

MERCHANT SHIPPING ACT

Act 28 of 1986 – 15 January 1991

Amended 20/02; 2/05 (P 10/05)

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PART I – PRELIMINARY

1 Short title

This Act may be cited as the Merchant Shipping Act.

2 Interpretation

In this Act –

“approved surveyor” means any person, agency or organisation approved by the Minister for the purposes of this Act;

“authorised officer” means –

- (a) within Mauritius, the Director or any person authorised to act as such;
- (b) outside Mauritius, any consular officer of, or any person authorised to act for, the Government of Mauritius or any other person designated by the Minister to act as such;

“bareboat chartering” has the meaning assigned to it by section 35B;

“Book of Parallel Registration” means that part of the Register used for the parallel registration of a foreign ship in accordance with Chapter VII of Part III;

“Carving and Marking Note” means the certificate issued in respect of the marking of a ship under section 13;

“clearance” means permission for a ship to put to sea or leave port;

“certificate of competency” means a certificate issued to a certificated officer under Part IV;

“certificate of registration”, in relation to a ship, means the certificate issued under section 18;

“certificated officer” means a member of the crew to whom a certificate of competency is issued;

“Continuous Discharge Book” means a seaman’s record book of service issued by the maritime authority of Mauritius or of any foreign country;

“contracting country” means any foreign country to which the Load Line Convention applies;

“court of investigation” means the court of investigation appointed under section 177;

“crew” means any person employed to work on board a ship on a voyage including an apprentice, but excluding a fisherman, or a person employed solely in a port or a pilot;

“deep-sea fishing vessel” means any vessel of 15 metres or more engaged in commercial fishing beyond near coastal limits;

“Director” means the Director of Shipping appointed under section 4;

“delivery account” means an account of the personal effects and wages of a seaman who is left behind;

“distressed seaman” means a seaman or apprentice found in distress by reason of having been shipwrecked, discharged or left behind in a port other than his proper return port;

“existing ship” means any ship other than a new ship;

“foreign-going ship” means a ship engaged on a voyage beyond near coastal limits;

“grain” means wheat, oats, rye, barley, rice, pulses or seeds;

“GRT” means gross registered tonnage;

“inspection certificate” means an inspection certificate issued under section 112;

“international voyage” means a voyage from Mauritius to a port or place situate outside Mauritius or a voyage to Mauritius from a port or place outside Mauritius;

“liability” in relation to a ship owner, includes liability of the ship itself;

“licence” means a licence issued under section 38(3);

“load line certificate” means an international load line certificate or a local load line certificate issued under section 132 or, in the case of a foreign ship, an international load line certificate issued by a contracting country;

“Load Line Convention” means the International Convention on Load Lines of 1966 and includes any amendment to it;

“Load Line Convention ship” means a ship belonging to a contracting country;

“load line ship” has the meaning assigned to it by section 130;

“local safety certificate” means a certificate issued under section 113;

“Mauritius ship” means any ship registered in Mauritius under this Act;

“Mauritius deep-sea tug” means a tug registered in Mauritius engaged in a foreign-going voyage;

“Minister” means the Minister to whom responsibility for the subject of shipping is assigned;

“near coastal limits” means the limits of the territorial waters of Mauritius;

“near coastal passenger ship” means a passenger ship undertaking a voyage within the territorial waters of Mauritius;

“new ship” means a ship the keel of which is laid, or is at an equivalent stage of production, after 15 January 1991;

“official log book” means the official log book required to be kept under section 81;

“Outer Islands” means all the islands comprised within the State of Mauritius other than the islands of Mauritius and Rodrigues;

“owner” in relation to a ship includes –

- (a) where the ship is bareboat chartered in accordance with Chapter VII of Part III, the bareboat charterer of the ship; and
- (b) the managing agent of the ship;

“passenger”, in relation to a ship, means a person other than –

- (a) a member of the crew;
- (b) any other person employed or engaged in any capacity on board the ship on the business of the ship;
- (c) a child under the age of 1 year;

“passenger ship” means a ship carrying more than 12 passengers;

“Port Master” has the same meaning as in the Ports Act;

“proper return port”, in relation to a seaman, means –

- (a) a port in the country to which he belongs;
- (b) the port at which he was embarked; or
- (c) in the case of a discharged seaman, the port agreed upon at the time of his engagement;

“qualified medical practitioner” means a person authorised or certified by the Government to practise medicine in Mauritius;

“Receiver” means the Receiver of Wrecks appointed under section 150;

“Register” means the Register kept under section 15;

“retention account” means the account of the expenses incurred by the owner or master of a ship by reason of the absence without leave of a seaman from the ship;

“Safety Convention” means the International Convention for the Safety of Life at Sea of 1974 and any amendment to it;

“Safety Convention certificate” means any certificate issued to a Safety Convention ship which complies with the Safety Convention;

“Safety Convention ship” means a ship registered in a country to which the Safety Convention applies;

“seaman” includes an apprentice but excludes any person engaged solely for fishing purposes;

“ship” includes any vessel, lighter, barge, structure, launch or dredger, however propelled, intended for use in navigation;

[Amended 20/02]

“Superintendent” means the Superintendent appointed under section 4;

“territorial waters of Mauritius” includes archipelagic waters;

[Added 2/05 (P 10/05)]

“tropical storm” means a hurricane, typhoon, cyclone or other storm of similar nature.

[Amended 5/89; 20/92]

3 Application of Act

- (1) Unless otherwise expressly provided, this Act shall apply to –
 - (a) Mauritius ships wherever they may be;
 - (b) all other ships while in a port or place in, or within the territorial waters of Mauritius.
- (2) This Act shall not apply to –
 - (a) naval vessels of Mauritius or of a foreign country;
 - (b) any other ship belonging to or under the control of the Government while employed otherwise than for profit in the service of the Government.

PART II – MANAGEMENT AND ADMINISTRATION

4 Director of Shipping and other staff

- (1) There shall be appointed –
 - (a) a Director to be known as the Director of Shipping;
 - (b) a Superintendent, to be known as the Superintendent of Shipping, who shall, under the control of the Director, carry out the duties of the Superintendent under this Act and such other duties as may be assigned to him by the Director;
 - (c) inspectors, surveyors or other officers as may be necessary to carry out, under the control of the Director, the duties required to be performed under this Act.

(2) Any officer appointed under subsection (1) who is generally or specially authorised in that behalf by the Director may exercise, perform or discharge any power, duty or functions vested, imposed or conferred upon the Director under this Act and any act done by, to or before any such officer shall be as valid for the purposes of this Act as if it were done by, to or before the Director.

5 Powers of the Director

The Director shall have the general superintendence of this Act and the general supervision of the matters relating to shipping and seamen and may –

- (a) carry out such inspections or investigations as he thinks fit to determine whether this Act or any International Convention or regulations relating to shipping to which Mauritius is a party are being complied with;
- (b) where he thinks fit, require a ship to be taken into dry dock for the purpose of surveying or inspecting its hull;
- (c) detain any ship for breach of this Act.

6 Powers of the Superintendent

The Superintendent shall, under the control of the Director, supervise the engagement and discharge of seamen, look after their welfare and carry out the duties imposed upon the Superintendent under this Act and such other duties as may be assigned to him by the Director.

[Amended 5/89]

7 Powers of inspectors and surveyors

(1) Inspectors and surveyors shall carry out such inspections and surveys of ships as may be required by the Director.

(2) Where the Director requires an inspector or surveyor to carry out an inspection or survey of a ship, the inspector or surveyor shall submit a written report to the Director –

- (a) on the nature and causes of any accident or damage which any ship has sustained or caused;
- (b) whether the hull, superstructure, machinery and equipment of any ship are sufficient and in good condition;
- (c) whether, in any particular case, this Act has been contravened.

PART III – THE SHIP

CHAPTER I – REGISTRATION

8 Mauritius ships

A ship shall qualify for registration as a Mauritius ship –

- (a) where it is wholly owned by –
 - (i) a citizen of Mauritius; or
 - (ii) a body corporate established and operating under and in accordance with the law of Mauritius and having its registered office in Mauritius;
- (b) where all the shares in the ship are owned jointly or in severally by a citizen of Mauritius or a body corporate established and operating under and in accordance with the law of Mauritius and having its registered office in Mauritius.

[Amended 20/92]

9 Obligation to register Mauritius ships

(1) Subject to subsection (2), every Mauritius ship shall be registered under this Act.

(2) Subsection (1) shall not apply to –

- (a) the owner of any Mauritius ship not exceeding 15 GRT;
- (b) any ship or class of ship belonging to the Government and not engaged in trade.

10 Application for registration

(1) An application for the registration of a ship as a Mauritius ship shall be made to the Director –

- (a) where the ship is owned by one or more physical persons, by the person or any one of them owning the ship, as the case may be;
- (b) where it is owned by a body corporate incorporated in Mauritius, by the secretary of the body corporate;

(2) The application shall be accompanied by the fee prescribed for the registration of the ship.

[Amended 20/92]

11 Declaration

(1) No application for the registration of a Mauritius ship shall be entertained unless there is attached to the application a declaration by the person applying for the registration stating –

- (a) that the ship is owned or bareboat chartered by –
 - (i) a citizen of Mauritius; or
 - (ii) a body corporate incorporated in Mauritius;
- (b) that the ship is in a seaworthy condition;
- (c) the name of the master of a ship and full particulars of his certificate of competency;
- (d) where the ship was previously registered in another country, that the ship has been deleted from such register, free and clear of registered encumbrances, or where the ship was last registered concurrently in more than one country, from the registry of every such country, free and clear of registered encumbrances, and to which satisfactory proof of such deletion is attached.

(2) A declaration under this section shall be made in the presence of an authorised officer.

[Amended 5/89; 20/92]

12 First registration

(1) Subject to subsection (2), where a ship is to be registered for the first time, the applicant for the registration shall attach to the declaration required under section 11 –

- (a) a builder's certificate, signed by the builder of the ship;
- (b) a true account of the proper denomination of the tonnage of the ship as estimated by him;
- (c) a statement as to the time and place where it was built;
- (d) a statement as to the name of the person on whose account the ship was built and, if there has been any sale, the instrument under which the ship has become vested in the applicant.

(2) Where the applicant declares that the time and place of the building of the ship are unknown to him or that the builder's certificate cannot be procured, the applicant shall attach to the declaration the instrument by which ownership of the ship has been acquired and a certificate from an approved surveyor at the last port of registration giving the estimated age and condition of seaworthiness of the ship.

(3) Where the applicant has acquired title to the ship under a sale made under or by virtue of an order of a competent court, the applicant shall attach to the declaration required under section 11 an official copy of the relevant court order together with satisfactory proof that the effect of such Court order or of the sale made pursuant to it is to vest title to the ship in the applicant free of all encumbrances.

(4) Where title to the ship is acquired in a manner referred to in subsection (3), and the applicant has attempted to obtain a certificate of deletion of the ship from its previous register but, due to reasons beyond the control of the applicant, inordinate delay has occurred, the Minister may give such directions as to the production, or the waiver, of such deletion certificate as he thinks fit.

[Added 20/92]

13 Marking of ships

(1) Every Mauritius ship shall, before registration, be marked permanently and conspicuously to the satisfaction of the Director as follows –

- (a) the name of the ship as approved by the Director shall be marked on each of the bows of the ship and the name of the ship and the port of registration shall be marked on the stern of the ship on dark background in white or yellow letters or on a light background in black letters, the letters being of a length of not less than 10 centimetres, and of proportionate breadth;
- (b) the official number and the number denoting the registered net tonnage of the ship shall be cut in on the main beam of the ship;
- (c) a scale of metres denoting the ship's draught of water shall be marked on each side of its stem and its stern post in Roman capital letters or in figures of not less than 10 centimetres in length, the lower line of the letters or figures marked on them to coincide with the draught line, and the letters or figures shall be marked by being cut in or painted white or yellow on a dark background or in such other way as the Director may approve.

(2) Where the scale of metres showing the ship's draught of water is misleading, the owner of the ship shall commit an offence.

(3) The marks required under subsection (1) shall be permanently continued, and no alteration shall be made to them except where any of the particulars of the ship are altered in the manner provided by this Act.

(4) Where a surveyor certifies that a ship is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy has been remedied.

(5) The Director may, where he thinks fit, allow the markings required under subsection (1)(c) to be in a system other than the metric system.

(6) The name of a ship shall not be changed except with the approval of the Director.

(7) Where the owner or master of a Mauritius ship neglects to cause the ship to be marked as required by this section, or to keep her so marked, or where any person conceals, removes, alters, defaces or obliterates or permits any person under his control to conceal, remove, alter, deface or obliterate any of the marks, except in accordance with this Act, or for the purpose of escaping capture by an enemy, the owner or master or the person shall commit an offence.

[Amended 5/89]

14 Survey

(1) Every ship shall, before registration, be certified by an approved surveyor and the tonnage of the Mauritius ship shall be ascertained.

(2) The surveyor shall grant a certificate specifying the ship's tonnage and build, and such other particulars as may be necessary for the purpose of determining the identity of the ship.

(3) Subject to subsection (4), where a ship has been measured and registered as a foreign ship or has already been measured without being registered as a Mauritius ship, and the surveyor is satisfied that there has been no change of measurement since the previous registration, he may, for the purposes of this section, accept and use any measurement contained in the latest register and certified to relate to that ship or, in the case of an unregistered ship, in the latest certificate of measurement relating to that ship.

(4) Where there is any doubt as to the measurement of a ship, the surveyor shall re-measure the ship to such extent as may be necessary.

[Amended 5/89]

15 Register

(1) The Director shall keep a Register of Mauritius ships in which shall be entered –

- (a) the name of the ship;
- (b) the official number of the ship;
- (c) details of ownership of the ship;
- (d) particulars respecting the origin of the ship as stated in the declaration required under section 11;
- (e) the particulars of the instrument of transfer of the ship;
- (f) the particulars of any mortgage on the ship;
- (g) details of the certificates of permanent and provisional registration;
- (h) details comprised in the surveyor's certificate;
- (i) where the ship was previously registered in another country, evidence of the deletion of the name of the ship from such foreign register free and clear of registered encumbrances or, where the ship was last registered concurrently in more than one country, from the registry of every such country free and clear of registered encumbrances.

(2) On payment of the prescribed fee, any person who satisfies the Director of his interest in a Mauritius ship may inspect the Register during the hours of official business and obtain certified copies of any entry in the Register.

(3) The owner of a Mauritius ship shall inform the Director of his address and that of his agent at the time of the registration of the ship and shall notify him of any change in the address within 7 days of the change.

- (4) On registration of a ship, the Director shall retain in his possession –
- (a) the declaration required under section 11;

- (b) the surveyor's certificate required under section 14;
- (c) any builder's certificate required under section 12(1)(a);
- (d) the instrument required under section 12(1)(d) or (2).

[Amended 20/92]

16 Port of registration

The port of registration of every Mauritius ship shall be Port Louis.

17 Liability of registered owners

Where 2 or more persons are registered as owners of a Mauritius ship, each of them shall be jointly and severally responsible for any liability incurred in respect of the ship under this Act or any other enactment.

CHAPTER II – CERTIFICATE OF REGISTRATION

18 Issue of certificate of registration

(1) Where the Director is satisfied that, in relation to an application for the registration of a ship as a Mauritius ship, this Act has been complied with and that the fee prescribed for the registration of the ship has been paid, he may grant to the applicant a certificate of registration.

(2) A certificate issued under subsection (1) shall be in such form as may be approved by the Director and shall contain all the particulars of the ship entered in the Register.

(3) Any person who uses, for navigation of a Mauritius ship, a certificate issued otherwise than in accordance with this section, shall commit an offence.

