

## CHAPTER 234

## MERCHANT SHIPPING ACT

*To regulate merchant shipping.*

6th April, 1973;  
1st June, 1973;  
13th August, 1974;  
16th December, 1974;  
8th November, 1986

*ACT XI of 1973, as amended by Legal Notice No. 148 of 1975 and Acts: XI of 1977, XXXI of 1981, XIII of 1983, XXIV of 1986 and XXXVII of 1988; Legal Notices Nos. 37 of 1989 and 152 of 1989; Acts VIII and XXXVII of 1990, and XVII of 1991; Legal Notices Nos. 86 of 1993 and 125 of 1995; Acts XXIV of 1995 and XXII of 2000; and Legal Notices 278 and 340 of 2002.*

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## PART I

## PRELIMINARY

Short title.

1. The short title of this Act is Merchant Shipping Act.

Interpretation.

*Amended by:  
XXXVII. 1988.4;  
XVII. 1991.82;  
XXII. 2000.3.*

2. (1) In this Act, unless the context otherwise requires or it is otherwise expressly provided -

"Authority" means the Malta Maritime Authority established by the Malta Maritime Authority Act, 1991;

"clearance" includes a transire;

"cargo ship" means every ship which is not a passenger ship, a fishing vessel or a pleasure yacht;

"collision regulations" means the regulations made under article 292;

"company" means a limited liability company;

"consular officer" when used in relation to Malta, means the diplomatic or consular representative of the Government of Malta or a person serving in a diplomatic, consular or other foreign service of any country which, by arrangement with the Government of Malta, has undertaken to represent that Government's interest; and when used in relation to any other country, means the officer recognised by the Government of Malta as a consular officer of the country;

"court of survey" means the court established by article 326;

"crew accommodation" includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen and apprentices, not being accommodation which is also used by, or provided for the use of, passengers;

"effects" in relation to persons, includes clothes and documents belonging to such persons;

"Gazette" means the Malta Government Gazette;

"law" includes any instrument having the force of law;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"master" includes every person (except a pilot) having command or charge of a ship;

"Minister" means the Minister responsible for shipping and includes any person acting under his authority;

"month" means calendar month;

"name" in relation to a person, includes surname;

"passenger" means any person carried in a ship except -

(a) persons employed or engaged in any capacity on board the ship on the business of the ship;

- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the owner could have prevented or forestalled; and
- (c) a child under the age of one year;

"passenger ship" means any ship which carries more than twelve passengers;

"person" includes a body of persons;

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

"prescribed" means prescribed by regulations, rules, orders or instructions under this Act;

"proper officer" means an officer authorised in that behalf by the Minister or other appropriate authority;

"proper return port" means either the port at which a seaman or an apprentice was shipped or a port in the country to which he belongs or some other port agreed to by the seaman or the apprentice;

"radio navigation aid" means radio apparatus on board a ship being apparatus designed for the purpose of determining the position or direction of ships or other objects;

"register" means the record to be kept by the registrar under article 365;

"registered" means registered under this Act;

"registrar" means a person appointed as registrar under article 364, and includes any person acting under his authority with the permission of the Registrar-General;

"Registrar-General" means the Registrar-General of Shipping and Seamen as provided in article 363, and includes any person acting under his authority;

"seaman" includes every person (except masters, pilots and apprentices) employed or engaged in any capacity on board a ship;

"ship" means every description of vessel used in navigation, whether self propelled or not, and it includes barges, pontoons and oil rigs and other similar vessels, but not including vessels propelled by oars, and for those parts of the Act wherever applicable it shall also include a ship under construction;

"shipping master" means an officer in the office of the Registrar-General designated by the Minister to perform the functions of shipping master under this Act and, whether such an officer has or has not been so designated, includes the Registrar-General;

"surveyor of ships" and "surveyor" means a person appointed as a surveyor of ships under article 367;

"tonnage regulations" means the regulations for ascertaining the tonnage of a ship made under article 81;

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

"wages" includes emoluments.

(2) Any notice required to be sent under this Act to the master, owner, or any other person representing the ship shall be deemed to have been duly received and notified if sent by registered post to the last address of the owner registered with the registrar.

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## PART II

### REGISTRY

#### *Registration of Maltese ships*

Maltese ships.  
Amended by:  
XXXVII. 1988.5;  
XVII. 1991.87;  
XXII. 2000.4.

3. (1) No ship, other than a ship exempted from registry, or a ship referred to in subarticle (7), shall enjoy the rights and privileges of a Maltese ship or be recognised as a Maltese ship unless such ship is registered under this Act.

(2) Ships registered under the Malta Maritime Authority Act, 1991 not exceeding twenty-four metres in length shall be exempted from registry, and such ships, if not registered elsewhere and if owned wholly by persons habitually resident in Malta or by bodies corporate established under and subject to the laws of Malta and having their principal place of business in Malta, shall also be deemed to be Maltese ships:

Provided that ships of a length of six metres or over not employed solely in navigation on the coasts of Malta shall not be exempted from registry.

(3) It shall be lawful to register any ship which is being built or equipped and that when built or equipped will be a ship registrable under this Act.

(4) Pending completion the ship may be assigned an official number and a name.

(5) For the purposes of identification the owner of such ship that is being built or equipped shall identify it by painting the official number, name and port of registry on the keel, such details to be reproduced on the ship's side and eventually on the stern, as may be possible from time to time and prior to the above being possible the owner shall identify it by painting on a board, maintained near the place in the yard of builder where the ship is being built, the assigned number, name and port of registry, on a dark background, in white or yellow figures and letters of not less than ten centimetres in length.

(6) The requirements of this Act -

- (a) relating to survey and safety of ships already built, and
- (b) relating to the declaration of ownership of a ship under

construction where the builders thereof have not yet affected delivery to the owners,

shall be suspended under such conditions as the Registrar-General may impose, until the construction or equipping of the ship is completed or until delivery has been made, as the case may be.

(7) Notwithstanding any other provision of this Act, ships under six metres in length shall not be registrable under this Act.

(8) No ship shall be registered otherwise than by or with the express permission of the Registrar-General if the completion of her first construction occurred more than twenty-five years before the commencement of the year in which application for registration is first made under this Act, and the Registrar-General may allow the registration, or refuse to allow the registration of, any such ship:

Provided that the Minister may, in any case, direct the Registrar-General, not to register any ship irrespective of its age in respect of which an application for registration has been made, if in the Minister's opinion it would be detrimental to the national interest of Malta or the interest of Maltese shipping for the ship to be registered.

4. (1) A ship shall not be eligible to be registered under this Act unless owned wholly by persons of the following description (in this Act referred to as persons qualified to own a Maltese ship), namely -

- (a) citizens of Malta;
- (b) bodies corporate established under and subject to the laws of Malta having their principal place of business in Malta or having a place of business in Malta and satisfying the Minister that they can and will ensure due observance of the laws of Malta relating to merchant shipping;
- (c) such other persons as the Minister may, by regulations, prescribe,

Ships eligible to be registered under this Act.

Amended by:  
XXXVII. 1988.6;  
XXII. 2000.5.

and, saving any other provision of this Act, if a registered ship ceases to be owned wholly by persons qualified to own a Maltese ship, such ship shall cease to be a Maltese ship.

(2) Notwithstanding the provisions of this article, regulations made under subarticle (1)(c) may, in particular -

- (a) prescribe the extent of the ownership of a ship or class of ships eligible to be registered under this Act; and
- (b) prescribe other conditions in conjunction with the requisite ownership for ships eligible to be registered under this Act.

(3) A body corporate shall be deemed to satisfy the Minister as required by subarticle (1)(b) unless the Minister has made a declaration to the contrary; and the Minister may, before withdrawing such declaration, impose such conditions as he may

deem fit in the circumstances that may include the provision of a guarantee or a bond.

(4) For the purposes of subarticle (1)(b) the Minister may, by regulations, establish such other conditions as he may deem expedient in order to ensure the proper application of this Act, and the due observance of the laws of Malta relating to merchant shipping.

Home port.  
Amended by:  
XXXVII. 1988.7.

5. The home port of every ship registered under this Act shall be Valletta, and the name of the home port shall be shown on any certificate of registry issued under article 19.

#### *Registration Fees*

Registration fees.  
Amended by:  
XXIV. 1986.2.

6. (1) There shall be levied in respect of the registration of a ship under this Act the fee on first registration and the annual fee specified in the First Schedule to this Act.

(2) The Minister may with the concurrence of the Minister responsible for finance, by regulations amend, add to, vary, revoke or substitute the First Schedule to this Act.

Payment of fees.  
Amended by:  
XI.1977.2;  
XXIV. 1986.3.  
Substituted by:  
XXXVII. 1988.8.  
Amended by:  
XXXVII. 1990.2, 6.

7. (1) The fee due on initial registration and the annual fee for one year shall be paid before the ship is registered, and no certificate of registry as described in article 19 shall be issued in respect of a ship unless the fees have been paid in respect of the ship:

Provided that if the registrar is requested to give a service in respect of a ship prior to such ship being registered under this Act, the registrar may grant such service on payment of an amount equivalent to ten per cent of the initial registration fee payable in terms of article 6 of the Act:

Provided further that if the ship is registered within one year from such service being given, such an amount paid shall be deducted from the fee due on initial registration.

(2) Thereafter the annual fee shall be payable on the anniversary of the initial registration.

(3) Notwithstanding that the ship remains on the register under this Act, no registry fees shall be payable unless and until a certificate of registry or a deletion certificate, as the case may be, is issued under this Act:

Provided that in no case may a certificate of registry be issued as of a date later than the date of expiry of the last valid certificate of registry, and should a certificate of registry or a deletion certificate be delivered at a later date, the fees due shall still accrue from the date of expiry of the last valid certificate of registry:

Provided further that should a deletion certificate be issued on closure of registry in terms of article 28A, no registry fees shall be payable on the issue of such a deletion certificate.



(4) The fees specified in subarticle (1) are paid on the basis of the tonnage declared by the owner of the ship on the application for registry and such fees shall be adjusted in accordance with the tonnage specified in the surveyor's certificate issued in accordance with article 14 upon receipt of such certificate by the registrar.

(5) Fees on initial registration and annual fees shall not be subject to abatement or refund save as provided for in this Act, or in accordance with regulations which may be made by the Minister.

**8.** All registrars are charged with the collection of registration fees due under this Act and with the issue of receipts therefor. Collection of fees.

**9.** A registrar is entitled to demand payment of any outstanding fees, charges or penalties due under this Act prior to recording any transaction in the register of a ship or prior to granting any services in connection with a ship: Default of payment.  
Substituted by:  
XXXVII.1988.9.

Provided that in any case any registered mortgagee shall always be entitled, on payment of such fee as may be prescribed, to official documentary evidence as to the status of his mortgage in the register of any ship.

#### *Procedure for registration*

**10.** An application for registry of a ship, whether provisional or otherwise, shall contain such information, details and documents as may be required by the registrar, and shall be made, in the case of individuals by the person requiring to be registered as owner or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent; and the authority of the agent shall be testified by writing, if appointed by individuals under the hand of the appointors and, if appointed by a body corporate under the hand of a person or persons authorised to authenticate documents for the body corporate. Application for registry.  
Amended by:  
XXIV.1986.4.  
Substituted by:  
XXXVII. 1988.9.  
Amended by:  
XXII. 2000.7.

