorities (whether singly or in association) 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 of her owners, when built would be a ship of 1600 or more net tonnage,

may be temporarily registered as “a ship being built” and sections 7 to 9 shall not apply in the case of such a ship.

(6) Any ship of 1600 or more net tonnage, which is not a ship to which subsection (1) applies, may regardless of the nationality of her owners be registered as a home-trade ship with the express permission of the Minister. *34 of 2000, s. 3(c).*

(7) For the purposes of this Part, “ship” includes any structure capable of use in a marine environment which the Director or registrar may consider appropriate for registration as a ship. *34 of 2000, s. 3(c).*

4. A ship which is not registered under section 3 shall not be recognised in The Bahamas or for the purpose of this Act as a Bahamian ship or as being entitled to the rights and privileges accorded to Bahamian ships. *Unregistered ship not recognised.*

5. (1) The Director shall be registrar of Bahamian ships and the register kept by the Director shall contain the particulars, required to be entered in a register by this Act, in respect of all ships registered by him and of all ships registered by other registrars. *Registrars of Bahamian ships. 5 of 1992, s. 4.*

(2) The Minister may appoint a Deputy Director of Maritime Affairs or such other person as the Minister considers fit to be a registrar of Bahamian ships at any port, whether within or outside The Bahamas.

(3) The register kept by a registrar appointed under subsection (2) shall contain the particulars, required to be entered in a register by this Act, in respect of all ships registered by the registrar and, if the Director so requires, of all ships registered by any other registrar.

Registers.

6. Every registrar of Bahamian ships shall keep a register and entries therein shall be in accordance with the following provisions —

- (a) the property in a ship shall be divided into sixty-four shares;
- (b) subject to the provisions of this Act with respect to joint owner or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this paragraph shall not affect the beneficial title of any number of persons or of any body corporate represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship or in any share therein in respect of which they are registered; and
- (e) a body corporate may be registered as owner by its corporate name.

Survey and
measurement of
ships.

7. (1) Every ship shall, before being registered, be surveyed by a surveyor, and her tonnage ascertained in accordance with the tonnage regulations, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Director, and such certificate shall be delivered to a registrar for registration.

(2) Subject to subsection (3) of this section, where a ship which is not registered as a Bahamian ship has been measured and registered as a foreign ship, or has already been measured without having been so registered, the surveyor may, for the purposes of subsection (1) of this section, accept and use any suitable figures of measurement contained in the latest register relating to that ship, or, in the case of an unregistered ship, in the latest certificate of measurement relating to that ship.

(3) Before acting under subsection (2) of this section, a surveyor shall satisfy himself that there have been no changes of measurement since the making of the register or certificate which he proposes to use, and where any such changes have been made, he shall measure the ship to the extent made necessary by those changes.

8. The owner or master of a Bahamian ship shall advise the director of any alteration, change or reconstruction of the ship which could affect her classification, measurement, tonnage or load line, within thirty days from the completion of the alteration, change or reconstruction setting forth the details thereof.

Change of construction between survey.

7 of 1989, s. 3 and Sch.

9. (1) Every ship, before being registered, shall be marked permanently and conspicuously to the satisfaction of the surveyor as follows —

Marking of ship.

- (a) her name shall be marked on each of her bows, and her name and her port of registry shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters being of a length not less than four inches and of proportionate breadth;
- (b) her official number and the number denoting her register tonnage shall be cut on her main beam or some other conspicuous place;
- (c) a scale denoting her draught of water in feet or in decimetres shall be marked on each side of her stem and of her stern post, in Roman capital numerals or in figures, by having the numerals or figures cut in and painted white or yellow on a dark ground, or in any other approved manner, so that the lower edge of each numeral or figure coincides with the draught line denoted thereby, and in the case of a scale —

- (i) denoting draught in feet, the numerals or figures shall be at intervals of one foot and not less than six inches in length;
- (ii) denoting draught in decimetres, the numerals or figures shall be at intervals of two decimetres and not less than one decimetre in length, and if equal metres are marked the numerals or figures denoting the metres shall be followed by a capital letter “M”.

(2) The Minister may exempt any class of ship from all or any requirement of this section.

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

7 of 1989, s. 3 and Sch.

(4) If he is satisfied that a ship is insufficiently or inaccurately marked, an inspector may suspend the certificate or registry of the ship until the insufficiency or inaccuracy has been remedied to his satisfaction.

Application for registration.

10. An application for registration of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of a corporation by its agent, and the authority of any agent shall be in writing:

Provided that a registrar may accept a telex confirmation of an agent's authority if no written authorization is produced.

Declaration of ownership.

11. A person shall not be entitled to be registered as owner of a Bahamian ship or of a share therein until he, or in the case of corporation a person authorized on behalf of the corporation, has made and signed a declaration of ownership referring to the ship as described in the certificate of the surveyor and containing the following particulars —

- (a) his full names and address; and
- (b) a statement of the number of shares in the ship of which he or the corporation, as the case may be, is entitled to be registered as owner.

12. On the first registration of a ship, the following evidence shall be produced in addition to the declaration of ownership —

Evidence to be produced.

- (a) in the case of a ship built in The Bahamas, a builder's certificate, that is to say, a certificate signed by the builder of the ship, and containing a true account of the proper denomination and of the tonnage of the ship as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built, and if there has been any sale the bill of sale under which the ship, or a share therein, has become vested in the applicant for registration;
- (b) in the case of a ship built outside The Bahamas, the same evidence as in the case of a ship built in The Bahamas, unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be produced, in which case there shall be required only the bill of sale under which the ship or share therein became vested in the applicant for registration;
- (c) in the case of a ship previously registered under the law of a foreign country —
 - (i) official permission from a proper officer in that country for the transfer of registration or a statement that such permission by the law of that country is not required;
 - (ii) a recent certificate by such officer of any mortgages or liens recorded on the register of ships of such country:

5 of 1982, s. 5.

Provided that the Minister may direct that the requirements of the foregoing subparagraphs be waived upon it being shown to his satisfaction that the owner has attempted to comply with obtaining such documents but that due to wholly exceptional and abnormal circumstances prevailing in that foreign country inordinate delay has occurred due to reasons beyond the control of the owner, but subject to any direction as to the production of such other like document as the Minister may further direct;

*6 of 1989, s. 2 and
Sch.; S.I. 83/
2001.*

*34 of 2001, s. 4;
S.I. 83/2000.*

- (d) in the case of a ship condemned by any competent court, an official copy of the condemnation;
- (e) in the case of a ship registered under the law of a foreign country and bareboat chartered to any citizen of The Bahamas or to any body corporate established under the laws of The Bahamas, a recent certificate by a proper officer in that foreign country of the temporary transfer and of any liens recorded in respect of that ship on the register of ships of such country;
- (f) in the case of a ship to which subsection (5) of section 3 applies (“a ship being built”) —
 - (i) a builder’s certificate being a certificate signed by the builder containing a true account of the proper estimated denomination of the ship, the estimated tonnage of the ship, the time and place where the ship is being built and the name of the person (if any) on whose account the ship is being built;
 - (ii) evidence of title which shall be the bill of sale, under which the ship being built, or a share therein, has become vested in the applicant for registration where there has been a sale, and where there has been no sale, other evidence of the title satisfactory to the registrar which may include the builder’s certificate.

Particulars to be
entered.

13. As soon as the requirements of this Act preliminary to registration have been complied with, the registrar shall enter into his register the following particulars respecting the ship —

- (a) the name of the ship;
- (b) the official number of the ship;
- (c) the details comprised in the surveyor’s certificate;
- (d) the particulars respecting her origin stated in the declaration of ownership;
- (e) the name and description of her registered owner or owners, and if there are more owners than one the proportions in which they are interested in her,

and if the registrar is not the Director he shall forthwith transmit a copy of the entry to the Director.

14. On the registration of a ship, the registrar shall forward to the Director for retention by him the surveyor's certificate, the builder's certificate, any bill of sale of the ship previously made, the copy of the condemnation, if any, and all declarations of ownership.

Documents to be retained by registrar.

15. The port of registry of every Bahamian ship shall be Nassau.

Port of Registry.

Certificate of Registry

16. (1) On the completion of the registration of a ship, and upon payment of the fees prescribed by section 17, the registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register.

Certificate of registry.
34 of 2000, s. 5.

(2) Notwithstanding anything to the contrary in section 17, the certificate of registry issued under paragraph (ii) of the proviso to subsection (2) of section 3 in respect of a vessel ordinarily characterised or classified as a yacht may be cancelled by the original registrar upon the failure to pay the annual fee due in respect of the registration.

16 of 1991, s. 2
and Sch.

17. (1) Subject to subsection (4), a registration fee shall be payable in respect of every ship registered as a Bahamian ship.

Registration and annual fees.
34 of 2000, s. 6(a).
34 of 2000, s. 6(b).

(2) Subject to subsections (3) and (4) of this section, upon the registration of a Bahamian ship in any year, and thereafter before 1st January of each subsequent year, there shall be paid to the registrar in respect of that ship an annual fee, and in the event of a failure to pay the fee in respect of any ship the registrar may suspend the certificate of registry of that ship:

Provided that when a ship is first registered after 31st January in any year, the annual fee payable for that year shall be calculated at the rate of one twelfth of the annual fee for that ship for each complete month in that year in which the ship is a registered ship.

(3) The Minister may by order or regulations prescribe registration and annual fees and may make different provisions for different descriptions of a ship or for ships of the same description in different circumstances.

34 of 2000,
s. 6(c).

(4) Notwithstanding anything contained in this section, no registration fee or annual fee shall be payable for any ship of 500 net register tons or less which is registered under subsection (1) of section 3 and which is also registered under the Boat Registration Act or the Water Skiing and Motor Boat Act, or licensed under the Port Authorities Act.

Ch. 277.

Ch. 278.

Ch. 269.

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

*34 of 2000,
s. 6(d).*

(6) Where a ship has been remeasured and the tonnage ascertained and registered as a result of the remeasurement the new tonnage shall form the basis of calculation of the annual fee.

5 of 1992, s. 5.

(7) The Minister may by Order vary any fee prescribed in this section.

Use of certificate.

18. 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 whatever, had or claimed by any owner, mortgagee, or other person to, on or in the ship.

Penalty for use of
improper
certificate.

19. If the master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence.

Power to grant
new certificate.

20. A registrar, on the delivery up to him of the certificate of registry of a ship, may grant a new certificate.

Loss of
certificate.

21. Where a certificate of registry of a ship is mislaid, lost or destroyed, the original registrar or the Director shall grant a new certificate of registry in its place and, pending the issue of the new certificate, a consular officer, upon receiving a declaration, from the master of the ship or some other person having knowledge of the facts of the case, stating such facts and names and descriptions of the registered owners of the ship to the best of the declarant's knowledge and belief, may grant a provisional certificate, containing a statement of the circumstances under which it was granted, which shall be valid for a period of sixty days from the date of issue.

22. The registrar may terminate the registration of any ship registered as a Bahamian ship —

Power to terminate.
34 of 2000, s. 7;
S.I. 83/2001.

- (a) on application by the owner;
- (b) in the case of a bareboat charter, on the ship no longer being eligible to be registered;
- (c) if having regard to any requirement of this Act, the Merchant Shipping (Oil Pollution) Act, or any instrument made under them, relating to —
 - (i) the condition of the ship or its equipment so far as it is relevant to its safety or to any risk of pollution;
 - (ii) the safety, health and welfare of persons employed or engaged in any capacity on board the ship,

S.I. 83/2001.

he considers that it would be inappropriate for the ship to be registered;

- (d) on the ship being destroyed;
- (e) if the ship is registered in a foreign country:

Provided that this paragraph shall not apply to a Bahamian ship that is bareboat chartered and registered under the laws of a foreign country for the duration of the charter if the registrar has been notified by the proper officer of that foreign country and the registrar has given his permission for such foreign registration under section 25;

- (f) where any annual fee has remained unpaid for a period of more than 3 months.

(2) Where a registrar has terminated registration under paragraph (a) of subsection (1), he must, and in all other cases, he may —

- (a) immediately issue a closure transcript to the owner of the ship; and
- (b) notify any mortgagees of the closure of the registration.

(3) On receipt of a closure transcript the owner must immediately surrender the ship's certificate of registry to the registrar for cancellation.

23. (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry, by any registrar who has been advised of the change of ownership.

Endorsement of change of ownership.

(2) The master shall, for the purpose of such endorsement by a registrar, deliver the certificate of registry to the registrar as soon as practicable after the change occurs.

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

Certificate to be
surrendered if
ship lost or no
longer a
Bahamian ship.

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

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

5 of 1982, s. 4.

(3) The owner of a Bahamian ship who wishes to transfer the ship to a foreign registry may do so if there are no claims outstanding in favour of the Government of The Bahamas and shall submit to the original registrar —

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

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

Suspension of certificate upon registration in foreign country. *6 of 1989, s. 2 and Sch.*

(2) Upon notification of such registration from the proper officer, the registrar shall for that period suspend the certificate of registry of that ship and shall notify the proper officer of the suspension and of any mortgage instrument which is recorded in the register in respect of that ship.

26. (1) When a ship is first registered —

Provisional registration. *34 of 2000, s. 8.*

- (a) she shall be considered provisionally registered; and
- (b) the certificate of registry issued shall be provisional.

(2) A Bahamian ship shall be issued a certificate of registry and her provisional certificate of registry shall be cancelled when all of the conditions required by subsection (3) are either met or waived in accordance with subsection (4).

(3) The conditions which must be met before a provisionally registered ship may become no longer provisionally registered are —

- (a) in the case of a ship previously registered in a foreign country, the following are produced to a registrar or the Director —
 - (i) a deletion certificate or equivalent from the foreign registry; and
 - (ii) a certificate from the foreign registry indicating that there are no outstanding mortgages, liens or other encumbrances recorded against the ship;
- (b) a carving and marking note is completed by an inspector or surveyor and is produced to a registrar or the Director; and
- (c) any other conditions required, by a registrar or the Director, to be met prior to the end of a ship's provisional registration, have been met.

(4) The registrar or Director may in exceptional circumstances waive any of the conditions required by subsection (3).

(5) A provisional certificate of registry may be issued for six months in the first instance and may be extended by a registrar or the Director for such time as he thinks fit.

(6) A provisional certificate of registry shall entitle a ship to all the privileges of a Bahamian ship.

Temporary pass
in lieu of
certificate.

27. Where it appears to the Minister that by reason of special circumstances it would be desirable that permission should be granted to a ship to pass without being previously registered from a port in The Bahamas to a port outside The Bahamas, the Minister may grant a pass accordingly, and that pass for the time, and within the limits, therein mentioned, shall have the same effect as a certificate of registry.

Transfers and Transmissions

Transfer of ship
or share.

28. (1) A registered ship or share therein shall be transferred by bill of sale.

(2) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of a registrar, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

Registration of
transfer.

29. (1) Every bill of sale for the transfer of a registered ship, or of a share therein, when duly executed shall be produced to a registrar, and the registrar shall thereupon enter in the register the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made with the day and hour thereof.

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

Transmission on
death or
bankruptcy.

30. (1) Where the property in a registered ship or share therein is transmitted to another person on the death or bankruptcy 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 (in this

section called declaration of transmission) identifying the ship and a statement of the manner in which, and the person to whom, the property has been transmitted;

- (b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in a court as proof of the title of persons claiming under a bankruptcy;
- (c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract therefrom.

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

31. Where any court, whether under section 30 or otherwise, orders the sale of any ship or share therein, the order of the court shall contain a declaration of vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof, and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

Transfer of ship or share by order of court.

32. The Court may, if it thinks fit (without prejudice to the exercise of any other power of the Court) on the application of any interested person, make an order prohibiting for a time specified any dealing with a ship or any share therein, and the Court may make the order on any terms or conditions the Court thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the

Power of court to prohibit transfer.

case as the justice of the case requires, and the registrar without being made a party to the proceeding shall, on being served with an order or an official copy thereof, obey the same.

Mortgages

Mortgage of ship
or share.

33. (1) A registered ship or share therein may be made a security for a loan or other valuable consideration and on the production of the prescribed mortgage instrument the original registrar shall record it in the register.

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

5 of 1982, s. 6.

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

*6 of 1989, s. 2 and
Sch.*

(4) No mortgage instrument shall be recorded in the register pursuant to subsection (1) in respect of any bareboat chartered ship which has been registered under the law of a foreign country and which has an existing registration as a Bahamian ship pursuant to the provisions of subsection (4) of section 3.

Discharge of
mortgage.

34. Where a registered mortgage of a ship is discharged, the original registrar shall, on the production of the mortgage instrument with a receipt for the mortgage money or other release endorsed thereon duly signed and attested, make an entry in the register to the effect that the mortgage has been discharged, and on that entry being made, the estate, if any, that passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances if any) it would have vested if the mortgage had not been made.

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

Priority of mortgages.

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

Mortgagee not treated as owner.

37. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money, but, where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except pursuant to an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Mortgagee has power of sale.

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

Mortgage not affected by bankruptcy.

39. A registered mortgage of a ship or share may be transferred to any person, and on the production of an instrument of transfer in the prescribed form the original registrar shall record it by entering in the register the name of the transferee as mortgagee of the ship or share, and endorse on the instrument of transfer a note that it has been recorded by him, stating the date and hour of the record.

Transfer of mortgage.

40. (1) Where the interest of a mortgagee in a ship or share is transmitted on death or bankruptcy, or by any lawful means other than by a voluntary transfer, the transmission shall be authenticated by a declaration of the

Transmission of interest of mortgagee on death or bankruptcy.

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 therein under section 30.

(2) The original registrar, on receipt of such declaration and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register as mortgagee of the ship or in respect of which the transmission has taken place.

Registration of mortgage on provisional registration. 5 of 1982, s. 7.

41. (1) A provisionally registered ship or share therein may be made security for a loan or other valuable consideration and on the production of the prescribed mortgage instrument to the original registrar he shall record it in the Fees and Deeds Book and shall, by memorandum under his hand, notify on each mortgage that it has been recorded by him, stating the date and hour of that recording and such record of the registrar shall have effect as if made for the purpose of section 35.

(2) On the ship becoming registered the original registrar shall transfer and record in the register the mortgage in accordance with the provisions of section 33.

(3) 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 respect of which he is registered in the Fees and Deeds Book, notwithstanding that the mortgagor has complied fully with any other requirements of the mortgage instrument.

Name of Ship

Ships' names.

42. (1) A registrar may refuse the registration of a ship by the name by which it is proposed to register it, if it is already the name of a registered ship or the name so similar as to be calculated to deceive.

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

(3) A change shall not be made in the name of a Bahamian ship without the previous written permission of the Director, and such permission shall not be granted

unless the Director is satisfied that all registered mortgagees have been notified of the proposed change of name.

(4) Application for that permission shall be in writing, and if the Director is of the opinion that the application is reasonable he may entertain it, and thereupon require a notice thereof to be published in the *Gazette*.

(5) On permission being granted to change the name, the ship's name shall forthwith be altered in the register, in the ship's certificate of registry, and on her bows and stern.