19 Provisional certificate of registration

(1) Where at any port outside Mauritius, a ship qualifies to become a Mauritius ship in accordance with section 8, an authorised officer may, on the application of the owner or master of the ship and on being satisfied as to the ownership of the ship, grant, in relation to the ship, a provisional certificate of registration stating –

- (a) the name of the ship;
- (b) the time and place of the acquisition and the name of the owner of the ship;
- (c) the name of the master of the ship and the details of his certificate of competency;
- (d) particulars regarding tonnage, build and description of the ship which he is able to obtain,

and shall immediately forward a copy of the provisional certificate to the Director.

(2) A provisional certificate may be issued under subsection (1) in respect of a ship which has a foreign certificate of registration if the authorised officer obtains evidence which satisfies him that the ship has been, or upon issue of a provisional certificate as a Mauritius ship will be, deleted from such foreign register free and clear of registered encumbrances or, if the ship was last registered concurrently in more than one country, from the registry of every such country free and clear of registered encumbrances.

(3) A provisional certificate shall have the same effect as a certificate of registration.

(4) A provisional certificate issued under this section shall be valid for such period not exceeding 6 months as may be specified in the certificate.

[Amended 20/92]

20 Custody of certificate of registration

(1) A certificate of registration shall be used only for the lawful navigation of the ship for which it is granted, and shall not be subject to detention by reason of any title, mortgage, charge or interest claimed in respect of the ship.

(2) No person, who has in his possession or under his control the certificate of registration of a ship, shall refuse to deliver the certificate on demand to –

- (a) the person entitled to its custody for the purpose of the lawful navigation of the ship; or
- (b) the Director or to any authorised officer.

(3) Any person who, without reasonable cause, refuses to deliver a certificate as required by subsection (2), shall commit an offence.

21 Lost certificate of registration

(1) Where a certificate of registration of a Mauritius ship is mislaid, lost or destroyed, or where the Director is otherwise satisfied that a new certificate should be granted, the Director may grant a new certificate.

(2) A declaration of loss of a certificate of registration shall be made by the master of the ship, or some other person who has actual knowledge of the loss, who shall state, to the best of his knowledge and belief, the circumstances of the loss and the name and description of the registered owner of the ship.

(3) Pending the issue of a new certificate of registration under subsection (1), an authorised officer may, on receiving a written declaration of loss of the certificate under subsection (2), grant a provisional certificate, which shall contain a statement of the circumstances under which it was granted.

(4) A provisional certificate of registration granted under this section shall be valid for such period not exceeding 60 days as may be specified in the certificate.

22 Surrender of certificate of registration

(1) Where under this Act the certificate of registration of a Mauritius ship is cancelled or suspended, the Director shall cause written notice of the cancellation or suspension to be served on the master of the ship.

(2) On service of a notice under subsection (1), the master of the ship shall, within 7 days of the service of the notice, deliver the certificate of registration of the ship to an authorised officer.

(3) No master of a Mauritius ship, the certificate of registration of which has been cancelled or suspended, shall take the ship to sea.

(4) Any master of a Mauritius ship who contravenes this section shall commit an offence.

23 Endorsement of change

(1) Where the master of a Mauritius ship is replaced, the Director or an authorised officer shall endorse and sign on the certificate of registration a memorandum of the change.

(2) Where an endorsement of a change is made otherwise than by the Director, the person making the endorsement shall forthwith report the change to the Director.

(3) No person shall act as master of a Mauritius ship unless his name is inserted in, or endorsed on, the certificate of registration of the ship as the last appointed master of that ship.

(4) Where a change occurs in the ownership of a Mauritius ship, the change shall be endorsed on the ship's certificate of registration by the Director.

(5) For the purpose of an endorsement under subsection (1), the master of the ship shall deliver the certificate of registration to the Director as soon as practicable after the change has occurred.

(6) The Director may, for the purpose of making an endorsement under this section, require the master of the ship to deliver to him the ship's certificate of registration in such circumstances as will not detain the ship.

24 Ship ceasing to be Mauritius ship

(1) Where a Mauritius ship is wrecked, abandoned, taken by the enemy, burnt or broken up or ceases to be a Mauritius ship, the owner of the ship shall, within 7 days of obtaining knowledge of that event, give written notice of the fact to the Director.

(2) The Director shall, on receiving a notice under subsection (1), make an entry of the fact in the register, and the registration of the ship in the Register shall be cancelled except in so far as it relates to any unsatisfied mortgage.

(3) Except where her certificate of registration is lost or destroyed, the owner or master of the ship shall, in any of the events referred to in subsection (1), deliver the certificate to the Director –

- (a) where the event occurs in Mauritius, within 7 days of its occurrence;
- (b) where the event occurs elsewhere, within 7 days of his arrival in Mauritius or any other port.

25 Re-registration of wrecked or abandoned ships

Where a ship has been wrecked or abandoned, the Director may, on application by the owner of the ship, re-register the ship if he is satisfied that the ship has been surveyed by a surveyor and certified by him to be seaworthy.

CHAPTER III – TRANSFER AND TRANSMISSION OF OWNERSHIP

26 Transfer of ship

(1) Any transfer of a Mauritius ship shall be made in writing in such form as may be approved by the Director.

(2) The instrument witnessing the transfer shall –

- (a) contain the same description of the ship as is set out in her certificate of registration;
- (b) be executed by the transferor in the presence of, and be attested by, 2 witnesses.

(3) Notwithstanding any other enactment, any transfer made otherwise than in accordance with this section shall be null and void.

27 Registration of transfer

(1) Every instrument witnessing the transfer of a Mauritius ship shall, within 21 days of the transfer, be produced to the Director together with the declaration required under section 11, and the Director shall –

- (a) enter in the Register the name of the transferee as owner of the ship; and
- (b) endorse on the instrument of transfer the fact of that entry having been made and the date on which it was made.

28 Transmission of ship

(1) Where on the death or bankruptcy of the owner of a Mauritius ship, or on the distribution of his assets, the ownership of the ship is vested in a person entitled to own the ship, that person shall make a declaration, in accordance with subsection (2), before a notary in the presence of, and attested by, 2 witnesses.

(2) A declaration under subsection (1) shall contain the same description of the ship as is specified in the certificate of registration, shall be regarded for all purposes as an instrument of transfer of the ship and shall be registered as required under section 27.

(3) Where on the death or bankruptcy of the owner of a Mauritius ship, or on the distribution of his assets, the ownership of the ship is vested in a person who is not entitled to own the ship, that person shall, within 6 months of the transmission of the ownership of the ship to him, sell the ship, and if he fails to do so, the ownership of the ship shall vest in the Curator of Vacant Estates.

(4) Where the ownership of a ship is vested in the Curator of Vacant Estates under subsection (3), the Curator shall sell the ship and pay over to the person in whom the ownership of the ship was originally transmitted, the price obtained on the sale after deduction of the expenses incurred on the sale.

CHAPTER IV – MORTGAGES

29 Mortgage of ship or share

(1) A registered ship or a share in it may be made a security for a loan, guarantee or other valuable consideration, and the mortgage instrument creating the security shall be in such form as may be prescribed, or as near to it as circumstances permit, and, on the production of such instrument, the Director shall record it in the Register.

(2) There shall be attached to an instrument of mortgage a deed of covenants agreed between the parties, and dealing with any matter relating to the mortgage, including the following

- (a) the mode of the payment of interest and the repayment of principal;
- (b) the insurance and renewal of the mortgage and the application of policy money;
- (c) limitations on the use to which the ship is put;
- (d) a definition of "default" on which statutory or other powers may be exercised;
- (e) powers exercisable by the mortgagee, including where the entire ship is mortgaged, the power –
 - (i) to take possession of the ship;
 - (ii) when notice has been given to the Director, to assume her management and do all acts necessary therefore;
 - (iii) to sell the ship by private contract;
- (f) the duty of the mortgagee to appropriate against the amount of the mortgage debt, after deduction of all relative expenses, all sums collected by him during the management and operation of the ship and to terminate such management after final payment;
- (g) any other matter ancillary or incidental to the mortgage.

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

(4) (a) Notwithstanding this Part, any mortgage executed outside Mauritius may be deposited with an authorised officer, who shall, if satisfied that the mortgage appears to be in proper order and duly executed, on payment of the appropriate fee, forthwith notify the Director of the deposit of the mortgage giving all necessary particulars, and the authorised officer shall forward the mortgage deed at the first convenient opportunity to the Director.

(b) On receipt of a notice of deposit by the Director, the mortgage shall be deemed to be recorded as from the date and hour of such deposit with the authorised officer and the Director shall make the necessary entry in the Register stating the date and hour of that recording and the record of the Director shall have effect as if it was made for the purpose of section 29B.

(5) Where the mortgagor is a company, this section shall be in addition to, and not in derogation of, section 81 of the Companies Act.

[Amended 20/92]

29A Entry of discharge of mortgage

Where a registered mortgage is discharged, the Director shall, on production of the mortgage deed, 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 interest, if any, which has passed to the mortgagee shall vest in the person in whom having regard to intervening acts and circumstances, if any, would have vested if the mortgage had not been made.

[Added 20/92]

29B Priority of mortgages

Where more than one mortgage is registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority one over the other, according to the date and hour at which each mortgage is recorded in the Register, and not according to the date of each mortgage itself.

[Added 20/92]

29C Mortgagee not treated as owner

(1) Subject to subsection (2), 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 to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be the owner of it.

(2) Where under a deed of covenants the mortgagee is entitled to take possession of a ship or where the mortgagor allows the ship to remain burdened with a maritime lien which impairs the security of the mortgage, the mortgagee may take possession of the ship and shall on taking possession have all the rights and powers of any owner in possession of the ship.

[Added 20/92]

29D Disposal by mortgagee

(1) Subject to subsection (2), every registered mortgagee may absolutely dispose of the ship or share in respect of which he is registered, and give effectual receipts for the purchase money.

(2) Where more than one person is registered as mortgagee of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

[Added 20/92]

29E Mortgage not affected by bankruptcy

A registered mortgage 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.

[Added 20/92]

29F Transfer of mortgages

A registered mortgage of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in such form as may be prescribed or as near to it as the circumstances permit, and, on production of the instrument, the Director shall record it by entering in the Register the name of the transferee as mortgagee of the ship or share, and shall by memorandum under his hand endorse on the instrument of transfer that it has been recorded by him, stating the day and hour of the record.

[Added 20/92]

29G Transmission of interest in mortgage

(1) Where the interest of a mortgagee in a ship or share is transmitted on marriage, death or bankruptcy, or by any other lawful means, other than by a voluntary transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which the person to whom the property has been transmitted, and shall be accompanied by the same evidence as is required in the case of a corresponding transmission of the ownership of a ship or share under section 28.

(2) The Director shall, on receipt of the declaration and on production of the evidence, enter the name of the person entitled under the transmission in the Register as mortgagee of the ship or share in respect of which the transmission has taken place.

[Added 20/92]

29H Registration of mortgage on provisional registration

(1) (a) A provisionally registered ship or a share in it may be made security for a loan, guarantee or other valuable consideration.

(b) Every mortgage deed shall be recorded by the Director in accordance with section 29.

(c) The priority of any such mortgage shall be preserved upon permanent registry of the ship.

(2) Where, within 30 days of the date of expiry of the provisional certificate of registration, a ship has not fulfilled the requirements of permanent registration, the mortgagee may absolutely dispose of the ship or share in respect of which he is registered in the Register, notwithstanding that the mortgagor has complied fully with any other requirement of the mortgage deed.

[Added 20/92]

29I Account current

The mortgage deed shall recite –

- (a) an account current between the mortgagor and the mortgagee;
- (b) where it secures a guarantee or is by way of a third party charge, an account current between the mortgagee and the third party who has received the loan or other valuable consideration which is the subject of such guarantee or third party charge.

[Added 20/92]

CHAPTER V – ALTERATIONS TO SHIPS AND REGISTRATION OF ALTERATIONS

30 Alterations to Mauritius ships

(1) Where a Mauritius ship is so altered as not to correspond with the particulars relating to her tonnage or description in the Register, the owner shall, within 30 days after the completion of the alteration, notify the Director of the alteration and shall produce a certificate from a surveyor stating the particulars of the alteration.

(2) On receipt of a notice of alteration under subsection (1), the Director shall cause the alteration to be registered or direct that the ship be registered anew.

(3) Where the owner fails to comply with subsection (1), he shall commit an offence, and the Director may cancel or suspend the certificate or registration of the ship and detain the ship until those requirements are complied with.

31 Registration of alterations

(1) For the purpose of registration of an alteration in a Mauritius ship, the certificate of registration of the ship shall be produced to the Director, who shall –

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

(2) The Director shall enter in the Register the particulars of the alteration.

32 Provisional endorsement of alterations

(1) Where a Mauritius ship is so altered at any port or place outside Mauritius as not to correspond with the particulars relating to her tonnage or description in the Register, the owner of the ship shall make an application to an authorised officer for provisional endorsement of the particulars of the alteration on the certificate of registration of the ship.

(2) On receipt of an application under subsection (1), the authorised officer may grant or refuse the application and, where he grants the application, the endorsement shall contain a statement that it is provisional.

CHAPTER VI – NATIONALITY OF SHIPS

33 National colours

(1) The flag of Mauritius shall constitute the national colours of a Mauritius ship.

(2) A Mauritius ship shall hoist the national colours on entering or leaving any port in Mauritius and on a signal being made to the ship by any ship in the service of the Government.

34 Unlawful use of Mauritius flag

Where a person uses the Mauritius flag on a ship which is not a Mauritius ship for the purpose of making the ship appear to be a Mauritius ship, he shall commit an offence and the ship shall be liable to forfeiture under this Act.

35 Concealing Mauritius character or assuming foreign character

Where the owner or master of a Mauritius ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to –

- (a) conceal the Mauritius character of the ship from any person entitled by any enactment to enquire into such matter;
- (b) deceive any person so entitled; or
- (c) assume a foreign character,

he shall commit an offence and the ship shall be liable to forfeiture under his Act.

CHAPTER VII – PARALLEL REGISTRATION OF SHIPS

35A Parallel registration

In this Part, “parallel registration” means the registration of a ship in the register of a country, for a certain period and under specified legal pre-conditions, while the ship remains registered in the register of another country.

[Added 20/92]

35B Bareboat chartering

“Bareboat chartering” means chartering by virtue of which the charterer shall, for the agreed period, acquire full control and possession of the ship, have the shipping management and operational control of the ship, appoint and dismiss the master and the crew of the ship, be responsible towards third parties as if he was the shipowner and, generally, so long as the chartering continues, be substituted in all respects for the shipowner, save that he shall have no right to sell or mortgage the ship.

[Added 20/92]

35C Parallel registration in the Register

(1) Subject to the conditions specified in this Chapter, a ship registered in a foreign register which is bareboat chartered by a citizen of Mauritius or a body corporate qualified under section 8 to own a Mauritius ship, may have a parallel registration in the Register.

(2) For the parallel registration of a ship in the Register, the deletion of the registration in the foreign register shall not be required, but the registration in the foreign register shall be suspended, save as regards the matters specified in sections 35I and 35J.

[Added 20/92]

35D Book of Parallel Registration

(1) The parallel registration in the Register shall be made by the registration of the foreign ship in the Book of Parallel Registration kept for this purpose, and for the period which in each case the Minister approves, and shall be effected by the Director on the application of the charterer, where the following conditions are satisfied –

- (a) the law of the country of the foreign registry allows the parallel registration of a ship registered in its register; and
- (b) the following duly certified documents are submitted to the Director together with the application –
 - (i) a copy of the charterparty, in lieu of the title of ownership and the declaration of ownership;
 - (ii) the written consent of the shipowner;
 - (iii) the written consent of the appropriate maritime authorities of the country of the foreign register and a certificate of ownership and mortgages or other encumbrances;
 - (iv) the written consent of the mortgagees; and
 - (v) subject to this Chapter, any document which may be required for permanent registration.