**11.** A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of ownership referring to the ship as described in the application referred to in article 10 and containing the following particulars: Declaration of ownership.  
Substituted by:  
XXXVII. 1988.9.  
Amended by:  
XXXVII. 1990.3.

- (a) a statement of his qualification to own a Maltese ship or, in the case of a body corporate, of such circumstances as prove it to be qualified to own a Maltese ship;
- (b) a statement of the time and place where the ship was built or if these are not known, a statement that the declarant does not know the time and place of her building;
- (c) a statement of the extent to which he or the body corporate, as the case may be, is entitled to be registered as owner;

- (d) a declaration that to the best of his knowledge and belief no unqualified person or body of persons is entitled as owner to any interest in the ship or any share therein; and
- (e) a declaration as to what registered encumbrances, if any, exist on the ship.

Provisional registration.  
*Substituted by:*  
 XXXVII. 1988.9.  
*Amended by:*  
 XXII. 2000.8.

**12.** Upon receipt of an application for registry, whether provisional or otherwise, made in accordance with article 10 accompanied by a declaration of ownership as required by article 11, and upon the payment of the fees specified in this Act or any regulations made thereunder, the registrar may, subject to such conditions as he may deem proper, provisionally register the ship as a Maltese ship for six months provided the applicant for registry has furnished evidence satisfactory to the Minister that:

- (a) the ship is either a vessel being built or equipped, or if already built is seaworthy; and
- (b) where required the registered owner has satisfied such conditions as may be established in accordance with the provisions of article 4(3);

Provided that the registrar may, on good cause being shown, renew the provisional registry of a ship for a further period of, or further periods not exceeding in the aggregate, six months:

Provided further that, notwithstanding the provisions of this article, the registrar may, prior to the provisional registration of a ship, require such ship to be inspected by an appropriate inspector or a surveyor of ships.

Documents and evidence after provisional registration.  
*Amended by:*  
 XIII. 1983.5.  
*Substituted by:*  
 XXXVII. 1988.9.  
*Amended by:*  
 XXXVII. 1990.4;  
 XXII. 2000. 9.

**13.** (1) Within one month of provisional registry, extendable for good reason for another period of two months, the owner shall, unless the ship is otherwise exempted, produce to the registrar the following documents and evidence:

- (a) a builder's certificate, that is to say a certificate signed by the builder of the ship (which expression includes such person as the Registrar-General recognises as carrying on the business of the builder of a ship) and containing true account of the proper denomination and of the tonnage of the ship as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built or, if there has been any sale, the bill of sale or other document under which the ship or a share therein was transferred to the applicant for registry;
- (b) evidence satisfactory to the registrar, or as may be prescribed by the Minister, that any foreign certificate of registry of the ship, or equivalent documents, has been legally cancelled or the registry has been duly closed:

Provided that the Minister may, in such circumstances as he may deem appropriate, direct that

no such certificate shall be required where the owner has attempted to obtain such certificate but due to reasons beyond the control of the owner inordinate delay has occurred. The Minister may give any direction as to the production of such other documents as he deems fit.

(2) Within six months of provisional registry, extendable for good reason for a further period of, or further periods not exceeding in the aggregate, six months, the owner shall, unless the ship is otherwise exempted, produce to the registrar the following documents and evidence:

- (a) proof that the ship has been issued with such valid certificates required by international conventions (including protocols, annexes and appendices thereto) which have been ratified or acceded to or accepted by the Government of Malta;
- (b) certificate of survey issued in terms of article 14 and a copy of the tonnage measurement certificate:

Provided that the Registrar-General may, subject to such conditions as he may deem proper, in case of a ship which is being built, rebuilt or equipped, exempt such ship from the requirements of this paragraph for a period of one year extendable for good reason for another period of one year; and

- (c) a carving and marking note issued in accordance with article 15 or evidence satisfactory to the registrar that the vessel has been marked in accordance with article 15.

**14.** (1) Every ship shall before registry be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations of this Act.

Survey and measurement of ship.  
*Substituted by:*  
XXXVII. 1988.9.

(2) The surveyor shall in his certificate specify the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may from time to time be required by the Minister, and shall certify that the tonnage has been ascertained in accordance with the tonnage regulations of this Act.

(3) The surveyor's certificate and the copy of the tonnage certificate shall be delivered to the registrar before registry.

**15.** (1) Every ship shall before registry be marked permanently and conspicuously to the satisfaction of the registrar as follows:

Marking of ship.  
*Substituted by:*  
XXXVII. 1988.9.  
*Amended by:*  
XXII. 2000.2.

- (a) her name shall be marked on each of her bows and her name and the name of the home port shall be marked on her stern, on a dark ground in white or yellow letters or on a light ground in black letters, such letters to be of a length of not less than ten centimetres and of proportionate breadth;
- (b) her official number and the number denoting her

registered tonnage shall be cut in on her main beam; and

- (c) a scale of feet, or decimetres denoting her draught of water shall be marked on each side of her stern and of her stern post in Roman capital letters or in figures not less than fifteen centimetres in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures must be marked by being cut in and painted white or yellow on a dark ground or in such other way as the Minister approves.

(2) The Minister may exempt any class of ships from all or any of the requirements of this article under such conditions as he may deem appropriate.

(3) If the scale showing the ship's draught of water is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

(4) The marks required by this article shall be permanently continued and no alteration shall be made therein except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) If any owner or master of a ship neglects to keep his ship marked as required by this article, or if any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master or person shall for each offence be liable to a fine (*multa*) not exceeding one hundred units, and, on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy has been remedied.

Compliance with the requirements of this Act.

Amended by:

XXIV. 1986.5.

Substituted by:

XXXVII. 1988.9.

Amended by:

XXXVII. 1990.5;

XXII. 2000.2, 10.

**16.** (1) Saving any provision with regard to ships being built, rebuilt or equipped, all ships provisionally registered under this Act shall comply, except where expressly exempted, with the requirements of this Act within the periods specified in this Act, and in any case, within a maximum period of twelve months of the date of provisional registration and thereafter shall observe such requirements that are laid down in the Act or in any regulations made thereunder.

(2) Any person who fails to observe the requirements of this Act within the time limits specified in a notice in writing served by the registrar upon the owner shall be liable to a penalty of fifty units per month or part thereof for each violation and any ship not complying with the requirements of provisional registry within a maximum period of twelve months shall be liable to a penalty of two hundred units per month or part thereof and in these cases the registrar may take steps to cancel such ship in accordance with this Act.

(3) The registrar may not re-register any ship, provisionally or

otherwise, prior to the payment of all penalties previously incurred and unless satisfactory evidence is supplied to the registrar that the ship has been registered in a foreign register the penalties for the intervening period shall also be collected.

(4) It shall be the obligation of the owner throughout the whole period of registry, whether provisional or otherwise, to notify the registrar of any changes which might have occurred in the intervening period since registry, to the information contained in any certificates and evidence produced before registry.

(5) The registrar may refuse to register provisionally a ship more than three times in succession even in the name of different owners, and shall refuse to consecutively register provisionally a ship more than two times in the name of the same owner.

**17.** As soon as the requirements of this Act preliminary to registry whether provisional or otherwise, have been complied with, the registrar shall enter in the register the following particulars respecting the ship:

Entry of particulars in register.  
*Amended by:*  
*XXXVII.1988.4,10.*

- (a) the name of the ship;
- (b) the details comprised in the surveyor's certificate where applicable;
- (c) the particulars respecting her origin stated in the declaration of ownership;
- (d) the name and description of her registered owner or owners and, if there are more owners than one, the proportions in which they are interested in her;
- (e) any registered encumbrances that may come to the knowledge of the registrar.

**18.** On the registry of a ship, the registrar shall retain in his possession the surveyor's certificate, a copy of the builder's certificate, a copy of the last bill of sale previously made and all declarations of ownership.

Documents to be retained by registrar.  
*Amended by:*  
*XXII. 2000.11.*

**18A.** (1) The registrar may require such particulars, as he may deem proper, of the managing owner for the time being of a ship registered under this Act, to be registered with him.

Ship's managing owner to be registered.  
*Added by:*  
*XXII. 2000.12.*

(2) Where there is not a managing owner, there shall be registered the particulars of such other person to whom the management of the ship is entrusted by or on behalf of the owner, and any person whose particulars are so registered shall, for the purposes of this Act, be under the same obligations and subject to the same liabilities in respect of any act performed or omitted to be performed by him as if such act were performed or omitted to be performed by the managing owner.

*Certificate of Registry*

Certificates of registry, provisional or other.  
*Substituted by: XXXVII.1988.11.*  
*Amended by: XXXVII.1990.6; XXII.2000.13.*

**19.** (1) On completion of the provisional registry of a ship the registrar shall, subject to such conditions as he may deem proper, grant a provisional certificate of registry:

Provided that, unless exempted, if the ship is not in possession of valid certificates required by international conventions (including protocols, annexes and appendices thereto) which have been ratified or acceded to or accepted by the Government of Malta and such other certificates as the Minister may by regulations prescribe, the registrar shall grant a non-operational provisional certificate:

Provided further that unless the requirements for registry have been completed the registrar shall also issue a non-operational provisional certificate to any laid up ship qualifying for special treatment under this Act, or to a ship under tow.

(2) On completion of registry of a ship the registrar shall grant a certificate of registry:

Provided that, unless otherwise exempted, if the ship is not in possession of valid certificates required by international conventions (including protocols, annexes and appendices thereto) which have been ratified or acceded to or accepted by the Government of Malta and such other certificates as the Minister may by regulations prescribe, the registrar shall issue a non-operational certificate of registry:

Provided further that if the requirements for registry have been completed the registrar shall also issue a non-operational certificate of registry to any laid up ship qualifying for special treatment under this Act, or to a ship under tow.

(3) The period of validity of a certificate of registry shall be as follows:

- (a) if issued within the first twelve months of provisional registry for the remaining period of the said twelve months; or
- (b) if issued at the expiry of the first twelve months for a period of twelve months:

Provided that the registrar, at the request of the owner and on payment of the relative annual fees, may issue a certificate of registry for the combined period of the periods specified in paragraphs (a) and (b) hereof, so however that the fee specified for the subsequent period of twelve months shall be refunded if the registry of the ship is closed prior to the commencement of such period.

(4) Thereafter, all certificates of registry shall be issued for a period of twelve months provided that within a period of three months prior to the expiry of such certificate, the registrar, upon the payment of the annual fee, shall issue a renewal certificate of registry in the prescribed form.

(5) No certificate may be issued, except in cases of loss or

destruction of a certificate, other than on the return of the certificate currently being held by the owner or at the discretion of the registrar, upon the issue of an undertaking by the owner to return the certificate within a maximum period of one month.

(6) A certificate of registry, whether provisional or otherwise, issued to a ship in terms of the provisions of this article, may be issued subject to such conditions as the registrar may deem proper and shall include the name and official number of the vessel and such particulars, if any, as the registrar may deem proper showing the port of Valletta as the port to which she belongs.