(6) Where it is shown to the satisfaction of the Director that the name of a ship has been changed without permission, he shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register, in the ship's certificate of registry, and on her bows and stern accordingly.

(7) If any person acts, or permits any person under his control to act in contravention of this section, or omits to do, or permits any person under his control to omit to do, anything required by this section, he shall be guilty of an offence and the Director may suspend the certificate of registry of the ship until this section has been complied with.

Registration of Alterations and Registration Anew

43. (1) When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register, notification of the alteration shall be given within thirty days after the completion of the alteration to the registrar accompanied by a certificate from a surveyor stating the particulars of the alteration, and upon receipt of the notification the registrar shall cause the alteration to be registered.

Registration of alterations.
34 of 2000,
s. 9(a).

(2) In the event of a failure to comply with the requirements of subsection (1) of this section in respect of any Bahamian ship, the registrar or the Director may suspend the certificate of registry of that ship.

34 of 2000,
s. 9(b).

44. On the registration of an alteration in a ship, the ship's certificate of registry shall be produced to the original registrar within sixty days after such registration,

Alterations noted on certificate of registry.

and the registrar shall in his discretion either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration.

Registration
anew on change
of ownership.

45. Where the ownership of a ship is changed, the original registrar may, on the application of the owners of the ship, register the ship anew, although registration anew is not required under this Act.

Procedure for
registration
anew.

46. (1) Where a ship is to be registered anew, the registrar shall, subject to subsection (2) of this section, proceed as in the case of first registration and on the delivery up to him of the existing certificate of registry and on the other requisites to registration, or in the case of a change of ownership such of them as he thinks material, being duly complied with, he shall make such registration anew and grant a certificate of registry.

*34 of 2000,
s. 10.*

(2) Where a registration anew is consequent upon change of ownership under section 45, there shall be payable such transfer fee as may be prescribed.

*34 of 2000,
s. 10(b).*

(3) When a ship is registered anew, her former registration shall be considered as closed, except so far as it relates to any unsatisfied mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship as owners or mortgages shall be entered on the new register and the registration anew shall not in any way affect the rights of any of those persons.

Wrecked ship
may be
registered.

47. Where a Bahamian ship is wrecked and the register thereof is closed, and the certificate of registry delivered to a registrar and cancelled, the Minister may on application, direct that such ship may be re-registered as a Bahamian ship, on proof being adduced to his satisfaction that the ship has, at the expense of the applicant for re-registration, been surveyed by a surveyor and certified by him to be seaworthy.

Incapacitated Persons

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

Infancy or other incapacity.

Trusts and Equitable Rights

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

No notice of trusts.

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

Equities not excluded by Act.

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

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

Liability of Beneficial Owner

Liability of
owner.

51. Where any person is beneficially interested otherwise than by way of mortgage in a ship or a share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, shall be subject to all penalties imposed by this Act in respect of any offence thereunder on the owners of ships or shares therein, and proceedings may be taken for the enforcement of any such penalties against both the person holding any such interest and the registered owner or either of them jointly, or jointly and severally:

Provided that —

5 of 1982, s. 8.

- (a) such person shall not be liable to any penalty if he is able to show that the offence in question was committed without his knowledge and consent;
- (b) a person shall not be considered for the purposes of this section as being beneficially interested by reason only that he has rights accruing to him under an indenture of trust pursuant to which moneys were provided by him to another to enable the latter to finance the owner or charterer of a ship in its purchase.

Managing Owner

Ship's managing
owner to be
registered.

52. (1) The name and address of the managing owner for the time being of every registered ship shall be registered with the original registrar.

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

Declarations, Inspection of Register and Fees

Power of
registrar to
dispense with
evidence.

53. When under this Part any person is required to make a declaration on behalf of himself or any corporation, or any evidence is required to be produced to a

registrar and it is shown to the satisfaction of the registrar that for any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the registrar may, on the production of such other evidence and subject to such terms as he may see fit, dispense with the declaration or evidence.

54. (1) Any person, upon payment of the prescribed fee, may, on application to a registrar during the hours of his official attendance, inspect any register and obtain copies, certified by the registrar, of any entry in the register or of any documents relating to a registered ship which are in the custody of the registrar.

Inspection of register and admissibility of documents.

(2) Notwithstanding the provisions of any other law —

- (a) any register, on its production from the custody of the registrar having lawful custody thereof;
- (b) a certificate of registry purporting to be signed by the registrar;
- (c) an endorsement on a certificate of registry purporting to be signed by a registrar;
- (d) any declaration in pursuance of this Part in respect of a Bahamian ship,

shall be admissible in evidence in the manner provided by this Act.

55. The Minister may prescribe a tariff of fees for the change of name, transfer, transmission, mortgage, survey and inspection of registers of Bahamian ships.

Fees.

Forms

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

Forms of documents.

(2) A registrar shall not be required, without the approval of the Director, to receive and enter in the register any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or share or any interest therein, that is made in any form other than that for the time being required under this Part.

(3) The Minister shall cause the prescribed forms to be supplied to all registrars for distribution to persons required to use the same.

Instructions to
registrars.

57. The Minister may, for carrying into effect this Part, give such instructions to registrars as to the manner of making entries in registers, the execution and attestation of powers of attorney, any evidence required for identifying any person, or the referring to him of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Part, as he thinks fit.

Forgery and False Declarations

Forgery of
documents.

58. Any person who forges or fraudulently alters any register, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or any entry or endorsement made in or on any of those documents, shall be guilty of an offence and liable on conviction on information to imprisonment for seven years.

False
declarations.

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

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

shall be guilty of an offence and liable on summary conviction to imprisonment for one year.

Nationality and Flag

Nationality and
flag of ship to be
declared before
clearance.

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

(2) If a ship attempts to proceed to sea without such clearance or transire, she may be detained until a declaration is made.

National colours.

61. (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 (Regulations) Act, and such ship shall wear no other. Ch. 32.

(2) A Bahamian ship shall hoist the national colours —

- (a) on entering or leaving any port;
- (b) on 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 under the laws of a foreign country for the duration of the charter and for purposes of section 62 such ship shall be considered a foreign ship. Exception.
34 of 2000,
s. 11.

62. (1) If any person uses or permits any 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 he shall be guilty of an offence and liable on summary conviction to imprisonment for two years. Penalty.

(2) In any proceedings under this section, the burden of proving the right to use the flag and assume the character of a Bahamian ship shall be upon the person using and assuming the same.

Measurement of Ship and Tonnage

63. (1) Before a ship is registered, its tonnage shall be ascertained in accordance with regulations made by the Minister under this section. Rules for
ascertaining
tonnage.

(2) Tonnage regulations —

- (a) may make different provision for different descriptions of ships or for the same description of ships in different circumstances;
- (b) may make any provision thereof dependent on compliance with such condition, to be evidenced in such manner, as may be specified in the regulations;
- (c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a ship and may provide for making the master and the owner each liable to a fine not exceeding five hundred dollars where such a prohibition or restriction is contravened.

(3) Tonnage regulations may make provision for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can be safely loaded, and for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it and, where it has been assigned to it as an alternative, the depth to which the ship may be loaded for the lower tonnage to be applicable.

(4) Tonnage regulations may provide for the issue of documents certifying the registered tonnage of any ship or the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in The Bahamas.

Tonnage once ascertained to be tonnage of ship, except where ship remeasured.
34 of 2000, s. 12.

64. (1) Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations, that tonnage shall be treated as the tonnage of the ship except where subsection (2) provides for the ship to be remeasured in which case the register shall be amended accordingly.

(2) A ship shall be remeasured and her tonnage determined and registered according to the tonnage regulations where —

- (a) this Act (or any instrument made under it) provides, in specified circumstances, for the ship to be remeasured;
- (b) an alteration is made in the form or capacity of the ship; or
- (c) it is discovered that the tonnage of the ship has been erroneously computed or recorded.

Tonnage of ship of foreign country adopting tonnage regulations.

65. (1) If it appears to the Minister that any foreign country has brought in rules as to tonnage substantially the same as the tonnage regulations, he may order that the ships of that country shall, without being remeasured in The Bahamas, be deemed to be of the tonnage denoted in their certificate of registry or other national papers in the same manner, to the same extent and for the same purposes as the tonnage denoted in the certificate of registry of a registered ship is deemed to be the tonnage of that ship, and —

- (a) any space shown by the certificate of registry or other national papers of any such ship as

deducted from tonnage, on account of being occupied by seamen or apprentices and appropriated to their use, shall be deemed to have been certified under this Act and to comply with those provisions of this Act which apply to such a space in the case of Bahamian ships, unless a surveyor certifies to the Minister that the construction and the equipment of the ship as respects that space do not come up to the standard required under this Act in the case of a Bahamian ship; and

- (b) if any question arises whether the construction and the equipment of the ship do come up to the required standard, a surveyor may inspect the ship for the purpose of determining whether such a certificate should be given by him or not.

(2) Where it appears to the Minister that the tonnage of any foreign ship as measured by the rules as to tonnage of the country to which she belongs materially differs from that which would be her tonnage if measured under this Act, the Minister may order that, notwithstanding any order for the time being in force under this section, any of the ships of that country shall for all or any of the purposes of this Act be remeasured in accordance with this Act.

66. (1) The Minister may appoint, in any port or place within or without The Bahamas, duly qualified persons to be surveyors to survey and measure ships under and for the purposes of this Act.

Appointment of surveyors.

(2) The Minister may, by regulations, nominate any corporation or society within or without The Bahamas to be a Classification Society for the purposes of this Act, and any Classification Society may authorize any person to survey and measure ships under and for the purpose of this Act.

PART III MASTER AND SEAMEN

Certificates of Competency

67. (1) The Minister may make regulations —

- (a) requiring ships to which this section applies to carry such number of qualified officers of any

Manning requirements, qualifications, regulations, offences.

34 of 2000, s. 13.

description, qualified doctors and qualified cooks and such number of other seaman or qualified seaman of any description as may be specified in the regulations;

- (b) prescribing or specifying standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section; and
- (c) otherwise giving effect to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers done at London 7th July 1978 and any revision of that Convention to which it appears to the Minister that the Government of The Bahamas has agreed.

(2) Regulations under this section may make different provisions for different descriptions of ship or for ships of the same description in different circumstances and may apply to Bahamian ships wherever they may be or ships which are not Bahamian ships while in The Bahamas.

(3) In the absence of applicable regulations made under paragraph (a) of subsection (1) the Minister, the Director or The Bahamas Maritime Authority may specify for any ship the number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seaman or qualified seaman of any description.

(4) The Minister, the Director or The Bahamas Maritime Authority may exempt any ship or description of ship from any requirements of regulations made under this section where it appears reasonable in the circumstances.

(5) An exemption given under subsection (4) may be confined to a particular period or to one or more voyages.

(6) If a person goes to sea as a qualified officer or seaman of any description without being a qualified officer or seaman he shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars or imprisonment not exceeding six months or to both.

(7) The Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations shall have effect as if also made under this section and section 68. *S.I. 72 of 1998.*

68. (1) Certificates of competency shall be granted in accordance with this Act in each of the following grades — *Grades of certificates of competency.*

- (a) master; *34 of 2000, s. 14(a).*
- (b) chief mate; *34 of 2000, s. 14(a).*
- (c) officer in charge of a navigational watch; *34 of 2000, s. 14(a).*
- (d) chief engineer officer; *34 of 2000, s. 14(a).*
- (e) second engineer officer; *34 of 2000, s. 14(a).*
- (f) officer in charge of a engineering watch; *34 of 2000, s. 14(a).*
- (g) radio operator, *34 of 2000, s. 14(a).*

and in respect of such other grades as may be prescribed for the purpose of giving effect to any international convention relating to maritime matters.

(2) A certificate of competency as master or chief mate of a foreign-going ship is superior to a certificate of competency as master of a home-trade ship, and entitles the holder to go to sea in that capacity, but a certificate of competency as master of a home-trade ship does not entitle the holder to go to sea in any capacity in a foreign-going ship. *34 of 2000, s. 14(b).*

(3) The Minister, the Director or The Bahamas Maritime Authority 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 among those prescribed or specified by subsection (1)(a) of section 67 or subsection (1); and the Minister may in relation thereto, make regulations for this purpose. *34 of 2000, s. 14(c); S.I. 83/2001.*

69. (1) For the purpose of granting certificates of competency the Minister may — *Examinations for certificates of competency and foreign certificates.*

- (a) cause the prescribed examinations to be held at such times and at such places as he may direct; *5 of 1982, s. 11.*
- (b) appoint examiners to conduct the examinations;
- (c) make regulations for the conduct of the examinations and the qualifications of candidates and do all such acts and things as he thinks expedient for the purpose of the examinations, and may fix fees therefor;

- (d) cause to be delivered to every candidate who is duly reported by the examiners to have passed his examination, and to have given satisfactory evidence of his experience, ability and good character, the appropriate certificate of competency;
- (e) prescribe the rights and obligations of holders of certificates of competency and offences for which certificates may be forfeited or suspended.

(2) Where the laws of any other country provide for the examination for, and grant of, certificates to persons intending to act as masters, seamen officers and engineers on board ships, and —

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

*34 of 2000,
s. 15(a)(i) and
(ii); S.I. 83/2001.*

the Minister may in the case of persons holding such certificates, who desire to go as master, seaman officer or engineer in Bahamian ships, direct that on payment of the prescribed fee and subject to such conditions as the Minister, the Director or The Bahamas Maritime Authority may impose, the person shall be issued with a licence or endorsement of his certificate authorising him to go to sea on a Bahamian ship in the same rank or a lesser rank as if his certificate had been issued under this Act.

*34 of 2000,
s. 15(b)(i).*

(3) A licence or endorsement issued under subsection (2) of this section shall —

- (a) during its currency have the same force as a certificate of competency granted under this Act and may be cancelled or suspended for like reason; and
- (b) be valid for a period of not more than five years from the date of issue, and may be renewed on payment of the prescribed fee.

*34 of 2000,
s. 15(b)(ii).*

(4) The Minister shall by notice in the *Gazette* from time to time declare the names of the countries to which subsection (2) of this section has application.

70. Any person who —

Offences relating to certificates of competency.

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

shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for eighteen months.

71. A record of certificates of competency and the suspending, cancelling, or altering of such certificates and any other matter affecting them shall be kept in such manner as the Minister may direct.

Record of certificates of competency.

72. If a master, mate or engineer proves to the satisfaction of a registrar that he has, without fault on his part, lost or been deprived of a certificate of competency already granted to him, that registrar shall, and in any other case may, upon payment of the prescribed fee, certify and deliver to him a copy of the certificate to which, by the record kept in pursuance of this Act, he appears to be entitled, and a copy purporting to be so certified shall have all the effect of the original.

Loss of certificate.

73. (1) Upon the signing of the crew agreement, the master of every Bahamian ship shall forthwith inform the Director in writing of the name, grade and number of the certificate and licence of each officer (including the master himself) employed on the ship.

Master to inform registrar of officers on board ship.

(2) Whenever a certificated officer ceases to be employed on the ship, or a new certificated officer becomes employed on the ship, the name, grade and number of the certificate and licence of that officer shall forthwith be despatched in writing to the Director by the master of that ship.

Prohibition of going to sea under-manned.
34 of 2000, s. 16(a), (b) and (c).

7 of 1989, s. 3 and Sch.

Production of certificate and documents of qualification.

Use of English language.

Crew's knowledge of English.
7 of 1989, s. 3 and Sch.

74. Subject to subsection (5) of section 67, if a Bahamian ship goes to sea or attempts to go to sea without carrying such officers as it is required to carry under section 67 or regulations made under it, both the owner and the master shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars, and an inspector may suspend the certificate of registry of the ship until she is properly manned.

75. Any person serving or engaged to serve in any Bahamian ship and holding any certificate or other document which is evidence that he is qualified for the purposes of section 67, shall on demand produce it to any registrar, inspector or proper officer and (if he is not himself the master) to the master of the ship, and if he fails to do so without reasonable cause he shall be guilty of an offence and liable on summary conviction to a fine of one hundred dollars.

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

Provided that a foreign language version of any document may be appended to the English language version thereof.

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

77. (1) Where in the opinion of an inspector the crew of a Bahamian ship consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, the inspector shall inform the master of his opinion and the ship shall not go to sea, and the inspector may suspend the certificate of registry of the ship until the position is rectified.

(2) If a ship goes to sea or attempts to go to sea in contravention of this section both the owner and the

master shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

Apprenticeship to the Sea Service

78. (1) All contracts or indentures of apprenticeship to the sea service intended to be performed on Bahamian ships shall be signed by the intended apprentice and the authorized representative of the owner to whom he is to be bound in the presence of a registrar, who shall attest the signature, and who shall, before the contract or indentures is signed, satisfy himself —

Signature of
contracts and
indentures.

- (a) that the intended apprentice —
 - (i) understands the contents and provisions of the contract or indentures;
 - (ii) freely consents to be bound;
 - (iii) has attained the age of sixteen years;
 - (iv) is in possession of a certificate by a duly qualified medical practitioner to the effect that the apprentice is physically fit for the sea service; and
- (b) if the intended apprentice is under the age eighteen years, that his parent's or guardian's consent has been obtained to his being contracted or indentured.

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

79. (1) The Director shall keep a copy of every contract or indenture of apprenticeship in his office, and the copy shall be open to public inspection free of charge.

Records to be
kept by registrar.

(2) Whenever a contract or indenture is assigned or cancelled or whenever an apprentice dies or deserts, the master of the apprentice shall, within thirty days after the assignment, cancellation, death or desertion if it happens in The Bahamas, or if it happens elsewhere so soon afterwards as circumstances permit, notify the same to the Director.

Engagement of Seamen

Crew agreement.

80. (1) The master of every Bahamian ship shall enter into an agreement in accordance with this Act with every seaman whom he engages and carries to sea as one of his crew, and the master of any ship shall enter into such an agreement with every seaman whom he engages in, and carries to sea as one of his crew from The Bahamas.

5 of 1982, s. 12.

(2) The section shall not apply in any case where the ship concerned is less than 100 gross tons.

Contents of crew agreement.

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

(2) The crew agreement shall show the place at which it is made, the surname and other names of the seaman, his birthplace, and his age or the date of his birth, and shall state clearly the respective rights and obligations of each of the parties and shall contain as terms thereof the following particulars —

- (a) the name of the ship or ships on board which the seaman undertakes to serve;
- (b) either the nature and, as far as is practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, which shall not exceed twelve months, and the port at which it is intended the crew shall be discharged, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;
- (c) the number and description of the crew;
- (d) if possible, the place and date at which each seaman is to be on board or to begin work;
- (e) the capacity in which each seaman is to serve;
- (f) the amount of wages which each seaman is to receive;
- (g) the prescribed scale of the provisions which are to be furnished to seamen;
- (h) the time that is to expire after arrival at the port of discharge before the seaman is discharged;
- (i) any regulations as to conduct on board and as to fines, short allowance of provisions or other

lawful punishment for misconduct which have been approved by the Minister as regulations proper to be adopted and which the parties agree to adopt;

- (j) a list of young persons under the age of eighteen years and the dates of their births.