(2) No Carving and Marking Note shall be issued in respect of a ship registered in the Book of Parallel Registration.

[Added 20/92]

35E Tonnage

(1) A new measurement of the tonnage of the ship shall not be required for a parallel registration.

(2) An International Tonnage Certificate may be issued –

- (a) on production of the corresponding documents of the foreign registry; and
- (b) on payment of such measurement fees as may be prescribed.

(3) A subsequent alteration of the ship which affects the tonnage or the type of the ship shall be effected in accordance with this Act relating to ships registered in the Register and shall be notified by the Director to the appropriate maritime authorities of the country of the foreign registry.

[Added 20/92]

35F Name

(1) The ship shall keep the name of the foreign registry and that name shall not be the same as the name of a ship registered in the Register.

(2) A subsequent change of the name shall be allowed and shall be effected in accordance with the provisions of this Act relating to ships registered in the Register on the application, in this case, of the charterer and with the written consent of the shipowner and the mortgagee and it shall be notified to the appropriate maritime authorities of the country of the foreign registry.

[Added 20/92]

35G Certificate of parallel registration

(1) During the period for which the status of parallel registration is in force, the ship shall be furnished by the Director with a certificate of registration of ships registered in the Register and in which the same particulars provided by this Act in respect of ships registered in the Register, as well as the particulars of the shipowner, the charterer and the foreign registry of the ship, shall be recorded.

(2) The certificate of parallel registration shall set out the date of termination of its validity.

(3) During the period for which the status of parallel registration is in force, the ship shall hoist the Mauritius flag, and she shall not be allowed to use the flag of the country of the foreign registry and the name of the ship and the Mauritius port of registration of the ship shall be marked on her external parts.

[Added 20/92]

35H Re-registration in the Book of Parallel Registration

The extension of the status of parallel registration and the re-registration of the ship in the Book of Parallel Registration of the Register shall be allowed so long as the pre-conditions according to the law applicable at the time of the initial registration still apply, and on payment of such fees as may be prescribed.

[Added 20/92]

35I Transfer of ownership

(1) The transfer of ownership, for any reason, of a ship which is under the status of parallel registration in the Register shall –

- (a) be effected in accordance with the law of the country of the foreign register in which she shall be registered;
- (b) not be allowed under Chapter III of this Part relating to transfer of ownership.

(2) Transfer of ownership under subsection (1) shall be notified to the Director for entry in the Book of Parallel Registration and in the certificate of parallel registration of the ship which is under that status.

[Added 20/92]

35J Existing mortgages at time of parallel registration

(1) Mortgages and other encumbrances which are a charge on the ship at the time of parallel registration shall continue to exist and be a charge on the ship and be governed by the law governing them at the time of their creation, without being affected by the fact of the parallel registration of the ship.

(2) After the parallel registration of the ship, a mortgage or other encumbrance shall be created on the ship only by the shipowner and in accordance with the law of the country of the foreign register in which it is recorded and registration of a mortgage in the Register in accordance with Chapter IV of this Part shall not be allowed.

(3) Mortgages and other encumbrances under subsections (1) and (2) shall be notified to the Director for entry in the Book of Parallel Registration.

[Added 20/92]

35K Annual fees and charges in the case of parallel registration

(1) A ship of a foreign registry which is under the status of parallel registration in the Register and so long as this status continues, shall be subject to the obligation to pay the same annual fees and charges and shall be subject to the same financial obligations as those applicable to ships registered in the Register.

(2) The fees and charges payable under this section shall be payable in advance at the time when the parallel registration is effected, shall cover the whole period for which the status of parallel registration is in force and shall not be refundable even if such status is terminated at an earlier date and, in the event of a subsequent variation, they shall be readjusted.

[Added 20/92]

35L Law applicable

Subject to this Chapter, this Act and any regulations made under it shall apply to a ship of a foreign registry so long as she is subject to the status of parallel registration.

[Added 20/92]

35M Revocation of the status of parallel registration

(1) The status of parallel registration of a ship in a foreign registry shall be revoked and the name of such ship shall be deleted from the Book of Parallel Registration in the following cases –

- (a) where the appropriate maritime authorities of the foreign registry revoke their consent for the parallel registration of the ship in the Register;
- (b) in case of termination of the charter;
- (c) upon the lapse of the period of time for which the Minister has approved the parallel registration of the ship in the Register; and
- (d) where there exists any reason for deletion which under this Act applies in the case of ships registered in the Register.

(2) Upon such deletion the Director shall issue the relevant deletion certificate.

(3) The fact of the deletion shall be notified by the Director to the appropriate maritime authorities of the foreign registry of the ship.

[Added 20/92]

35N Parallel registration of Mauritius ships in a foreign register

The parallel registration of a Mauritius ship in a foreign register shall be allowed if the ship is bareboat chartered to a foreign individual or corporation and the law of the country of the foreign registry allows the parallel registration of ships of another registry, under pre-conditions similar to those set out in this Chapter in the case of parallel registration of foreign ships in the Register.

[Added 20/92]

35P Conditions for the parallel registration of Mauritius ships in a foreign register

(1) The approval of the Minister shall be required for the parallel registration of a Mauritius ship in a foreign register.

(2) (a) Subject to paragraph (b), no parallel registration in a foreign register shall be allowed except in respect of a Mauritius ship which is permanently registered in the Register.

(b) The Minister may approve the parallel registration of a Mauritius ship which is previously registered subject to such conditions as he may deem fit to impose.

(3) The approval of the parallel registration of a Mauritius ship in a foreign register shall be granted on the application of the shipowner, to which shall be attached the following documents –

- (a) a copy of the charterparty;
- (b) the written consent of the charterer;
- (c) the written consent of the appropriate maritime authorities of the country of the foreign registry and confirmation that the law of the country allows the parallel registration of the Mauritius ship in its register;
- (d) the written consent of the mortgagee;
- (e) a common declaration by the shipowner and charterer that they undertake to produce to the Director within one month a certified copy of the foreign certificate of parallel registration and to notify every alteration which takes place regarding the name or other particulars of the ship during the period the status of parallel registration of the ship in the foreign register is in force.

[Added 20/92]

35Q Duration of parallel registration of Mauritius ships

(1) The status of parallel registration of Mauritius ships shall continue to be in force for the duration of the charterparty, if the approval of the Minister and the consent of the appropriate maritime authorities of the foreign register are in force, but in any case for a period not greater than three years.

(2) The Minister may, on the application of the shipowner and with the consent of the mortgagee, approve an extension of the status of parallel registration provided the remaining pre-conditions according to the law in this respect are applicable.

[Added 20/92]

35R Effects of parallel registration of Mauritius ships

(1) During the time the status of parallel registration of the Mauritius ship is in force, the ship shall hoist the flag of the foreign registry and shall not use the Mauritius flag.

(2) The certificate of registration of the Mauritius ship shall be delivered to the Director and shall be returned to the shipowner as soon as the status of parallel registration of the ship in the foreign register is terminated.

(3) Subject to this Chapter, the entry relating to the ship in the Register shall be deemed to be suspended during the period the parallel registration of the Mauritius ship in the foreign register is in force.

[Added 20/92]

35S Mortgages on Mauritius ships on parallel registration

(1) The transfer of ownership for any reason, the creation, registration, transfer and discharge of a mortgage on a Mauritius ship which is under the status of parallel registration in a foreign registry shall be effected according to this Act and shall be registered in the Register.

(2) Mortgages which are a charge on the Mauritius ship at the time of her parallel registration in the foreign register shall continue to exist and to be a charge on the ship and be governed by this Act without being affected by the fact of the parallel registration of the ship in the foreign register.

(3) No act which refers to the ownership, registration, transfer or discharge of a mortgage or other encumbrance on a Mauritius ship which is under the status of parallel registration in a foreign registry shall be recorded in the foreign register, and any registration of title of ownership or registration, transfer or discharge of a mortgage or other encumbrance in the foreign register in contravention of this prohibition shall be null and void according to Mauritius law.

(4) Entries made in the Register regarding the transfer of ownership, the registration, transfer or discharge of a mortgage on the ship shall be notified to the appropriate maritime authorities of the foreign register.

[Added 20/92]

35T Financial obligations

(1) During the period the status of parallel registration in the foreign registry is in force, the Mauritius ship which is under this status shall continue to be under the obligation to pay the same annual fees and charges and to be subject to the same financial obligations as other Mauritius ships, except for payment for crew fees or radio fees.

(2) The fees and charges payable under this section or prescribed by any regulations shall be prepaid at the time of approval of the parallel registration of the ship and shall cover the whole period for which the status of parallel registration of the ship in the foreign registry is in force and in the case of subsequent alteration of the fees, they shall be readjusted.

[Added 20/92]

CHAPTER VIII – MARITIME LIENS

35U Sources of maritime lien

- (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 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) In this section, "owner" includes the demisee or other charterer, manager or operator of the ship.

[Added 20/92]

35V Priority of mortgages

Subject to section 35X, the maritime liens set out in section 35U 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.

[Added 20/92]

35W Priority of maritime liens in general

- (1) The maritime liens set out in section 35U(1) shall –
- (a) subject to this subsection, rank in the order in which they are set out in that subsection;
 - (b) as respect those set out in paragraphs (e), of that subsection, 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;
 - (c) as respect those set out in each of paragraphs (a), (b), (c) and (d) of that subsection, rank *pari passu* as between themselves;
 - (d) as respect those set out in paragraphs (e) of that subsection, rank in the inverse order of the time when the claims secured thereby accrued;
 - (e) rank before and take precedence of any "privilege" arising under articles 2143 to 2162 of the Code Napoléon.
- (2) For the purposes of this section –
- (a) claims for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed; and

- (b) claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

[Added 20/92]

35X Priority of lien over all claims

Any lien exercisable by a shipbuilder 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.

[Added 20/92]

35Y Claims to proceeds of sale of ship

Notwithstanding this Act or 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 its subsequent sale, 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 claims in accordance with this Chapter.

[Added 20/92]

PART IV – THE CREW

CHAPTER I – CERTIFICATES OF COMPETENCY AND MANNING

36 Certificated officers

(1) The following classes of ships shall, when going to sea, be provided with certificated officers –

- (a) a Mauritius foreign-going cargo ship;
- (b) a Mauritius foreign-going passenger ship;
- (c) a Mauritius cargo ship trading between the Islands of Mauritius and Rodrigues and the Outer Islands;
- (d) a Mauritius near coastal passenger ship;
- (e) a Mauritius deep-sea fishing vessel;
- (f) a Mauritius deep-sea tug;
- (g) a foreign passenger ship sailing to or from Mauritius.

(2) Certificated officers shall be provided for ships in accordance with the following scale

–

- (a) in the case of a Mauritius foreign-going cargo ship –
 - (i) a duly certificated master foreign-going;
 - (ii) where the ship is 200 GRT but under 1600 GRT, in addition to the master, a duly certificated first mate foreign-going and a duly certificated second mate foreign-going;
 - (iii) where the ship is 1600 GRT and over, in addition to the master, a duly certificated foreign-going first mate, a second mate and a third mate;
 - (iv) where a mate is carried in addition to those specified in subparagraphs (ii) and (iii), that mate shall hold a certificate not lower than a third mate foreign-going;
- (b) in the case of a Mauritius passenger ship –
 - (i) a duly certificated master foreign-going;
 - (ii) in addition to the master, a duly certificated foreign-going first mate, a second mate and a third mate;
 - (iii) where a mate is carried in addition to those specified in subparagraph (ii), that mate shall hold a certificate not lower than a third mate foreign-going;
- (c) in the case of a Mauritius cargo-ship trading between the islands of Mauritius and Rodrigues and the Outer Islands –

- (i) where the ship is 80 GRT but under 1600 GRT, at least a duly certified first mate foreign-going, acting as master, and a duly certificated second mate foreign-going;
 - (ii) where the ship is 1600 GRT and over, a duly certificated master foreign-going and at least a duly certificated second mate foreign-going;
 - (d) in the case of a Mauritius near coastal passenger ship –
 - (i) where the ship is under 200 GRT, at least a duly certificated second mate foreign-going acting as master;
 - (ii) where the ship is 200 GRT but under 1,000 GRT, at least a duly certificated first mate foreign-going acting as master and in addition, a duly certificated fourth mate foreign-going;
 - (iii) where the ship is 1,000 GRT but under 2,000 GRT, a duly certificated master foreign-going and in addition at least a duly certificated third mate foreign-going;
 - (iv) where the ship is 2,000 GRT and over, a duly certificated master foreign-going and in addition a duly certificated first mate foreign-going and another officer holding at least a third mate foreign-going certificate;
 - (v) where a mate is carried in addition to those specified in subparagraph (i), (ii), (iii) or (iv), that mate shall hold a certificate not lower than fourth mate foreign-going;
 - (e) in the case of a Mauritius deep-sea fishing vessel, a duly certificated skipper and a duly certificated second-hand;
 - (f) in the case of a Mauritius deep-sea tug, at least 2 duly certificated first mates foreign-going, one of whom shall have sea service in unlimited voyages as first mate foreign-going for not less than 12 months;
 - (g) in the case of the passenger ship sailing to or from Mauritius, the same complement of officers as required under paragraph (b).
- (3) Certificated engineers shall be provided for ships in accordance with the following scale –
- (a) where the ship is a motor ship of less than 350 kilowatts registered propulsion power, the ship shall be provided with at least one duly certificated third engineer and a duly certificated fourth engineer;
 - (b) where the ship is a motor ship of 350 or more but less than 746 kilowatts registered propulsion power, the ship shall be provided with at least one duly certificated second engineer and a duly certificated fourth engineer;
 - (c) where the ship is a motor ship of 746 or more but less than 3,000 kilowatts registered propulsion power, the ship shall be provided with one duly certificated engineer and with at least a duly certificated third engineer and a duly certificated fourth engineer;
 - (d) where the ship is a motor ship of 3,000 kilowatts registered propulsion power or more, the ship shall be provided with a duly certificated chief engineer, a duly certificated second engineer and with at least 2 duly certificated fourth engineers.
- (4) No person other than a certificated officer shall take charge of a watch on deck or in the engine room of a Mauritius ship at sea, and no person other than a certificated engineer shall be left in charge of the boiler room of a Mauritius ship in port where the boilers are under steam.

37 Grades of certificates of competency

Certificates of competency may be granted under this Act for each of the following grades

- (a) master of a foreign-going ship;
- (b) first mate of a foreign-going ship;
- (c) second mate of a foreign-going ship;
- (d) third mate of a foreign-going ship;
- (e) fourth mate of a foreign-going ship;

- (f) skipper of a deep-sea fishing vessel;
- (g) second hand of a deep-sea fishing vessel;
- (h) first class engineer;
- (i) second class engineer;
- (j) third class engineer;
- (k) fourth class engineer;
- (l) able seaman.

38 Board of examiners and foreign certificates

(1) For the purpose of granting certificates of competency to certificated officers, the Minister shall appoint a board of examiners which shall –

- (a) cause examinations to be held at such time and place as he thinks fit;
- (b) cause to be delivered the appropriate certificate of competency to every candidate who passes the examinations and give satisfactory evidence of his experience, ability and good character.

(2) Where the law of any other country provides for the examination for, and the issue of certificates to, persons intending to act as certificated officers on board ships and –

- (a) the Minister is satisfied that all examinations are so conducted as to be equally effective as the examinations conducted for the same purpose in Mauritius under subsection (1);
- (b) any certificate is granted on principles that show the like qualifications and competency as those granted under this Act,

the Minister may approve the certificate as an acceptable equivalent for a certificate granted under subsection (1).

(3) Where any person holding a certificate under subsection (2) applies to serve on a Mauritius ship, the Minister may direct that –

- (a) where the person is a citizen of Mauritius, he shall be granted a certificate of equivalent grade under this Act;
- (b) where the person is not a citizen of Mauritius, he shall be issued with a licence authorising him to serve on a Mauritius ship.