<sup>\*</sup>(7) For the purpose of this article a laid up vessel shall qualify for special treatment under this Act or any regulations made thereunder if -

- (a) the registered owner makes a declaration to the effect that the ship is laid up and shall remain laid up for a period of not less than twelve months; and
- (b) evidence satisfactory to the registrar is produced to the effect that the ship is laid up certifying the location where the ship lies:

Provided that should the ship be reactivated within six months from the date of the declaration specified in paragraph (a) hereof, the ship shall be deemed not to have been laid up, and the fees payable in accordance with article 7 shall become due in full from the date of the declaration:

Provided further that should the ship be reactivated after the lapse of six months from the date of declaration specified in paragraph (a) hereof the fees payable under article 7 shall be payable from the lapse of the initial six months:

Provided further that where a declaration specified in paragraph (a) hereof is made on a date after the annual fee becomes due, the difference in the fees payable had the declaration been made on or before the date on which the annual fee becomes due, will be deducted only upon the payment of the next annual fee.

**19A.** Where a ship registered under this Part of this Act is being operated under charter in any year in respect of which the charterer shall have paid to a registrar an amount equal to the annual registration fee for that year in addition to that paid by the owner, and such ship is not bareboat charter registered in a foreign registry, the Registrar-General, on submission of an application made by such charterer accompanied by a copy of the charter agreement and the consent in writing of the owners of the ship and all registered mortgagees may, subject to such conditions as he may deem proper, authorise the issue of a certificate of registry, whether provisional or otherwise, in the name of such charterer instead of in the name of the registered owner. The copy of the charter agreement presented with the application shall not be available for public inspection.

Certificate of registry in the name of the charterer.  
*Added by: XXII. 2000.14.*

<sup>\*</sup>This subarticle is not yet in force as far as its applicability to articles 37A, 37B, 37C and 37D is concerned.

Custody of certificate.  
Amended by:  
XIII. 1983.5;  
XXXVII.1988.12;  
XXII. 2000.2.

**20.** (1) Any certificate of registry shall be used only for the lawful navigation of the ship and shall not be subject to detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, mortgagee, or other person to, on or in the ship.

(2) Except as otherwise authorised or prescribed by or under this Act, no person, whether interested in the ship or not, shall refuse on request to deliver up any certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar or other person entitled by law to require such delivery; and any person so refusing shall, unless it is shown that there was reasonable cause for such refusal, be liable to a fine (*multa*) not exceeding one hundred units.

Penalty for use of improper certificate.  
Amended by:  
XIII. 1983.5  
XXXVII. 1988.12;  
XXII. 2000.2.

**21.** If the master or owner of a ship uses or attempts to use for her navigation any certificate of registry not legally granted in respect of the ship, he shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units, or to both such imprisonment and fine; and the ship shall be liable to forfeiture under this Act.

Power to grant new certificate.  
Amended by:  
XXXVII.1988.4;  
12.

**22.** The registrar may, with the approval of the Registrar-General, on the delivery up to him of any certificate of registry of a ship, grant a new certificate in lieu thereof.

Provision for loss of certificate.  
Amended by:  
XIII. 1983.5;  
XXXVII.1988.4;  
12.

**23.** In the event of any certificate of registry of a ship being mislaid, lost, destroyed or otherwise not recoverable, the registrar shall grant a new certificate of registry in lieu of the original certificate.

Endorsement of change of master on certificate.

**24.** *Repealed by article 14 of Act XXXVII of 1988.*

Endorsement of change of ownership on certificate.  
Amended by:  
XIII. 1983.5;  
XXXVII.1988.4;  
14;  
XXII. 2000.2.

**25.** (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall, saving any other provision of this Act, be endorsed on any certificate of registry of the ship.

(2) The master shall, for the purpose of such endorsement by the registrar, deliver any certificate of registry to the registrar forthwith after the change if the change occurs when the ship is at the port at which she has been registered, and if the change occurs during her absence from that port, and the endorsement under this article is not made before her return, then upon her first return to that port.

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

(4) If the master fails to deliver up any certificate of registry as required by this article he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units.



**26.** (1) In the event of a registered ship whether provisionally or otherwise, being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing, whether by reason of transfer to persons not qualified to own a Maltese ship or for any other reason, to be a Maltese ship, every owner of the ship shall, immediately on obtaining knowledge of the event, give notice thereof to the registrar, unless the registrar has already been give notice of the event or is otherwise already aware of it:

Delivery up of certificate of ship lost or ceasing to be Maltese.  
Amended by:  
XIII.1983.5;  
XXIV.1986.6;  
XXXVII.1988.4;  
15;  
XXII. 2000.2, 15.

Provided that no transfer of a Maltese ship may take place in favour of persons who are not qualified to own a Maltese ship, unless there is produced to the registrar, the consent in writing of all the mortgagees whose mortgages are duly registered in respect of the ship, saving where the transfer is made pursuant to an order or with the approval of a competent court.

(2) In any such case except where the ship's provisional or other certificate of registry is lost or destroyed, the master or owner of the ship shall within four days of such occurrence deliver such certificates to the registrar and if the owner or master fail, without reasonable cause, to comply with the provisions of this article, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units.

**26A.** Where under any of the provisions of this Act a certificate of registry of a Maltese ship, whether provisional or otherwise, is suspended, the person by whom the suspension is made shall give to, or cause to be served on, the master or the owner of the ship a written notice of the suspension, and thereupon the ship shall not proceed to sea and the master shall forthwith deliver up the certificate of registry to the registrar or a Maltese consular officer.

Suspension of certificate of registry.  
Added by:  
XXII. 2000.16.

**26B.** Where under any of the provisions of this Act a non-operational certificate of registry, whether provisional or otherwise, is issued, the ship shall not proceed to sea.

Non-operational certificate of registry.  
Added by:  
XXII.2000.17.

**26C.** If any person sends or attempts to send, or is a party to sending or attempting to send, a ship to sea in contravention of the provisions of articles 26A and 26B, he shall be liable in respect of each offence to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine (*multa*).

Penalties.  
Added by:  
XXII. 2000.18.

**27.** (1) A certificate of registry, whether provisional or otherwise, shall cease to have effect:

- (a) on the expiry of its validity date;
- (b) on its suspension in accordance with the provisions of this Act;
- (c) on its substitution by another certificate issued in accordance with the provisions of this Act; or
- (d) on closure of registry in accordance with the provisions of this Act.

Validity of certificate of registry.  
Substituted by:  
XXXVII. 1988.16.  
Amended by:  
XXII. 2000.2.  
Substituted by:  
XXII. 2000.19.

(2) Subject to the provisions of this Act, upon a certificate of registry, whether provisional or otherwise, ceasing to have effect the owner or the master shall forthwith forward this certificate to the registrar or, in case a certificate is suspended in terms of article 26A, to the registrar or a Maltese consular officer.

(3) If any such person as aforesaid fails without reasonable cause to deliver up the certificate as required by this article, he shall be liable to a fine (*multa*) of one hundred units.

#### *Closure of Registry*

Voluntary closure of registry.  
Substituted by:  
XXXVII 1988.16.  
Amended by:  
XXII. 2000. 20.

**28.** (1) Where the owner of a Maltese ship desires to close the register of a ship he shall make an application to that effect to the registrar, giving all such particulars and information as the registrar may require for the purpose.

(2) The registrar may refuse such application if all liabilities and obligations in respect of the ship towards the Authority, the Government of Malta and any body corporate established by law, whether for fees, charges, fines or otherwise have not been paid, and shall refuse such application unless the consent in writing of all mortgagees whose mortgage is duly registered in respect of the ship is produced to him.

(3) Where any such application is acceded to the registrar shall make an entry thereof in the register and thereupon the ship shall cease to be a Maltese ship and the registry of the ship shall be considered as closed except so far as relates to any unsatisfied mortgages or privileges entered therein.

Closure of registry on sale of ship pursuant to court sale or sale by mortgagee in possession.  
Added by:  
XXII. 2000.21.

**28A.** Where the purchaser of a ship is not a person who is qualified to own a Maltese ship under this Act, upon obtaining knowledge or on being given notice of such a fact and -

- (a) in the case of a sale pursuant to an order or with the approval of a competent court, upon receiving copies of the proceedings of the sale certified to his satisfaction, or
- (b) in the case of a sale by a mortgagee in possession pursuant to article 42(1)(b), upon the production of a copy of the bill of sale certified to his satisfaction,

the registrar shall make an entry thereof in the register and the register of the ship shall be considered as closed except in so far as relates to any unsatisfied mortgages entered therein.

Power to order or direct closure of registry.  
Substituted by:  
XXXVII.1988.16;  
XXII. 2000. 22.

**29.** (1) The Minister may order that a ship shall cease to be registered if it is in the national interest or in the interest of Maltese shipping.

(2) The Registrar-General may direct that a ship shall cease to be registered in the following cases:

- (a) if the annual fee has not been duly paid in accordance with this Act;

- (b) if the formalities specified in article 13 are not complied with within the maximum periods therein specified;
- (c) if in the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing, whether by reason of a transfer to persons not qualified to own a Maltese ship or for any other reason, to be a Maltese ship;
- (d) if the owner fails to observe the provisions of this Act;
- (e) if it is established that the ship will not or cannot be registered under this Act;
- (f) if, where required, any conditions established by the Minister in accordance with article 4(4) are not observed for a period in excess of one month;
- (g) if the owner fails to pay any fine imposed under this Act, or fails to pay any penalty within one month of their being demanded in writing by the registrar; or
- (h) if the owner fails to be in possession of a valid certificate of registry, whether provisional or otherwise, for a period in excess of one month.

(3) Prior to the issue of any such order or directive the registrar shall give one month's notice in writing to the registered owner and any registered mortgagee of the intention of closure of registry unless the cause for such closure is remedied. The registrar shall specify in the notice the reason for closure and the expiry date for compliance failing which closure will be effected.

(4) Upon the issue of any notice in terms of subarticle (3) the registrar shall make a note thereof in the register and shall record the date on which the one month period shall lapse.

(5) Upon the lapse of the said one month from the giving of notice and upon receipt of the order from the Minister or the directive from the Registrar-General, as the case may be, the registrar shall make an entry thereof in the register and thereupon the ship shall cease to be a Maltese ship and the registry of the ship shall be considered as closed except so far as relates to any unsatisfied mortgages or privileges entered therein, and the mortgagees shall have the right to demand the immediate sale of the ship or share therein as if the debtor had not adhered to all the conditions under which the credit was granted.

**30.** (1) When the registry of a ship, whether provisional or otherwise, has been closed, the registrar shall, upon request of the registered owner or, when the registry of a ship has been closed in terms of article 28A upon request of the purchaser, issue a deletion certificate:

Provided that the registrar may refuse to issue such certificate if all liabilities and obligations in respect of the ship towards the Authority, the Government of Malta and any body corporate established by law, whether for fees, charges, fines or

Deletion  
certificate.  
*Amended by:*  
*XIII.1983.5;*  
*XXIV.1986.7.*  
*Substituted by:*  
*XXXVII.1988.16.*  
*Substituted by:*  
*XXII. 2000. 23.*

otherwise have not been paid or if any certificate of registry, whether provisional or otherwise, has not been surrendered to him.

(2) The registrar shall specify on the deletion certificate the reason for closure of registry, and, where the registry of a ship, whether provisional or otherwise, has been closed saving any unsatisfied mortgage or privilege entered therein, the deletion certificate shall also include a full description of any unsatisfied mortgage or privilege, together with a statement that the registry of the ship was closed saving such mortgage or privilege.

Issue of certificate of registry in lieu of provisional certificate.