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

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

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

82. The following provisions shall have effect with respect to a crew agreement made in the case of foreign-going Bahamian ships —

Crew agreement of foreign-going ship.

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

agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness and the witness shall attest the signature;

- (e) an agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and an agreement so made to extend over two or more voyages is in this section referred to as a running agreement;
- (f) a running agreement shall not extend beyond the twelve months' period of time next following the date of the making or the first arrival of the ship at her port of destination after the termination of that period;
- (g) on every return to the port where the crew was engaged before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement he shall be guilty of an offence;
- (h) the duplicate crew agreement retained by the owner on the first engagement of the crew shall be kept by the owner for a period of seven years after the expiration of the agreement and shall be produced on demand made therefor by a registrar or other proper officer;
- (i) except as provided in section 92, a crew agreement shall not purport to deprive any court of jurisdiction to hear and determine disputes respecting the agreement.

Further
provisions as to
crew agreement.

83. (1) The master shall, at the commencement of every foreign voyage or engagement, cause a legible copy of the crew agreement (omitting the signatures) to be posted up in some part of the ship which is accessible to the crew.

(2) Every erasure, interlineation or alteration in any crew agreement, except additions made for the purpose of shipping substitutes or persons engaged after the first

departure of the ship, shall be wholly inoperative unless proved to have been made with the consent of all persons interested in the erasure, interlineation or alteration.

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

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

Employment of Children and Young Persons

84. (1) No person under the age of sixteen years shall be employed in any Bahamian ship, except —

Employment of children and young persons.

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

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

(3) Every medical certificate under subsection (2) of this section —

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

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

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

Certification of Seamen

Certificate of
competency.

85. (1) No seaman engaged in a Bahamian ship shall be rated able seamen unless he holds a certificate of competency as able seaman.

(2) The Minister may make regulations for the grant of certificates of competency as able seaman, and such regulations shall in particular direct that no certificate shall be granted to any person unless he has —

- (a) reached the minimum age prescribed by the regulations, which shall not be less than eighteen years; and
- (b) performed at least three years qualifying service at sea; and
- (c) passed the prescribed examinations:

Provided that the regulations may authorise the grant of a certificate thereunder to any person, notwithstanding that he has not passed the prescribed examinations, if he can show that he was serving as able seaman or equivalent or superior seaman rating immediately before the commencement of this Act.

Discharge of Seamen

Certificate of
discharge.

86. (1) Subject to section 133, the master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in an approved form, specifying the period of his service and the time and place of discharge, but not containing any statement as to his wages or the quality of his work.

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

Report of
seaman's
character.

87. (1) Where a seaman is discharged, the master shall make and sign in an approved form a report of the conduct, character and qualifications of the seaman discharged, or may state in the said form that he declines to give any opinion upon such particulars or upon any of them, subject to section 133 and if the seaman so desires, give to him a copy of such report (in this section referred to as a report of character).

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

shall be guilty of an offence.

Payment of Wages

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

Time and manner of payment.

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

Master to deliver account of wages.

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

90. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of section 89, except in respect of a matter happening after the delivery.

Deductions.

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

Settlement of
wages.

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

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

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

Director's
decision as to
wages.
*7 of 1989, s. 3 and
Sch.*

92. Where any question, of whatever nature and whatever the amount in dispute, between a master or owner and any of his crew is raised before the Director, and both parties agree in writing to submit the same to him, the Director shall hear and decide the question so submitted; and an award made by him on the submission shall be conclusive as to the rights of the parties, and a document purporting to be the submission or award shall be admissible in evidence in the manner provided by this Act.

Director may
require ship's
papers.
*7 of 1989, s. 3 and
Sch.*

93. (1) In any proceeding under this Act before the Director relating to wages, claims or discharge of a seaman, the Director may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers or other documents in his possession or power relating to a matter in question in the proceeding, and may require the attendance of and examine any of those persons who are then at or near the place on the matter, and may administer oaths.

*7 of 1989, s. 3 and
Sch.*

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

Rate of
exchange.

94. Where a seaman has agreed with the master of a Bahamian ship for payment of his wages in a specific currency, any payment of or on account of his wages if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated

in the agreement for the time being current at the place where the payment is made, and such rate of exchange shall be endorsed on the agreement by a consular officer at that place.

Advance and Allotment of Wages

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

Conditional agreements.

(2) Except as provided in subsection (1) of this section an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea shall be void, and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages, and the person purporting to conclude such agreement with such seaman shall not have any right of action, suit or set off against the seaman or his assignee in respect of any money paid or purporting to have been so paid.

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

Allotment notes.

(2) Where a crew agreement is required to be made in an approved form, the seaman may require that a stipulation be inserted in the crew agreement for the allotment, by means of an allotment note, of any part (not exceeding one half) of the seaman's wages in favour either of a near relative or of a bank.

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

(4) An allotment note shall be in an approved form.

(5) In the provisions of this Act relating to allotment notes —

- (a) “near relative” means the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman;
- (b) “bank” means a bank account in the seaman’s name.

Facilities for
remitting wages.

97. Where the balance of wages due to a seaman is more than one hundred and fifty dollars, and the seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting all or any part of the balance to a bank or to a near relative in whose favour an allotment note may be made, the master shall give to the seaman all reasonable facilities for so doing, so far as regards so much of the balance as is in excess of one hundred and fifty dollars, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port or otherwise than conditionally on the seaman going to sea in the ship.

Recovery of sums
allotted.

98. (1) The person in whose favour an allotment note is made may, unless the seaman is shown in the manner specified in this Act to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, recover the sums allotted as they are made payable with costs from the owner of the ship with respect to which the engagement was made or from any agent of the owner who has authorized the allotment, in the same court and manner in which wages of seamen may be recovered under this Act.

(2) In any proceedings under subsection (1) of this section, it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some authorized agent, and the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court either —

- (a) by the official statement of the change in the crew caused by his absence, made and signed by the master as is required by this Act; or
- (b) by a certified copy of some entry in the official log-book to the same effect; or

- (c) by such other evidence as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

(3) If a master wilfully makes a false statement in any credible letter intended for use in any proceeding on an allotment note for the recovery of a seaman's wages to the effect that the seaman has left the ship and has ceased to be entitled to the wages out of which the allotment is to be paid, he shall be guilty of an offence.

Rights of Seaman in respect of Wages

99. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Commencement of right to wages.

100.(1) A seaman shall not by any agreement —

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

Right to wages and salvage not to be forfeited.

and any stipulation in any agreement inconsistent with this or any other provision of this Act shall be void.

(2) Subsection (1) of this section shall not apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to another ship.

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

Wages not to depend on freight.

Provided that in a case of wreck, or loss of the ship, proof that a seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim for wages.

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

Wages where
service
terminated.

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

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

Refusal to work.

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

Illness caused by
default.

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

(2) Subsection (1) of this section shall not remove the right of any master, seaman or apprentice to any payment or other benefits to which he may be entitled under any law providing for compensation to injured or sick workmen.

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

Costs of
procuring
conviction.

106. Where a seaman who has signed an agreement is discharged otherwise than in accordance with the terms of the agreement before the commencement of the voyage or before one month's wages are earned without fault on his part justifying the discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Compensation
for improper
discharge.

107. As respects wages due or accruing to a seaman or apprentice —

No attachment
or sale of wages.

- (a) they shall not be subject to attachment by any court;
- (b) an assignment or sale of the wages before they are due shall not bind the person making it;
- (c) a power of attorney or authority for the receipt of the wages shall not be irrevocable;
- (d) a payment of the wages to the seaman or apprentice shall be valid in law, notwithstanding that they have been sold, assigned, attached or encumbered:

Provided that nothing in this section shall affect the provisions of this Act with respect to allotment notes.

Vacation Leave and Public Holidays

108.(1) Every person shall be entitled after twelve months of continuous service on a ship or for the same employer (or *pro rata* if the period served is less than twelve months) to an annual vacation holiday with pay the duration of which shall be —

Leave and public
holidays.

5 of 1982, s. 13.

- (a) in the case of master and officers, not less than eighteen working days; and
 - (b) in the case of other members of the crew, not less than twelve working days.
- (2) For the purpose of calculating when a vacation holiday is due —
- (a) service of articles shall be included in the reckoning of continuous service;
 - (b) short interruptions of service not due to the act or fault of the employee and not exceeding a total of six weeks in any twelve months shall not be deemed to break the continuity of the periods of service which precede and follow them; and
 - (c) continuity of service shall not be deemed to be interrupted by any change in the management or ownership of the ship or ships in which the person concerned has served.
- (3) The following shall not be included in the annual vacation holiday with pay —
- (a) interruptions of service due to sickness or injury; or
 - (b) public holidays.
- (4) In addition to the entitlement under subsection (1) of this section, every member of the crew of a ship shall be entitled to nine days annual paid leave in lieu of public holidays, and if the length of continuous service is less than twelve months, then *pro rata*.

Mode of Recovering Wages

Seaman may sue for wages.

109.(1) A seaman or apprentice, or a person duly authorized on his behalf, may, as soon as any wages due to him become payable, sue for them in a court in The Bahamas having jurisdiction in the place at which his service has terminated or at which he has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides, and notwithstanding the provisions of any other law, the order made by the court in the matter shall be final and not subject to appeal.

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

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

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

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

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

Provided that, if the ship is not within the jurisdiction of the court, no levy may be made on the ship but the court may cause the person upon whom the order for payment is made to be arrested and committed to prison for a term not exceeding three months.

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

Restriction of
jurisdiction of
Supreme Court.

- (a) the owner of the ship is insolvent;
- (b) the ship is under arrest or is sold by the authority of the Supreme Court;
- (c) a magistrate's court refers the claim to the Supreme Court; or
- (d) neither the owner nor the master resides in or within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Master's remedy
for wages and
expenses.

111.(1) The master of a ship, so far as the case permits, shall have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) The master of a ship, and every person law-fully acting as master of a ship by reason of the decease or incapacity from illness of the master of the ship, so far as the case permits, shall have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

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

Power of Court to Rescind Contracts

Power of court to
rescind contracts.

112. Where proceedings are instituted in a court in relation to a dispute between an owner or master of a Bahamian ship and a seaman or apprentice, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if having regard to all the circumstances of the case it thinks it just to do so, may rescind any contract between the owner or master and the seaman or apprentice, or any contract or indentures of apprenticeship, upon such terms as the court thinks just, and this power shall be in addition to any other jurisdiction that the court can exercise independently of this section.

Property of Deceased Seaman

Property of
deceased seaman.

113.(1) If any seaman or apprentice belonging to a Bahamian ship dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

- (2) The master shall enter in the official log-book —
- (a) a statement of the amount of the money and a description of the effects; and

- (b) a statement of the wages due to the deceased, the amount of deductions (if any) to be made from the wages and the balance of the wages due.
- (3) The entry shall be signed by the master and attested by a mate or some other member of the crew.
- (4) The master, if he thinks fit, may cause any of the effects to be sold.
- (5) The said money, effects and balance of wages are in this Act referred to as the property of the seaman or apprentice.
- (6) The master of the ship shall without delay furnish a registrar with a statement of the property of the deceased seaman or apprentice.

114.(1) Subject to subsection (2) of this section, the property of the deceased seaman or apprentice shall be delivered by the master of a ship by the most practicable means to the personal representative of the deceased, or if there is no legal representative of the deceased, the master shall dispose of the property in accordance with the law of the place in which the deceased was last resident for determining the distribution or succession of personal property of deceased persons, or in accordance with the order of a court having jurisdiction to determine the distribution of the property of the deceased.

Delivery of property of deceased seaman.

(2) A master may deduct from the property of a deceased seaman or apprentice any expenses properly incurred in complying with subsection (1) of this section.

(3) After complying with subsection (1) of this section, the master shall render a statement of account to a registrar.

115.Any person who for the purpose of obtaining, either for himself or for any other person, any property of a deceased seaman or apprentice —

Forgery of document to obtain property of deceased seaman.

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

- (d) makes any false representation knowing the same to be false; or
- (e) assists in procuring any false evidence or representation to be given or made knowing the same to be false,

shall be guilty of an offence.

Provisions, Health and Accommodation

Complaints as to
provisions or
water.

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

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

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

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

Allowance for
short or bad
provisions.

117. If during a voyage of a Bahamian ship —

- (a) the allowance of provisions provided for a seaman is less than that prescribed; or
- (b) any of those provisions are of bad quality,

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

- (i) if the deficiency is not more than one-third of the quantity specified in the agreement, a sum not exceeding one dollar a day;
- (ii) if the deficiency is more than one-third of that quantity, two dollars a day; or
- (iii) in respect of bad quality, a sum not exceeding three dollars a day,

but, if the deficiency occurred because the provisions could not be procured or supplied in proper quantities and proper and equivalent substitutes were supplied in lieu thereof, those circumstances shall be taken into consideration, and the compensation shall be reduced or denied accordingly.

118.(1) The master of a Bahamian ship where provisions are supplied to the crew shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow them to be used at the time of serving out the provisions and articles in the presence of a witness whenever any dispute arises about the quantities.

Weights and measurements to be kept.

(2) If the master of a ship fails without reasonable cause to comply with this section, he shall be guilty of an offence.

119.The Minister may make such regulations as appear to him to be necessary —

Regulations as to medical examination and cooking.

- (a) for the medical examination of all persons seeking employment in any capacity on board ships and the issue of medical certificates in respect of such persons;
- (b) for the examination and granting of certificates to persons qualifying to be employed as ships' cooks.

120.The Minister may make regulations respecting the crew accommodation to be provided in Bahamian ships and, without prejudice to the generality of the foregoing, may in particular make regulations —

Regulations respecting crew accommodation.

- (a) respecting the space and equipment to be provided for the sleeping rooms, wash rooms, mess rooms and galleys in a ship;

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

Ship to carry
certificated cook.

121.(1) Every foreign-going Bahamian ship of 1000 tons or more net register tonnage shall be provided with and carry a duly certificated ship's cook.

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

Scales of medical
stores.

122.(1) The Minister may make regulations requiring Bahamian ships to carry such medicines, medical stores and appliances (including books containing instructions and advice), as may be specified in the regulations, and the regulations may make different provisions for different descriptions of ships or different circumstances.

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

(3) If an inspector is of the opinion that the medicines, medical stores and appliances on a Bahamian ship are deficient in quantity or quality or are placed in improper receptacles, he shall give notice in writing to the master, owner or consignee of the ship and the inspector may suspend the certificate of the registry of the ship until he is satisfied that the default has been remedied.

Expenses of
medical
treatment, etc.

123.If the master of, or a seaman or apprentice belonging to, a Bahamian ship receives any surgical or medical treatment, or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons

employing him, and if he dies and is buried or cremated outside his country of residence the expenses of his burial or cremation shall also be borne by those persons.

124. (1) Every Bahamian foreign-going ship which proceeds from a port having 100 persons or more on board shall carry on board as part of her complement a duly qualified medical practitioner; and if she does not the owner shall be guilty of an offence and liable on summary conviction to a fine of one hundred dollars in respect of each day of every voyage of the ship on which it does not so carry a duly qualified practitioner.

Medical practitioner to be carried.

(2) For the purpose of subsection (1) of this section a duly qualified medical practitioner means a medical practitioner authorized by law to practice as a legally qualified medical practitioner in any country of the Commonwealth or in any country outside the Commonwealth approved by the Minister.

Facilities for Making Complaints

125. (1) Where a seaman or apprentice whilst on board a Bahamian ship tells the master of the ship that he wishes to make a complaint to a magistrate, consular officer, registrar or inspector against the master or any of the crew, the master shall, so soon as the service of the ship will permit, allow the complainant to go ashore —

Facilities for making complaints.

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

so that he can make his complaint.

(2) If the master of a ship fails, without reasonable cause, to comply with this section, he shall be guilty of an offence.

Protection of Seamen from Imposition

126. Subject to this Act, an assignment or sale of salvage payable to a seaman or apprentice made before the salvage accrues shall not bind the person making the assignment or sale, and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable.

No assignment or sale of salvage.

Seaman's debts.

127. A debt exceeding twenty dollars incurred by a seaman or apprentice after he is engaged to serve shall not be recoverable until the service agreed for is concluded.

Discipline

Misconduct
endangering life
or ship.
5 of 1982, s. 14.

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

he shall be guilty of an offence and liable on summary conviction to imprisonment for twelve months.

General offences
against
discipline.

129. (1) If a seaman or apprentice engaged on a Bahamian ship commits any of the following acts, he shall be guilty of an offence and liable to be punished as follows —

- (a) if he quits the ship without leave after her arrival at a port and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one week's pay;
- (b) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for one month, and also at the discretion of the court to forfeit out of his wages a sum not exceeding two days' pay;
- (c) if he is guilty of continued wilful disobedience to any lawful command or lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for three months, and also at the discretion of the court to forfeit for every twenty-four hours' continued disobedience or neglect either a sum not exceeding two days' pay or any expenses properly incurred in hiring a substitute;

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- (d) if he assaults the master or any mate or officer of the ship, he shall be liable to imprisonment for one year;
 - (e) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for one year;
 - (f) if he wilfully damages his ship, or dishonestly misappropriates or converts to his own use, or commits criminal breach of trust in respect of, or wilfully damages, any of her stores or cargo, he shall be liable to imprisonment for one year and also at the discretion of the court to forfeit out of his wages a sum equal to the loss thereby sustained;
 - (g) if he commits an act of smuggling, whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to the master or owner a sum sufficient to reimburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability without prejudice to any further remedy;
 - (h) if he aids or procures a person to stow away on his ship, and that person is afterwards convicted of the offence, he shall be liable to imprisonment for three months, and also to pay to the master or owner of the ship a sum sufficient to reimburse the expenses occasioned to that master or owner in respect of the stowaway, and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability without prejudice to any further remedy.

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

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

(4) Offences under this section shall be triable summarily.

Conviction not to affect other remedies.

130. Section 129 and the sections relating to the offences of desertion or absence without leave shall not take away or limit any remedy by suit or otherwise of an owner or master for any breach of contract in respect of matters constituting an offence under those sections, but an owner or master shall not be compensated more than once in respect of the same damage.

Desertion and absence without leave.

131. If a seaman lawfully engaged or an apprentice belonging to a Bahamian ship commits any of the following acts, he shall be guilty of an offence and liable to be punished as follows —

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

132.(1) Where a seaman belonging to a Bahamian ship has been lawfully engaged and has received under his agreement an advance note, and after negotiating his advance note wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he shall be guilty of an offence and liable on summary conviction to a fine of fifty dollars or to imprisonment for two months.

Improper negotiation of advance note.

(2) This section shall not take away or limit any remedy, by suit or otherwise, of any person in respect of the negotiation of the advance note, or which an owner or master would otherwise have for breach of contract.

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

Certificate of discharge may be withheld.

134.If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, he shall be guilty of an offence and liable on summary conviction to a fine of fifty dollars or to imprisonment for two months.

False statement as to last ship or name.

135.(1) Where it appears to the Minister that due facilities will be given by the Government of a foreign country for apprehending and recovering seamen who desert in that country from Bahamian ships, the Minister may, by order, declare that this section shall apply in the case of such foreign country, subject to any limitations, conditions and qualifications contained in the order.