(4) Any licence issued under subsection (3)(b) shall be subject to such conditions as the Minister thinks fit to impose.

(5) The Director may, with the approval of the Minister, regulate the issue of certificates of competency of able seamen.

39 Loss of certificate

Where a certificated officer satisfies the Director that he has lost a certificate of competency or a licence issued to him under this Act, the Director may, on payment of the prescribed fee, deliver a certified copy of the certificate or the licence to him.

40 Production of certificate

(1) Any person serving or engaged to serve on any Mauritius ship who holds any certificate of competency or a licence shall, on demand, produce the certificate or licence to the Director or to the Superintendent.

(2) Any person who fails, without reasonable cause, to comply with subsection (1) shall commit an offence.

41 Records of certificates and licences

The Director shall keep a register in which shall be recorded all matters relating to certificates of competency and licence, including their issue, cancellation, suspension or amendment.

42 Notification of engagement

(1) Where a certificated officer is engaged on board a Mauritius ship outside Mauritius, the master of the ship shall, within 7 days of the engagement, submit such particulars of the officer as the Superintendent may require.

(2) Where a certificated officer ceases to be employed on a Mauritius ship outside Mauritius, the master of the ship shall, within 7 days of the termination, notify the Superintendent of the termination of the employment.

43 Going to sea undermanned

(1) Where a Mauritius ship goes to sea without carrying such officers as are required to be carried in accordance with section 36, the owner and the master of the ship shall each commit an offence.

(2) The Director may cancel or suspend the certificate of registration of a ship or detain the ship until it is properly manned in accordance with section 36.

CHAPTER II – APPRENTICESHIP

44 Contracts of apprenticeship

(1) Every contract of apprenticeship to be performed on any Mauritius ship shall be signed in the presence of the Superintendent by the apprentice and the owner of the ship or his authorised representative.

(2) The Superintendent shall attest the signing of a contract of apprenticeship where he is satisfied that the apprentice –

- (a) understands the contents and provisions of the contract;
- (b) freely consents to be bound thereby;
- (c) has attained the age of 16;
- (d) is in possession of a certificate of a registered medical practitioner to the effect that he is physically fit for sea service.

CHAPTER III – ENGAGEMENT OF SEAMEN

45 Duties of Superintendent

(1) The Superintendent shall –

- (a) approve standard contracts of engagement of seamen or apprentices employed on board of Mauritius ships;
- (b) keep an up-to-date record of all seamen employed on Mauritius ships and ensure their orderly employment and discharge.

(2) (a) All crew changes shall be supervised and witnessed by the Superintendent.

(b) Where a crew change is made outside Mauritius, it shall be supervised and witnessed by an authorised officer, or where no authorised officer is available to witness the crew change, the master of the ship shall within 7 days notify the Superintendent of the change.

46 Crew agreement

(1) Subject to subsection (3), the master of every Mauritius ship when going to sea, shall enter into an agreement in writing with every seaman whom he engages as one of his crew.

(2) A crew agreement shall be dated at the time it is first signed.

(3) This section shall not apply to ships of 80 net registered tons or less engaged exclusively in trading within the near coastal limits.

47 Contents of crew agreement

(1) A crew agreement shall state –

- (a) the place at which it is made;
- (b) the full name of the seaman;
- (c) the place of birth of the seaman;
- (d) the age and date of birth of the seaman;
- (e) the name of the ship on which the seaman undertakes to serve;
- (f) the nature of the engagement;

- (g) the period of the engagement whether for a single voyage or for a series of voyages;
- (h) the port at which it is intended to discharge the crew;
- (i) any place or parts of the world to which the voyage or engagement is not to extend;
- (j) the place and date at which the seaman is to be on board the ship or to begin work;
- (k) the capacity in which the seaman is to serve;
- (l) the amount of wages that the seaman is to receive, including any payment in advance or any allotment during his absence as provided under sections 58 and 59;
- (m) the scale of the provisions that are to be supplied to seamen;
- (n) the time that is to expire after arrival at the port of discharge before the seaman is discharged;
- (o) the leave to which the seaman is entitled;
- (p) any regulations as to the conduct of seamen on board ship; and
- (q) any contributions to be made by the employer and any member of the crew towards a pension fund.

(2) A crew agreement may contain such other stipulations as are agreed upon by the master of the ship and the seaman.

(3) The master of any Mauritius ship shall within 48 hours of her arrival at the port where he discharges his crew, deliver the crew agreement to the Superintendent, or where the port of discharge is not Port Louis, to such authorised officer as the Superintendent may direct.

48 Posting of specimen agreement

The master of a Mauritius ship shall, at the commencement of every voyage from Mauritius, post up a legible specimen of the crew agreement in some part of the ship that is accessible to the crew.

49 Employment of young persons

No person under the age of 18 shall –

- (a) be engaged to work on board a Mauritius ship unless he has obtained the consent in writing of his parents or guardian and is certified to be fit for such work by a medical practitioner approved by the Director;
- (b) be employed to work in the engine room of a Mauritius ship unless he is an apprentice working under supervision.

[Amended 5/89]

CHAPTER IV – DISCHARGE OF SEAMEN

50 Continuous Discharge Book

(1) The Superintendent shall issue to every seaman engaged on a Mauritius ship a book, to be known as Continuous Discharge Book, which shall contain a record of the service of the seaman.

(2) The master of a Mauritius ship, shall, on the discharge of a seaman from his ship, make an entry in the Continuous Discharge Book of the seaman specifying the period of the seaman's service and the time and place of discharge and shall sign the entry.

(3) An entry under subsection (2) shall not contain any statement as to wages or to quality of work of the discharged seaman.

(4) The master of a ship shall, on the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer.

(5) Where it is shown to the satisfaction of any authorised officer outside Mauritius that a seaman engaged on a Mauritius ship has wilfully or through misconduct failed to join the ship, the authorised officer shall report the matter to the Director.

(6) The Director, on receipt of the report, shall give such directions as he thinks fit in respect of an entry to be made in the seaman's Continuous Discharge Book.

[Amended 5/89]

51 Character report

Where a seaman is discharged from a Mauritius ship, the master of the ship may make, sign and deliver to the seaman a character report in which the master shall report on the conduct, character and qualifications of the seaman.

CHAPTER V – PAYMENT OF WAGES

52 Time and manner of payment

(1) The owner or master of a Mauritius ship shall pay to each seaman engaged on his ship the wages of the seaman within 2 working days after the arrival of the ship at the port where the crew is to be discharged or on the seaman's discharge whichever happens first.

(2) The final wages of a seaman, may, with his consent, be paid over for the account of the seaman, to the Superintendent and the receipt of the Superintendent shall constitute an absolute discharge to the owner or master of the ship in respect of the wages paid over to the Superintendent.

53 Account of wages

(1) The master of a Mauritius ship shall, before discharging a seaman, deliver to him a full and true account of the seaman's wages.

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

54 Deductions

(1) The master of a Mauritius ship shall not make any deduction from the wages of a seaman unless the deduction is included in the account delivered under section 53.

(2) The master of the ship 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.

(3) The master of the ship shall, if required, produce the book at the time of the payment of the wages and at any hearing of any complaint or question relating to that payment.

55 Settlement of wages

(1) Subject to subsection (2) where the wages of a seaman are not paid or settled as provided in this Part, the wages of the seaman shall continue to run and be payable until final settlement.

(2) Subsection (1) shall not apply where –

- (a) the delay in the payment of the seaman's wages is attributable solely to the act or default of the seaman;
- (b) a reasonable dispute as to the liability of the owner or master of the ship arises; or
- (c) the delay is due to any other cause outside the control of the seaman or master of the ship.

(3) Where a seaman is discharged from a Mauritius ship and the settlement of his wages is completed, he shall endorse his discharge on the crew agreement and sign a release of all claims in respect of the voyage or engagement for which his wages have been settled.

(4) The master of the ship shall deliver a copy of the release so signed and attested to the Superintendent.

56 Superintendent's decision on disputes

(1) Where any dispute relating to wages or discharge arises between the owner or master of a Mauritius ship and any member of the crew of that ship and both parties agree in

writing to submit the dispute to the Superintendent, the Superintendent shall hear and decide the dispute submitted to him.

(2) A decision by the Superintendent under subsection (1) shall be in writing with stated reasons and shall be final.

57 Rate of exchange

Where a seaman has agreed with the master of a Mauritius ship for payment of his wages in a specific currency, any payment of or on account of his wages if made in any currency other than that stated in the agreement, shall be made at the official rate of exchange for the currency at the place where, and on the day on which, the payment is made.

CHAPTER VI – ADVANCE AND ALLOTMENT OF WAGES

58 Payment in advance

A crew agreement may contain a stipulation for payment in advance, to or on behalf of a seaman conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the equivalent of 2 weeks' wages payable to the seaman under the agreement.

59 Allotment of wages

(1) A crew agreement may contain a stipulation that part of the wages due to a seaman may, during his absence from Mauritius, be allotted to such person and at such times as may be specified in the crew agreement.

(2) The amount that may be specified under subsection (1) shall not exceed 50 percent of a seaman's monthly wages.

(3) Any person who becomes entitled to an allotment under this section may sue and recover the amount of the allotment as if it were a debt due to him.

60 Right to wages and provisions

A seaman's right to wages and provisions shall begin at the time –

(a) at which he commences work; or

(b) specified in the agreement for his commencement of work or presence on board,

whichever is the earlier.

61 Abandonment of wages and salvage

Any agreement whereby a seaman –

(a) abandons any privilege he may have under any enactment on a ship in respect of his wages;

(b) is deprived of any remedy for the recovery of his wages;

(c) abandons his right to wages in case of the loss of the ship; or

(d) abandons any right that he may have or obtain in the nature of salvage,

shall be null and void.

62 Premature termination of service

(1) Where the service of seaman terminates before the date contemplated in the agreement and is left on shore by reason of his unfitness or inability to proceed on the voyage, he shall be entitled to wages for time served up to the time of that termination.

(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 was employed, he shall be entitled to receive wages in respect of each day on which he is unemployed during a period of 2 months from the date of termination of his service at the rate stipulated in his agreement.

63 Wages during sickness

(1) A seaman shall be entitled to his wages during sickness on board a Mauritius ship.

(2) Where a seaman is by reason of sickness incapable of performing his duty and it is proved that his sickness –

(a) has been caused by his own wilful act or default; or

(b) is a sickness or an 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.

64 Wages on improper discharge

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

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

without fault on his part justifying the discharge and without his request to be discharged, he shall, without prejudice to any other remedy available to him under any other enactment, be entitled to receive from the owner or master of the ship any wages he might have earned together with compensation equivalent to one month's wages for the damage caused to him.

65 Annual leave

(1) Every person shall be entitled after 12 months continuous service on a Mauritius ship, or with the same employer or consecutively with several employers, to an annual leave with pay, the duration of which shall be stipulated in the crew agreement.

(2) Where the continuous service of the seaman is less than 12 months, he shall be entitled to leave proportionate to the period served.

CHAPTER VII – PROPERTY OF DECEASED SEAMEN

66 Custody of property

(1) Where a seaman serving on a Mauritius ship dies during a voyage, the master of the ship shall take charge of all personal effects, including money, on the ship, belonging to the deceased seaman.

- (2) The master of the ship shall enter in the official log book –
- (a) a statement of the amount of the money including the currencies in which they are;
 - (b) a description of the personal effects of the seaman; and
 - (c) a full statement of wages due to the deceased.

67 Delivery of property

(1) Subject to subsection (2), the property of a deceased seaman shall be delivered by the master of the ship to the Superintendent.

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

(3) Any person who claims to be entitled to the property of a deceased seaman shall make a claim to the Superintendent within 5 years of the death of the seaman and no claim made thereafter shall be entertained by the Superintendent.

(4) Where no claim to the property of a deceased seaman is made within the time specified in subsection (3), the Superintendent shall cause the property to be sold by public auction and credit the net proceeds of the sale to the Consolidated Fund.

CHAPTER VIII – PROVISIONS AND HEALTH

68 Complaints as to provisions

(1) Where 4 or more members of the crew of a Mauritius 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 make a complaint to that effect –

- (a) in the first instance, to the master of the ship;
- (b) if there is no improvement, to the Director or to any authorised officer who may either examine the provisions or water complained of or cause them to be examined.

(2) Where the person making an examination under this section finds that the provisions or water are of bad quality or deficient in quantity, he shall so inform in writing the master of the ship, and if the master does not thereupon provide proper provisions or water, he shall commit an offence.

(3) Any person other than the Director conducting an examination under subsection (1)(b) shall send a report of his findings to the Director.

69 Allowance for provisions

Where during the voyage of a Mauritius ship the allowance for provisions supplied to a seaman is deficient in quantity or any of those provisions are of bad quality, the seaman shall receive by way of compensation for the deficiency or the bad quality, for so long as it lasts, an amount of money to be determined by the Director.

70 Weights and measures

The master of a Mauritius ship in which provisions are supplied to the crew shall keep on board proper weights and measures for determining the quantities of the several provisions supplied.

71 Qualified cook

Every foreign-going Mauritius ship of 1600 GRT tons or more shall be provided with, and carry, a qualified ship's cook.

72 Medical requisites

(1) The owner and the master of a Mauritius ship shall ensure that the ship carries medicine, medical stores and appliances in accordance with scales approved by the Director.

(2) Where an authorised officer is of opinion that the medicines, medical stores and appliances on a Mauritius ship are deficient in quantity or quality or are placed in improper receptacles, he shall give notice thereof in writing to the owner or master of the ship and shall report the matter to the Director.

(3) The Director may, on receiving a report under subsection (2), suspend the certificate of registration of the ship and detain the ship until he is satisfied that the default has been remedied.

73 Expenses for medical treatment or burial

(1) Where a member of the crew of a Mauritius ship receives, outside Mauritius, any surgical or medical treatment, or any dental or optical treatment, the reasonable expenses incurred shall be borne by the owner of the ship.

(2) Where a member of the crew of a Mauritius ship dies and is buried or cremated outside his country of residence, the expenses of his burial or cremation shall be borne by the owner of the ship.

74 Medical personnel

Every Mauritius foreign-going ship which leaves a port with 100 persons or more on board shall carry on board, as part of her complement, a qualified medical practitioner.

75 Facilities for complaints

Where a seaman while on board a Mauritius ship informs the master of the ship that he wishes to make complaint to an authorised person against the master of the ship or any other member of the crew, the master shall, as soon as the service of the ship permits, allow the complainant to go ashore to make his complaint.

CHAPTER IX – DISCIPLINE

76 Disciplinary proceedings

(1) Where the Director is of opinion that a person to whom a certificate of competency or a licence has been issued under this Act –

(a) is unfit to discharge his duties;

(b) has been guilty of misconduct or negligence in the discharge of his duties, he shall inform the person of the charge and require him, by written notice, to show cause within such time as may be specified in the notice, why his certificate of competency or licence should not be cancelled or suspended.

(2) Where the person referred to in subsection (1) does not make any reply to the notice under subsection (1), the Director shall –

- (a) cancel the certificate of competency or licence held by that person;
- (b) suspend his certificate of competency or licence for such period as he thinks fit; or
- (c) censure that person.

(3) Where the person referred to in subsection (1) makes a reply to the notice under subsection (1) and the Director is not satisfied with his explanations, the Director shall report the matter to the Minister who shall appoint a fit and proper person, being a barrister-at-law of not less than 10 years standing, to inquire into the charge and to make a report thereon to the Director, indicating at the same time how the matter should be dealt with.

(4) On receipt of a report under subsection (3), the Director may –

- (a) cancel the certificate of competency or licence held by that person;
- (b) suspend his certificate of competency or licence for such period as he thinks fit;
- (c) censure that person; or
- (d) absolve him of the charge.