**31.** *Repealed by article 16 of Act XXXVII of 1988.*

*Transfer and Transmissions*

Transfer of a ship or share therein.  
*Amended by:*  
*XXIV.1988.8;*  
*XXXVII.1988.4;*  
*77;*  
*XXII.2000.24.*

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

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

(3) No transfer of a Maltese ship may be made in favour of persons who are not qualified to own a Maltese ship, unless there is the consent in writing for such transfer of all the mortgagees whose mortgages are duly registered in respect of the ship, saving where the transfer is made pursuant to an order or with the approval of a competent court.

(4) Upon the entry of a transfer of a registered ship or a share therein in favour of a person qualified to own a Maltese ship the registrar shall notify accordingly the holder of any registered mortgage.

Declaration of transfer.

**33.** Where a registered ship or share therein is transferred to a person qualified to own a Maltese ship, the transferee shall not be entitled to be registered as owner thereof until he, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of a body corporate, has made a declaration (in this Act called a "declaration of transfer") referring to the ship and containing -

- (a) a statement of the qualification of the transferee to own a Maltese ship or, if the transferee is a body corporate, of such circumstances as prove it to be qualified to own a Maltese ship; and
- (b) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any interest in the ship or share therein.

**34.** (1) Every bill of sale for the transfer of a registered ship or of a share therein to a person qualified to own a Maltese ship shall, when duly executed, be produced to the registrar with the declaration of transfer, and the registrar shall, saving any other provision of this Act, thereupon enter in the register the name of the transferee as owner of the ship or share and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour thereof.

Registry of transfer.  
*Amended by:*  
*XXXVII. 1988.4;*  
*XXXVII. 1990.8.*

(2) All such bills of sale shall be entered in the register in the order of their production to the registrar.

**35.** (1) Where the property in a registered ship or a share therein is transmitted on the death of any owner to a person qualified to own a Maltese ship, that person shall make and sign a declaration (in this Act called a "declaration of transmission") identifying the ship and containing the several statements required by article 33 to be contained in a declaration of transfer, or as near thereto as circumstances permit, and such declaration of transmission shall be accompanied by such evidence of the transmission as would be acceptable by a competent court as proof of such transmission.

Transmission of property in ship.  
*Amended by:*  
*XXXVII. 1988.4;*  
*XXXVII. 1990.9;*  
*XXIV.1995.362.*

(2) On receipt of the declaration of transmission so accompanied, the registrar shall enter in the register the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted and, where there is more than one such person, shall enter the name of all those persons.

(3) Where the property in a registered ship or share therein is transmitted on the death of any owner to a person not qualified to own a Maltese ship -

- (a) the Civil Court, First Hall, may on an application by the unqualified person order a sale of the property so transmitted and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under the transmission or otherwise as the court directs;
- (b) the court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires;
- (c) every such application for sale must be made within four weeks after the occurrence of the death in consequence of which the transmission has taken place, or within such further time, not exceeding in the whole one year from the date of the occurrence, as the court may allow;
- (d) if an application is not made within the time aforesaid, or if the court refuses an order for sale, or if notwithstanding the sale the ship is not owned wholly by persons qualified to own a Maltese ship, the ship

shall cease to be a Maltese ship.

Transfer of ship or sale by order of court.

**36.** Where the transfer or sale of any ship or share therein is ordered by a court, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the manner and to the same extent as if he were the registered owner thereof; and the requisition of the person so named in respect of any such transfer shall be obeyed to the same extent as if such person were the registered owner.

Power of court to prohibit transfer.  
*Amended by:*  
*XXXVII.1988.18;*  
*XXIV.1995.362.*  
*Substituted by:*  
*XXII.2000.25.*

**37.** (1) The Civil Court, First Hall, may, if it thinks fit (and without prejudice to the exercise of any other power of the court), on a demand by writ of summons of a person claiming a right in or over a ship make an order prohibiting for a specified time, which shall in no case be of more than a year, any dealing with a ship or any share therein, and the court may make the order on any terms and conditions it thinks just, subject to any other provision of this Act, including, without prejudice to the generality of the above, the imposition of an obligation to provide appropriate security, for damages, interests and costs, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires; and every registrar, without being made a party to the proceedings, shall on being served with, or given notice of, the order obey the same and shall enter a note thereof and the relevant expiry date in the register of the ship.

(2) The writ of summons shall, on pain of nullity, indicate a sum in Maltese or foreign currency which shall, for the purposes of this article, be deemed to be the amount of the claim.

(3) The Court shall not issue an order in terms of subarticle (1) and shall discharge any such order when made, if it is satisfied that the rights of the plaintiff are already otherwise secured.

(4) Where the respondent either deposits in court the amount of the claim in the currency indicated therein or gives security, satisfactory to the court, for such claim, the court shall not issue the order or where the court has issued the order, it shall revoke the same with respect to the ship or the share therein, and the provisions of this article shall thereupon be applicable with respect to the amount so deposited or the security so given as the case may be.

(5) The Court shall appoint the writ for hearing within twenty days of its filing; moreover the court may, on the application of the plaintiff make a provisional order prohibiting any such dealings until the court decides definitely on the merits of the writ or until the court shall have revoked the provisional order.

(6) If the order, other than a provisional order, is issued in order to secure a claim which has not yet been judicially verified, unless proceedings on the merits of the claim are already pending, whether in a Maltese court or any other competent court or in arbitration, the plaintiff obtaining such order shall be obliged to prosecute such claim, in Malta or in any other competent court or in

arbitration, within eight working days of the issue of the definite order failing which the court issuing the order shall, on the application of the owner, or any other interested party, revoke the same; and where the court has issued a provisional order, the plaintiff shall be obliged to prosecute the claim within thirty days of the issue of the provisional order or eight days of the definite order, whichever is the earlier.

(7) Notwithstanding any provision of the Code of Organization and Civil Procedure, an order given as aforesaid, even if provisional, shall be immediately enforceable. Cap. 12.

(8) Any order issued hereunder may be extended by the Court on the application of the plaintiff for a further period or periods each of not more than one year; provided that the applicant confirms that the order is still required and the application is filed at least thirty days prior to the lapse of the then current term of the order. Upon such application the court shall thereupon extend such order and such extension shall be notified to the defendant and shall be served on the registrar who shall enter the new expiry date in the register of the ship.

(9) An order issued in terms of this article shall not affect:

- (a) the rights of the holder of any mortgage registered over the ship or recognised in terms of this Act, including the rights specified in article 42;
- (b) the ability of the registrar to delete a ship or to issue any deletion certificate thereof pursuant to any provision of this Act other than on the request of the owner in terms of article 28;
- (c) the sale of the ship pursuant to an order or with the approval of a competent court within whose jurisdiction the ship was at the time of the sale;
- (d) the bareboat charter registration of the ship in a foreign registry pursuant to the provisions of Part IIA of this Act.

(10) For the purposes of this article:

- (a) a right in or over a ship or a part thereof shall be a claim based on:
  - (i) a right of ownership; or
  - (ii) secured by a mortgage; or
  - (iii) secured by a registered encumbrance; or
  - (iv) secured by a privilege or a lien over the ship arising by operation of Maltese law or the law applicable to the claim; or
  - (v) any other claim which gives rise to a claim *in rem* against a vessel under Maltese law;
- (b) a discharge of or an amendment for the purpose of reducing the amount secured by a mortgage shall not be deemed to constitute a dealing with a ship or share therein;

- (c) a guarantee by a Maltese bank or by a foreign bank of repute in the currency of the claim shall qualify as satisfactory security; provided that in the event that such guarantee is deposited in the registry of the courts, the foreign bank issuing the guarantee shall unconditionally submit to the jurisdiction of the Maltese courts in so far as its obligations under the guarantee are concerned.

*Maritime privileges and mortgages*

Detention of ships  
as security for  
debts.  
*Added by:*  
*XXXVII. 1988.19.*

**37A.** (1) Ships and other vessels constitute a particular class of moveables whereby they form separate and distinct assets within the estate of their owners for the security of actions and claims to which the vessel is subject. In case of bankruptcy of the owner of a ship, all actions and claims, to which the ship may be subject, shall have preference, on the said ship, over all other debts of the estate.

(2) A ship shall include together with the hull, all equipment, machinery and other appurtenances as accessories belonging to the ship, which are on board or which have been temporarily removed therefrom.

Types of charges  
over ships.  
*Added by:*  
*XXXVII. 1988.19.*

**37B.** (1) A ship may constitute security for a debt or other obligation either by agreement or by operation of the law as hereinafter provided.

(2) A debt or other obligation may be secured -

- (a) by means of a mortgage which is a special charge over a vessel, or
- (b) by a general hypothec which attaches to all the assets of a debtor including any vessel such debtor may own, or
- (c) by a special privilege upon the vessel:

Provided that special privileges arise in virtue of law and no debt or other obligation other than those specified at law shall be secured by a special privilege.

(3) Subject to the provisions of article 40, separate items upon a vessel may themselves be subject to special privileges in accordance with the provisions of the Civil Code, in security of the debts therein specified.

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Priority of claims  
on ship over all  
other debts of  
owner.  
*Added by: XXXVII.*  
*1988.19.*

**37C.** (1) All registered mortgages, any special privileges and all actions and claims to which a vessel may be subject shall not be affected by the bankruptcy of the mortgagor or shipowner happening after the date on which the mortgage was created or the special privilege, action or claim arose, notwithstanding that the owner at the commencement of the bankruptcy had the ship in his possession, order or disposition, or was the reputed owner thereof, and such mortgage, privilege, action or claim shall have preference, on the said vessel, over all other debts, claims or interests of any other creditor of the bankrupt or of any curator, trustee or receiver,



acting on behalf of any other creditors.

(2) Any judicial sale proceedings instituted by any registered mortgagee or privileged creditor shall not be interrupted or in any way hindered by any curator in bankruptcy, whether voluntary or compulsory, or any liquidator or receiver of the shipowner for any cause other than a cause that could be set up by the owner.

**37D.** (1) A registered mortgage shall attach to the ship or share therein in respect of which it is registered until it is discharged:

Attachment and extinguishment of charges.

*Added by:*

*XXXVII. 1988.19.*

*Amended by:*

*XXXVII. 1990.10;*

*XXII. 2000. 26.*

Provided that where the ship has been forfeited under this Act the interest of the mortgagee in the ship shall terminate if the mortgagee has authorised, consented to, or conspired, to the act, failure or omission in consequence of which the ship is forfeited:

Provided further, that where a ship has been sold pursuant to an order or with the approval of a competent court within whose jurisdiction the vessel was at the time of the sale, the interest of the mortgagees as well as of any other creditor in the ship shall pass on to the proceeds of the sale of the ship:

Provided further that where a ship has been sold by a mortgagee in possession pursuant to his rights in terms of article 42(1)(b) and it is stated in the bill of sale that the ship is being sold free from such encumbrance, then the rights arising from such registered mortgage shall no longer be exercisable in relation to that ship

(2) Any hypothec or privilege whether general or special to which a ship may be subject under the provisions of the Civil Code shall not continue to attach to it when the vessel is transferred to third parties.