Deserters from foreign ships.

(2) Where a seaman or apprentice deserts in The Bahamas from a merchant ship registered in a country to which this section applies, the master of the ship may apply to a court for aid in apprehending the deserter, and the

court and its officers shall give all aid within their power, and for that purpose the court may, on information given on oath, issue a warrant for the deserter to be conveyed on board the ship, or delivered to the master or mate of the ship or to the owner of the ship or his agent to be so conveyed.

Offences to be entered in official log-book.

136. If on or in respect of a Bahamian ship —

- (a) an offence is committed under section 129 or 131; or
- (b) an act of misconduct is committed for which the agreement of the person committing it provides for a fine, and it is intended to enforce the fine,

then —

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by an officer or one of the crew;
- (ii) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port or (if she is at the time in port) before her departure from port, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit;
- (iii) a statement that a copy of the entry was so furnished or that the entry was so read over, and in either case the reply (if any) then made by the offender, shall likewise be entered and signed in the manner aforesaid; and
- (iv) in any subsequent legal proceedings, the entries made under this section, shall, if practicable, be produced or proved, and if they are not the court hearing the case may in its discretion refuse to receive evidence of the offence or act of misconduct.

Proof of desertion in proceedings for forfeiture of wages.

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

- (a) the seaman or apprentice was duly engaged in or belonged to the ship; and

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

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

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

Application of forfeiture.

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

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

Question of forfeiture decided in suit for wages.

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

Deduction of fine from wages.

- (a) on the offender being discharged, and the offence and the entry in the official log book required by this Act to be made in respect thereof being proved to the satisfaction of a registrar or consular officer, the master or owner shall deduct the fine from the wages of the offender;
- (b) the fine so deducted shall be paid to a registrar, and if the master or owner of the ship fails without reasonable cause so to pay the fine he shall be guilty of an offence;

- (c) an act of misconduct for which a fine has been inflicted and paid by or deducted from the wages of the seaman shall not be otherwise punished under this Act.

Persuading
seaman to desert,
and harbouring
deserter.

141. (1) If a person by any means whatever persuades a seaman or apprentice to neglect or refuse to join or proceed to sea in his ship, or to desert from his ship, or otherwise to absent himself from his duty, he shall be guilty of an offence, and liable on summary conviction to a fine of one hundred dollars.

Penalty on
stowaways.

142. (1) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to imprisonment for three months.

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

Official Log-Book

Official log-
book.

143. (1) An official log-book in an approved form shall be kept in every Bahamian ship of over 100 tons net register tonnage in the appropriate form approved for that ship.

(2) The Minister may make regulations prescribing 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 in their amendment or cancellation.

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

(4) An entry required by this Act or regulations under this section to be made in an official log-book shall be

made as soon as possible after the occurrence to which it relates, and if it is not made on the same day as the occurrence it shall be made and dated so as to show the dates of the occurrence and the entry respecting it, and if it is made in respect of an occurrence happening before the arrival of the ship at her final port of discharge it shall not be made more than twenty-four hours after the arrival.

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

(6) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

144. The master of a ship for which an official log-book is kept shall, subject to any regulations made under section 143, enter or cause to be entered in the official log-book particulars of —

Entries in official log-book.

- (a) every conviction by a court of a member of his crew and the punishment inflicted;
- (b) every offence committed by a member of his crew for which it is intended to prosecute or to make a forfeiture or to impose a fine, together with the statement concerning the furnishing of a copy, or reading over, of the entry and concerning the reply (if any) made to the charge which is required by this Act;
- (c) every offence for which punishment is inflicted on board and the punishment inflicted;
- (d) the conduct, character and qualifications of each of his crew or a statement that he declines to give an opinion on these particulars;
- (e) every case of illness or injury happening to a member of the crew, with the nature thereof and the medical treatment given (if any);
- (f) every refusal of a member of the crew to take antiscorbutics or medicines;
- (g) every birth and death happening on board his ship;
- (h) every marriage taking place on board, with the names and ages of the parties;

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

Delivery of
official log-book.

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

(2) The master or the owner of every Bahamian ship engaged in the home-trade for which an official log-book is required to be kept, shall within twenty-one days after the 30th June and the 31st December in each year, deliver the official log-book for the preceding half year to the Director.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be guilty of an offence.

Penalty for
improperly kept
official log-book.

146. (1) Where an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall be guilty of an offence.

(2) Any person who makes an entry in an official log-book in respect of an occurrence which took place before

the arrival of the ship at her final port of discharge, and makes the entry more than twenty-four hours after that arrival, shall be guilty of an offence.

(3) Every person who wilfully destroys, omits, alters, or renders illegible any entry in an official log-book or wilfully makes a false or fraudulent entry in or omission from an official log-book, shall be guilty of an offence.

Returns and Delivery of Documents

147.(1) The master of every Bahamian ship shall make out and sign a list (in this Act referred to as the list of the crew) in an approved form containing the following particulars —

List of crew.

- (i) the number and date of the ship's register and her net register tonnage;
 - (ii) the length and general nature of the voyage or employment;
 - (iii) the names, ages and places of birth of all the crew, including the master and apprentices, their ratings on board, their last ships or other employments and the dates and places of their joining the ship;
 - (iv) the names of any of the crew who have ceased to belong to the ship, with the times, places, causes and circumstances thereof;
 - (v) the names of any members of the crew who have been maimed or hurt, with the time, place, cause and circumstances thereof;
 - (vi) the wages due at the time of death to any of the crew who have died;
 - (vii) particulars of the property belonging to any of the crew who have died, with a statement of the manner in which that has been dealt with, and the money for which any part of it has been sold; and
 - (viii) details of any marriage that takes place on board, with the date thereof and the names and ages of the parties.
- (2) The list of the crew —
- (a) in the case of a foreign-going ship, shall be delivered or transmitted by the master within

forty-eight hours after the arrival of the ship at her final port of destination in The Bahamas or upon the discharge of the crew, whichever first happens, to the owner of the ship who shall retain the same for a period of seven years after receipt and shall produce the same on demand made therefor by a registrar or other proper officer;

- (b) in the case of a home-trade ship, shall be delivered or transmitted by the master or owner to the Director on or within twenty one days after the 30th June and the 31st December in each year.

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

(4) This section shall not apply to ships of under 300 tons net register tonnage.

Documents to be
handed over on
change of master.

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

Returns of births
and deaths.

149. (1) The master of a Bahamian ship upon its arrival at a port, or at such other time and place as the Director may with respect to any ship or class of ships direct, shall deliver in such form as the Director directs a return of the facts recorded by him in respect to a birth or death on board the ship to the Director if in The Bahamas or to a registrar or consular officer if elsewhere.

(2) A registrar or consular officer shall send a certified copy of every return under subsection (1) of this section to the Director who shall cause the information contained therein to be sent to the authority having responsibility for the registration of births and deaths.

*Relief and Repatriation of Distressed Seamen
and Seamen left behind Abroad*

150. (1) Except as hereinafter provided, every agreement entered into for the employment of a seaman in a ship shall be deemed to provide that the seaman, if the agreement terminates at a port other than the port of engagement (whether by effluxion of time, or by any act of the parties, or by shipwreck or sale of the ship, or by the inability of the seaman to proceed in the ship by reason of sickness or injury or any other cause whatsoever) be returned to a proper return port at the expense of the master or owner of the ship, and such master or owner, whether principal or agent, shall make such arrangements as may be necessary and defray all expenses incurred for the return of such seaman, and such liability shall include the cost of any maintenance and medical treatment which is necessary for the seaman until his arrival at a proper return port, and such seaman shall not become a charge upon the Government.

Owner responsible for return of seaman left behind at a port other than the port of engagement.

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

- (a) his desertion; or
- (b) his imprisonment; or
- (c) his inability to proceed in the ship owing to sickness or infirmity wilfully concealed at the time of the engagement,

shall not be entitled to be returned at the expense of the owner or master under subsection (1) of this section but such master or owner, whether principal or agent, shall make all arrangements necessary and defray all expenses incurred for the return of the seaman to a proper return port as if he were so entitled, and such master or owner may be reimbursed his expenses out of any wages owing to the seaman at the time he left the ship or out of the proceeds from the sale of any of his effects left on board or, if this should not prove sufficient by ordinary process of law, but such seaman shall not become a charge upon the Government.

(3) A registrar or consular officer may demand a guarantee from the master or owner (whether principal or agent) of a ship from which a seaman is to be discharged or left behind for the proper discharge of any obligations imposed by this section, and if this is refused he may withhold his consent to the discharge.

(4) Where a seaman becomes eligible to receive, and receives, medical aid or periodical payments at the expense of his employer under the terms of any written law providing for compensation to injured or sick workmen such receipt —

- (a) to the extent to which the seaman receives such medical aid, shall remove from the seaman any right to receive medical treatment under this section; and
- (b) to the extent and for so long as the seaman or apprentice receives such periodical payments, shall remove from the seaman or apprentice any right to receive maintenance under this section.

(5) In this section, “owner”, in the case of a foreign ship engaging a seaman in The Bahamas, includes any person appointed or nominated by the owner or the charterer if the ship is on demise charter, to act as his agent and who was so acting at the time the seaman was engaged.

Wages and
effects of seaman
left behind.

151.(1) Where a seaman belonging to a Bahamian ship is left at a place other than a proper return port, the master of the ship shall, subject to this section —

- (a) as soon as practicable enter in the official log-book a statement of the effects left on board by the seaman and an account of wages due to him at the time when he was left behind; and
- (b) on the termination of the voyage during which the seaman was left behind, furnish to a registrar or consular officer, within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, accounts, one (in this section referred to a “delivery account”) of the effects and wages and the other (in this section referred to as the “retention account”) of any expenses caused to the master or owner of the ship by the absence of the seaman (where the absence is due to desertion, neglect to join his ship or any conduct constituting an offence under section 129 or 131), including, in the case of a seaman who is not entitled to be repatriated at the expense of the owner or master of the ship, any provision made for the return of such seaman to

a proper return port, and the master shall, if required by the registrar or consular officer, furnish such vouchers as may be reasonably required to verify the accounts.

(2) The master of a ship shall deliver to a registrar or consular officer, if he will receive them, the effects of a seaman as shown in a delivery account, and subject to any reimbursement allowed under subsection (3) of this section, the amount due on account of wages as shown in that account, and the registrar or consular officer shall give to the master a receipt for any effects or amount so delivered.

(3) The master of a ship shall be entitled to retain out of the wages any sums shown in a retention account which appear to a registrar or consular officer to be owing or payable to the master of the ship, and for that purpose the registrar or consular officer shall allow those sums to be retained by the master out of the amount due on account of wages shown in the delivery account and, so far as that amount is not sufficient, to be raised and paid to the master out of the effects.

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

(5) The registrar or consular officer shall deliver the remainder of the wages and effects to such person at such time and in such manner as the Minister requires, and shall render such accounts in respect thereof as the Minister may direct.

(6) The master of the ship shall be under no liability for any loss of effects or for any damage to the effects if he proves to a registrar or consular officer that the loss or damage occurred without his neglect or consent after the seaman left the ship.

(7) The Government shall not be under any liability with respect to anything done under this section; except that, if after the wages or effects of a seaman have been dealt with under this section any legal proceedings are taken in respect of those wages or effects or involving the forfeiture of those wages by the seaman against the master or owner of the ship or by the master or owner of the ship

against the seaman, the Minister shall, if notice is given to him of the proceedings and a reasonable opportunity afforded him of appearing, comply with any order of the court made as respects the wages or effects so far as he can do so out of the wages and effects remitted to him in respect of the voyage of the ship.

(8) The Minister shall be entitled to appear and be heard in such proceedings or to be represented by any public officer in his department or any public officer of the Government.

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

(10) For the purpose of subsections (7), (8) and (9) of this section, any legal proceedings taken or any claim made by a person in whose favour an allotment note has been made shall be treated as proceedings taken or a claim made by the seaman.

(11) Any sums remitted under this section or arising from the sale of effects under this section, and not disposed of in accordance with this section, shall be paid to the Government.

(12) If the master of a ship fails without reasonable cause to comply with this section, he shall, without prejudice to any other liability, be guilty of an offence.

(13) This section shall not apply in the case of an absent seaman where —

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

- (c) the master of the ship satisfies a registrar or consular officer that the net amount due to the seaman on account of wages, after taking into account any deductions lawfully made in respect of allotments, advances or otherwise, is less than one hundred dollars; or
- (d) the question of the forfeiture of the wages and effects of the seaman has been dealt with in proceedings lawfully instituted before the termination of the voyage or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.

(14) In this section, “effects” include the proceeds of any sale of any effects sold under this section, and the effects may be sold by a registrar or consular officer in such manner as he thinks fit when they are delivered to him unless the Minister directs to the contrary, and if not sold then may be sold by the Minister as and when he thinks fit unless they are delivered to the seaman.

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

Certificate of discharge abroad.

153.(1) Where during the currency of the agreement the service of a seaman belonging to a Bahamian ship terminates otherwise than by the consent of the seaman, the master of the ship shall, besides giving the certificate of discharge required by this Part, and besides paying the wages to which the seaman is entitled, make adequate provision in accordance with this Act for his maintenance and his return to a proper return port, and shall request a registrar or consular officer to endorse upon the crew agreement of the ship which the seaman is leaving the particulars of any provision so made.

Return of seaman on termination of service.

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

- (a) if defrayed by the seaman, shall be recoverable as wages due to him; and
- (b) if defrayed by a registrar or consular officer or any other person, shall be a charge upon the ship to which the seaman belonged, and may also be

recovered from the person who is the owner of the ship for the time being, or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss, or (where the ship has been transferred to some person) from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, at the suit of the registrar or consular officer or other person defraying the expenses, or (if they have been allowed out of public money) as a debt to the Government, either by ordinary process of law or in the court and in the manner in which wages may be recovered by seamen.

Discharge of
seaman on
change of
ownership.

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

(2) Where a seaman is discharged under this section the provisions of this Part as to the certificate of discharge and the return of the seaman to a proper return port shall apply as if his service had terminated otherwise than by his consent to be discharged during the currency of the agreement.

Certificate
required where
seaman left
behind at foreign
port.

155.(1) The master of a Bahamian ship shall not leave a seaman behind at any foreign port or place except where the seaman is discharged in accordance with this Act, unless he has had the certificate of a registrar or consular officer endorsed on the crew agreement certifying the cause of the seaman being left behind, whether the cause is unfitness or inability to proceed to sea, desertion, disappearance or otherwise.

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

(3) If the master of the ship fails to comply with this section, he shall without prejudice to his liability under any other provision of this Act, be guilty of an offence and liable on summary conviction to a fine of five hundred dollars, and in a prosecution for such offence it shall lie on

the master to prove that the certificate was obtained or could not be obtained without unreasonable delay to the ship or was unreasonably withheld.

156. (1) Where a master of a Bahamian ship leaves a seaman behind at any foreign port or place on the ground of his unfitness or inability to proceed to sea, he shall deliver to the person signing the certificate required by section 155 a full and true account of the wages due to the seaman, and if that person is a consular officer shall deliver the account in duplicate.

Account of wages where seaman left behind.

(2) If a master fails without reasonable cause to deliver the account, he shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

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

Payment of wages of seaman left behind.

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

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

(4) If a master fails without reasonable cause to pay wages as provided by this section, he shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

158. Where the wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea are paid to and accepted by a registrar or consular officer, that officer shall accept them on condition that he deals with them in the following manner —

Application of wages of seaman left behind.

- (a) if the seaman subsequently obtains employment at or leaves the port at which the payment has been made, he shall retain out of the money any expenses such as the owner or master is by this Act required to defray, and shall pay the remainder to the seaman and deliver to him an account of the money received and expended on his behalf;

- (b) if the seaman dies before his ship leaves the port, he shall deal with the money as part of the property of a deceased seaman; and
- (c) if the seaman is sent to a proper return port at the public expense under this Act, he shall account for the money to the Minister, and after retaining any expenses duly incurred in respect of the seaman except such expenses as the master or owner of the ship is required by this Act to defray, the money shall be dealt with as wages of the seaman.

Relief of
distressed
seaman.

159.(1) Where a seaman —

- (a) is found in any place outside The Bahamas and has been shipwrecked from a Bahamian ship; or
- (b) by reason of having been discharged or left behind from a Bahamian ship in any place outside The Bahamas is in distress in that place,

*7 of 1989, s. 3 and
Sch.*

a consular officer may provide, in accordance with this Act —

- (i) for the return of any such seaman (who is in this Act included in the expression distressed seaman) at the expense of the Government to a proper return port and also provide for his necessary clothing and maintenance until his departure for such a port; and
- (ii) in case of death, for burial expenses; and
- (iii) in addition in the case of a shipwrecked seaman, for the repayment of any expenses incurred in his conveyance to port after his shipwreck and his maintenance while being so conveyed.

(2) Where a seaman is found at any place in The Bahamas as a result of being shipwrecked from a Bahamian ship, the owner of such ship or his representative shall provide for his necessary clothing and maintenance in that place and shall pay the expenses of returning the seaman to a proper return port.

Repayment of
expenses of relief
and return.

160.(1) Where any expenses are incurred by a consular officer on behalf of the Government under section 159, or are incurred by the Government of a foreign country and are repaid to such foreign country by the Government, the Minister may pay to such consular officer or foreign government the amount of such expenses

out of any moneys available for the purpose or out of any moneys appointed for that purpose.

(2) Any or all money paid by the Minister under subsection (1) of this section, together with the wages, if any, due to a distressed seaman, shall be a charge upon the ship to which the seaman belonged, and shall be a debt due to the Government from the master or owner of the ship at the time of the loss, or where the ship has been transferred either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, and also (if the ship is a foreign ship) from the person whether principal or agent who engaged the seaman for service in the ship.

(3) A debt under this section, in addition to any fines and consular fees which may have been incurred, may be recovered by the Minister on behalf of the Government either by ordinary process of law or in the court and manner in which wages may be recovered by seamen.

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

161. Any person belonging to a Bahamian ship who wrongfully forces a seaman on shore and leaves him behind, or otherwise causes a seaman to be wrongfully left behind at any place, shall be guilty of an offence.

Forcing ashore.

162. For the purposes of this Part, either the port at which a seaman was shipped, or a port in the country to which he belonged, or some other port agreed to by the seaman (in the case of a discharged seaman) at the time of his discharge, is a proper return port, but in the case of a seaman shipped in The Bahamas the return port shall be that in which he was shipped unless otherwise agreed to by him as aforesaid.

Proper return port.

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

Manner of return of seaman.

(2) Provision may be made for the return of a seaman, if he is fit for work, by providing him with suitable employment on board a ship, proceeding to a proper return port, that is in want of men to make up its complement or, if that is not practicable, by providing the seaman with a passage in any ship or aircraft or in other public transport and by providing for his maintenance during the journey.

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

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

Questions as to
return of seaman.