(5) Where a certificate of competency or licence has been cancelled or suspended under this section, its holder shall, within 7 days of being notified of the cancellation or suspension, deliver the certificate of competency or licence to the Director and where he fails to do so, he shall commit an offence.

77 Review by Minister

Where a certificate of competency or licence has been cancelled or suspended under section 76, the Minister may, in a fit and proper case, authorise –

- (a) the re-issue of the certificate of competency or licence or reduce the period of the suspension; or
- (b) the issue of a new certificate of competency or licence of a lower grade in place of that cancelled or suspended.

78 Misconduct endangering ship or life

A member of the crew of a Mauritius ship who, by wilful breach of duty or by reason of drunkenness –

- (a) does any act tending to cause the immediate loss, destruction or serious damage to, the ship or any other ship or tending to pose an immediate danger to the life or limb of any person on board the ship or another 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 danger or for preserving any person on board the ship from any immediate danger to life or limb,

shall commit an offence.

CHAPTER X – STOWAWAYS

79 Meaning of stowaway

(1) In this chapter, “stowaway” means any person who surreptitiously goes to sea in a Mauritius ship without the consent of –

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

(2) Every stowaway shall commit an offence.

80 Treatment of stowaway

- (1) A stowaway shall for as long as he remains on board a Mauritius ship –
 - (a) belong to the ship; and
 - (b) be subject to the same rules governing the conduct of the crew as if he were a member of the crew.
- (2) Where a stowaway is a Mauritius citizen, the master of the ship may –
 - (a) detain him and hand him over to the police authorities on the ship's arrival in Mauritius; or
 - (b) after consultation with an authorised officer, hand him over to the immigration authorities at a foreign port for his repatriation to Mauritius.
- (3) Where a stowaway on board a Mauritius ship is not a Mauritius citizen, the master of the ship may –
 - (a) hand him over to the immigration authorities of the port at which he embarked; or
 - (b) if he is discovered on the high seas or at a port other than that at which he embarked, after consultation with an authorised officer –
 - (i) hand him over to the immigration authorities at the next port of call or at the port at which he is discovered; or
 - (ii) detain him and hand him over to the police authorities on the ship's arrival in Mauritius.

CHAPTER XI – OFFICIAL LOG BOOK

81 Official log book to be kept and delivered

- (1) The master of every Mauritius foreign-going ship shall, in addition to the ship's log book, keep an official log book.
- (2) An entry required to be made in an official log book shall –
 - (a) be made as soon as possible after the occurrence to which it relates;
 - (b) where it is not made on the same day as the occurrence, be made and dated to show the date of the occurrence and the entry respecting it;
 - (c) where it is made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, be made not later than 24 hours after that arrival.
- (3) Every entry in the official log book shall be signed by the master and by another member of the crew, and where it is an entry of illness, injury or death, it shall be signed by any medical practitioner on board, where there is one on board.
- (4) The master of a Mauritius foreign-going ship shall, within 48 hours after the ship's arrival at her final port of destination in Mauritius or on the discharge of the crew, whichever first happens, deliver the official log book of the voyage to the Superintendent or to an authorised officer if the crew is discharged outside Mauritius.
- (5) Where a ship is lost or abandoned, the owner or master of the ship shall, where practicable, and as soon as possible, deliver or transmit to the Superintendent any official log book duly made out up to the time of the loss or abandonment.
- (6) Where, by reason of the transfer of the ownership of a Mauritius ship, the official log book ceases to be required in respect of the ship, the owner or master of the ship shall –
 - (a) where the ship is in Mauritius, within 15 days; or
 - (b) where the ship is outside Mauritius, within 6 months,of the transfer, deliver or transmit to the Superintendent the official log book duly made out up to the time of the transfer.

82 Particulars of entries

- The master of every Mauritius foreign-going ship shall enter or cause to be entered in the official log book particulars of –
- (a) every conviction by a Court of a member of his crew and the punishment inflicted;

- (b) every offence committed by a member of his crew for which it is intended to institute proceedings, or for which punishment has been inflicted on board and the punishment inflicted;
- (c) every case of illness or injury happening to a member of the crew, its nature and any medical treatment given;
- (d) every refusal to a member of the crew to take any medicine;
- (e) every birth and death happening on board the ship;
- (f) the name of every seaman who ceases to be a member of the crew otherwise than by death, stating the place, time, manner and its cause;
- (g) the wages due to any seaman who dies during the voyage, and the gross amount of all deductions to be made from those wages;
- (h) the sale of the effects of any seaman with a statement of each article sold and the sum received for it;
- (i) every collision with any other ship and the circumstances in which it occurred;
- (j) the date and time of posting up in the ship of a notice containing particulars of the ship's draught and freeboard;
- (k) any other entry directed by this Act to be entered in the log book.

83 Breaches respecting official log books

(1) Where an official log book is not kept or delivered as required by sections 81 and 82, or if an entry required under section 82 is not made in accordance with section 81, the master of the ship shall commit an offence.

(2) Any person who wilfully destroys or mutilates or renders illegible any entry in an official log book, or wilfully makes or procures to be made a false or fraudulent entry in an official log book shall commit an offence.

CHAPTER XII – RETURNS AND DELIVERY OF DOCUMENTS

84 Return on loss or abandonment of ship

Where a Mauritius ship is lost or abandoned, the owner or master of the ship shall deliver to the Director the list of persons on board at the time of loss or abandonment.

85 Documents to be handed over

(1) Where during a voyage the master of a Mauritius ship is removed or suspended or for any other reason relinquishes command and is succeeded in command by some other person, he shall deliver to his successor the certificate of registration and the various documents which relate to the navigation and to the crew of the ship and which are in his custody.

(2) The person taking over command of a ship in accordance with subsection (1) shall immediately on assuming command of the ship enter in the official log book a list of the documents delivered to him.

86 Births and deaths on board Mauritius ships

(1) Where a birth or death takes place on board a Mauritius ship while the ship is at sea, the master of the ship shall make an entry to that effect in the official log book and shall draw up a memorandum or declaration of the birth or death, in accordance with section 15 or 44 of the Civil Status Act, as the case may be.

(2) On the arrival of the ship at any port, the master shall deliver the memorandum or declaration to the Director for transmission to the Registrar of Civil Status.

CHAPTER XIII – RELIEF AND REPATRIATION

87 Application of sections 88 to 90

Sections 88 to 90 shall apply to every Mauritius ship and to every foreign ship which engages a seaman in Mauritius.

88 Repatriation of seamen

(1) Where the agreement of a seaman terminates at a port other than the port of engagement, the seaman shall be returned to a proper return port at the expense of the owner or master of the ship.

(2) The responsibility of the owner and master under this section shall include an obligation –

- (a) to pay the cost of maintenance and any medical treatment until the seaman's arrival at his proper return port;
- (b) to ensure that the seaman does not become a charge on the Government.

89 Defaulting seamen not entitled to be returned

A seaman who has been left behind or discharged from his ship as a result of his –

- (a) desertion; or
- (b) imprisonment,

shall not be entitled to be returned under section 88 at the expense of the owner or master of the ship.

90 Security by owner or master

Where a seaman is to be left behind or discharged from a Mauritius ship at a port other than his port of engagement, an authorised officer may demand from the owner or master of the ship adequate security or guarantee for the repatriation of the seaman to a proper return port.

91 Effects and wages of seamen left behind

(1) Where a seaman engaged on a Mauritius ship is left at a place other than the proper return port, the master of the ship shall enter in the official log book, a statement of the personal effects left on board by the seaman and an account of wages due to him at the time when he was left behind.

(2) On the termination of the voyage during which the seaman was left behind, the master of the ship shall furnish to an authorised officer, within 48 hours after the arrival of the ship at the port at which the voyage terminates, a delivery account and a retention account relating to the seaman.

(3) The master of the ship shall, where required by an authorised officer, furnish such vouchers as may be necessary to verify the delivery and retention accounts.

(4) The master of the ship shall deliver to an authorised officer the personal effects of a seaman as shown in a delivery account, and, subject to any reimbursement allowed under subsection (5), the amount due on account of wages as shown in that account, and the authorised officer shall give to the master a receipt for any personal effects or amount so delivered.

(5) The master of the ship shall be entitled to retain out of the wages of a seaman any sum shown in a retention account that appears to an authorised officer to be owing or payable to the master.

92 Exemption from liability

The master of a Mauritius ship shall not be liable for any loss or damage to the personal effects of a seaman left behind or discharged at a port other than his proper return port, where the loss or damage occurred without fault on his part.

93 Return from service

(1) Where during the currency of his agreement the service of a seaman engaged on a Mauritius ship terminates otherwise than by the consent of the seaman, the master of the ship shall –

- (a) make an appropriate entry in the seaman's Continuous Discharge Book;
- (b) pay to the seaman the wages to which he is entitled; and
- (c) make adequate provision in accordance with this Act for the maintenance and return of the seaman to a proper return port.

(2) Where the master of a Mauritius ship fails without reasonable cause to comply with subsection (1), the expenses for the maintenance of the seaman and for his conveyance to a proper return port –

- (a) if paid by the seaman, shall be recoverable as wages due to him; and
- (b) if paid by an authorised officer, shall be a charge on the ship to which the seaman belonged.

(3) A charge on a ship under subsection (2)(b) may be recovered –

- (a) from the person who is the owner of the ship;
- (b) where the ship has been lost, from the person who was the owner of the ship at the time of the loss;
- (c) where the ship has been transferred from either the former or new owner of the ship.

94 Discharge on change of ownership

(1) Where a Mauritius ship is sold, transferred or otherwise disposed of, any seaman belonging to that ship may at his option be discharged or be employed to complete the voyage of the ship on terms and conditions not less favourable than those stipulated in the agreement under which he was engaged to serve on the ship.

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

95 Relief of distressed seamen

(1) Where a seaman –

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

the authorised officer shall provide relief to the seaman.

(2) The relief under subsection (1) shall provide –

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

96 Forcing ashore

Any master or member of the crew of a Mauritius ship who wrongfully forces a seaman ashore and leaves him behind, or otherwise causes a seaman to be wrongfully left behind at any place, shall commit an offence.

97 Return of seaman

Where any question arises as to what return port a seaman is to be returned, the question may be referred to an authorised officer and his decision thereon shall bind both master of the ship and the seaman.

PART V – SAFETY PROVISIONS

CHAPTER I – SAFETY CONVENTION

98 Regulations to implement Safety Convention

The Minister may make such regulations as he thinks fit to give effect to the Safety Convention.

CHAPTER II – SURVEYS AND INSPECTIONS

99 Surveys and inspections by whom made

(1) Inspectors, surveyors or approved surveyors appointed under this Act may carry out surveys and inspections of ships for the purposes of this Part.

(2) Any person as is referred to under subsection (1) may carry out such other assignments as the Minister may request.

100 Purpose of survey or inspection

A survey or inspection shall be in respect of any or all of –

- (a) the boilers and machinery of motor ships;
- (b) the equipment of ships including the tackle, furnishing and appurtenances of ships;
- (c) hulls and superstructures of ships;
- (d) life saving, fire fighting and other safety installations and appliances of ships;
- (e) radio telegraphy and radio telephony installations of ships;
- (f) storage and manner of loading of cargoes and storage of dangerous goods.

101 Powers of inspectors

(1) An inspector in the performance of his duties may, at all reasonable times, go on board any Mauritius ship or on any foreign ship at a port in Mauritius, and inspect it or any of its machinery or equipment or the certificates of competency of any certificated officer on board.

(2) Where an inspector –

- (a) considers a ship unsafe or the machinery or equipment defective in such a way as to expose persons on board to danger, or in the case of a passenger ship, unfit to carry passengers; or
- (b) finds that this Act has not been complied with in respect of the ship and considers that the ship should not go to sea for that reason,

he may request the Director to detain the ship until he is satisfied that the ship can properly go to sea.

(3) Where an inspector visits a ship, he may ask the owner or his agent, the master or engineer, or any other person on board and in charge or appearing to be in charge of the ship, any question concerning any accident that has happened on the ship, and every such person shall fully and truly answer every such question and any person who fails to do so or who gives an answer which is not true in any material particular shall commit an offence.

(4) Any inspector may require that the machinery of a ship be put in motion so as to satisfy himself on its condition.

102 Records of inspectors

An inspector shall keep, in such form as the Director may direct, a record of every inspection he makes.

103 Time for survey of passenger ships

Every Mauritius passenger ship shall be surveyed –

- (a) before the ship is put into service;
- (b) at intervals of not more than one year; and
- (c) at such other time as may be required by the Director.

104 Initial survey of passenger ships

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

(2) The survey under subsection (1) shall ensure that the arrangements, materials and scantlings of –

- (a) the hull;
- (b) the boiler and other pressure system;
- (c) the main and auxiliary machinery;

- (d) the electrical installations;
- (e) the radio installations;
- (f) radio installation in motor life boats;
- (g) the portable radio apparatus of survival craft;
- (h) life saving appliances;
- (i) the fire detecting and extinguishing appliances;
- (j) the pilot ladders; and
- (k) other equipment,

fully comply with the requirements of the Safety Convention and with any regulations made under this Act.

- (3) The survey under subsection (1) shall also ensure that –
 - (a) the workmanship of all parts of the hull and machinery and equipment is satisfactory; and
 - (b) the ship is provided with such light and sound signals as are required by the Safety Convention.

105 Periodic survey of passenger ships

- (1) Any periodic survey under section 103(b) shall ensure that –
 - (a) the hull;
 - (b) the boiler and the other pressure systems;
 - (c) the main and auxiliary machinery;
 - (d) the electrical installations;
 - (e) the radio installations;
 - (f) the radio installation in motor life boats;
 - (g) the portable radio apparatus for survival craft;
 - (h) the life saving appliances;
 - (i) the fire detecting and extinguishing appliances;
 - (j) the pilot ladders; and
 - (k) other equipment,

are in a satisfactory condition and fit for the service for which they are intended and comply with the requirements of the Safety Convention and any regulations made under this Act.

(2) Any periodic survey under section 103(b) shall also ensure that the light, sound and distress signals of the ship are in working order.

106 Additional survey required

- (1) The Director may require an additional survey under section 103(c) every time –
 - (a) an accident occurs on or to the ship;
 - (b) a defect is discovered that is likely to affect the safety of the ship or the efficiency or completeness of the life saving appliances;
 - (c) important repairs or renewals are made to the ship.
- (2) The survey shall ensure that the –
 - (a) necessary repairs or renewals have been effectively made;
 - (b) material and workmanship of the repairs or renewals are in all respects satisfactory; and
 - (c) ship complies in all respects with the Safety Convention and any regulations made under this Act.

107 Cargo ships and fishing vessels

(1) The hull, machinery and equipment of a Mauritius cargo ship shall be surveyed before it is put into service and thereafter at intervals of not more than 5 years, or if the director so directs at lesser intervals.

- (2) The survey shall ensure that the arrangements, materials and scantlings of –
 - (a) the hull;
 - (b) the boiler and other pressure systems;

- (c) the main and auxiliary machinery;
- (d) the electrical installations; and
- (e) other equipment,

are in all respects satisfactory for the service for which the ship is intended.

[Amended 5/89]

108 Life saving and fire fighting appliances or cargo ships

(1) The life saving appliances and fire fighting appliances of every Mauritius cargo ship and every deep-sea fishing vessel shall be surveyed before they are put into service and thereafter at intervals of not more than 2 years or if the Director so directs at lesser intervals.

(2) The fire control plans in every new Mauritius cargo ship or every deep-sea fishing vessel and the pilot ladders light and sound signals and distress signals in every new or existing Mauritius cargo ship or deep-sea fishing vessel shall be surveyed to ensure full compliance with the requirements of the Safety Convention and any regulations made under this Act.