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(3) Without prejudice to any other cause which may at law extinguish an obligation the special privileges specified in article 50 are not extinguished by the sale of the vessel, except in case of a sale made pursuant to an order or with the approval of a competent court made according to the forms prescribed by law, or where, subsequent to a voluntary sale a period of one year has elapsed from the date of the registration, recording or annotation of that voluntary sale in the registry to which the ship belongs or where no such registration, recording or annotation are entered in that registry from the date of closure of the register of the ship in such registry subsequent to such voluntary sale, unless within such period of one year an action for the recovery of the claim secured by such privilege has been brought before a competent court.

**38.** (1) A registered ship or a share therein may be made a security for any debt or other obligation by means of an instrument creating the security (in this Act called a "mortgage") executed by the mortgagor in favour of the mortgagee in the presence of, and attested by, a witness or witnesses.

Mortgage of ship or share.

*Amended by:*

*XXXVII. 1988.20;*

*XXII. 2000. 27.*

(2) A mortgage is indivisible notwithstanding the divisibility of the underlying debt or other obligation which it may secure.

(3) A mortgage shall attach to any proceeds from any indemnity arising from collisions and other mishaps as well as any insurance proceeds.

(4) It shall be lawful for a mortgage to be executed and registered in favour of a security trustee appointed or acting under a trust for the benefit of persons to whom a debt or other obligation is due. Such security trustee shall, in any such case, be recognised as the mortgagee of the particular mortgage and shall be entitled to exercise all the rights in relation to that mortgage as are accorded to mortgagees by this Act or any other enactment.

(5) A mortgage registered under this Act may be drawn up to secure the payment of a principal sum and interest, an account current, as well as the performance of any other obligation. It shall not be necessary to indicate the monetary value of the indebtedness in the mortgage.

(6) For the purposes of this Act, the term "account current" means any indebtedness of a mortgagor in favour of a mortgagee arising and determinable in accordance with an underlying obligation and all the provisions of the Commercial Code relative to the contract of account current including the provisions of article 264 thereof shall not apply thereto unless expressly agreed to by the parties.

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Registration of mortgages.  
Amended by:  
*XXXVII. 1988.4;*  
*21;*  
*XXXVII. 1990.11;*  
*XXII. 2000. 28.*

**39.** (1) On the production of a mortgage for registration the registrar shall record it in the register.

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

(3) Where it is stated in the mortgage instrument that it is prohibited to create further mortgages over a vessel without the prior written consent of the mortgagee, the registrar shall make a note in the register to such effect, and the registrar shall not record such further mortgage unless the consent in writing of the holder of a prior mortgage is produced to him, and any mortgage registered in violation of this provision shall be null and void:

Provided that where such further mortgage is executed in favour of an existing mortgagee, no such consent shall be required from such mortgagee.

(4) When it is stated in the mortgage instrument that it is prohibited to effect the transfer of the ship which is being mortgaged, or of a share therein, without the previous written consent of the mortgagee, the registrar shall make a note in the register to such effect, and the registrar, notwithstanding any other provision of this Act, shall not record any transfer of such ship or of a share therein unless the consent in writing of such mortgagee is produced to him, saving where the transfer is made pursuant to a court order in a sale by auction of such a ship or pursuant to any other court order, and any transfer registered in violation of this provision shall be null and void.

**40.** (1) Upon the registration of any mortgage in the register the rights of any mortgagee shall not be affected by:

- (a) the creation of any separate privilege or charge on any part, appurtenance or accessory of a ship which may attach in virtue of any law; or
- (b) the reservation of ownership rights by a seller of any part, appurtenance or accessory sold to a shipowner under a contract of sale, hire purchase or any similar contract:

Preservation of special privileges on accessories of ship.  
*Amended by:*  
*XXIV. 1986.9.*  
*Substituted by:*  
*XXXVII. 1988.22.*

Provided that provisions, fuel and other consumable goods shall not be considered as appurtenances:

Provided further that the provision of this article shall in no way prejudice or reduce the rights of any creditor enjoying a privilege or reserving ownership rights in relation to any creditor other than the mortgagee.

(2) At any time prior to the registration of a mortgage over a ship any creditor having a separate privilege or charge over any part, appurtenance or accessory of a ship may register such privilege or charge in the register of the ship by means of an instrument executed by the owner in the presence of a witness in the form specified by the Minister; and on the production of such instrument the registrar shall by memorandum under his hand notify on each charge that it has been recorded by him stating the day and hour of that record.

(3) A seller reserving ownership rights in any part, appurtenance or accessory of a ship may also register his interest in the register of the ship at any time prior to the registration of a mortgage.

(4) The registration of such a charge or reservation of ownership rights prior to the registration of a mortgage shall preserve the creditor's rights on that part, appurtenance or accessory in relation to any subsequent mortgagee.

(5) A privilege or reservation of ownership rights registered over a ship under subarticle (2) shall be cancelled upon production by the owner of a receipt for the price and other charges relative to the transfer of such part, appurtenance or accessory, and the registrar, upon production of such receipt duly signed and attested to his satisfaction, shall make an entry in the register to the effect that the privilege or reservation of ownership rights have been cancelled.

(6) The transfer of the interest of any creditor enjoying a privilege or reservation of ownership rights registered in terms of this article may on the production of proof to the satisfaction of the registrar be recorded by the registrar who shall enter in the register the name of the transferee and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him.

Priority of mortgages.  
Amended by:  
XXXVII. 1988.4;  
23;  
XXII. 2000. 29.

**41.** (1) If there are more mortgages than one 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 the time at which each mortgage is recorded in the register.

(2) Notwithstanding the provisions of subarticle (1), it shall be lawful for any registered mortgagee in respect of a ship or share therein by instrument in writing to agree to waive or otherwise postpone his rights under the mortgage, and on the production to him of a demand or consent in writing by such mortgagee the registrar shall cause a note to be entered in the register of the particular ship to the effect that the rights of the said mortgagee have been waived or postponed as the case may be, and shall record such waiver or postponement in the register:

Provided that such waiver or postponement shall not affect third parties unless such annotation has been entered in the register.

Rights of mortgagee.  
Amended by:  
XXIV. 1986.10;  
XXXVII. 1988.24;  
XXII. 2000. 30.

**42.** (1) In the event of default of any term or condition of a registered mortgage or of any document or agreement referred to therein, the mortgagee shall, upon giving notice to the mortgagor -

- (a) be entitled to take possession of the ship or share therein in respect of which he is registered; but except so 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 thereof;
- (b) have power absolutely to sell the ship or share in respect of which he is registered; but where there are more persons than one registered as mortgagees 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; and if the proceeds of sale, after discharging the mortgage debt, show a surplus in his hands, the mortgagee shall deposit the same for the benefit of other creditors and of the mortgagor;
- (c) have power to apply for any extensions, pay fees, receive certificates, and generally do all such things in the name of the owner as may be required in order to maintain the status and validity of the registration of the ship.

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(2) A registered mortgage shall be deemed to be an executive title for the purposes of article 253 of the Code of Organization and Civil Procedure where the obligation it secures is a debt certain liquidated and due and not consisting in the performance of an act.

(3) The provisions of this article shall apply to all registered mortgages which secure debts resulting from any account current or overdraft or other credit facility.

(4) In connection with the enforcement of any mortgage, not being a mortgage contemplated in subarticle (2), for the purpose of determining the amount certain liquidated and due in connection with any judicial sale of a ship, the mortgagee shall specify the sum due at the time of enforcement by means of an affidavit served on the mortgagor:

Provided that this shall be without prejudice to the right of any interested party to contest such amount according to law.

(5) For the purpose of the proceedings referred to in this article the debtor shall be deemed to be duly served if the application or other act is served on the master of the vessel, or if he is absent from these Islands, on the local agent appointed for the vessel by the owners or their agent, or in the absence of such local agent on a curator appointed by the court to represent the debtor and the ship.

**43.** *Repealed by article 25 of Act XXXVII of 1988.*

Mortgage not affected by bankruptcy.

**44.** (1) A registered mortgage of a ship or share may be transferred to any person by an instrument of transfer executed by the transferor in the presence of, and attested by, a witness or witnesses; and on the production of such instrument for registration the registrar 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 notify on the instrument of transfer that it has been recorded by him, stating the day and hour of the record.

Transfer of mortgages.  
Amended by:  
XXXVII. 1988.4;  
XXII. 2000. 31.

(2) For the purposes of article 1471 of the Civil Code, registration of the instrument of transfer of a registered mortgage of a ship or share made by the registrar in the register of that ship in terms of the provisions of this article shall be deemed to constitute due notice of the assignment of such mortgage to the mortgagor.

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**44A.** (1) It shall be lawful for the assignee of part of a debt or other obligation secured by a registered mortgage of a ship or share to demand that the assignment be entered in the registry of the particular ship for the part so assigned and the registrar shall, upon the production to him of the relative instrument of transfer together with the mortgage to which it relates, forthwith proceed to record such partial assignment by entering in the register the name of the assignee as co-mortgagee of the ship or share, and shall by memorandum under his hand notify on the mortgage that such assignment has been recorded by him, stating the day and hour of the record.

Assignment of part of a debt or other obligation.  
Added by:  
XXII. 2000. 32.

(2) The provisions of article 44(2) shall be applicable *mutatis mutandis* to the assignments contemplated in subarticle (1).

**45.** (1) Where the interest of the mortgagee in a ship or share is transmitted by death, the person to whom the interest is transmitted shall make and sign a declaration containing a statement of the manner in which and the person to whom the property has been transmitted and such declaration shall be

Transmission of interest of mortgagee by death.  
Amended by:  
XXXVII. 1988.4.

accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.

(2) On the receipt of the declaration and the production of the evidence aforesaid, the registrar shall enter the name of the person entitled upon the transmission in the register as mortgagee of the ship or share.

Amendment of mortgage.  
Added by:  
*XXIV. 1986.11.*  
Amended by:  
*XXXVII.1988.26;*  
*XXII. 2000. 33.*

**45A.** (1) Where a registered mortgage is amended the registrar shall on the production of the instrument of mortgage executed in accordance with the provisions of article 38 containing the amendment, together with the written consent on the said instrument, of the mortgagee whose mortgage has been amended, make a note thereof in the register to the effect that the mortgage has been amended, and any such amendment shall form an integral part of the registered mortgage which it amends and such mortgage, as amended, shall continue to have the same priority as it had before the amendment was noted.

(2) Subject to the provisions of this article, an amendment of a mortgage may be effected for any purpose.

(3) Without prejudice to the generality of the foregoing, and subject always to the provisions of subarticles (4), (5) and (6), an amendment of a mortgage shall be effected for any one or more of the following purposes:

- (a) to increase the amount secured by such mortgage; and
- (b) to extend such mortgage to secure any other obligation of the mortgagor, whether as principal or as surety for any other person, in favour of the mortgagee.

(4) An amendment of a mortgage may not be effected after the obligation secured by the registered mortgage has been satisfied.

(5) Where any mortgages other than the mortgage that it is intended to amend are entered in the register of the ship an amendment shall not be noted unless the consent in writing of all the other mortgagees whose interests may be prejudiced by the amendment, is produced to the registrar.

(6) The consent to an amendment to a mortgage shall be signified by means of a declaration executed by the mortgagee in the presence of, and attested by a witness or witnesses.

Entry of discharge of mortgage.  
Amended by:  
*XXXVII. 1988.4.*

**46.** Where a registered mortgage is discharged the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register to the effect that the mortgage has been discharged.

Transfers and mortgages not to have effect unless registered.