164. When any question arises as to what return port a seaman is to be sent, or as to the route by which he should be sent, that question shall be decided by a registrar or consular officer, and in deciding the question, the registrar or consular officer shall have regard both to the convenience of the seaman and to the expense involved and also (if it is the case) to the fact that a ship which is in want of men to make up its complement is about to proceed to a proper return port or to a port in the vicinity thereof; but nothing in this section shall relieve the owner from the obligation and expense of returning the seaman to his proper return port.

Minister may
assist distressed.

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

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

Government in the same manner as expenses incurred outside The Bahamas for distressed seamen of Bahamian ships are recovered.

PART IV PASSENGER SHIPS

166. The Minister may make regulations —

Regulations as to
passenger ships.

- (a) respecting accommodation, facilities and provisions on board passenger ships which carry passengers from or to a port in The Bahamas;
- (b) requiring the preparation and furnishing of particulars as to all passengers to or from a port in The Bahamas;
- (c) regulating the number of passengers which a ship may carry from a port in The Bahamas, whether or not the ship is a passenger ship;
- (d) prescribing the terms and conditions upon which ships may carry passengers between ports in The Bahamas.

167.(1) Any person who while on board or while attempting to board a passenger ship in The Bahamas —

Offences in
connection with
passenger ships.

- (a) being drunk or disorderly, is requested by the owner or any person in his employment to leave the ship, and after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request; or
- (b) after warning by the master or other officer of the ship, molests or continues to molest any passenger; or
- (c) having gone on board the ship at any place and being requested on account of the ship being full by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request; or
- (d) travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment therefor; or
- (e) having paid his fare for a certain distance, knowingly and wilfully proceeds in the ship

- beyond that distance without first paying the additional fare for the additional distance and with intent to avoid payment thereof; or
- (f) on arriving in a ship at a point to which he has paid his fare, knowingly and wilfully refuses or neglects to leave the ship; or
 - (g) fails when requested by the master or other officer thereof either to pay his fare or exhibit such ticket or other receipt showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship; or
 - (h) wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship, or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship,

shall be guilty of an offence.

- (2) Any person who —
 - (a) being drunk and disorderly, has been on that account refused admission to a passenger ship in The Bahamas by the owner or any person in his employment, and after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship; or
 - (b) after having been refused admission to a passenger ship in The Bahamas by the owner or person in his employment on account of the ship being full and having had the amount of his fare (if he had paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship,

shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine of one hundred dollars or to imprisonment for fourteen days.

Ticket to be
issued for
passage.

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

(2) A contract ticket required by this section shall specify —

- (a) the amount of the fare paid;
- (b) the places between which the passenger is entitled to be carried;
- (c) whether the passenger is to be berthed or unberthed;
- (d) whether the passenger is entitled to food or must purchase or provide his own food for the journey;
- (e) the amount of baggage the passenger is permitted to carry free of charge; and
- (f) any other rights or obligations of the parties.

(3) Any question which arises respecting the breach or non-performance of any stipulation in any such contract ticket may, at the option of the passenger interested, be tried before a magistrate's court, and the court may award the complainant such damages and costs as it thinks just, not exceeding three times the amount of the passage money specified in the contract ticket.

PART V SAFETY

Inspectors

169.(1) The Minister may, either generally or in a particular case, appoint at such places as he considers advisable Nautical Inspectors who shall be persons duly qualified to inspect —

Appointment of inspectors.

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

and one person may be appointed in several capacities.

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

Rights of
inspection.

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

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

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

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

(3) An inspector may require that the machinery of a ship be put in motion so that he may satisfy himself as to its condition.

Record of
inspections and
certificates.

171. An inspector shall keep a record of the inspections he makes and certificates he issues in such form and with such particulars respecting them as the Director may direct, and shall furnish copies thereof and any other information pertaining to the duties of his office which the Director may require.

Annual
inspections.
34 of 2000, s. 18.
S.I. 83/2001.

172.(1) This section applies to all Bahamian ships, except pleasure craft.

(2) The Director shall, by administrative action, assign to every ship to which this section applies an Annual Inspection Day.

(3) The owner of every Bahamian ship to which this section applies shall cause the ship to be inspected by an Inspector appointed under section 169 within three months before or after the anniversary date of its assigned Annual Inspection Day.

(4) Without prejudice to section 170, if the inspector is satisfied that there has been a failure to comply in relation to a ship with any requirement of this Act, the Merchant Shipping (Oil Pollution) Act (or any instrument made under them) or such that the ship is unfit to proceed to sea without danger to the ship or persons on board he may detain the ship or suspend the certificate of registry on the instructions of the Director but shall not in the exercise of these powers detain or delay the ship unreasonably.

Ch. 275.

(5) If a ship is not inspected in accordance with subsection (3), on the instructions of the Director the ship may be detained or its certificate of registry may be suspended.

(6) For the purpose of this section, a “pleasure craft” means a vessel (other than a passenger ship or a ship engaged in trade) primarily used for sport or recreation.

173......*Repealed by 34 of 2000*

174...... *Repealed by 34 of 2000*

175...... *Repealed by 34 of 2000*

176...... *Repealed by 34 of 2000*

177...... *Repealed by 34 of 2000*

178...... *Repealed by 34 of 2000*

179...... *Repealed by 34 of 2000*

180...... *Repealed by 34 of 2000*

181...... *Repealed by 34 of 2000*

182...... *Repealed by 34 of 2000*

183...... *Repealed by 34 of 2000*

*General Safety Precautions and
Responsibilities*

Crew to be
sufficient and
efficient.

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

International
Conventions on
the Safety of Life
at Sea.
*34 of 2000, s. 20.
S.I. 83/2001.*

185. (1) The provisions of Articles 4 and 5 and the annex to the International Convention on the Safety of Life at Sea, 1974 as modified by the Protocol of 1988 relating thereto, together with amendments thereto in force on 3rd February 2000 (in this Part and in the Third Schedule referred to as “SOLAS 74/88”) shall have the force of law.

Third Schedule.

(2) The provisions of the Third Schedule shall have effect in connection with SOLAS 74/88, and subsection (1) shall have effect subject to the provisions of that Schedule.

(3) The Minister may make such regulations as he considers appropriate to give effect to SOLAS 74/88.

(4) If it appears to the Minister that the Government of The Bahamas has agreed to any revision of the International Convention on the Safety of Life at Sea, 1974 he may —

(a) by Order —

- (i) make such modifications to this section;
- (ii) make such modifications to section 189;
- (iii) make such modifications to the Third Schedule;

(b) make such regulations,

as he considers appropriate in consequence of the revision.

(5) Nothing in any modification made by virtue of subsection (4) shall affect any rights or liabilities arising before the day on which the modification comes into force.

(6) The provisions of the Regulations to the International Convention on the Safety of Life at Sea, 1960 together with amendments thereto in force on 1st November 1974 (in this Part and in the Third Schedule referred to as “SOLAS 60”) shall have the force of law to the extent that they have not been replaced or abrogated by provisions of SOLAS 74/88.

(7) The provisions of the Third Schedule shall have effect in connection with SOLAS 60, and subsection (6) shall have effect subject to the provisions of that Schedule.

(8) The Minister may make such regulations as he considers appropriate to give effect to SOLAS 60.

(9) In the case of any conflict between SOLAS 74/88 and SOLAS 60, SOLAS 74/88 shall be decisive.

186.(1) The Minister may make regulations prescribing safety requirements and providing for the issue of local safety certificates in respect of any ship or class of ship to which SOLAS 74/88 does not apply.

Local safety
certificates.
34 of 2000, s. 20.

(2) On receipt of a local safety certificate the owner or master shall cause such certificate or certificates to be posted up in some conspicuous place on board the ship for the information of all on board and the certificate or certificates shall be kept so posted whilst in force and the ship is in use.

187.The Minister may by regulations (for the purpose of this Act referred to as the “safety regulations”) make such provision as he considers appropriate for all or any of the following purposes —

Safety
regulations.
34 of 2000, s. 20.

- (a) for securing the safety of Bahamian ships and persons on them, and for protecting the health of persons on Bahamian ships;

- (b) for giving effect to any provisions of an international agreement ratified by The Bahamas so far as the agreement relates to the safety of other ships or persons on them or to the protection of the health of persons on other ships;
- (c) for securing the safety of other ships and persons on them while they are within The Bahamas.

Prevention of Collisions

Method of giving
helm orders.

188. No person in a Bahamian ship shall, when the ship is going ahead, give a helm or steering order containing the word “starboard” or “right” unless he intends that the head of the ship shall move to the right; or give a helm or steering order containing the word “port” or “left” unless he intends that the head of the ship shall move to the left.

Collision
regulations.
34 of 2000, s. 21.

189. (1) This section applies to —

- (a) ships which are registered in The Bahamas;
- (b) other ships while they are in The Bahamas;
- (c) seaplanes on the surface of the water which are registered in The Bahamas; and
- (d) other seaplanes on the surface of the water while they are in The Bahamas.

(2) In this section —

S.I. 83/2001.

“master” includes captain of a seaplane; and

“the COLREGS” means the International Regulations for Preventing Collisions at Sea, 1972, together with amendments thereto in force on 1st January 2000.

S.I. 83/2001.

(3) Ships and seaplanes to which this section applies shall use the signals of distress set out in Annex IV of the COLREGS.

S.I. 83/2001.

(4) Ships and seaplanes to which this section applies shall comply with the provisions of the COLREGS:

Provided that nothing in this subsection shall be taken to require compliance by any ship or class of ships, which in pursuance of the COLREGS or a provision thereof has been exempted from compliance with the same.

10 of 2001, s. 2.

(5) Where subsection (3) or (4) is contravened, the owner of the ship or seaplane and the master shall be guilty of an offence and is liable —

- (a) on summary conviction —
 - (i) in the case of a breach of Rule 10(b)(i) of COLREGS to a fine of one hundred thousand dollars or a term of imprisonment of two years or to both such fine and term of imprisonment;
 - (ii) in all other cases to a fine of five thousand dollars or to a term of imprisonment of six months or to both such fine and term of imprisonment;
- (b) on conviction on information —
 - (i) in the case of a breach of Rule 10(b)(i) of COLREGS to a fine of two hundred thousand dollars or a term of imprisonment of ten years or to both such fine and term of imprisonment;
 - (ii) in all other cases to a fine of fifty thousand dollars or a term of imprisonment of six years or to both such fine and term of imprisonment.

(6) If it appears to the Minister that the Government of The Bahamas has agreed to any revision of the COLREGS he may by Order make such modifications to this section or make such regulations as he considers appropriate in consequence of the revision.

(7) The Minister may by Order revise the penalties contained in subsection (5).

(8) Nothing in any modification made by virtue of subsections (7) or (8) shall affect any rights or liabilities arising before the day on which the modification comes into force.

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

Ship to assist other in case of collisions.

- (a) to render to the other ship, and to her master, crew and passengers (if any), such assistance as may be practicable and as may be necessary to preserve them from any danger caused by the collision, and to stay by the other ship until he has ascertained that she has no need of further assistance; and also

- (b) to give to the master or person in charge of the other ship the name of his own ship and the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of an offence.

Safe container
regulations.

34 of 2000, s. 22.

191. The Minister may make such regulations as he considers appropriate to give effect to the International Convention on Safe Containers, 1972.

Load Lines and Loading

International
Convention on
Load Lines,
1966, to have the
force of law.
34 of 2000, s. 23.

Fourth Schedule.

192. (1) The provisions of Articles 2 to 22 inclusive and Annex I, Annex II and Annex III of the International Convention on Load Lines, 1966 as modified by the Protocol of 1988 relating thereto, together with amendments thereto in force on 3rd February 2000 (in this Part and in the Fourth Schedule referred to as “the Load Line Convention”) shall have the force of law.

Fourth Schedule.

(2) The Fourth Schedule shall have effect in connection with the Load Line Convention, and subsection (1) shall have effect subject to the provisions of that Schedule.

(3) The Minister may make such regulations as he considers appropriate to give effect to the Load Line Convention.

(4) If it appears to the Minister that the Government of The Bahamas has agreed to any revision of the International Convention on Load Lines, 1966 as modified by the Protocol of 1988 relating thereto, he may —

- (a) by Order —
 - (i) make such modifications to this section;
 - (ii) make such modifications to the Fourth Schedule;
- (b) make such regulations,

as he considers appropriate in consequence of the revision.

(5) Nothing in any modification made by virtue of subsection (4) shall affect any rights or liabilities arising before the day on which the modification comes into force.

Load line
regulations.

193. (1) The Minister may make regulations (hereafter in this Act referred to as “the load line regulations”)

which, having regard to the Load Line Convention, make provision —

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

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

194. *Repealed by 34 of 2000*

195. *Repealed by 34 of 2000*

196. *Repealed by 34 of 2000*

197. *Repealed by 34 of 2000*

198. *Repealed by 34 of 2000*

199. *Repealed by 34 of 2000*

200. *Repealed by 34 of 2000*

201. *Repealed by 34 of 2000*

202. *Repealed by 34 of 2000*

203. *Repealed by 34 of 2000*

204. *Repealed by 34 of 2000*

205. *Repealed by 34 of 2000*

206. *Repealed by 34 of 2000*

Dangerous Goods

Carriage of
dangerous goods.

34 of 2000.

207. (1) and (2)

(3) The master or owner of any ship may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

(4) When any dangerous goods, or any goods which, in the judgment of the master or owner of the ship, are dangerous goods, have been sent on board any ship without distinctly marking on the outside of the package containing the goods or giving written notice to the master or owner of the ship, of the nature of the goods, the master or owner of the ship, may cause the goods, together with any packaging or container thereof, to be thrown overboard, and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, in any court in respect thereof.

*34 of 2000,
s. 25(b).*

(5) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship in contravention of any of the provisions of section 185, any court having Admiralty jurisdiction may declare those goods, and any packaging or container thereof to be, and they shall thereupon be, forfeited and shall thereafter be disposed of as the court may direct.

(6) A court may exercise the powers conferred by subsection (3) of this section notwithstanding —

(a) that the owner of the goods concerned has not committed any offence in respect of the goods, or is not before the court, or has not notice of the proceedings; or

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

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

(7) For the purposes of this section, “dangerous goods” means any goods of an explosive, highly inflammable or toxic nature or which are otherwise, by reason of their nature or quantity, either individually or collectively liable to endanger life or imperil the ship, and, without prejudice to the generality of the foregoing, any goods which are declared by regulations under this section to be dangerous in their nature.

- (8) This section shall apply to —

*34 of 2000,
s. 25(c).*

- (a) Bahamian ships;
(b) other ships while they are within any port in The Bahamas, or are embarking or disembarking passengers, or loading or discharging cargo or fuel, within Bahamian waters.

Unseaworthy Ships

208.(1) Any person who sends or attempts to send, or is party to sending or attempting to send, a Bahamian ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanour, unless he proves either that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable.

*Sending
unseaworthy ship
to sea.
5 of 1982, s. 15.*

(2) The master of a Bahamian ship who knowingly takes the ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanour unless he proves that her going to sea in such an unseaworthy state was, in the circumstances, reasonable and justifiable.

5 of 1982, s. 15.

209.(1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice

*Obligation to
secure
seaworthiness of
ship.*

on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the voyage.

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

Unseaworthy
ship to be
detained etc.
5 of 1982, s. 15.
7 of 1989, s. 3 and
Sch.

210.(1) Where, whether on complaint or representation made to him or otherwise, an inspector has reason to believe that any Bahamian ship, or any foreign ship in a port in The Bahamas, is an unsafe ship he may —

- (a) in the case of a Bahamian ship, suspend her certificate of registry; or
- (b) in the case of a foreign ship, cause her to be detained,

until he is satisfied that she is fit to proceed to sea.

(2) Where a foreign ship has been detained under subsection (1)(b) of this section, a consular officer for the country to which the ship belongs shall be informed forthwith.

7 of 1989, s. 3 and
Sch.

(3) Where a ship has been dealt with under subsection (1) of this section, the inspector may inspect or survey, or cause to be inspected or surveyed, the ship to investigate any defects believed to exist.

(4) The owner or master of a ship or a consular officer referred to in subsection (2) of this section may require that a person of his choice shall accompany any person making an inspection or survey under this section.

7 of 1989, s. 3 and
Sch.

(5) An inspector acting under this section, shall, as soon as practicable after action is completed therein, forward a full report thereof to the Director together with copies of any reports made upon inspection or survey.

5 of 1982, s. 15.

(6) Any complaint in respect of the seaworthiness of a ship shall be in writing, stating the name and address of the complainant, and a copy of such complaint, including the

name and address of the complainant, shall be given to the owner or master of the ship if action is taken under this section.

(7) Before any action is taken under this section as a result of a complaint, the inspector shall assure himself, by all means at his disposal, that the complaint is not of a trivial or vexatious nature. *7 of 1989, s. 3 and Sch.*

- (8) In this section, “unsafe ship” means a ship —
- (a) which is deemed to be an unsafe ship for the purpose of this section by any provision of this Part; and
 - (b) any ship which is, by reason of the defective condition of her hull, equipment or machinery, or by reason of undermanning, overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.

211.(1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the detention of a ship under this Part as an unsafe ship, the Minister shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey. *Liability for costs and damages.*

(2) If a ship is detained under this Act, and the ship was, at the time of detention, an unsafe ship within the meaning of this Part, the owner of the ship shall be liable to pay to the Minister any costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

212.(1) Where a complaint is made to the Minister or an inspector that a Bahamian ship is unsafe, the Minister or inspector may, if he thinks fit, require the complainant to give security to his satisfaction for the costs and compensation which he may become liable to pay as hereinafter mentioned: *Power to require from complainant security for costs. 7 of 1989, s. 3 and Sch.*

Provided that such security shall not be required where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not

in the opinion of the Minister or inspector frivolous or vexatious, and the Minister or inspector shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(2) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Minister is liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Minister all such costs and compensation as the Minister incurs or is liable to pay in respect of the detention and survey of the ship.

Miscellaneous Matters

Regulations for protection of workers against accidents while loading or unloading ships.

213. The Minister may make regulations for the protection against accidents of workers employed in The Bahamas in loading or unloading ships, having regard in particular to —

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

Marking of heavy packages.

214. No person shall in The Bahamas consign to be loaded on any ship, and no master, owner or agent of any ship shall in The Bahamas cause or permit to be loaded on any ship, any package or object of a gross weight of 2240 lb. or over without causing its approximate weight to be plainly and durably marked on the outside of the package or object.

Minister may exempt from compliance with Part.

215. Notwithstanding anything in this Part, the Minister, may, by order in the *Gazette*, exempt any home-trade ship, or the owner of any such ship, from compliance with any of the provisions of this Part or of any regulations made thereunder.

PART VI
WRECKS, SALVAGE AND INVESTIGATIONS

Receiver of Wreck

216. The Minister shall have the general superintendence of all matters relating to wreck and may, by notice in the *Gazette*, appoint any person to be a receiver of wreck in any specified area and to perform the duties of a receiver under this Part.

General
superintendence
of Minister.

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

Fees and
expenses of
receiver.