109 Radio installation

The radio installation in a Mauritius cargo ship or deep-sea fishing vessel and any radio-telegraph installation in a motor life-boat or any portable radio apparatus for survival craft that are carried in compliance with any requirements of the Safety Convention or regulations made under this Act shall be surveyed before they are put into service and thereafter at intervals of not more than one year.

110 Pleasure yachts

Pleasure yachts shall be exempt from inspections required under this Act.

111 Report to Director

After every survey, the surveyor shall send a report of the survey to the Director.

CHAPTER III – CERTIFICATION OF SHIPS

112 Safety Convention and inspection certificates

Where in relation to a Mauritius ship being –

- (a) a passenger ship intended to carry more than 12 passengers; or
- (b) a cargo ship exceeding 500 GRT intended to be employed on an international voyage,

the Director is satisfied, on receipt of the report of a survey, that all the relevant provisions of the Safety Convention and the regulations made under this Act have been complied with, he shall issue in respect of the ship, an appropriate Safety Convention Certificate and an inspection certificate.

[Amended 5/89]

113 Local safety certificates

(1) The Minister may make regulations prescribing safety requirements, and providing for the issue of local safety certificates, in respect of –

- (a) any ship or class of ship to which the Safety Convention does not apply; and
- (b) matters for which the Safety Convention does not make express safety provisions in respect of any ship or class of ship to which the Convention applies.

114 Posting of certificates

(1) On receipt of an inspection certificate, a local safety certificate or a Safety Convention certificate, the owner or master of the ship in respect of which the certificate is issued shall cause the certificate to be posted up in some conspicuous place on board the ship for the information of all on board.

(2) The certificate shall be kept posted in accordance with subsection (1) while it is valid and the ship is in use.

(3) The certificate shall be valid for the period specified in it or until notice is given by the Director to the owner or master of the ship that the certificate has been cancelled.

115 Alterations to ship

An owner or master of the ship in respect of which an inspection certificate, a local safety certificate or a Safety Convention certificate has been issued who, without reasonable cause, does or suffers to be done anything to the ship whereby the certificate becomes inapplicable to the ship or to other matters to which the certificate relates, shall commit an offence.

116 Foreign Safety Convention certificates

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

(2) A certificate issued pursuant to a request under subsection (1) and containing a statement that it has been so issued shall have the same effect as if it has been issued under this Act.

117 Certification of foreign ships

The Minister may, at the request of the Government of a country to which the Safety Convention applies, cause any certificate provided for by the Safety Convention to be issued in respect of a ship of that country, if he is satisfied that the certificate can properly be issued.

CHAPTER IV – INTERNATIONAL VOYAGE OUTSIDE CONVENTION

118 Non-Convention ships

(1) Subject to subsection (2), any passenger ship or any cargo ship exceeding 500 GRT registered in a country which is not a party to the Safety Convention shall not proceed to sea on an international voyage from Mauritius unless the ship has complied with the provisions of this Act respecting safety that are applicable to Mauritius ships.

(2) The Director may authorise the clearance of any ship to which subsection (1) applies where he is satisfied that –

- (a) no passengers are carried;
- (b) the amount of cargo carried is not more than would allow the ship to make a voyage in safety;
- (c) the hull, boilers, machinery and equipment of the ship are in good condition and sufficient for the voyage contemplated; and
- (d) the radio installation is in good condition and sufficient for the voyage contemplated.

CHAPTER V – GENERAL SAFETY PRECAUTIONS AND RESPONSIBILITIES

119 Manning to ensure safety

Every Mauritius ship shall be manned with a crew both sufficient and efficient, to ensure safety to life or for the purpose of any intended voyage and shall, during the voyage, be kept so manned.

120 Ship's stability

(1) There shall be carried on board every foreign-going Mauritius ship such information in writing about the ship's stability as is necessary for the guidance of the master of the ship in loading and ballasting the ship.

(2) The information required under subsection (1) shall be in such form as may be approved by the Director and a copy of the information shall be forwarded to the Director.

(3) The master of the ship referred to in subsection (1) which proceeds to sea in contravention of this section shall commit an offence.

121 Signalling lamps

(1) No Mauritius ship which is more than 150 GRT shall proceed to sea on a foreign-going voyage unless the ship is provided with an efficient signalling lamp.

(2) The master of a ship which proceeds to sea in contravention of this section shall commit an offence.

122 Hazards to navigation

(1) The master of a Mauritius ship on meeting with a dangerous derelict, a tropical storm or any other direct danger to navigation shall report it to ships in the vicinity and to the nearest appropriate station on-shore.

(2) The person in charge of a transmission station in Mauritius or on board a Mauritius ship shall, on receiving a signal indicating that a message is about to be sent relating to hazards to navigation, refrain from sending messages for a time sufficient to allow other stations to receive the message.

123 Assistance in distress

(1) The master of a Mauritius ship at sea shall, on receiving a signal from any source that a ship or aircraft or survival craft is in distress, proceed with all speed to the assistance of the ship and any person in distress informing them, if possible, that he is doing so.

(2) Where the master is unable, or considers it unreasonable or unnecessary, to proceed to the assistance of a ship or a person in distress he shall enter in the official log-book of the ship the reasons for his omission.

(3) The master of any ship in distress may request the master of any ship which answers his distress signal to render assistance.

(4) The master of a Mauritius ship to whom a request is made under subsection (3) shall comply with the request and proceed with all speed to the assistance of the ship in distress.

CHAPTER VI – PREVENTION OF COLLISIONS

124 Giving helm orders

No person in a Mauritius ship shall, when the ship is going ahead –

- (a) give a helm or steering signal containing the word “starboard” or “right” unless he intends that the head of the ship move to the right; or
- (b) give a helm or steering signal containing the word “port” or “left” unless he intends that the head of the ship moves to the left.

125 Collision regulations

(1) The Minister may make regulations, in this Act referred to as “collision regulations” for the –

- (a) prevention of collisions at sea;
- (b) lights to be carried and exhibited;
- (c) signals to be used; and
- (d) steering and sailing rules to be observed by ships.

(2) Every owner or master of a ship, seaplane or other craft who does not comply with any collision regulations shall commit an offence.

126 Presumption of fault

Where any damage to property arises from the non-observance of the collision regulations, the damage shall be presumed to have been caused by the wilful default of the person in charge of the ship, seaplane or other craft not observing the regulations.

127 Assistance in collisions

(1) Where there is a collision between 2 ships, the master or person in charge of each ship, shall so far as he can do so without danger to his own ship, crew and passengers –

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

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

128 Reporting of accidents

- (1) Where a Mauritius ship has been involved in an accident occasioning –
- (a) loss of life or serious injury to any person; or
 - (b) any damage affecting her seaworthiness or her efficiency,

the owner or master of the ship shall, within 24 hours of the occurrence of the accident or as soon as possible thereafter, transmit to the Director a written report of the accident.

(2) Every report of accident or damage to a ship under subsection (1) shall be signed by the owner or master of the ship and shall state –

- (a) the particulars of the ship and her location;
- (b) the circumstances in which the accident or damage occurred; and
- (c) the probable cause of the accident or damage.

(3) Any owner or master of a ship who fails, without reasonable cause, to comply with this section shall commit an offence.

CHAPTER VII – LOAD LINE CONVENTION

129 Load Line regulations

The Minister may, by regulations, in this Act referred to as “load Line regulations”, make such provision as he thinks fit to give effect to the Load Line Convention and, in particular, to provide for –

- (a) survey and determination of load lines, including conditions of assignment of freeboards;
- (b) the stability, loading and ballast of ships;
- (c) the issue of certificates and the forms of the certificates; and
- (d) any other matter relating to load lines.

CHAPTER VIII – LOAD LINES AND LOADING

130 Load line ships

- (1) Load line ships are all ships other than –
- (a) existing ships of under 150 GRT;
 - (b) new ships of less than 24 metres in length;
 - (c) ships of war, or coast guard ships;
 - (d) ships solely engaged in fishing; and
 - (e) pleasure yachts not engaged in trade.
- (2) For the purposes of this Part load line ships shall consist of –
- (a) international load line ships, being load line ships that carry cargo or passengers on international voyages; and
 - (b) local load line ships, being load line ships that are not international load line ships.

(3) For the purposes of this Part, a ship shall be deemed to be loaded beyond the limits specified in her load line certificate if she is so loaded as to submerge the appropriate load line on each side in salt water when she has no list.

131 Compliance with regulations

The master of a Mauritius load line ship shall not take the ship to sea unless –

- (a) she has been surveyed in accordance with any load Line regulations;
- (b) she complies with the conditions of assignment of freeboards as determined in any load Line regulations;
- (c) she is marked on each side with –
 - (i) a deck mark, being a mark indicating the position of the uppermost complete deck as defined in any load Line regulations; and

- (ii) load lines, being lines indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by any load Line regulations;
- (d) it has been issued with a load line certificate by the Director.

132 Load line certificates

(1) The Director shall issue a load line certificate to every Mauritius ship that complies with the provisions of this Act relating to load lines.

(2) The Minister may request the Government of a contracting country to issue a load line certificate to a Mauritius load line ship and a certificate so issued shall have the same effect as a certificate issued under subsection (1).

133 Renewal of load line certificates

(1) Subject to a ship being surveyed in accordance with any load Line regulations, the load line certificate of a ship shall be renewed at such intervals as may be prescribed.

(2) A load line certificate in respect of a ship shall cease to be valid on its transfer to the flag of another State, unless the Director makes an endorsement thereon respecting the validity of the certificate.

134 Cancellation or suspension of load line certificates

(1) Any load line certificate issued under this Part may be cancelled or suspended by the Director, where he has reason to believe that –

- (a) any survey on the basis of which the certificate was issued has been made by fraud or error;
- (b) the certificate has been issued on false or erroneous information;
- (c) since the making of a survey, material alterations have taken place in the hull or superstructures of the ship which affect the position of load lines marked in accordance with this Act; or
- (d) the fittings and appliances for the protection of openings, the guard-rails, the freeing ports or the means of access to the quarters of the crew have not been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(2) Where the load line certificate is cancelled or suspended, the Director may require the owner or master of the ship to have the ship surveyed again and to make a fresh survey before the re-issue of the certificate or the grant of a new certificate.

135 Surrender of load line certificates

(1) Where a load line certificate has expired or has been cancelled or suspended, the Director shall require the owner or master of the ship to which the certificate relates to surrender the certificate at such time and place as he may direct.

(2) The owner or master of a ship who, without reasonable cause, fails to comply with a requirement under subsection (1) shall commit an offence.

136 Ship without load line certificate

(1) A Mauritius load line ship shall not proceed to sea unless her master produces to the Director a valid load line certificate.

(2) The Director may detain a ship until her load line certificate is produced as required under subsection (1).

137 Display of load line certificates and entries

(1) On receipt of a load line certificate, the owner or master of the ship in respect of which the certificate is issued shall –

- (a) cause it to be posted up in some conspicuous place on board the ship for the period of its validity; and

- (b) immediately enter in the official log book the particulars as to the position of the deck line and load line which are specified in the certificate.
- (2) Before any Mauritius ship leaves any port or place for the purpose of proceeding to sea, the master of the ship shall –
 - (a) enter in the official log book such particulars relating to the depth to which the ship is for the time being loaded; and
 - (b) subject to subsection (3), cause a notice in such form and containing such particulars as may be specified in any load Line regulations, to be posted up in some conspicuous place on board the ship.
- (3) The Minister may exempt any class of ship from the requirements of subsection (2).
- (4) Where the owner or master of a ship fails to comply with any requirement imposed on him by subsection (1) or (2), he shall commit an offence.

CHAPTER IX – FOREIGN LOAD LINE CONVENTION SHIPS

138 Load line certificate of foreign ships

The Minister may, at the request of the Government of a contracting country, cause an appropriate load line certificate to be issued in respect of a ship registered in that country, where he is satisfied that the certificate may properly be issued.

139 Inspection of foreign ships

- (1) A surveyor may go on board any ship within any port or place in Mauritius for the purpose of examining the load line certificate relating to the ship.
- (2) Where a valid load line certificate in respect of a foreign ship is produced to the surveyor on demand, the surveyor's power of inspecting the ship shall be limited to seeing that –
 - (a) the ship is not loaded beyond the limits allowed by the certificate;
 - (b) lines are marked on the ship in the position of the load lines specified in the certificate;
 - (c) no material alterations have taken place in the hull or superstructures of the ship which affect the position in which any of those lines ought to be marked;
 - (d) the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters are in as effective a condition as they were in when the certificate was issued.
- (3) Where a valid load line certificate in respect of a foreign ship is not produced to the surveyor, the surveyor may inspect the ship for the purpose of ensuring that this Part and any regulations made under this Act have been complied with, as if the ship were a Mauritius ship.
- (4) Where a surveyor finds that –
 - (a) a ship is loaded beyond the limits allowed by her load line certificate; or
 - (b) the load lines are not as are specified in the certificate,the Director may detain the ship until the matter has been rectified.

CHAPTER X – CARRIAGE OF GRAIN AND DECK CARGO

140 Carriage of grain

- (1) Where grain is loaded on board a Mauritius ship or is loaded in Mauritius on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting.
- (2) An inspector may go on board any Mauritius ship or any ship that is in any port in Mauritius and inspect any grain loaded in the ship and the manner in which it is stowed.
- (3) Where the precautions required under subsection (1) are not taken, the owner or master of the ship or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, shall commit an offence and the ship shall be presumed to be unsafe by reason of improper loading.

(4) Where any ship which has been loaded with grain outside Mauritius without the taking of all necessary and reasonable precautions to prevent the grain from shifting enters Mauritius so laden, the owner and the master of the ship shall commit an offence.

141 Deck cargo

The Minister may make regulations prescribing the requirements to be complied with when cargo is carried in any uncovered space on the deck of a load line ship.

CHAPTER XI – DANGEROUS GOODS

142 Meaning of “dangerous goods”

In this Chapter –

“dangerous goods”, in respect of any ship, means –

- (a) explosives, gases whether compressed, liquefied or dissolved under pressure, inflammable liquids, inflammable solids, or substances liable to spontaneous combustion, inflammable acids, or substances which in contact with water emit inflammable gases, oxidising substances, organic peroxides, poisonous (toxic) substances, infectious substances, radioactive substances, corrosives; and
- (b) any other goods that may be classified as dangerous in the International Maritime Dangerous Goods Code (IMDG Code).

143 Carriage of dangerous goods

(1) Any person who sends by any ship, or, not being the owner or master of the ship carries on the ship, any dangerous goods –

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

shall commit an offence.

(2) Any person who knowingly sends or carries in, any ship any dangerous goods under a false description, or falsely describes the sender or carrier of any such goods, shall commit an offence.

144 Inspection or refusal to take goods

The owner or master of any ship may require any package or parcel intended to be shipped to be opened to ascertain its nature or he may refuse to take on board any package or parcel which he suspects might contain any dangerous goods.

145 Disposal of dangerous goods

(1) Where any dangerous goods, or any goods which, in the opinion of the owner or master of the ship, are dangerous goods, have been sent on board any ship without the marking or the notice required under section 143, the owner or master of the ship may cause the goods, together with the packaging or container of the goods, to be thrown overboard.

(2) Where goods are thrown overboard under subsection (1) the master of the ship shall make an entry in the official log book stating the reasons for his action.

146 Regulations on dangerous goods

The Minister may make regulations regarding the carriage of dangerous goods in ships.

147 Sending unseaworthy ship to sea

Any person who sends a Mauritius ship to sea in such an unseaworthy state that the life of any person is likely to be endangered thereby shall commit an offence.

148 Duty of ensure seaworthiness

Notwithstanding any agreement to the contrary, it shall be an implied term of every contract of service between the owner of a ship and any seaman, and of every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board the ship, that –

- (a) the owner or master of the ship;
- (b) any agent charged with the loading of the ship or with the preparation of the ship for sea, or the sending of the ship to sea,

will take all reasonable measures to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the duration of the voyage.