**47.** A transfer or mortgage of a registered ship or share therein, and a transfer of a registered mortgage, shall have no effect in regard to the ship or share or against any person other than the transferor or the mortgagor, or their heirs, unless the transfer or mortgage has been registered under and in accordance with this Act.

**48.** (1) In case of loss of any registered mortgage instrument the registrar shall, at the request of the mortgagee alone, or together with the mortgagor, reconstitute the original mortgage and certify this instrument as a reconstituted original of the mortgage instrument. The registrar shall only accede to such a request upon the production by the party making the request of a sworn declaration to the effect that the original has been lost.

Loss of original mortgage deed.  
*Substituted by:*  
XXXVII. 1988.27.

(2) In such a case the registrar shall make a note in the register that a reconstituted mortgage instrument has been issued, reciting at whose request such a reconstituted mortgage has been issued.

(3) In case of loss of any original mortgage instrument, the registrar may enter any transfer or discharge of mortgage if the mortgagee produces a sworn declaration that he is the holder of the mortgage, the instrument of which has been lost, and that he is discharging or transferring the said security in virtue of the sworn declaration.

(4) In such a case the registrar shall, on production of the said sworn declaration, treat such declaration as the mortgage instrument and shall follow the procedure specified in this Act for the transfer or discharge of mortgage; the registrar shall make a note in the register that the transfer or discharge of mortgage has taken place in virtue of a sworn declaration.

**49.** A foreign mortgage shall be recognised as a mortgage with the status and all the rights and powers specified in this Act, notwithstanding the fact that it is not entered over a registered ship if:

Recognition of foreign mortgages.  
*Substituted by:*  
XXXVII. 1988.27.

- (a) such mortgage has been validly recorded in the registry of ships of the country under whose laws the ship is documented;
- (b) such registry is a public registry;
- (c) such mortgage appears upon a search of the registry and
- (d) such mortgage is granted a preferential and generally equivalent status as a mortgage under this Act under the laws of the country where the mortgage is registered.

#### *Special privileges*

**50.** The debts hereunder specified are secured by a special privilege upon the vessel, as well as any proceeds from any indemnity arising from collisions and other mishaps as well as any insurance proceeds:

Special privileges on ships.  
*Substituted by:*  
XXXVII. 1988.27.  
*Amended by:*  
XXII. 2000. 2, 34.

- (a) judicial costs incurred in respect of the sale of the ship and the distribution of the proceeds thereof;
- (b) fees and other charges due to the registrar of Maltese ships arising under this Act;
- (c) tonnage dues;

- (d) wages and expenses for assistance, recovery of salvage, and for pilotage;
- (e) the wages of watchmen, and the expenses of watching the ship from the time of her entry into port up to the time of sale;
- (f) rent of the warehouses in which the ship's tackle and apparel are stored;
- (g) the expenses incurred for the preservation of the ship and of her tackle including supplies and provisions to her crew incurred after her last entry into port;
- (h) wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the vessel, including costs of repatriation and social insurance contributions payable on their behalf;
- (i) damages and interest due to any seaman for death or personal injury and expenses attendant on the illness, hurt or injury of any seaman;
- (j) moneys due to creditors for labour, work and repairs previously to the departure of the ship on her last voyage:

Provided that such privilege shall not be competent where the debt has not been contracted directly by the owner of the ship, or by the master, or by an authorised agent of the owner;

- (k) ship agency fees due for the ship after her last entry into port, in accordance with port tariffs, and any disbursements incurred during such period not enjoying a privilege in paragraphs (a) to (i), though in any case for a sum in the aggregate not in excess of four thousand units;
- (l) moneys lent to the master for the necessary expenses of the vessel during her last voyage, and the reimbursement of the price of goods sold by him for the same purpose;
- (m) moneys due to creditors for provisions, victuals, outfit and apparel, previously to the departure of the ship on her last voyage:

Provided that such privilege shall not be competent where the debt has not been contracted directly by the owner of the ship, or by the master, or by an authorised agent of the owner;

- (n) damages and interest due to the freighters for non-delivery of the goods shipped, and for injuries sustained by such goods through the fault of the master or the crew;
- (o) damages and interest due to another vessel or to her cargo in cases of collision of vessels;
- (p) the debt specified in article 2009(d) of the Civil Code



for the balance of the price from the sale of a ship.

**51.** Where debts of a nature similar to the ones mentioned in paragraphs (a) to (p), both inclusive, of article 50 shall have been contracted in different ports, or on the occasion of several forced returns to the same port, the priority established by the said article shall be observed with regard to the several debts contracted on the occasion of each arrival or return, but the debts contracted on the occasion of a subsequent arrival or return shall have preference over those contracted on the occasion of a former arrival or return.

Debts contracted in different ports.  
Substituted by:  
XXXVII. 1988.27.

**52.** (1) The privilege granted to the seller for the price of the thing sold under the provisions of article 2009 (d) of the Civil Code is not effectual in regard to vessels, unless the claim for such price be registered, in the case of ships registered under Part II of this Act, in the register of the said ship, within two days from the date of the sale. Such privilege is registered by delivery to the registrar on the prescribed form duly completed and signed by the seller.

Privileges of seller to be registered.  
Substituted by:  
XXXVII. 1988.27.  
Amended by:  
XXII. 2000. 35.  
Cap. 16.

(2) The said privilege shall not be effectual in regard to any other vessel unless the claim for such price be registered in the Public Registry within two days from the date of the sale.

(3) The same rule shall apply with regard to the right of recovering the thing sold, as provided in the said Code.

(4) Such privilege shall be extinguished upon payment of the price and relative charges, and upon production of a receipt issued by the seller, attested by a witness, the registrar or the Director of Public Registry, as the case may be, shall make a note in the register notifying the discharge thereof.

(5) The provisions of articles 44, 45, 45A and 48 shall *mutatis mutandis* apply in respect of the aforementioned privilege and right of recovery of the seller with regard to ships registered under Part II of this Act.

**53.** (1) The seller of a vessel is bound to inform the purchaser of all privileged debts, and to furnish him with a list thereof duly signed by himself.

Seller bound to make debts known to buyer.  
Substituted by:  
XXXVII. 1988.27.

(2) If the aforesaid list is not given to the purchaser, or if, in the list given to him, any of the aforesaid debts is omitted, he may, in the event of his sustaining any damage therefrom, exercise such rights as are competent to him against the seller, with all such means as the law provides against debtors committing fraud in contracting debts.

**54.** (1) Any ship repairer, shipbuilder or other creditor into whose care and authority a ship has been placed for the execution of works or other purposes shall have a possessory lien over the ship.

Possessory lien or privilege.  
Substituted by:  
XXXVII. 1988.27.  
Amended by:  
XXIV. 1995.362;  
XXII. 2000. 36.

(2) A possessory lien shall entitle the creditor to retain possession over the ship on which he has worked or carried out activity until such creditor is paid the debts due to him for such building, repairs or activity.

(3) A possessory lien shall be extinguished by the voluntary release of the ship from the custody of the creditor.

(4) A possessory lien shall not be extinguished if the vessel is released pursuant to a court order or following a judicial sale of the vessel. In the latter case the creditor shall enjoy the priority specified in article 54A over the proceeds of sale of the ship.

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(5) The creditor shall be obliged to release the ship if he is paid the sum claimed, or adequate security is deposited in the Civil Court, First Hall, under the provisions of the Code of Organisation and Civil Procedure:

Provided that the creditor shall enjoy the same priority over such sum.

(6) For the purposes of this article, the creditor upon a demand by judicial letter served upon him by any person interested in the ship, shall be obliged to declare the amount of his claim by judicial act to be filed within a period of two days from the date of notification to him of the aforesaid demand failing which he shall be obliged to release the ship forthwith.

Ranking of  
creditors.  
Added by:  
XXXVII.1988.27.  
Amended by:  
XXII. 2000. 37.

**54A.** (1) The debts specified in article 50 shall rank in the order therein set out and in preference to other hypothecary and privileged claims, notwithstanding that the ship is still in the possession of the debtor, and the debts specified in article 50(a) and (b) shall under all circumstances rank in preference to any claim.

(2) Any debt secured by a possessory lien or privilege over a ship as stated in article 54, shall be paid in preference to all other claims except the debts specified in article 50(c), (d), (e), (f), (g), (h), (i), and (j) if such debts were created prior to the debt of the creditor enjoying the possessory lien.

(3) Any debt secured by a mortgage registered under the provisions of this Act or secured by a foreign mortgage recognised under this Act shall rank after the debts specified in article 54 and in article 50(c), (d), (e), (f), (g), (h), (i), (j) and (k) but before the debts specified in article 50(l), (m), (n), (o) and (p) and in preference to other hypothecary and privileged claims.

(4) Where the fund is insufficient, competing creditors under the same heading shall share in such fund ratably.

#### *Name of ship*

Ships' names.  
Amended by:  
XXXVII.1988.28.

**55.** (1) The Minister may make regulations enabling him to refuse the registry of any ship by the name by which it is proposed to register that ship if it is already the name of a registered Maltese ship or a name so similar as to be calculated to deceive, and may by those regulations require notice to be given in such manner as may be directed by the regulations before the name of the ship is marked on the ship, or before the name of the ship is entered in the register.

(2) If the registry of a ship by the name by which it is proposed

to register that ship is refused by the Minister, or if any requirements of the regulations are not complied with in the case of any ship which it is proposed to register, that ship shall not be registered under the name proposed, or until the regulations are complied with, as the case may be.

(3) The owner of a ship intending to register a ship under this Act, may, on payment of such fee as may be prescribed and on application to the registrar, reserve the proposed name of the ship for a maximum period of three months.

(4) The application referred to in subarticle (3) may be made together with the application for registry of a ship, or with the application for permission to change the name of a ship, or by any other writing provided that the ship for which the reservation is being made is adequately identified.

**56.** (1) A ship shall not be described by any name other than that by which it is for the time being registered.

(2) A change shall not be made in the name of a ship without the previous written permission of the Registrar-General.

(3) Application for that permission shall be in writing and if the Registrar-General is of opinion that the application is reasonable he may entertain it and thereupon require notice thereof to be published or otherwise publicised, in such form and manner as he thinks fit.

(4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register, in the ship's certificate of registry and on her bows and stern and the Registrar-General shall forthwith proceed to notify in writing any registered mortgagee of the alteration in the register.

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

(6) Where a ship having once been registered under this Act ceases to be so registered, no person unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register, and no registrar shall knowingly register, the ship except by the name by which she was previously registered unless with the previous written permission of the Registrar-General.

(7) Where a ship has not at any previous time been registered under this Act, no person shall apply to register, and no registrar shall knowingly register, the ship except by the name which she bore immediately before the application for registry unless with the previous written permission of the Registrar-General.

(8) If any person acts, or suffers any person under his control to act, in contravention of this article, or omits to do, or suffers any person under his control to omit to do, anything required by this article, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units, and (except in the case of an

Rules as to name of ship.

*Amended by:*

*XIII. 1983.5;*

*XXXVII.1988.4;*

*29;*

*XXII. 2000. 2, 38.*

application for registry made with respect to a ship which has not previously been registered under this Act) the ship may be detained until this article is complied with.

*Registry of alterations, Registry anew and Transfer of registry*

Registry of alterations.  
Amended by:  
XIII. 1983.5;  
XXXVII. 1988.30;  
XXII. 2000.2.