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

218.(1) When any vessel is wrecked, stranded or in distress at any place on or near the coast of The Bahamas the receiver shall upon being made acquainted with such stranding or distress forthwith proceed to such place and upon his arrival there he shall take the command of all persons present and assign duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (hereinafter referred to as “shipwrecked persons”) and of the cargo and apparel of the vessel:

Duties of
receiver.

Provided that a receiver shall not interfere between the master and crew of the vessel with reference to the management thereof, unless he is requested by the master so to do.

(2) If any person wilfully disobeys the directions of a receiver, he shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Powers of
receiver.

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

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

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

Passage over
adjoining lands.

220.(1) Whenever a vessel is stranded, wrecked or in distress, any person may, for the purpose of rendering assistance to the vessel or of saving the lives of the shipwrecked persons or of saving the cargo or apparel of the vessel, pass and repass, with or without vehicles and equipment, over any adjoining lands without being subject to interruption by the owner or occupier, unless there is some public road equally convenient, and also deposit on those lands any cargo or other things recovered from the vessel, but such persons shall not do any more damage than is reasonably necessary.

(2) Any damage sustained by the owner or occupier in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of, or by, which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined, and shall in default of payment be recoverable, in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) If the owner or occupier of any property hinders or obstructs any person exercising the rights conferred by subsection (1) of this section, he shall be guilty of an offence and liable on summary conviction to a fine of two hundred dollars.

221. Where a receiver or a person acting under his orders is engaged in the execution of the duties imposed on the receiver by this Part, and some other person resists the receiver or a person is killed, maimed or hurt by reason of such resistance, no action, suit or prosecution against such receiver or person shall be maintainable by or on behalf of the person killed, maimed or hurt, unless such receiver or person has used more force than was, in the circumstances, reasonably necessary.

Immunity of receiver.

222. Every person who without reasonable cause fails to comply with any lawful requirement or order of a receiver or who wilfully impedes or obstructs a receiver or any person acting under his orders in the execution of his duty shall be guilty of an offence and liable on summary conviction to a fine of two hundred dollars or to imprisonment for six months.

Obstruction of receiver.

Dealing with Wreck

223. (1) Whenever any person takes possession of any wreck in The Bahamas, he shall as soon as possible deliver the wreck to the receiver; but the Minister may dispense with any such delivery in the case of any wreck upon such conditions as he thinks fit.

Duty of person taking possession of wreck.

(2) This section shall apply to any wreck found derelict at sea outside The Bahamas and brought into The Bahamas.

(3) If any person who has taken possession of wreck fails without reasonable cause to comply with the section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding double the value of the wreck and to forfeit any claim or right to salvage with relation to the wreck.

224. (1) Where a receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not its owner, or that any wreck is being otherwise improperly dealt with, he may apply to a magistrate for a search warrant and that magistrate shall have power to grant such a warrant, and the receiver, by virtue of the warrant may enter any house or other place wherever situate, and also any vessel, and search for, seize and detain any wreck there found.

Concealment of wreck.

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

Notice of wreck.

225. Where a receiver takes possession of any wreck and does not know who owns it, he shall, within forty-eight hours, cause to be posted in the customs house nearest to the place where such wreck was found or was seized by, or delivered to him, a description of the wreck and of any marks by which it is distinguished, and shall transmit a similar description to the Minister who may give such publicity to the description as he thinks fit.

Owner may claim wreck within six months.

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

(2) Where any wreck is in the possession of a receiver is proved to the satisfaction of the Minister to belong to a foreign owner, any 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 owner so far as relates to the custody and disposal of the wreck.

Power to sell wreck.

227. Where any 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, and the proceeds of sale, after levying customs duty, if any, and defraying the expenses of the sale, shall be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Power to sell unclaimed wreck.

228. Where any 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.

229. Upon delivering any wreck to the owner thereof, or paying him the proceeds of sale in pursuance of this Part, a receiver shall be discharged from all liability thereof, but such delivery shall not prejudice or affect any question which may be raised by third parties concerning such wreck.

Discharge of receiver.

Removal of Wrecks

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

Removal of wreck in port.

- (a) take possession of and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy the vessel or part until it is raised, removed or destroyed;
- (c) sell, in such manner as it thinks fit, the vessel or part when so raised or removed, and also any other property recovered in the exercise of its powers under this section, and out of the proceeds of the sale reimburse itself for the expenses incurred by it in relation thereto under this section, and shall hold the surplus, if any, of the proceeds on deposit for paying to the person establishing his right to it:

Provided that such deposit shall be forfeited to the authority unless such person makes his claim within one year of the sale;

- (d) if the expenses connected with the raising, removal or destruction of the vessel exceed the value of any property recovered, the excess shall be a debt due to the port authority from the person who was the owner of the vessel at the time when the vessel was sunk, stranded or abandoned.

(2) Where a vessel is run aground or stranded, or is found in a dangerous or hazardous condition, in a port under the control of a port authority, or in or near the approaches thereto, and it appears expedient to the port authority to take charge of the operation of refloating or removing the vessel, it may, subject to subsection (3) of this section, appoint an officer to direct such operation, and such officer shall be authorized to do all things which in his opinion are necessary to refloat or remove the vessel, and the master and all persons present belonging to the ship shall obey the direction of such officer and render him such assistance as he may require.

(3) An officer to be appointed under subsection (2) of this section shall only be appointed with the approval of the Minister, and such officer may be appointed either generally or in a particular case.

Removal of
wreck.

231. Where a vessel is sunk, stranded or abandoned on the coast or on or near any rock, shoal or bank in The Bahamas or any adjacent seas, the Minister shall, if in his opinion the vessel is or is likely to become an obstruction or a danger to navigation, have the same powers in relation to it as are by this Part conferred upon a port authority.

Salvage

Reasonable
salvage payable.

232. (1) Where —

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

the owner of the aircraft, vessel, cargo or apparel saved shall pay to the salvor a reasonable amount of salvage, including expenses properly incurred, to be determined in case of dispute in manner hereinafter provided.

(2) Salvage in respect of the preservation of life when payable by the owner of a vessel or aircraft shall be payable in priority to all other claims for salvage.

233. 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 respectively by this Part and not otherwise.

Disputes as to salvage.

234. A receiver shall determine the amount of salvage —

Where receiver may determine amount of salvage.

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

235. Where in any proceedings for salvage in the Court 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 have no costs, charges or expenses incurred by him in the prosecution of his claim, and he shall pay to the other parties such costs, charges and expenses, if any, as the Court directs.

Costs.

236. Where any dispute as to salvage arises, a receiver or the Court shall on the application of either party appoint a valuer to value such property and shall give copies of the valuation to both parties.

Valuation of property.

237. (1) A receiver may seize property alleged to be liable for salvage (hereinafter referred to as “detained property”), and detain it until either the salvage fees and costs due thereon are ascertained and paid, or process is issued for the arrest or detention of the property by the Court, or security is given to his satisfaction for such salvage, fees and costs.

Receiver may seize property liable for salvage.

(2) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds four 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 in pursuance of this section may be enforced by the Court in the same manner as if bail had been given in the Court.

Receiver may sell
detained
property.

238.(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 —

- (a) the amount is not disputed and payment of the amount due is not made within twenty days after the amount is due;
- (b) the amount is disputed but no appeal lies from the Court and payment is not made within twenty days after the decision of the Court; or
- (c) the amount is 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 so far as not required for that purpose shall be paid to the owners of the property or any other persons entitled to receive the proceeds.

Voluntary
agreement to pay
salvage.

239.(1) Where services are rendered for which salvage is claimed and the salvor voluntarily agrees to abandon his lien upon the vessel and the cargo and property alleged to be salvaged, then, upon the master or owner, 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 upon by the parties to the agreement,

that agreement shall bind the vessel and the cargo and property and the respective owners of the vessel and the 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.

(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 upon 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 will abide by the decision of a court of competent jurisdiction in The Bahamas, the Court shall have power to adjudicate upon and enforce that agreement.

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

240. An action in respect of salvage services may not be brought after the end of two years from the date when the salvage services were rendered.

Limitation of time for salvage proceedings.

Shipping Casualties, Inquiries and Investigations

240A. Where a Bahamian ship has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, as soon as possible after the happening of the accident or damage, report the particulars of the accident or damage to the fullest extent possible, stating the name of the ship, her location, her official number, and port of registry, by the fastest means of communications available to the director or The Bahamas Maritime Authority.

Reporting requirement.
34 of 2000, s. 26.

241. Where any of the following casualties has occurred, that is to say —

Inquiries and investigations into shipping casualties.

- (a) the loss or presumed loss, stranding, grounding, abandonment of, or damage to, a ship; or
- (b) a loss of life caused by fire on board, or by any accident to, a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or
- (c) any damage caused by a ship,

and, at the time it occurred, the ship was a Bahamian ship or the ship or boat was in Bahamian waters —

- (i) the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Minister; and

- (ii) the Minister may (whether or not a preliminary inquiry into the casualty has been held) cause a formal investigation (hereafter in this Act referred to as a “formal investigation”) to be held by a wreck commissioner.

Preliminary
inquiry.

242.(1) For the purposes of a preliminary inquiry under section 241, the person holding the same shall have the powers of an inspector under this Act.

(2) Upon the conclusion of a preliminary inquiry, the person holding the same shall send to the Minister a report containing a full statement of the case and of his opinion thereon, accompanied by such report of, or extracts from, the evidence, and such observations, as he thinks fit.

Formal
investigation.

243.(1) The Minister may appoint —

- (a) a person appearing to him to be suitably qualified, by the holding of, or by having held, judicial office, or by experience as a legal practitioner; or
- ¹(b) a person who was formerly a senior public officer,

7 of 1989, s. 2.

to be a wreck commissioner to hold formal investigations or a formal investigation.

(2) A wreck commissioner holding a formal investigation —

- (a) shall conduct it with the assistance of one or more assessors of nautical, engineering or other special skills or knowledge:

Provided that if any question as to the cancellation or suspension of an officer’s certificate is likely to arise there shall be at least two assessors having experience in the merchant service;

- (b) shall conduct it in accordance with any rules made under section 289.

Ch. 184.

(3) Sections 9, 10, 11, 12 and 13 of the Commissions of Inquiry Act shall apply to a formal investigation as if the 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 the said section 10.

¹ The substitution of paragraph (b) by Act 7 of 1989, section 2, was deemed by section 1(2) of that Act to have come into operation on 7th May, 1987.

(4) A wreck commissioner may make such order with regard to the costs of a formal investigation as he thinks just and any such costs may be recovered from the person ordered to pay them by the Minister.

(5) At the conclusion of a formal investigation the wreck commissioner shall send a full report on the investigation, together with the evidence taken, to the Minister.

244.(1) If, as a result of a formal investigation, a wreck commissioner is satisfied that any master, mate or engineer —

Powers of wreck commissioner as to certificate.

- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
- (b) has been seriously negligent in the discharge of his duties; or
- (c) has failed to give any assistance or information required by section 190,

and, in a case coming under paragraph (a) or (b), is further satisfied that it caused or contributed to the casualty, the wreck commissioner may cancel or suspend any certificate or licence issued to the officer concerned under section 69 or censure him, and if a certificate or licence is cancelled or suspended the officer concerned shall forthwith deliver such certificate or licence to the wreck commissioner or the Director:

Provided that —

- (i) a wreck commissioner shall not cancel or suspend a certificate or licence unless at least half of the number of assessors concur;
- (ii) each assessor who does not concur shall state in writing his dissent and his reasons therefor.

(2) A copy of the report made to the Minister under subsection (5) of section 243 shall be furnished to any officer whose certificate or licence is cancelled or suspended, or who is censured, by a wreck commissioner.

245.(1) If it appears to the Minister that any master, mate, engineer or other officer who holds a certificate or licence under this Act (or under any instrument made under it) —

Inquiry into fitness or conduct of officer.
34 of 2000, s. 27(a)(i) and (ii).

-
- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
 - (b) has been seriously negligent in the discharge of his duties; or
 - (c) has failed to give any assistance or information required by section 190,

the Minister may cause an inquiry to be held by any person qualified under section 243(1) to be appointed as a wreck commissioner and, if he does so, may (if he thinks fit) suspend such certificate or licence pending the outcome of the inquiry and require the officer concerned to deliver it to the Director.

*34 of 2000,
s. 27(b).*

(2) The Minister may make rules for the conduct of inquiries under this section and for the conduct of any rehearing of an inquiry which is not held by the Supreme Court.

*34 of 2000,
s. 27(c)(i)
and (ii).*

(3) A person holding an inquiry under this section may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1) of this section, cancel or suspend any certificate or licence issued to the officer under this Act (or under any instrument made under it), and if a certificate or licence is suspended, the officer concerned shall (unless he has delivered it to the Director in pursuance of the said subsection (1)), deliver it forthwith to the person holding the inquiry or to the Director.

*Re-hearing and
appeal.*

246. (1) Where an inquiry or formal investigation has been held under the preceding provisions of this Part, the Minister may order the whole or part of the case to be re-heard, and shall do so —

- (a) if new and important evidence which could not be produced at the inquiry or investigation has been discovered; or
- (b) if there appear to the Minister to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) A re-hearing under this section —

- (a) may be held by the person or wreck commissioner who held the first inquiry or formal investigation, or by another person qualified to hold such inquiry or investigation, as the Minister may direct;

- (b) shall be conducted in accordance with rules made under section 289,

and, subject to such rules, the provisions of this Part which applied to the original inquiry or investigation shall apply to such re-hearing.

(3) Where, as a result of a formal investigation, or an inquiry under section 245, the certificate or licence of any person has been cancelled or suspended, or any person has been found to be at fault, then if no order is made under subsection (1) of this section, that person or any other person who, having an interest in the investigation or inquiry, has appeared at the hearing hereof and is affected by the decision or finding, may appeal to the Court.

247. (1) If a person fails to deliver a certificate or licence as required by or under section 244 or 245, he shall be guilty of an offence and liable on summary conviction to a fine of two hundred dollars.

Delivery of
certificates, etc.

(2) Where a certificate or licence is delivered to any person other than the Director in pursuance of section 244 or 245 that person shall, as soon as possible, forward it to the Director for retention.

(3) Where a licence issued under subsection (2) of section 69 is suspended or cancelled under this Part, the Director shall send a copy of the report on the case and of the evidence to the Government of the country by which the certificate of the officer concerned was issued.

248. Where a certificate or licence has been suspended or cancelled under section 244 or 245, the Minister may, if of opinion that the justice of the case requires it, re-issue the certificate or licence or, as the case may be, reduce the period of suspension and return the certificate or licence, or may grant a new certificate or licence of the same or a lower grade in place of that cancelled or suspended.

Power of Minister
to restore
certificate.

PART VII

LIMITATION AND DIVISION OF LIABILITY

Limitation of Liability

249. (1) In this Part —

Interpretation.

“ship” includes every description of lighter, barge or like vessel, however propelled, and any structure

1 of 2003

launched and intended for use in navigation as a ship or a part of a ship;

*17 of 1989, s. 5
and Sch.*

“unit of account” means the unit of account calculated in accordance with Article 8 of Part I of the Second Schedule to the Merchant Shipping (Maritime Claims Limitation of Liability) Act 1989.

1 of 2003.

(2) This section shall be deemed to have come into force on November 1, 1989.

Limitation of
liability of dock,
canal and harbour
owners.

*17 of 1989, s. 5
and Sch.*

250. (1) Where without the actual fault or privity of the owners of any dock or canal or any harbour or port authority any loss or damage is caused to any ship or to any goods, merchandise or other things whatsoever on board any ship or ships, such owners shall not be liable to damages beyond an aggregate amount not exceeding an amount equivalent to 66.67 units of account for each ton of the tonnage of the largest registered Bahamian ship that at the time of such loss or damage occurring is or has within the preceding five years been within the area over which such dock or canal owner or port or harbour authority performs any duty or exercises any power.

(2) For the purposes of this section, a ship shall not be taken to have been within the area over which a port or harbour authority performs any duty or exercises any power by reason only that it has been built or fitted out within such area, or that it has taken shelter within or passed through such area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mails or passengers within that area.

(3) This section does not impose any liability in respect of any loss or damage on any such owners or authority in any case where no such liability exists apart from this Act.

(4) The limitation of liability under this section shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such loss or damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any Act, and notwithstanding anything contained in any Act.

(5) In this section, “owner of any dock or canal” includes any person or authority having control and management of any dock or canal, and ship using the same, as the case may be.

Division of Liability

251.(1) Where by the fault of two or more vessels damage or loss is caused to one or more of those vessels, or to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:

Rules as to
division of
liability.

Provided that —

- (a) if having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- (b) nothing in this section shall operate so as to render any vessel liable for loss or damage to which her fault has not contributed;
- (c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing upon any person any liability from which he is exempted by any contract or by any law, or affecting the right of any person to limit his liability in the manner provided by law.

(2) In this section, “freight” includes passage money and hire, and reference to damage or loss caused by the fault of a vessel includes a reference to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

252.(1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several.

Joint and several
liability.

(2) Subsection (1) of this section shall not be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in any action brought against him by the person injured, or any person entitled to sue in respect of such loss of life, nor shall it affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

253.(1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a

Right of
contribution.

proportion of the damage is recovered against the owners of one of the vessels that exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which these vessels were respectively in fault:

Provided that no amount shall be so recovered if, by reason of any statutory or contractual limitation of or exemption from liability or for any other reason, it could not have been recovered in the first instance as damages by the person entitled to sue therefor.

(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall have, for the purpose of recovering contribution subject to this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

254. Sections 251, 252 and 253 shall apply to any persons, other than the owners, who are responsible for the fault of the vessel, as though “owners” includes such persons and all persons responsible for the navigation and management of the vessel pursuant to a charter or demise.

PART VIII LEGAL PROCEEDINGS

Offences

255. (1) Where, in respect of any Bahamian ship there is any contravention of a requirement of any of the International Conventions or Regulations set forth in the First Schedule to this Act, an inspector may suspend the certificate of registry of the ship until the contravention is rectified.

(2) The Minister may, by notice, in the *Gazette*, amend or add to the First Schedule to this Act.

256. Any person who contravenes any regulation made under this Act, or any of the regulations, rules or orders mentioned in subsection (3) of section 289, shall be guilty of an offence and, unless a specific penalty is otherwise provided by this Act or by the provisions of the regulation, rule or order concerned, he shall be liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months.

Extended
meaning of
“owners”.

Contravention of
International
Conventions.
First Schedule.
*7 of 1989, s. 3 and
Sch.*

Contravention of
regulations.

257. Any 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, shall be liable on summary conviction to a fine of two thousand dollars or to imprisonment not exceeding eighteen months.

General penalty.

258. Subject to any special provision of this Act, neither a conviction for an offence nor an order for payment of money shall be made under this Act in proceedings instituted in The Bahamas, unless those proceedings are commenced within one year after the commission of the offence or after the cause of action arises, as the case may be.

Limitation of time.

259. 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 in respect of the management for the time being of such ship, and that person acting on behalf of such owner or charterer does anything or omits to do anything in respect of such ship, in contravention of this Act or in contravention of any regulations or rules made or deemed to be made under this Act, he shall be liable to the same extent as the owner or charterer would have been liable in respect of such contravention had he done or omitted to do that thing and was within the jurisdiction of the Court.