149 Detention of unseaworthy ship

(1) Where the Director believes that any Mauritius ship or any foreign ship in Mauritius, is unfit to proceed to sea, he may detain the ship until he is satisfied that the ship is fit to proceed to sea.

(2) Where a foreign ship has been detained under this section, the Director shall forthwith notify the consular officer of the country to which the ship belongs of the detention.

(3) The Director shall cause a ship detained under this section to be inspected or surveyed to investigate any defects believed to exist and the inspector or surveyor shall submit a full report on his findings to the Director.

(4) The owner or master of the ship or a consular officer referred to in subsection (2) may require that a person of his choice accompany any person making an inspection or survey under subsection (3).

(5) Where a ship is detained under this section, the owner of the ship shall be liable to pay to the Government the cost of, and incidental to, the detention and survey of the ship.

(6) The costs under subsection (5) shall, without prejudice to any other remedy, be recoverable in the same manner as salvage.

PART VI – WRECKS AND SALVAGE

CHAPTER I – RECEIVER OF WRECKS

150 Appointment of Receiver

(1) The Director shall be the Receiver of Wrecks in Mauritius.

(2) The Receiver of Wrecks shall exercise general supervision over all matters relating to wreck and salvage.

(3) The Receiver may require any suitably qualified person to assist him in the performance of his duties as Receiver.

151 Duty to attend ship in distress

(1) Where any ship is wrecked, stranded or in distress at any place on or near the coast of Mauritius, the Receiver shall immediately proceed to that place and shall on his arrival –

- (a) take command of all persons present; and
- (b) assign such duties and give such directions to each person as he thinks fit for the preservation of the ship and of the lives of the persons belonging to the ship and of her cargo and equipment.

(2) Any person who fails to comply with any directions of the Receiver under subsection (1) shall commit an offence.

152 Power to require assistance

(1) The Receiver may, with a view to protecting shipwrecked persons or any ship which is wrecked, stranded, abandoned or in distress, or the cargo of the ship or any wreck, require –

- (a) such persons as he thinks fit to assist him;

- (b) the master or other person having the charge of any ship near at hand to give such assistance with his men or ship as he can; and
- (c) the use of any machinery, vehicle or equipment that is obtainable.

(2) The Receiver may, without warrant, arrest any person who plunders or does any damage to any ship which is wrecked, stranded, abandoned or in distress and may require any person to assist him in the arrest.

(3) Any person who is required to give any assistance under subsection (1) or (2) and who without reasonable cause fails to do so shall commit an offence.

(4) Where any person resists the Receiver or any person giving him assistance under this section suffers any injury, the Receiver or the person assisting him shall not be liable for any offence or to damages unless the force used to deal with the resistance shown by the injured person was manifestly unreasonable having regard to the circumstances prevailing at the time.

153 Power to pass over adjoining lands

(1) Where any ship is wrecked, stranded or in distress at any place on or near the coast of Mauritius, any person may, for the purposes of rendering assistance to the ship, saving the lives of shipwrecked persons or saving the cargo or equipment of the ship –

- (a) pass or re-pass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier; and
- (b) deposit on such adjoining lands any cargo or other article recovered from the ship,

without doing more damage than is unavoidable.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by subsection (1) shall be a charge on the ship, cargo or article in respect of or by which the damage is occasioned.

(3) 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 salvage.

(4) Any owner or occupier of any land who –

- (a) impedes any person in the exercise of the rights given by this section; or
- (b) prevents any cargo or other article deposited on his land in exercise of such rights from remaining deposited on the land for a reasonable time until it can be removed to a safe place,

shall commit an offence.

154 Power to examine persons

(1) Where any ship is or has been in distress on the coast of Mauritius, the Receiver shall examine on oath any person belonging to the ship or any other person able to provide information as to the –

- (a) name and description of the ship;
- (b) name of the owner and master of the ship;
- (c) names of the owners of the cargo;
- (d) ports from which the ship came and to which she was bound;
- (e) occasion of the distress of the ship;
- (f) services rendered; and
- (g) other matters relating to the ship or to her cargo which the Receiver thinks necessary.

(2) The Receiver shall –

- (a) record the results of the examination;
- (b) send a copy of the record to the Minister; and
- (c) post another copy in his office for the inspection of interested persons.

(3) The Receiver shall for the purposes of this section have the power to administer oaths.

CHAPTER II – DEALING WITH WRECK

155 Taking possession of wreck

(1) Where any person takes possession of any wreck in Mauritius he shall, whether or not he is the owner of the wreck, forthwith notify the Receiver of the place at which the wreck is kept.

(2) The Receiver shall, on being notified that any person who has taken possession of any wreck, issue such directions as he thinks fit for the delivery of the wreck.

(3) Subsection (1) shall apply to any wreck found derelict at sea outside Mauritius and brought into Mauritius.

(4) Any person who, having taken possession of any wreck, fails, without reasonable cause, to comply with subsection (1) shall commit an offence.

156 Concealing of wreck

- (1) Where the Receiver reasonably believes that any wreck –
- (a) is in the possession of some person who is not its owner; or
 - (b) is being improperly dealt with,

the Receiver may apply to a Magistrate for a search warrant.

(2) The Receiver may by virtue of the warrant enter any premises or other place wherever situated, including any ship and search for, seize and detain any wreck there found.

(3) Where any 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 Minister thinks fit.

157 Notice of wreck

(1) Where the Receiver takes possession of any wreck, he shall within 48 hours of the taking of possession cause to be posted in his office a description of the wreck and the mark by which it is distinguished.

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

158 Owner's right to wreck

- (1) The owner of any wreck in the possession of the Receiver shall –
- (a) on establishing his claim to the wreck to the satisfaction of the Receiver within 6 months from the time at which the wreck came into the possession of the Receiver; and
 - (b) on paying the salvage, fees and expenses due, and any customs duty,

be entitled to have the wreck or the proceeds of sale of the wreck delivered up to him.

(2) Where any wreck in the possession of the Receiver is shown to the satisfaction of the Receiver to belong to an owner in a foreign country, the Receiver may, in the absence of the owner, or his authorised agent, treat the consular officer of that country in Mauritius to be the owner of the wreck.

159 Sale of wreck

(1) The Receiver may at any time sell or cause to be sold any wreck in his custody where in his opinion –

- (a) its value is less than 2,000 rupees;
- (b) it is so damaged or of so dangerous or perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value to pay for warehousing.

(2) The Receiver shall, after payment of all expenses from the proceeds of sale of any wreck, hold the remainder for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

160 Unauthorised sale of wreck

(1) No person shall, without authority from the Receiver, sell any wreck, cargo or equipment of any ship which has been stranded, is derelict or in distress.

(2) Any person who contravenes subsection (1) shall commit an offence.

161 Boarding wrecked ship

(1) No person shall, without the leave of the master of the ship, board or endeavour to board any ship which is wrecked, stranded or in distress, unless the person is or acts under the authority of the Receiver.

(2) Any person who contravenes subsection (1) shall commit an offence.

162 Interference with wreck

(1) No person shall –

- (a) impede or hinder the saving of any ship stranded or in danger of being stranded or in distress on or near the coast of Mauritius;
- (b) impede or hinder the saving of any part of the equipment or cargo of the ship or of the wreck;
- (c) conceal any wreck, or deface or obliterate any marks on it;
- (d) wrongfully carry away or remove any part of a ship stranded or in danger of being stranded or in distress on or near any coast of Mauritius; or
- (e) carry away or remove any part of the cargo or equipment of the ship or any wreck.

(2) Any person who contravenes subsection (1) shall commit an offence.

163 Unclaimed wreck

Where no person establishes a claim as owner of any wreck in the possession of the Receiver within 6 months after it comes into the Receiver's possession, the Receiver shall sell or cause to be sold the wreck and pay the proceeds into the Consolidated Fund, after deducting –

- (a) the expenses of the sale;
- (b) his own fees;
- (c) payment to the salvors of such amount of salvage as he shall determine; and
- (d) any other reasonable expenses incurred in respect of the wreck.

164 Discharge of Receiver

On delivery of wreck or payment of the proceeds of sale of wreck by the Receiver pursuant to this Part, the Receiver shall be discharged from all liability in respect of the wreck.

CHAPTER III – REMOVAL OF WRECKS

165 Obstruction to navigation

(1) Where the Receiver is of opinion that a ship sunk, stranded, abandoned or run aground in any place within near coastal limits of Mauritius, is likely to become an obstruction or danger to navigation or is found in a dangerous or hazardous condition, he may –

- (a) take possession of the ship and raise, remove or destroy the whole or any part thereof;
- (b) light or buoy the ship or part of it until it is raised, removed or destroyed; and
- (c) subject to subsection (3), in such manner as he thinks fit, sell or cause to be sold the ship or part of it when so raised or removed together with any other property recovered in the exercise of his powers under this section.

(2) Where the Receiver has exercised the powers conferred on him under subsection (1)(c) he shall –

- (a) reimburse himself the expenses incurred by him in relation to the ship and any property recovered from her; and
- (b) hold any surplus of the proceeds from the sale on deposit to pay to any person who establishes a right to the proceeds or any part of them.

(3) Except in the case of property which is of a perishable nature or which would deteriorate in value, the Receiver shall give 7 clear days notice in the *Gazette* before exercising his powers of sale under subsection (1).

(4) At any time before any property is sold under this section, its owner shall be entitled to take delivery of it on payment to the Receiver of the fair market value of the property.

(5) For the purposes of subsection (4), the fair market value of any property shall be such amount as may be agreed upon in writing by the owner and the Receiver or failing agreement, such amount as may be determined by a valuer appointed for the purpose by the Director.

166 Obstruction in port

(1) Where the Port Master is of opinion that a ship as is mentioned in section 165(1) is causing an obstruction or a danger to navigation in a port in Mauritius, he may after consultation with the Receiver, exercise all the powers conferred by section 165 on the Receiver.

(2) Subject to subsection (3), the Port Master may, after the exercise of his powers under subsection (3), recover all the expenses incurred by him in respect of the ship in the same manner as the Receiver would have recovered any similar expenses under this Part.

(3) The Port Master shall not sell or cause to be sold any ship, its apparel, tackle or furniture except with the prior approval of the Receiver.

(4) Any balance remaining from the proceeds of any sale under this section shall, after deduction of all expenses incurred by the Port Master, be paid into the Consolidated Fund.

CHAPTER IV – SALVAGE

167 Salvage of life

(1) Where services are rendered –

- (a) near coastal limits of Mauritius in saving life from any aircraft or ship; or
- (b) elsewhere in saving life from any Mauritius ship,

the salvor shall be entitled to a reasonable amount for salvage, as well as to a refund of all expenses properly incurred by him.

(2) Where the aircraft, ship or cargo and equipment thereof are destroyed or the value thereof is insufficient to pay any amount to which the salvor is entitled under subsection (1) in respect of preservation of life, the Minister may approve payment to the salvor out of the Consolidated Fund of such sum as he thinks fit to meet the expenditure properly incurred by the salvor.

168 Salvage of cargo

Where any ship is wrecked, stranded, run aground or in distress at any place in or near the coast of Mauritius and services are rendered by any person –

- (a) in assisting the ship or saving any cargo or equipment of the ship; or
- (b) in saving any wreck,

the salvor shall be entitled to a reasonable amount for salvage as well as a refund of all expenses properly incurred by him.

169 Non-entitlement to salvage

Nothing in sections 167 and 168 shall entitle any person to salvage or to a refund of expenses –

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

170 Salvage where ships belong to same owner

Where services are rendered by any person –

- (a) to 2 or more ships under the same ownership; or
- (b) from one ship to another both of which are under the same ownership,

salvage shall be paid as if the ships belonged to different owners.

171 Determination of disputes and valuation

- (1) Where a dispute arises as to the –
 - (a) value of property salvaged;
 - (b) amount of salvage payable; or
 - (c) expenses properly incurred by a salvor,

the dispute shall be determined by the competent Court unless the parties agree that it be determined by the Receiver or by arbitration.

(2) For the purpose of determining the value of property salvaged, the Receiver may, at the request of any party to a dispute, appoint a valuer to value the property.

172 Detention of salvaged property

Where a salvor is entitled to salvage or to a refund of expenses properly incurred by him, the Receiver may, where the entitlement is due in respect of –

- (a) services rendered in assisting any ship, or saving life, cargo or equipment, detain the ship, cargo or equipment;
- (b) saving of any wreck and the wreck is not sold as unclaimed, detain the wreck,

until the claim of the salvor is met.

173 Sale of detained property

(1) The Receiver may sell or cause to be sold any property detained under section 172 where –

- (a) the owner of the property detained is aware or has been made aware of the detention; and
- (b) the amount due to the salvor is not in dispute and has not been paid within 21 days after a claim for the payment has been made.

(2) The proceeds of a sale under subsection (1) shall, after payment of the expenses of the sale, be applied by the Receiver in the payment of any amount due to the salvor and all fees payable under this Act, and any balance shall be paid to the owner of the property.

174 Priority of claims

Any claim by a salvor in respect of the salvage of life under section 167 shall be payable in priority to any other claim for salvage.

PART VII – INQUIRIES AND INVESTIGATIONS

175 Shipping casualties

For the purpose of an inquiry or investigation under this Part, a shipping casualty shall be deemed to occur when –

- (a) within near coastal limits or in the course of a voyage to Mauritius any ship is lost, abandoned, stranded or materially damaged or any loss or material damage is caused to the ship by another ship;
- (b) in any place any ship has been lost, abandoned, stranded or materially damaged and any member of her crew or any other person who is a competent witness of the loss, abandonment, stranding or material damage is in Mauritius;
- (c) any loss of life occurs by reason of any casualty occurring to or on board any ship within near coastal limits or in the course of a voyage to Mauritius;
- (d) in any place, a Mauritius ship is lost, abandoned, stranded or materially damaged.

176 Preliminary inquiries

(1) Where any shipping casualty occurs, the Director may hold a preliminary inquiry into the circumstances which have led to the casualty or require an inspector to hold such an inquiry.

(2) Where an inquiry is held under subsection (1), a report on the findings shall be submitted to the Minister within 7 days of the completion of the inquiry.

177 Court of investigation

(1) Subject to subsection (2), the Minister may appoint a court of investigation for the purpose of holding a formal investigation into any case where a shipping casualty has occurred, whether or not a preliminary inquiry has been held under section 176.

(2) The Minister shall not appoint a court of investigation into any shipping casualty in respect of a foreign ship unless –

- (a) the casualty occurs within near coastal limits of Mauritius; or
- (b) the appointment of the court of investigation has been requested or consented to by the Government of the country of which the ship is registered.

(3) A court of investigation shall be composed of –

- (a) a chairman who shall be a person who holds or has held judicial office; and
- (b) not less than 2 but not more than 4 other members.

(4) A court of investigation shall hold its meetings and conduct its proceedings in the same manner and shall have the same powers as a commission of inquiry appointed under the Commissions of Inquiry Act.

(5) A court of investigation shall, after completion of the hearing of any investigation, submit to the Minister a report together with a summary of the evidence adduced at the investigation.

178 Inquiry into deaths

(1) Where a death occurs on board a Mauritius ship or on board any foreign ship whose crew is discharged in any port in Mauritius, the Superintendent shall, on the arrival of the ship at that port –

- (a) inquire into the cause of the death; and
- (b) make, in the official log book, a report of the result of the inquiry.

(2) Where in the course of an inquiry under subsection (1), it appears to the Superintendent that the death has been caused by violence or in suspicious circumstances, he shall report the matter –

- (a) to the Commissioner of Police; and
- (b) where the ship is a foreign ship, to the appropriate body of the country of registration of the ship.