**57.** (1) Where a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register, an application accompanied by a certificate from the proper surveyor, requesting the registration of the alteration shall be made to the registrar who shall, on receipt thereof accompanied as aforesaid, either cause the alteration to be registered or direct that the ship be registered anew.

(2) If default is made in making an application as required by this article, or in registering anew a ship if so directed as aforesaid, the owner of the ship shall be liable to a fine (*multa*) not exceeding one hundred units and, in addition to a fine (*multa*) not exceeding five units for every day during which the offence continues after conviction.

Regulations for registry of alterations.  
Amended by:  
XXXVII.1988.31.

**58.** (1) For the purposes of the registry of an alteration in a ship, the ship's certificate of registry shall be produced to the registrar and the registrar shall in his discretion either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration so made and the fact of the new certificate having been granted or endorsement having been made, shall be entered by the registrar in the register.

Provisional certificate or endorsement where ship is to be registered anew.

**59.** *Repealed by article 32 of Act XXXVII of 1988.*

Registry anew on change of ownership.  
Amended by:  
XXXVII. 1988.4.

**60.** Where the ownership of any ship is changed the registrar may, on the application of the owner of the ship, register the ship anew, although registration anew is not required under this Act.

Procedure for registry anew.

**61.** (1) Where a ship is to be registered anew, the registrar shall proceed as in the case of first registry, and on delivery up to him of the existing certificate of registry, and on the other requisites to registry, or in the case of a change of ownership such of them as he thinks material, having been duly complied with, he shall make such registry anew and grant a certificate thereof.

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

**62.** *Repealed by article 32 of Act XXXVII of 1988.*

Transfer of registry.

**63.** Where a ship has ceased to be registered as a Maltese ship by reason of having been wrecked or abandoned or for any reason other than capture by the enemy or transfer to a person not qualified to own a Maltese ship, the ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a surveyor of ships and certified by him to be seaworthy.

Restriction on re-registration of abandoned ships.

#### *Declarations*

**64.** (1) Where under Part II and Part IIA of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to a registrar, and it is shown to the satisfaction of the registrar that from any reasonable cause that person is unable to make that declaration, or that the evidence cannot be produced, the registrar may, with the approval of the Registrar-General and on the production of such other evidence and subject to such terms as the Registrar-General may think fit, dispense with the declaration or evidence.

Power of registrar to dispense with declarations and other evidence.  
*Amended by: XXXVII. 1990.13.*

(2) Nothing in this article shall be construed as requiring the dispensation of the registrar or the approval of the Registrar-General for the making of any declaration, or the doing of anything required or permitted by this Act to be made or done, by the person having the legal representation of a person interested in a ship or share therein and who is incapable of making that declaration or doing that thing by reason of minority, insanity or other cause; all acts lawfully so done shall be as effectual as if done by the person whom he represents.

**65.** (1) Declarations required by Part II and Part IIA of this Act shall be made before a registrar or a commissioner for oaths or a Maltese consular officer.

Mode of making declarations.  
*Amended by: XXXVII. 1990.13.*

(2) Declarations required by Part II and Part IIA of this Act may be made on behalf of a body corporate by the secretary or by a duly authorised representative.

#### *Returns, Inspection of register and Evidence*

**66.** *Repealed by article 32 of Act XXXVII of 1988.*

Returns to be made by registrars.

**67.** Saving any other provisions of this Act, a person may, on payment of such fee as may be prescribed and on application to the registrar at all reasonable time during the hours of his official attendance, inspect any register, and obtain a transcript or extract of the register.

Inspection of register and transcript and extract of register.  
*Substituted by: XXXVII. 1988.33.*

Evidence of register and other documents.  
*Amended by:*  
 XXXVII. 1988.4;  
 XXXVII. 1990.13.

**68.** (1) The following documents shall be admissible in evidence without the necessity of any proof of their authenticity other than that which appears on the face of them and shall, until the contrary is proved, be evidence of their contents:

- (a) any register under Part II and Part IIA of this Act on its production from the custody of the registrar or other person having the lawful custody thereof;
- (b) a certificate of registry under Part II and Part IIA of this Act purporting to be signed by the registrar or other proper officer;
- (c) an endorsement on a certificate of registry purporting to be signed by the registrar or other proper officer.

(2) A copy of any document aforesaid or an extract therefrom shall also be so admissible in evidence if it purports to be signed and certified as a true copy or extract by the officer having the lawful custody thereof.

#### *Forms*

Forms of documents.  
*Amended by:*  
 XXXVII. 1988.4.

**69.** (1) The several instruments and documents specified in the Second Schedule to this Act shall be in the form from time to time prescribed by the Minister or as near thereto as circumstances permit.

(2) Except with the special direction of the Registrar-General, a registrar shall not be required to receive or enter in the register any of the aforesaid instruments or documents which is made in any form other than that for the time being prescribed, or which contains any particulars other than those contained in such form; but the Minister shall, before altering the forms, give such public notice thereof as he may deem necessary to prevent inconvenience.

#### *Forgery and false declarations*

Forgery of documents.  
*Amended by:*  
 XXXVII. 1988.4;  
 XXXVII. 1990.13.

**70.** If any person forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under Part II and Part IIA of this Act, or any entry or endorsement required by Part II and Part IIA of this Act to be made in or on any of those documents, that person shall, in respect of each offence, be liable to imprisonment for a period of not less than two years and not exceeding five years.

False declarations.  
*Amended by:*  
 XIII. 1983.5;  
 XXXVII. 1988.34;  
 XXII. 2000.2.

**71.** If any person, in the case of any declaration made in the presence of or produced to a registrar under this Part of this Act, or in any document or other evidence produced to such registrar-

- (a) wilfully makes, or assists in making, or procures to be made, any false statement concerning the title to or ownership of any registered encumbrance or mortgage

existing on, or the interest existing in, any ship or share therein; or

- (b) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false,

he shall, in respect of each offence, be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

#### *Flag and National character*

**72.** (1) The flag as set out in the Third Schedule to this Act, without any defacement or modification whatsoever, is hereby declared to be the proper national colours for all Maltese ships.

National colours for Maltese ships.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) If any distinctive national colours, except the Maltese flag, are hoisted on board any Maltese ship, the master of the ship, or the owner thereof if on board the same, and every other person hoisting the colours, shall, for each offence, be liable to a fine (*multa*) not exceeding five hundred units.

**73.** (1) A registered ship shall hoist the Maltese flag on entering or leaving any foreign port and, if of fifty tons gross tonnage or upwards, on entering or leaving any port in Malta.

Penalty on ship not showing colours.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) If default is made on board any such ship in complying with this article, the master of the ship shall, for each offence, be liable to a fine (*multa*) not exceeding one hundred units.

**74.** (1) No clearance shall be granted for any ship until the master of such ship has declared to the officer from whom the clearance is required the name of the nation to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance.

National character to be declared before clearance.

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

**75.** If a person uses the Maltese flag and assumes the Maltese national character on board a ship which is not a Maltese ship for the purpose of making a ship appear to be a Maltese ship, the ship shall be subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

Penalty for unduly assuming Maltese character.

**76.** If the master or owner of a Maltese ship does anything or permits anything to be done, or carries or permits to be carried papers or documents, with intent to conceal the Maltese character of the ship from any person entitled by the law of Malta to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be subject to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, shall in respect of each offence be liable to imprisonment for a period not

Penalty for concealment of Maltese or assumption of foreign character.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

*Forfeiture of ship*

Proceedings on  
forfeiture of ship  
Amended by:  
XXIV.1995.362.

**77.** (1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Act, any officer authorised in that behalf by the Minister and any Maltese consular officer may seize and detain the ship and may bring her for adjudication before the Civil Court, First Hall, in Malta, and the court may thereupon adjudge the ship with her tackle, apparel and furniture to be forfeited to the Government of Malta and make such order in the case as to the court seems just.

(2) Any such officer as in this article mentioned shall not be responsible either civilly or criminally to any person whomsoever in respect of any seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication or, if so brought in, is declared not to be liable to forfeiture, if it is shown that there were reasonable grounds for such seizure or detention.

Transfer to foreign  
registry.

**78.** *Repealed by article 35 of Act XXXVII of 1988.*

Inquiry into  
title of ship  
to be registered.  
Amended by:  
XXXVII. 1988.4.

**79.** (1) Where it appears to the Minister that there is any doubt as to the title of any ship registered as a Maltese ship to be so registered he may direct the registrar to require evidence to be given to his satisfaction that the ship is entitled to be registered as a Maltese ship; and if within such time, not being less than thirty days, as the Minister may specify, satisfactory evidence of the title of the ship to be so registered is not given, he may order that the registry of the ship shall be closed.

(2) Upon the receipt of any such order, the registrar shall make an entry thereof in the register and thereupon the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

Power of Minister  
to order closure of  
registry.

**80.** *Repealed by article 35 of Act XXXVII of 1988.*

*Measurement of ship and Tonnage*

Tonnage  
regulations.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**81.** (1) The tonnage of any ship to be registered under this Act shall be ascertained in accordance with regulations made by the Minister, and those regulations shall be taken to be the provisions referred to in this Act as the tonnage regulations of this Act.

(2) Regulations under this article may -

- (a) make different provision for different description of ships or for the same description of ships in different circumstances;
- (b) make any provision thereof dependant on compliance with such conditions, to be evidenced in such manner,



as may be specified in the regulations;

- (c) prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a ship and may provide for making the master and owner each liable to a fine (*multa*) not exceeding one hundred units where such a prohibition or restriction is contravened.

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

(4) Regulations under this article may provide for the issue of documents certifying the registered tonnage of any ship or the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in Malta.

(5) Where regulations under this article are amended, such regulations may make provision for the alteration of the particulars relating to the registered tonnage of any ship registered before the coming into operation of the amendment.

(6) Regulations under this article may prescribe the fees to be paid in respect of the measurement of a ship's tonnage.

**82.** Wherever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations of this Act, the same shall thenceforth be deemed to be the tonnage of the ship and shall be repeated in any subsequent registry thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed, or unless the tonnage regulations of this Act are amended and make provision for the alteration of the particulars of the registered tonnage of any ship registered before the coming into operation of the amendment; and in any such case the ship shall be re-measured and her tonnage determined and re-registered according to the tonnage regulations of this Act then in force.

Tonnage ascertained to be tonnage of ship.

**83.** (1) Whenever it appears to the Minister that the tonnage regulations of this Act have been adopted by any country, and are in force there, the Minister may order that the ships of that country shall, without being re-measured, be deemed to be of the tonnage denoted in their certificates of registry or other equivalent documents, in the same manner, to the same extent, and for the same purposes, as the tonnage denoted in the certificate of registry of a Maltese ship is deemed to be the tonnage of that ship; and any space shown by the certificate of registry or other equivalent document of any such ship as deducted from the tonnage shall, where a similar deduction in the case of a Maltese ship depends on

Tonnage of ships of other countries adopting regulations.

compliance with any conditions or on the compliance being evidenced in any manner, be deemed to comply with those conditions and be so evidenced, unless a surveyor of ships certifies to the Minister that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a ship registered under this Act.

(2) The Minister may limit the time during which the order is to remain in operation and make the order subject to such conditions and qualifications as he may deem expedient, and the operation of the order shall be limited and modified accordingly.