Liability of agents.

Jurisdiction

260. (1) For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of action to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Jurisdiction in case of offences.

(2) Where in any proceedings under this Act a question arises whether any ship or person is or is not governed by the provisions of this Act or of some part of this Act, that ship or person shall be deemed to be within those provisions unless the contrary is proved.

261. (1) A Court which has jurisdiction in any part of the coast of The Bahamas shall have jurisdiction over any vessel being on or lying off or passing off, that coast, and over

Jurisdiction over ship lying off coast.

all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of such court:

Provided that such jurisdiction shall only be exercised in conformity with any International Convention to which for the time being The Bahamas is a party.

(2) The jurisdiction conferred by this section shall be in addition to and not in derogation of any jurisdiction or power afforded by any other law.

Jurisdiction in case of offence on board ship.

262. Notwithstanding anything contained in any other written law, where any person on board a Bahamian ship does any act or makes any omission which would be an offence if done or made in The Bahamas, that person shall, regardless of the position of the ship at the time of the act or omission, be guilty of that offence and may be tried by any court having jurisdiction in The Bahamas.

Damage Occasioned by Foreign Ships

Power to detain foreign ship that has occasioned damage.

263. (1) Where —

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

and at any time thereafter that ship is found in any port or place in The Bahamas, the Court may, upon it being shown to it by any person applying that this damage or injury was probably caused by the misconduct or want of skill of the master or mariners of the ship, issue an order directed to any person named by the Court, requiring him to detain the ship until such time as the owner, master or agent thereof, has made satisfaction in respect of the damage or injury, or has given security, approved by the Court, to abide the event of any proceedings that may be instituted in respect of the damage or injury, and to pay all costs and damages that may be awarded thereon.

(2) Any person to whom an order is directed under this section shall detain the ship accordingly.

(3) 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, the ship may be detained for such time as will allow the application to be made, and the result thereof to be communicated to the officer detaining the ship; and that officer shall not be liable for any costs or damages in respect of the detention unless the detention is proved to have been made without reasonable grounds.

(4) In any proceedings in relation to any such damage or personal injury, the person giving security shall be made defendant and shall be stated to be the owner of the ship that has occasioned the damage or injury, and the production of the order of the court made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceeding.

264. Whenever a complaint is made to a consular officer —

Conveyance of offender and witnesses to The Bahamas.

- (a) that an offence against property or person has been committed at any place outside the Bahamas by any master, seaman or apprentice who at the time when the offence was committed was employed in a Bahamian ship; or
- (b) that an offence on the high seas has been committed by any master, seaman or apprentice belonging to a Bahamian ship,

that consular officer may inquire into the complaint upon oath, and may if the case so requires take any steps in his power for the purposes of placing the offender under the necessary restraint and of sending him as soon as practicable in safe custody to a port in The Bahamas.

(2) The consular officer may order the master of any Bahamian ship bound for a port in The Bahamas to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid and to any witnesses, but that the master shall not be required to receive more than one offender for every 100 tons of his ship's register tonnage or more than one witness for every 50 tons of that tonnage; and the consular officer shall endorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the Director may require.

(3) The master of a ship to whose charge an offender has been committed, shall, on the ship's arrival in The Bahamas, give the offender into the custody of a police officer, and that officer shall take the offender before a court.

(4) The expenses of confining any such offender and of conveying him and the witnesses to a port in The Bahamas in any manner other than in the ship to which they respectively belong shall, where not paid as part of the costs of the prosecution, be paid out of the Consolidated fund.

*Reciprocal Jurisdiction and Jurisdiction over
Foreign Ships*

Reciprocal
services relating
to foreign ships.

265. (1) Where the law of a foreign country provides, in terms extending to ships registered in that country while they are in The Bahamas or before or after they have been in The Bahamas or while they are at sea, that a court, the registrar, a customs officer, an inspector or some other officer or functionary in, for or of The Bahamas may or shall execute any request, exercise any right or authority or perform any duty or act in relation to such ships or to their owners, masters or crew, such court, registrar, customs officer, inspector or other officer or functionary may or shall, as the case may be, execute such request, have such right or authority and perform such duty as if the power to so act were conferred by this Act.

(2) Where the law of a foreign country provides in terms extending to Bahamian ships while they are in that country or while they are at sea, that a court or authority in or of that country may or shall, in relation to Bahamian ships or to their owners, masters or crews, execute any request, exercise any right or authority or perform any duty or act, which this Act makes or purports to make, confer, impose or direct to be done of, upon or by such court or authority, then all things done by such court or authority, in the form pursuant to this Act, that can be related to that law shall be deemed to have been done by force of that law:

Provided that where any provision of this Act which permits, authorizes, requires or directs any such court or authority is permissive merely, all things done by the court or authority pursuant to this Act shall be deemed to have been validly done for all the purposes of this Act.

266. Where it appears to the Minister that the government of a foreign country is desirous that any of the provisions of this Act, that do not apply to the ships of that country should apply, and there are no special provisions in this Act for that application, the Minister may by order direct that any specified provisions of this Act shall, subject to any limitations contained in the order, apply to the ships of that country and to the owners, masters, seamen and apprentices of those ships when not locally within the jurisdiction of the government of that country, in the same manner in all respects as if those ships were Bahamian ships.

Application of Act of foreign ships.

Inquiry into Causes of Death

267.(1) When a death occurs on board a Bahamian ship, the master shall report the death to the authorities at the first port of arrival and shall submit a statement and log extract signed by him, to the Minister.

Inquiry into cause of death on board.

(2) Should the Minister decide to hold an investigation into the cause of death, any person appointed by the Minister for that purpose shall, on the arrival of the ship at a port, inquire into the cause of the death and make in the official log-book an endorsement either to the effect that the statement of the cause of the death in the official log-book is in his opinion true, or to the contrary effect, according to the results of the inquiry.

7 of 1989, s. 3 and Sch.

(3) Such person shall, for the purpose of an inquiry under this section, have the powers of a person making a preliminary inquiry under section 241, and if in the course of any such inquiry it appears to such person that the death has been caused on board the ship by violence or other improper means, he shall report the matter to the Minister and, if the urgency of the situation so requires, take immediate steps for bringing the offender or offenders to justice.

7 of 1989, s. 3 and Sch.

Depositions in Legal Proceedings

268.(1) Notwithstanding the provisions of any other law, where, in the course of any proceedings for the purposes of this Act instituted in The Bahamas before a court or before any person authorized by law or by consent of the parties to receive evidence, the testimony of any

Deposition where witness cannot be produced.

witness is required in relation to the subject matter of those 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 before a court or consular officer elsewhere shall be admissible in evidence, but if the deposition was made in The Bahamas, it shall not be admissible in any proceedings instituted in The Bahamas, and if the proceedings are criminal proceedings it shall not be admissible unless it was made in the presence of the person accused or his counsel and attorney.

(2) 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, if the fact is so, that the accused or his counsel and attorney was present when the deposition was taken.

(3) It shall not be necessary in any case to prove the seal or official signature or official character of the person appearing to have signed any such deposition; and 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.

Detention of Ship and Distress on Ship

Detention of
ship.

269.(1) The Minister may from time to time at such places as is deemed advisable, appoint fit and proper persons to be officers (in this section referred to as “detaining officers”) for the better execution of those sections of this Act which provide that ships may be detained under this Act.

(2) Where under this Act a ship is to be or may be detained, a detaining officer may detain the ship, and if the ship after being detained or after service on the master of a notice of or order for detention, proceeds to sea before it is released by a competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, shall be guilty of an offence unless he proves that the ship proceeded to sea without his consent and without any negligence on his part.

(3) Where any ship so proceeding to sea takes to sea any detaining officer when he is aboard the ship in the

course of his duty, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer being so taken to sea.

(4) Where under this Act a ship is to be detained, a customs officer shall refuse to clear that ship outwards, and where under this Act a ship may be detained, a customs officer may refuse to clear that ship outwards.

(5) Where under this Act 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.

270.(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 forthwith, the ship may be seized and, after reasonable notice, may be sold by any customs officer or any person authorized for that purpose in writing by the Minister, and that customs officer or person may, by bill of sale, give to the purchaser a valid title to the owner's interest in the ship.

Ship may be seized and sold if penalty not paid.

(2) Any surplus remaining from the proceeds of sale after paying the amount of the fine and the cost of conviction, together with costs of seizure and sale, shall be paid to the person who was owner of the ship before the sale or to the mortgagee, as the case may be.

271.Where a court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the party so directed to make the payment is the master or owner of the ship, and the payment is not made at the time and in the manner prescribed in the order, the court who made the order may in addition to any other powers they may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied in distress and sale of the ship and her tackle, furniture and apparel.

Distress on ship for sums ordered to be paid.

*Evidence, Service of Documents and
Declarations*

272.Where any document is required by this Act to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling the attesting witness or any of the attesting witnesses.

Proof of attestation.

Admissibility of
documents in
evidence.

273.(1) Where a document is, by this Act, 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 authorized by law or by consent of parties to receive evidence, and subject to all just exceptions shall be evidence of the matters stated in it pursuant to this Act by any officer in pursuance of his duties as such officer.

(2) A copy of any such document or of an extract from such a document, shall also be admissible in evidence, if it is proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer in whose custody the original document was, and that officer shall furnish such certified copy or extract to any person applying for it at a reasonable time upon payment of a reasonable sum for the same.

(3) If any such officer wilfully certifies any document as being a true copy or extract knowing the same not to be a true copy or extract, he shall be guilty of an offence.

(4) If any person forges the seal, stamp or signature of any document referred to in this section, or tenders in evidence any such document with a false or counterfeit seal, stamp or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of an offence and liable on conviction on information to imprisonment for seven years, 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 some officer of the court or other person for such period or subject to such conditions as the court or person thinks fit.

Service of
documents.

274.(1) Where for the purposes of this Act any document is to be served on any person, that document may be served —

- (a) in any case by delivering it to him personally or by leaving it as his last known place of abode;
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving it for him on board the ship with the person who is or appears to be in command or charge of the ship;

- (c) if the document is to be served on the master of the ship and the ship is in The Bahamas but there is no master, on the managing owner of the ship, or if no managing owner is known, on some agent of the owner residing in The Bahamas in the manner prescribed by paragraph (a) of this subsection, or if no such managing owner or agent is known or can be found, by affixing a copy of the document to the mast of the ship and to some other conspicuous place on board where it may be seen by persons entering the ship.

(2) Any person who obstructs the service of a document which is to be served on the master of a ship under this Act shall be guilty of an offence and liable on summary conviction to a fine of two hundred dollars, and if the owner or master of a ship is party or privy to the obstruction, he shall likewise be guilty of an offence.

Protection of Officers

275. Every officer appointed under this Act or The Bahamas Maritime Authority Act, and every person appointed or authorized under this Act or The Bahamas Maritime Authority Act for any purpose of this Act or The Bahamas Maritime Authority Act, shall have immunity from suit in respect of anything done by him 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, authority or duty conferred or imposed on him under this Act or The Bahamas Maritime Authority Act.

Protection of
officers.
34 of 2000, s. 28.

Limitation of Actions in Civil Proceedings

276. (1) No action shall be brought to enforce any claim or lien against a vessel or her owners in respect of —

- (a) any damage or loss to another vessel or to her cargo or freight, or to any property on board; or
- (b) damage for loss of life or personal injuries suffered by any person on board her,

caused by the fault of the former vessel, whether such vessel is wholly or partly in fault, after the end of two years from the date on which the right of action accrued, and an action may not be brought to enforce any contribution in

Limitation of
time for civil
proceedings.

respect of an overpaid proportion of any damages for loss of life or personal injuries after the end of one year from the date of payment.

(2) Any court having jurisdiction to deal with an action to which this section relates may extend any such period to such extent and on such conditions as it thinks fit and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

PART IX MARITIME LIENS

Sources of
maritime liens.
5 of 1982, s. 17.

277.(1) The following claims shall be secured by maritime liens on a ship —

- (a) wages and other sums due to the master, officers and other members of the ship's complement in respect of their employment on the ship;
- (b) port, canal, and other waterway dues and pilotage dues and any outstanding fees payable under this Act in respect of the ship;
- (c) claims against the owner in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the ship;
- (d) claims against the owner, based on tort and not capable of being based on contract, in respect of loss of or damage to property occurring, whether on land or on water, in direct connection with the operation of the ship;
- (e) claims for salvage, wreck removal and contribution in general average.

(2) The word "owner" mentioned in this section shall be deemed to include the demise or other charterer, manager or operator of the ship.

Priority of
maritime liens in
general.
5 of 1982, s. 17.
Ch. 69.

278. Subject to section 280 the maritime liens set out in section 277 shall take priority over mortgages registered under this Act or any preferential rights arising under the Bankruptcy Act and no other claim shall take priority over such mortgages or rights.

279.(1) The maritime liens set out in section 277 —

Order of priority
of maritime liens.
5 of 1982, s. 17.

- (a) shall rank in the order listed therein save that liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to the said liens were performed;
- (b) shall as respects those set out in each of paragraphs (a), (b), (c) and (d) of subsection (1) of the said section rank *pari passu* as between themselves;
- (c) shall as respects those set out in paragraph (e) of subsection (1) of the said section rank in the inverse order of the time when the claims secured thereby accrued.

(2) Claims for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed; claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

280. Any lien exercisable by a ship-builder or repairer over a ship or the appurtenances thereof in his possession shall take priority over all claims arising after such possession was taken but shall be postponed to those claims which were created before the time of taking possession.

Possessory liens.
5 of 1982, s. 17.

281. Anything to the contrary notwithstanding in this Act or in any other law, any sum awarded by a court as costs arising out of any proceedings in respect of the arrest of a ship or the subsequent sale thereof, including such charges or expenses incurred in effecting the arrest or sale shall have priority over all claims in payment out of the proceeds of the sale or of any moneys paid into court for the release of the ship from that arrest and, subject to such payment, the court shall determine the order of priority of the claims in accordance with the foregoing provisions of this Part.

Claims to
proceeds of sale
of ship.
5 of 1982, s. 17.

PART X
SUPPLEMENTAL

Exemption of
Government
ships.

282. (1) This Act and any regulations made or deemed to be made thereunder shall not, except as specifically provided, apply to Government ships.

5 of 1982, s. 18.

(2) The Minister may make regulations providing that Government ships either generally or as respects any special class thereof, be registered as Bahamian ships and in respect thereto such regulations may —

- (a) prescribe the manner in which such registration shall be carried out; and
- (b) Provide for the application of any provisions of this Act subject to such exceptions or modifications.

5 of 1982, s. 18.

(3) For the purposes of subsection (2) the expression “Government ship” means —

5 of 1988, s. 6.

- (a) ships not forming part of The Royal Bahamas Defence Force; or
- (b) ships which are held by any person on behalf of or for the benefit of the Government and for that reason cannot but for subsection (2) be registered under this Act.

Powers of
inspectors.

283. (1) For the purpose of seeing that the provisions of this Act and regulations made or deemed to be made thereunder, or of any international convention, are duly observed and complied with, and for the effective carrying out of his powers and duties under this Act and such regulations, an inspector in the Bahamas may —

- (a) go on board any ship and inspect the same or any part thereof, or any of the machinery, boats, equipment or articles on board thereof to which the said provisions apply;
- (b) by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine;
- (c) require answers or returns to be given or made by the master or any other member of the crew of a ship to any inquiries he is required or thinks fit to make;
- (d) require the production of any books, papers or documents; and
- (e) administer oaths for obtaining sworn testimony.

(2) An inspector in the Bahamas, where he considers it necessary in consequence of accident or for any other reason, may require any ship to be taken into dock, at the expense of the owner of the ship, for a survey of her hull or machinery.

(3) The powers conferred upon an inspector by subsection (1), except paragraph (b), thereof, and subsection (2) of this section may be exercised by an inspector on or in respect of a Bahamian ship outside The Bahamas.

7 of 1989, s. 3 and Sch.

(4) Powers conferred by this section shall not be exercised so as to unnecessarily detain or delay any ship.

(5) Where any person is summoned under paragraph (b) of subsection (1) of this section, the law for the time being in force in relation to magistrates' courts shall apply to such person as if he was a witness summoned by a magistrate and the inspector was the magistrate by whom he was summoned.

(6) Any person who —

- (a) obstructs any inspector in the exercise of his powers under this section or under any other power conferred by this Act or any regulations made or deemed to be made thereunder; or
- (b) without reasonable excuse fails to comply with any requirement made under this section; or
- (c) knowingly gives a false answer to any question put to him by an inspector,

7 of 1989, s. 3 and Sch.

7 of 1989, s. 3 and Sch.

shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

284.(1) Where under any of the provisions of this Act the certificate of registry of a Bahamian ship is suspended, the person by whom the suspension is made shall give to, or cause to be served on, the master of the ship a written notice of the suspension, and thereupon the ship shall not proceed to sea and the master shall forthwith deliver up the certificate of registry to the person by whom it was suspended or, if such person be not immediately available, to a registrar or consular officer.

Suspension of certificate of registry.

(2) In the case of any contravention of this section the master of the ship shall be guilty of an offence.

(3) Notwithstanding the provisions of subsection (1), where the certificate of registry of a Bahamian ship is suspended for a period pursuant to the provisions of

6 of 1989, s. 2 and Sch.

section 25, the ship is not during such period prohibited from proceeding to sea, or entering or leaving any port in The Bahamas or in any foreign country and the registrar may record in the register any mortgage instrument in respect of that ship but, save as otherwise provided under the provisions of this Act, during such period such ship shall not —

- (a) be recognised in The Bahamas or for the purposes of this Act as a Bahamian ship;
- (b) be entitled to the rights and privileges accorded to Bahamian ships; or
- (c) wear or hoist the national colours of a Bahamian ship.

6 of 1989, s. 2 and Sch.

(4) Notwithstanding any suspension of a certificate of registry of a Bahamian ship for a period pursuant to the provisions of section 25, there shall be paid to the registrar the registration fee and the annual fee payable under the provisions of section 17 in respect of that ship.

Forms.

285. Subject to this Act and any regulations made or deemed to have been made thereunder, the Minister may determine the forms of documents to be used for the purposes of this Act and such regulations.

Exemption from stamp duty.
5 of 1979, s. 4.

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

Exemptions for limited period.

287. Notwithstanding any other provision of this Act, the Minister may, by notice in the *Gazette*, giving his reason for so doing, exempt a particular vessel or class of vessels from all or any of the provisions of this Act for a limited period, where in his opinion special circumstances exist:

Provided that where any such provision is in conformity with an international convention applicable to The Bahamas, such exemption shall only be given if, and to the extent that, it is allowable under the terms of that convention.

Production of certificate, etc., to customs.

288. Where, under this Act or any regulations made or deemed to have been made thereunder, a certificate or

other document is required to be produced to a customs officer before clearance inwards or outwards, the production of a statement given under the hand of a registrar, consular officer or inspector to the effect that the certificate or other document has been produced to him shall be sufficient evidence that this Act or such regulations have been complied with and the customs officer may proceed to grant clearance.