PART VIII – OFFENCES AND PENALTIES

179 Taking to sea with officers

Where a ship takes to sea when any person empowered to detain the ship, or an inspector, surveyor or police officer is on board the ship in the execution of his duties, the owner and the master of the ship shall each commit an offence and shall, on conviction, be liable, in addition to any penalty provided under section 184, to a fine equivalent to the aggregate of the expenses of and incidental to the person, inspector, surveyor or police officer taken to sea, as the case may be, for his return to Mauritius.

180 Throwing of person overboard

Any person who throws or causes to be thrown overboard any other person shall commit an offence.

181 Marking of heavy packages

No person shall, in Mauritius, consign to be loaded on any ship and no owner or master of any ship shall, in Mauritius, cause or permit to be loaded on the ship, any package or object the weight or which exceeds 3000 kilos without causing its approximate weight to be clearly and durably marked on the outside of the package or object.

182 Unauthorised presence on board ships

Any person other than the Director, the Superintendent, an inspector or surveyor or any person authorised under this Act or any other enactment who, without reasonable cause –

- (a) goes on board any ship in a port in Mauritius without the consent of the master of the ship or of any other person empowered to give such consent; or
- (b) remains on board the ship after being requested to leave by the master, a police officer, a customs officer or any person empowered to do so,

shall commit an offence.

183 Offences by seamen

- (1) Every seaman who –
 - (a) deserts his ship;
 - (b) neglects or refuses to join his ship or to proceed to sea in his ship;
 - (c) is absent without leave from his ship;
 - (d) assaults the master or any member of the crew;
 - (e) combines with any member of the crew to neglect duty or to impede the navigation of the ship or the progress of the voyage;
 - (f) wilfully damages his ship or misappropriates any of her stores or cargo,

shall commit an offence.

- (2) Subsection (1) shall apply in relation to –
 - (a) a Mauritius ship; and
 - (b) a foreign ship if the offence is committed –
 - (i) in a port in Mauritius or within the near coastal limits; or
 - (ii) outside Mauritius and the offender is in Mauritius and a representative of the country in which the ship is registered requests that criminal proceedings be instituted against the offender.

(3) Where a seaman who is not a citizen of Mauritius commits an offence under subsection (1)(a) or (b), the Court may in lieu of any sentence which may be inflicted on him require a police officer to convey him on board his ship for the purpose of proceeding to sea.

(4) Where a seaman who is not a citizen of Mauritius commits an offence under subsection (1) and is sentenced to a term of imprisonment, the Court before which he was sentenced may, on the application of a police officer or of the owner or master of the ship, cause him to be conveyed on board the ship for the purpose of proceeding to sea, notwithstanding that the term of imprisonment to which he was sentenced is not at an end.

184 Penalties

(1) Subject to subsection (3), every person who commits an offence under section 13(2) and (7), 18, 20, 22, 30, 34, 35, 40, 43, 68, 78, 79, 83, 96, 101, 115, 120, 121, 125, 127, 128, 135, 137, 140, 143, 147, 151, 152, 153, 155, 160, 161, 162, 179, 180, 182, 183, 188 or 198 shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 2 years.

(2) Subject to subsection (3), every person who contravenes any provision of this Act, other than sections 13(2) and (7), 18, 20, 22, 30, 34, 35, 40, 43, 68, 78, 79, 83, 96, 101, 115, 120, 121, 125, 127, 128, 135, 137, 140, 143, 147, 151, 152, 153, 155, 160, 161, 162, 179, 180, 182, 183, 188 and 198 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees or to imprisonment for a term not exceeding 12 months.

(3) Where the owner or the agent of the owner of a ship is a body corporate and is convicted of an offence under this Act, he shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

[Amended 5/89]

PART IX – LEGAL PROCEEDINGS

185 Depositions

- (1) Notwithstanding any other enactment but subject to subsection (2), where –
 - (a) in the course of any proceedings instituted for the purposes of this Act, the testimony of any witness is required; and

(b) it is shown that the witness cannot be found in Mauritius, any deposition that the witness has previously made on oath or under solemn affirmation in relation to the same subject-matter before any Judge or Magistrate in another country or an authorised officer shall be admissible in evidence.

(2) A deposition shall not be admissible –

- (a) in any proceedings instituted in Mauritius, where the deposition was made in Mauritius;
- (b) in criminal proceedings, unless the deposition was made in the presence of the accused or his counsel.

(3) A deposition referred to in subsection (1) shall be deemed to be duly authenticated where it purports to be signed by the Judge, Magistrate or authorised officer before whom it was made and, where appropriate, certified by the signatory that the deposition was taken in the presence of the accused or his counsel.

186 Admissibility of copies of documents

(1) A copy of a document shall be admissible in evidence for the purposes of this Act if it purports to be signed and certified as a true copy by the officer in whose custody the original document was entrusted.

(2) Any person who, in Mauritius, has custody of a document required as evidence in proceedings under or connected with this Act shall furnish a certified copy of the document to any interested person applying for it.

187 Detention of foreign ships

(1) Where –

- (a) a foreign ship has in any part of the world caused damage to property belonging to the Government or to any statutory or corporate body or to a citizen of Mauritius; or
- (b) a claim is made for damages by or on behalf of any person resident in Mauritius in respect of personal injuries, including fatal injuries, against the owner of a foreign ship,

a Judge may, on it being shown to him by any person making an application that the damage or injury was probably caused by the misconduct or want of skill of the master or crew of the ship, issue an order to detain the ship whenever the ship comes within the jurisdiction of Mauritius.

(2) Any order or detention of a ship under this section may be revoked on adequate security being furnished to the satisfaction of the judge to meet any possible claim against the owner of the ship.

188 Enforcement of detention

(1) Where a ship is, by order of a Judge or Court, detained under this Act, the Judge or Court shall cause an order to be served on the owner of the ship, the Director and on the Port Master for the detention of the ship.

(2) Any order under subsection (1) may at any time be revoked and the Director shall be notified of the revocation of the order.

(3) On receipt of an order under subsection (1), or in any case in which the Director may detain a ship under this Act, the Director may cause a notice to be served on the master of the ship calling upon him not to proceed to sea until the notice is revoked.

(4) The Director shall not issue a port clearance in respect of any ship in relation to which a notice under subsection (3) is in force.

(5) The Director and the Port Master may take such steps as they think fit to prevent any ship in relation to which a notice under subsection (3) is in force, from proceeding to sea and may for that purpose place a police officer on board the ship.

(6) Any police officer who is placed on board a ship under subsection (5) may take such steps as he thinks fit to prevent the ship from proceeding to sea, including the use of force.

(7) Any owner or master of a ship which proceeds to sea while a notice under subsection (3) is in force in respect of the ship shall commit an offence.

189 Arrest without warrant

(1) The Director, or a police officer may, without warrant, arrest any person committing an offence under this Act.

(2) Where any person is arrested under subsection (1), he shall, as soon as possible, be taken to the nearest police station.

190 Master's power to arrest

(1) The master of a Mauritius ship which is at sea may arrest and detain a seaman who commits an offence on board the ship where he has reasonable ground to believe that the arrest is necessary to prevent serious disorder on board the ship.

(2) Where a seaman is arrested and detained under subsection (1), the master shall make an entry to that effect in the official log book as soon as convenient after the arrest.

191 Offences on board ships

Where any person –

- (a) who is a Mauritius citizen is charged with having committed an offence under any enactment on board of any ship on the high seas or in any port or harbour; or
- (b) other than a Mauritius citizen is charged –
 - (i) with an offence to which section 183 applies;
 - (ii) with having committed an offence under any enactment on board a Mauritius ship on the high seas or in any port or harbour in Mauritius,

that person may be tried in Mauritius.

192 Venue of trial and jurisdiction

Notwithstanding any other enactment, where any person is charged with an offence which under this Act is triable in Mauritius, the offender shall, unless the Director of Public Prosecutions directs otherwise, be tried before the District Court of Port Louis and the Court may impose on the offender any penalty provided under this Act.

193 Recovery of fines and judgment debts

Without prejudice to any enactment relating to the recovery of fines or of judgment debts –

- (a) where the owner of a ship who is convicted of an offence under this Act fails to pay any fine imposed on him, the amount due may be recovered in the manner a mortgage debt in favour of the State in respect of the ship would have been recovered;
- (b) any judgment debt against the owner of a ship may be recovered in the manner a mortgage debt in favour of the judgment creditor in respect of the ship would have been recovered.

194 Service of documents

Where for the purposes of this Act any document is to be served on any person, the document may be served –

- (a) in any case, by delivering a copy of the document personally to the person to be served, or by leaving the document at his last place of abode;
- (b) where the document is to be served on the master of a ship, and there is one, or on a person belonging to a ship, by leaving the document for him on board that ship with the person being or appearing to be in command or charge of a ship;
- (c) where the document is to be served on the master of a ship, and there is no master, on the owner or agent of the owner of the ship, and if the owner or the agent of the owner is not known or cannot be found, by affixing the document to the mast of the ship;
- (d) where the document is to be served on the owner of the ship, and the owner is not known or cannot be found, on the agent of the owner and if the latter is not

known or cannot be found, by affixing a copy of the document to the mast of the ship.

PART X – MISCELLANEOUS

195 Use of English

(1) Any official correspondence, document, form or other writing required by this Act shall be in the English language.

(2) Any written sign displayed on board a Mauritius ship shall be in the English language and where the master of the ship thinks fit, the sign may also be displayed in another language.

196 Protection of officers

Any person who acts in the performance of his duties under this Act shall be deemed to be

–

- (a) a public officer for the purposes of the Public Officers' Protection Act;
- (b) a public functionary within the meaning of the Criminal Code Act.

197 Return of seamen left behind

Where a foreign ship proceeds to sea and leaves behind a seaman who is not a Mauritius citizen, the expenses incurred for the repatriation or deportation of the seaman shall be recovered from the owner of the ship, or where the owner is not in Mauritius, from the agent of the owner of the ship.

198 Port clearances

(1) No ship shall leave a port in Mauritius unless the master of the ship has obtained within one hour of the expected time of departure a port clearance from the Director.

(2) Where the master of any ship obtains a port clearance and does not sail within 48 hours thereafter, he shall report to the Director his reasons for not sailing and obtain a fresh port clearance.

- (3) The Director shall not issue a port clearance for any ship –
- (a) until the master of the ship, if so required, produces the certificate of registration of the ship;
 - (b) until the master of the ship has declared to him the name of the country to which the ship belongs;
 - (c) unless every seaman on board the ship holds a Continuous Discharge Book;
 - (d) where the ship is to be detained or where an order for the detention of the ship is in force.
- (4) Where the Director is satisfied that –
- (a) any person engaged on board a Mauritius ship; or
 - (b) any Mauritius citizen engaged on board a foreign ship,

has not been paid any wages due to him, the Director may refuse to issue a port clearance to the master of the ship unless the wages are paid or the owner or master of the ship furnishes adequate security, to the satisfaction of the Director, for the payment of the wages claimed to be unpaid.

(5) Any master of a ship which takes to sea without a port clearance shall commit an offence and any owner of the ship who is privy to the commission of the offence shall commit the like offence.

(6) This section shall not apply to any class of ship which the Minister may exempt from the operation of this section.

199 Regulations

- (1) The Minister may make such regulations as –
- (a) are required for the purposes of this Act;
 - (b) he thinks fit to give effect to the provisions of this Act,

- (c) are necessary to implement international conventions and international regulations relating to shipping to which Mauritius is a party.
- (2) Without prejudice to subsection (1), the Minister may make regulations to provide for the –
 - (a) forms to be used;
 - (b) fees to be levied.

200 Access to treaties

- (1) The Director shall keep in his office a copy of all international conventions and international regulations to which Mauritius is a party.
- (2) The international conventions and international regulations to which subsection (1) applies shall be open to public inspection during office hours.

201 Labour provisions

- (1) The Labour Act shall not apply to a seaman.
 - (2) For the purposes of determining the daily wage of a seaman engaged on a Mauritius ship, the monthly wages of the seaman as stipulated in the crew agreement shall be divided by 30.
- [Amended 20/92]

202 Inconsistency with obligations of Mauritius

Where the Minister is satisfied that the application of this Act to ships of any country would be inconsistent with the international obligations of Mauritius, he may, by regulations, suspend any provision of this Act, or amend the provision, with regard to ships of that country to the extent necessary to enable the international obligations of Mauritius to be fulfilled.

203 Exemption

The Minister may, on such conditions as he thinks fit, exempt any class of ship from any requirements of this Act.

204 –

205 Transitional provisions

- (1) Any certificate or other instrument issued under any enactment repealed by this Act shall remain in force until it is superseded, revoked or otherwise terminated.
- (2) Any ship registered in Mauritius under an enactment repealed by this Act shall be deemed to have been registered under this Act.
- (3) Any mortgage inscribed on any ship before the commencement of this Act shall remain valid for all intents and purposes and shall be deemed to have been inscribed after the commencement of this Act.
- (4) Pending the appointment of the Director of Shipping the functions required to be performed by the Director of Shipping under the provisions of Livre Deuxième, Chapitre IV of the Code de Commerce shall be performed by such officer as performs such functions under the enactments repealed by this Act.

206 Validation of transactions

Any act done or performed before the commencement of this Act shall be deemed to have been validly done or performed notwithstanding that any fee or duty which was leviable has not been levied and paid.

207 Repeal

The following enactments are repealed –

- (a) the Inquiries into Wrecks and Marine Courts Act ;
- (b) the Merchant Shipping Act;
- (c) the Prize Court Fees Act;
- (d) the Registration of Vessels (Temporary Provisions) Act;

- (e) the Registration Dues (Amendment No. 2) Act 1971;
- (f) the Merchant Shipping (Employment of Seamen) Act;
- (g) the Registration of Ships Act;
- (h) the Mauritius Load Line Regulations 1937;
- (i) the Merchant Shipping (Lifeboatmen) Rules 1960;
- (j) the Surveyors Declaration 1904;
- (k) the Wireless Telegraphy Rules 1927;
- (l) the Survey of Passengers Accommodation Instructions 1904;
- (m) the Wireless Operators Certificates Rules 1940;
- (n) the Wireless Telegraphy (Ships registered in Mauritius) Rules 1927;
- (o) the Order in Council of 23 August 1883;
- (p) the Admiralty Jurisdiction (Mauritius) Order in Council 1962;
- (q) the Collision Regulation (Ships and Seaplanes on the Water) and Signals of Distress (Ships) Order 1953;
- (r) the Finnish Tonnage Order 1966;
- (s) the Merchant Shipping Act, 1948 (Mauritius) Order 1959;
- (t) the Order in Council of 27 February 1905;
- (u) the Merchant Shipping (Colonies) Order 1927;
- (v) the Merchant Shipping (Colonies) Tonnage Measurement Order 1956;
- (w) the Merchant Shipping (Foreign Deserters) (Federal Republic of Germany) Order 1958;
- (x) the Merchant Shipping (Foreign Deserters) (Italian Republic) Order 1958;
- (y) the Merchant Shipping (Foreign Deserters) (Kingdom of Greece) Order 1954;
- (z) the Merchant Shipping (Foreign Deserters) (Kingdom of Norway) Order 1951;
- (aa) the Merchant Shipping (Foreign Deserters) (United States of Mexico) Order 1955;
- (ab) the Merchant Shipping Load Line Convention (Colonial No 1) Order 1933;
- (ac) the Merchant Shipping (Mauritius Certificates of Competency as A.B.) Regulations 1960;
- (ad) the Merchant Shipping (Registration of Colonial Government Ships) Order 1963;
- (ae) the Shipowners' Liability (Colonial Territories) Order in Council 1963;
- (af) any Order in Council relating to shipping and made in the United Kingdom and extended to Mauritius before 12 March 1968.

[Amended 5/89]