289. (1) Without prejudice to any other power in that behalf conferred by any other provision of this Act, the Minister may make regulations —

General power to make regulations.

- (a) unless otherwise provided by this Act, prescribing the forms to be used, and the fees or sums to be paid, or the manner in which, or the person by whom, such fees or sums may be determined, in respect of any services performed or things done under or for the purposes of this Act or any regulations made or deemed to have been made thereunder;
- (b) providing for matters relating to the waiver of sovereignty over Bahamian ships registered under section 3(2) when the control of such a ship may, with the written approval of the original registrar, be committed by the owner thereof to the government of another country for requisition, purchase or charter in time of war or other state of emergency of such country.
- (c) prescribing anything which under this Act may be prescribed;
- (d) generally for carrying out the purposes of this Act.

6 of 1983, s. 2.

(2) Unless otherwise provided by this Act, regulations made under any of the provisions thereof may prescribe penalties not exceeding a fine of one thousand dollars or imprisonment for a term not exceeding six months for contravention of any of the provisions of such regulations.

(3) The regulations, rules and orders specified in the Second Schedule to this Act, as from time to time amended, shall be deemed to have been made under the relevant provisions of this Act and shall have full force and effect accordingly; and —

Second Schedule.

- (a) any reference in those regulations, rules and orders to British ships or to ships registered in the United Kingdom, shall be construed as a reference to Bahamian ships, and any reference to ships in port in the United Kingdom shall be construed as a reference to ships in port in the Bahamas;
- (b) any reference therein to the Board of Trade shall be construed as a reference to the Minister;
- (c) such regulations, rules and orders shall be otherwise construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act;
- (d) any certificate, form or code of instructions printed and officially published for use in compliance with those regulations, rules and orders shall apply in similar manner;
- (e) those regulations, rules and orders may be amended or replaced by regulations made under this Act.

(4) The Minister may by notice in the *Gazette* add to or amend the Second Schedule.

Transitional.

290.(1) All ships which were, immediately prior to the date of commencement of Part II, British ships by virtue of being registered in The Bahamas under the Merchant Shipping Act, 1894 to 1970, of the United Kingdom, shall, on and after such date, be deemed to have been registered under this Act and to be Bahamian ships:

Provided that the owner of any ship may, at any time within six months after such date, give written notice of his desire that the ship shall cease to be a Bahamian ship, and upon receipt of such notice the director shall delete such ship from the register and the ship shall thereupon cease to be a Bahamian ship.

(2) For the purposes of this Act, where a ship is deemed under this section to have been registered under this Act —

- (a) the Director shall be deemed to be the original registrar in respect of the ship; and
- (b) the certificate of registry of the ship in force immediately prior to the commencement of Part II shall be deemed to have been granted under section 16.

(3) Where a ship is deemed under this section to be a Bahamian ship —

- (a) no annual fee shall be payable under subsection (2) of section 17 until after the expiration of six months after the date of commencement of this Act and shall not be payable in respect of that period or any portion thereof; and
- (b) thereafter the said annual fee shall be calculated as if a registration fee, calculated in accordance with subsection (1) of section 17, has been paid on the net register tonnage of the ship.

FIRST SCHEDULE (Section 255)

INTERNATIONAL CONVENTIONS

*S.I. 49/1979;
S.I. 38/1983; 34
of 2000, s. 29 (a)
and (b).*

- (a) The International Convention for the Safety of Life at Sea, 1960, as amended.
- (b) The International Convention on Load Lines, 1966 and the protocol of 1988 relating thereto. *34 of 2000, s. 29(a).*
- (c) The International Telecommunication Convention (Montreux), 1965, and the Radio Regulations, 1968.
- (d) The Convention on Facilitation of International Maritime Traffic, 1965.
- (e) The International Convention on Tonnage Measurement of Ships, 1969.
- (f) The International Health Regulations (Geneva), 1969.
- (g) The International Regulations for Preventing Collisions at Sea, 1972.
- (h) The International Convention for Safe Containers, 1972. *49 of 1979.*
- (i) The International Convention for the Safety of Life at Sea, 1974, and the Protocol of 1988 relating thereto. *49 of 1979; 34 of 2000, s. 29(b).*
- (j) The International Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol of 1976 relating thereto. *38 of 1983.*
- (k) The International Convention on Limitation of Liability for Maritime Claims, 1976. *38 of 1983.*
- (l) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978. *38 of 1983.*

34 of 2000, s. 30;
S.I. 83/2001; S.I.
141/2001.

SECOND SCHEDULE (Section 289)**APPLIED REGULATIONS, etc.***United Kingdom Regulations, Rules and Orders*

<i>Publication</i>	<i>Title</i>	<i>Relevant Provision of Act</i>
TONNAGE		
<i>S.I. 1982 No. 841</i>	The Merchant Shipping (Tonnage) Regulations, 1982	63
COMPETENCY		
<i>S.I. 1970 No. 294</i>	The Merchant Shipping (Certificate of Competency as A. B.) Regulations, 1970	85
<i>S.I. 1981 No. 1076</i>	The Merchant Shipping (Certification of Ships' Cooks) Regulations, 1981	119
CREW		
<i>S.I. 1989 No. 102</i>	The Merchant Shipping (Provisions and Water) Regulations, 1989	187
<i>S.I. 1978 No. 795</i>	The Merchant Shipping (Crew Accommodation) Regulations, 1978	120
<i>S.I. 1979 No. 491</i>	The Merchant Shipping (Crew Accommodation) (Amendment) Regulations, 1979	120
<i>S.I. 1984 No. 41</i>	The Merchant Shipping (Crew Accommodation) (Amendment) Regulations, 1984	120
<i>S.I. 1989 No. 184</i>	The Merchant Shipping (Crew Accommodation) (Amendment) Regulations, 1989	120
<i>S.I. 1985 No. 1001</i>	The Merchant Shipping (Formal Investigations) Rules, 1985 save and except rules 2, 3, 4, 12 to 15 (inclusive) thereof.	243, 289
<i>S.I. 1982 No. 1752</i>	The Merchant Shipping (Section 52 Inquiries) Rules, 1982	245

<i>Publication</i>	<i>Title</i>	<i>Relevant Provision of Act</i>	
GENERAL			
<i>S.I. 1981 No. 569</i>	The Merchant Shipping (Official Log Books) Regulations, 1981	143	
<i>S.I. 1991 No. 2145</i>	The Merchant Shipping (Official Log Books) (Amendment) Regulations, 1991	143	<i>S.I.141/2001.</i>
SAFETY			
<i>S.I. 1984 No. 408</i>	The Merchant Shipping (Health and Safety - General Duties) Regulations, 1984	187	
<i>S.I. 1988 No. 1636</i>	The Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations, 1988	187	
<i>S.I. 1988 No. 1637</i>	The Merchant Shipping (Means of Access) Regulations, 1988	187	
<i>S.I. 1988 No. 1638</i>	The Merchant Shipping (Entry into Dangerous Spaces) Regulations, 1988	187	
<i>S.I. 1988 No. 1639</i>	The Merchant Shipping (Hatches and Lifting Plant) Regulations, 1988	187	
<i>S.I. 1988 No. 1641</i>	The Merchant Shipping (Safe Movement on Board Ship) Regulations, 1988	187	
<i>S.I. 1985 No. 1664</i>	The Merchant Shipping (Protective Clothing and Equipment) Regulations, 1985	187	
<i>S.I. 1988 No. 2274</i>	The Merchant Shipping (Safety at Work Regulations) (Non-UK ships) (Regulations), 1988	187	
SUBMERSIBLE CRAFT			
<i>S.I. 1976 No. 940</i>	The Merchant Shipping (Registration of Submersible Craft) Regulations, 1976	56	
<i>S.I. 1981 110. 1098</i>	The Merchant Shipping (Submersible Craft Construction and Survey) Regulations, 1981	187	
<i>S.I. 1987 No. 306</i>	The Merchant Shipping (Submersible Craft) (Amendment) Regulations, 1987	56, 187	
<i>S.I. 1987 No. 311</i>	The Merchant Shipping (Submersible Craft Operations) Regulations, 1987	187	

<i>Publication</i>	<i>Title</i>	<i>Relevant Provision of Act</i>
MEDICAL		
<i>S.I. 1983 No. 808</i>	The Merchant Shipping (Medical Examination) Regulations, 1983	119
<i>S.I. 1985 No. 512</i>	The Merchant Shipping (Medical Examination) (Amendment) Regulations, 1985	119
<i>S.I. 1986 No. 144</i>	The Merchant Shipping (Medical Stores) Regulations, 1986	122
<i>S.I. 1988 No. 1116</i>	The Merchant Shipping (Medical Stores) (Amendment) Regulations, 1988	122

*34 of 2000, s. 31;
10 of 2001,
s. 3(a);
S.I. 83/2001.*

THIRD SCHEDULE (Section 185)

PROVISIONS HAVING EFFECT IN CONNECTION WITH SOLAS 74/88 AND SOLAS 60.

Application of
SOLAS 74/86 to
non-Convention
ships while in
The Bahamas.

1. (1) Notwithstanding anything to the contrary in Regulation 1 of Part A of Chapter 1 of SOLAS 74/88, SOLAS 74/88 shall apply *mutatis mutandis* to ships entitled to fly the flag of a country or territory to which the International Convention on Safety of Life at Sea 1974 as amended by the Protocol of 1988 does not apply or is not yet in force while such ships are in The Bahamas and engaged on international voyages.

Meaning of
administration.

2. For the purposes of this Schedule and Regulation 2 of Part A of Chapter 1 of SOLAS 74/88 “Administration” shall in reference to The Bahamas be construed as, or as including, a reference to the Minister, the Director or The Bahamas Maritime Authority.

Meaning of
pleasure yacht.

3. For the purposes of SOLAS 74/88 a “pleasure yacht” is a ship primarily used for sport or recreation other than a ship engaged in trade or a ship defined in SOLAS 74/88 as a passenger ship.

Countries and
territories to
which the
Convention
applies.
S.I. 83/2001.

4. The Minister may by order certify that any State specified in the order is a party to the International Convention on the Safety of Life at Sea, 1974 as modified by the Protocol of 1988 relating thereto in respect of a specified country or territory and the order shall, subject to the provisions of any subsequent order made for those purposes, be conclusive evidence that the State is a Contracting Government to that Convention as so modified in respect of that country or territory.

5. The Administration may for classes of ships or individual ships on such terms (if any) as he may specify grant exemptions from all or any of the provisions of SOLAS 74/88 as he may specify, and may subject to giving reasonable notice, alter or cancel any such exemption.

Exemptions.

6. In any case where a ship does not comply with SOLAS 74/88, the ship shall be liable to be detained provided that a ship shall not be unreasonably delayed or detained.

Detention.

7. (1) It shall be the duty of the owner and the master of the ship to comply with and ensure compliance with the provisions of SOLAS 74/88.

General compliance duty, and offences.

(2) It shall be the duty of any person —

- (a) upon whom an obligation is imposed by SOLAS 74/88; or
- (b) to whom a direction is given in pursuance of SOLAS 74/88 (whether under subparagraph (1) or otherwise),

S.I. 83/2001.

to comply or ensure compliance with SOLAS 74/88.

(3) Where any natural or legal person other than a person specified in subparagraph (1) has control of the matter to which the subparagraph relates because he has responsibility for the operation of the ship, then any duty imposed by that subparagraph shall extend to the person who has control of that matter.

(4) Where a person specified in subparagraph (1), (2) or (3) contravenes the respective subparagraph that person shall be guilty of an offence and is liable —

10 of 2001, s. 3(a).

- (a) on summary conviction to a fine of five thousand dollars or to a term of imprisonment of six months or to both such fine and term of imprisonment;
- (b) on conviction on information to a fine of fifteen thousand dollars or to a term of imprisonment of six years or to both such fine and term of imprisonment.

(5) In proceedings for an offence under subparagraph (4), it shall be a defence —

- (a) for the accused to prove that he used all due diligence to ensure compliance;
- (b) for an owner or master to prove that he did not have control of the matter to which the offence relates because he did not have responsibility for the operation of the ship and that duty was imposed by subparagraph (3) on a person who had control of that matter.

8. (1) No person shall

- (a) intentionally alter a certificate issued for the purposes of SOLAS 74/88;
- (b) falsely make a certificate referred to in SOLAS 74/88;

Fraud, misuse of certificates, etc.

(c) in connection with any survey required by SOLAS 74/88, knowingly or recklessly furnish false information;

(d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in SOLAS 74/88;

S.I. 83/2001.

(e) fail to surrender a certificate to be surrendered issued for the purposes of SOLAS 74/88.

10 of 2001, s. 3(b).

(2) A person who contravenes subparagraph (1) shall be guilty of an offence and is liable —

(a) on summary conviction to a fine of five thousand dollars or to a term of imprisonment of six months or to both such fine and term of imprisonment;

(b) on conviction on information to a fine of fifteen thousand dollars or a term of imprisonment of six years or to both such fine and term of imprisonment.

Customs clearance.

9. Before a ship proceeds to sea from any port in The Bahamas the master of that ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage —

(a) in respect of a ship to which SOLAS 74/88 applies, certificates required to be issued to such a ship complying with the relevant provisions of the SOLAS 74/88, and in the case of any qualified certificate, the corresponding valid exemption certificate;

(b) in respect of a Bahamian ship required to possess a local safety certificate, a valid local safety certificate.

Solas 60 to be read with Solas 74/88.

10. References to SOLAS 74/88 in this Schedule shall include references to SOLAS 60 as the case may be.

*34 of 2000, s. 31;
10 of 2001, s. 4;
S.I. 83/2001.*

FOURTH SCHEDULE (Section 192)

PROVISIONS HAVING EFFECT IN CONNECTION WITH THE LOAD LINE CONVENTION

Interpretation.

1. (1) Notwithstanding anything to the contrary in Article 2 of the Load Line Convention —

“Administration” shall in reference to The Bahamas mean the Minister, the Director or The Bahamas Maritime Authority;

“fishing vessel” is a vessel being used for the time being for fishing for profit.

(2) For the purposes of the Load Line Convention and this Schedule —

“Assigning Authority” shall in reference to The Bahamas mean any person or organisation appointed or authorised by the Administration under section 66(2) of the Act for the purpose of the Load Line Convention;

“Contracting Government” shall in reference to The Bahamas, where the context allows, mean the Minister, the Director or The Bahamas Maritime Authority;

“pleasure craft” means a vessel (other than a passenger ship(s)) primarily used for sport or recreation.

2. Notwithstanding anything to the contrary in Article 4 of the Load Line Convention, the Load Line Convention shall apply *mutatis mutandis* to ships entitled to fly the flag of a country to which the International Convention on Load Lines, 1966 as modified by the Protocol of 1988 relating thereto does not apply while such ships are in The Bahamas and engaged on international voyages.

Application of Load Line Convention to non-Convention ships while in The Bahamas.

3. (1) The Assigning Authority shall assign freeboards to a Bahamian ship in accordance with the requirements of Annex I of the Load Line Convention.

Assignment of freeboards.

(2) The Assigning Authority shall —

- (a) determine the particulars of the freeboard to be assigned;
- (b) determine which of the load lines described in Annex I of the Load Line Convention are to be marked on the sides of the ship in accordance with the requirements of that Annex;
- (c) determine the position where the load lines, the deck-line and the load line mark are to be so marked; and
- (d) complete a copy of the record of particulars relating to the conditions of assignment.

(3) Where a passenger ship is marked with subdivision load lines, and the lowest of those lines is lower than the line which is the appropriate load line, then that subdivision load line shall have effect as if it is the appropriate load line for the purposes of Annex I of the Load Line Convention.

4. (1) It shall be the duty of the owner and the master of the ship to comply with and ensure compliance with the provisions of the Load Line Convention.

General compliance.

(2) It shall be the duty of any person —

- (a) upon whom an obligation is imposed by the Load Line Convention; or
- (b) to whom a direction is given in pursuance of the Load Line Convention (whether under subparagraph 1 or otherwise), to comply or ensure compliance with the Load Line Convention.

(3) After the appropriate load line marks have been made on a ship —

- (a) it shall be the duty of the owner and master to keep the ship so marked;
- (b) the marks shall not be concealed, removed, altered, defaced or obliterated except with the authority of the Assigning Authority.

(4) Where any natural or legal person other than a person specified in subparagraph (1) or (3) has control of the matter to which the subparagraph relates because he has responsibility for the operation of the ship, then any duty imposed by that subparagraph shall extend to the person who has control of that matter.

Fraud, misuse etc
of certificate of
certificates.

5. No person shall —

- (a) intentionally alter a certificate referred to in the Load Line Convention;
- (b) falsely make a certificate referred to in the Load Line Convention;
- (c) in connection with any survey required by the Load Line Convention, knowingly or recklessly furnish false information;
- (d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in the Load Line Convention;
- (e) fail to surrender a certificate to be surrendered under the Load Line Convention.

General
compliance duty
and offences.
10 of 2001, s. 4.

6. (1) Where a person specified in paragraph 4 or 5 contravenes the respective paragraph, that person shall be guilty of an offence and is liable —

- (a) on summary conviction to a fine of five thousand dollars or to a term of imprisonment of six months or to both such fine and term of imprisonment;
- (b) on conviction on information to a fine of fifteen thousand dollars or to a term of imprisonment of six years or to both such fine and term of imprisonment.

(2) Where a ship —

- (a) is in salt water and has no list and is so loaded that the appropriate load line is submerged;
- (b) if not in salt water, is so loaded that if it were in salt water and had no list it would be submerged,

on summary conviction for this offence under subparagraph (4), an additional fine may be imposed, not exceeding \$1,500 for each complete centimetre by which the appropriate load line on each side of the ship is submerged or would be submerged, as the case may be.

(3) Where a person is charged with an offence under subparagraph (1), it shall be a defence —

- (a) for the accused to prove that he used all due diligence to ensure compliance;
- (b) for an owner or master to prove that he did not have control of the matter to which the offence relates because he did not have responsibility for the operation of the ship and that duty was imposed by subparagraph (4) of paragraph 4 on a person who had control of that matter.

(4) Where a person is charged with the offence referred to in subparagraph (2), it shall be a defence (in addition to the defences available under subparagraph (3)) to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

7. Notwithstanding anything to the contrary in Article 21 of the Load Line Convention, before any ship proceeds to sea from any port in The Bahamas the master of that ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage —

Clearance.

- (a) an International Load Line Certificate;
- (b) an International Load Line Exemption Certificate.

8. In any case where a ship does not comply with the Load Line Convention she may be detained, provided that the ship shall not be unreasonably detained or delayed and if the ship is a Bahamian ship her certificate of registry may also be suspended.

Bahamian ships: suspension of certificate of registry or detention.

9. The Minister may by order certify that any State specified in the order is a party to the International Convention on Load Lines, 1966 as modified by the Protocol of 1988 relating thereto in respect of a specified country or territory and the order shall, subject to the provisions of any subsequent order made for those purposes, be conclusive evidence that the State is a Contracting Government to that Convention as so modified in respect of that country or territory.

Countries and territories to which the Convention applies.
S.I. 83/2001.