(3) If it is made to appear to the Minister that the tonnage of any ship, as measured by the rules of the country to which she belongs, materially differs from that which would be her tonnage if measured under this Act, the Minister may order that, notwithstanding any other order for the time being in force under this article, any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with this Act.

Survey and measurement to be performed by surveyors.

**84.** All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships in accordance with regulations made or instructions given by the Minister.

Added by:  
XXXVII. 1990.14.

## PART IIA

### BAREBOAT CHARTER REGISTRATION

Interpretation.

**84A.** (1) For the purposes of this Part of this Act, unless the context otherwise requires -

"bareboat charter" means the contract for the lease or sub-lease of a ship, hereinafter referred to as charter, for a stipulated period of time, by virtue of which the charterer shall acquire full control and complete possession of the ship, including the right to appoint her master and crew for the duration of the charter but excluding the right to sell or mortgage the ship;

"bareboat charter registration" means the registration of a ship in a bareboat charter registry under the name of the charterer;

"bareboat charter registry" means the registry of the State whose flag the ship is entitled to fly during the period in which the charterer is registered as the bareboat charterer;

"compatible registry" means a ship registry of a foreign State declared by the Minister to be a compatible registry in terms of article 84B;

"day" means calendar day;

"underlying registry" means the registry of the State in which the owners of a ship are registered as owners and to which jurisdiction and control will revert upon termination of the bareboat charter registration, and "underlying register" and "underlying

registration" shall be construed accordingly.

(2) Article 76 shall be construed for the purpose of this Part of this Act, as if for the words "If the master or owner" there were substituted the words "If the master or charterer or owner".

**84B.** Whenever it appears to the Minister that the provisions of the law of a State with regards to bareboat charter registration are compatible with the provisions of this Act, he may declare the ship registry of that State to be a compatible registry for the purposes of this Part of this Act.

Compatible registries.

**84C.** (1) Notwithstanding anything contained in article 4, a ship not eligible in terms of the said article to be registered as a Maltese ship shall be eligible to be registered as a Maltese ship under this Part of this Act provided that -

Eligibility and conditions for bareboat charter registration.  
Amended by:  
XXII. 2000.39.

- (a) the ship is bareboat chartered to a citizen of Malta, or to bodies corporate or such other persons qualified to own a Maltese ship in terms of article 4;
- (b) the ship is not a Maltese ship, and is registered in a compatible registry;
- (c) is not registered in another bareboat charter registry; and
- (d) the following certified documents are submitted to the registrar to his satisfaction:
  - (i) an application for registry under this Part of this Act made by the charterer or his authorised agent containing such information as may be required by the registrar;
  - (ii) a declaration of bareboat charter made by the charterer accompanied by a copy of the charter agreement, which charter agreement shall not be available for public inspection;
  - (iii) a transcript or an extract of the underlying registration of the ship which shall include a description of the ship, the owners and, where applicable, all registered mortgages and encumbrances of the ship, and such document shall be available for public inspection; and
  - (iv) the consent in writing for the ship to be bareboat charter registered in Malta of:
    - (a) the appropriate authorities of the underlying registry who may be further required by the registrar to declare that during the period of bareboat charter registration the ship will not be entitled to fly their flag;
    - (b) the owners of the ship; and
    - (c) all registered mortgagees.

(2) Any amendments or modifications to the bareboat charter

shall within thirty days be produced to the registrar by the charterer.

(3) Whenever any amendments or modifications are effected to the underlying registration the charterer shall -

- (a) within seven days from such amendments being effected communicate to the registrar any such amendments or modifications; and
- (b) within thirty days of such amendments or modifications having been entered in the underlying register produce to the registrar a transcript or an extract of the underlying registration showing such amendments or modifications.

Ascertainment of tonnage.  
Amended by:  
XXII. 2000. 40.

**84D.** The tonnage of a ship to be registered under this Part of this Act shall be ascertained in accordance with the tonnage regulations made under this Act:

Provided that at the request of the charterer the registrar may accept the tonnage of such ship to be that registered in the underlying registry if he is satisfied that the provisions of the International Convention on Tonnage Measurement of Ships signed in London on 23 June, 1969 (including any protocol or amendment to such convention ratified, acceded to or accepted by the Government of Malta), if applicable to such ship and unless such ship has been exempted from them, have been adhered to, and the certificate of survey provided for in article 14 shall be that issued by the underlying registry.

Name of ship  
bareboat chartered  
registered in Malta.

**84E.** (1) Subject to the provisions of subarticle (2) a ship shall be registered under this Part of this Act by the name under which it is registered in the underlying registry, provided that such name is not already the name of a registered Maltese ship or a name so similar as to be calculated to deceive.

(2) The name of a ship to be registered or of a ship already registered under this Part of this Act, may be changed prior or subsequent to registration under this Part of this Act as the case may be, provided the appropriate authorities of the underlying registry, the owners, and the registered mortgagees, if any, have consented thereto and provided also that such change is made in accordance with the provisions of article 56.

Bareboat charter  
registration.  
Amended by:  
XXII. 2000.41.

**84F.** (1) The registrar, if satisfied that all conditions for registration specified in this Part and in other Parts of this Act, where applicable, have been complied with, and on payment of the prescribed fee shall -

- (a) enter in the register of Maltese ships provided for in article 365, all particulars of the ship and its underlying registration, owners and charterers, stating that it is a bareboat charter registration, the expiry date of such registration, and that the register does not contain an official record of any mortgages affecting the ship;

- (b) inform the appropriate authorities of the underlying registry of the registration under this Part; and
- (c) issue a provisional certificate of bareboat charter registry or a certificate of bareboat charter registry, as the case may be, which shall include the expiry date thereof, the name and official number of the ship, the name of the home port Valletta and such particulars, if any, as the registrar may deem proper:

Provided that, unless otherwise exempted, if the ship is not in possession of valid certificates required by international conventions (including protocols, annexes and appendices thereto) which have been ratified or acceded to or accepted by the Government of Malta and such other certificates as the Minister may by regulations prescribe, the registrar shall issue a non-operational provisional certificate of bareboat charter registry or a non-operational certificate of bareboat charter registry, as the case may be.

(2) Upon the issue of a certificate of bareboat charter registry, whether provisional or otherwise, all documents issued to the ship by the underlying registry, shall be surrendered to the appropriate authorities of that registry and, within thirty days of the issue of the certificate as aforesaid, the charterer shall make and deliver to the registrar a declaration to that effect.

**84G.** Subject to the provisions of article 84H the duration of such registration shall be for a period not exceeding the duration of the bareboat charter or the expiry date of the underlying registration, whichever is the shorter period, but in no case for a period exceeding two years.

Duration of bareboat charter registration.

**84H.** (1) At the request of the charterer or his authorised agent the registrar may extend and further extend the registration for the remaining period of the charter or until the expiry date of the underlying registry, whichever is the shorter period, but in no case for periods exceeding two years at a time, provided that he has not received any objections to this extension from the appropriate authorities of the underlying registry, the owners and the registered mortgagees, if any, within seven days from the registrar having informed them of such request for extension.

Extension of bareboat charter registration.  
*Amended by:*  
*XXII. 2000. 42.*

(2) Upon the grant of an extension in terms of subarticle (1), the registrar shall -

- (a) enter the new date of expiry in the register of the ship;
- (b) issue a renewal certificate of bareboat charter registry which shall include the date of expiry thereof, the name and official number of the ship, the name of the home port Valletta and such particulars, if any, as the registrar may deem proper; and
- (c) inform the appropriate authorities of the underlying registry.

International convention certificates of ship bareboat charter registered in Malta.

**84I.** A ship bareboat charter registered under this Part required to be issued with international convention certificates in terms of an international convention to which Malta is a party shall be issued with such certificates under the authority of the Government of Malta:

Provided that where Malta is not a party to such convention a certificate required under that convention may be issued, with the permission of the registrar, under the authority of the government of the underlying registry.

Jurisdiction over a ship registered under this Part of this Act.  
*Amended by: XXII. 2000. 43.*

**84J.** (1) A ship registered under this Part of this Act shall be deemed to be a Maltese ship and except where otherwise provided shall be under the jurisdiction and control of Malta and shall comply with all the laws applicable to Maltese ships.

(2) A ship registered under this Part of this Act shall only hoist the Malta flag as provided for in this Act.

(3) The home port of a ship registered under this Part of this Act shall be Valletta and shall be shown on the certificate of bareboat charter registry, whether provisional or otherwise, and shall be marked on the stern in accordance with the provisions of the Act.

Ownership of ship registered under this Part of this Act.  
*Amended by: XXII. 2000. 44.*

**84K.** (1) This Act shall not assert any ownership rights over a ship registered under this Part of this Act and it shall have no effect with regards to title and transfer and transmission of such ship or shares therein.

(2) Any transfer of ownership of a ship registered under this Part of this Act shall be notified by the charterers to the registrar, and the registration of the ship under this Part of this Act may be closed unless the new owners, within seven days, have informed the registrar that they have no objection to the registration of the ship under this Part of this Act, and, within thirty days of having made such declaration, delivered to the registrar their consent in writing to such registration.

Payment of fees.

**84L.** A ship registered under this Part of this Act shall be subject to the payment of the initial and annual registration fees and of any other fees set out in this Act, or in any regulations made thereunder.

Mortgages and encumbrances.

**84M.** Mortgages and encumbrances may not be registered under this Act in respect of a ship registered under this Part of this Act, and the registrar shall refuse to register any such mortgages and encumbrances; such power of registration shall remain vested in the underlying registry.

Closure of bareboat charter registration.  
*Substituted by: XXII. 2000. 45.*

**84N.** (1) The Minister may order that the registration of a ship under this Part of this Act shall be closed if it is in the national interest or in the interest of Maltese shipping.

(2) The Registrar-General may direct that the registration of a ship under this Part of this Act shall be closed for any reason specified in article 29(2), in as far as the same may be applicable to a ship registered under this Part of this Act.

(3) Prior to the issue of any such order or directive the registrar shall give one month's notice in writing to the charterer of the intention of closure of registry unless the cause of such closure is remedied. The registrar shall specify in the notice the reason for closure and the expiry date for compliance failing which closure will be effected.

(4) Upon the issue of any notice in terms of subarticle (3) the registrar shall make a note thereof in the register and shall record the date on which the one month period shall lapse.

(5) Upon the lapse of the said one month from the giving of notice and upon receipt of the order from the Minister or the directive from the Registrar-General, as the case may be, the registrar shall make an entry thereof in the register and thereupon the ship shall cease to be a Maltese ship and the registry of the ship shall be considered as closed.

(6) Where the charterer of a ship, registered under this Part of this Act, desires to close the bareboat charter registration of such ship, he shall make an application to that effect to the registrar giving all such particulars and information as the registrar may require for the purpose, and the registrar may refuse such application if all liabilities and obligations in respect of the ship towards the Authority, the Government of Malta and any body corporate established by law, whether for fees, charges, fines or otherwise have been paid.

(7) The registrar shall close the registration of a ship under this Part of this Act, and shall make an entry to that effect in the register, if -

- (a) the Minister has ordered such closure in terms of subarticle (1);
- (b) the Registrar-General has directed such closure in terms of subarticle (2);
- (c) a voluntary closure of registry has been requested and such request has been acceded to by the registrar in terms of subarticle (6);
- (d) the appropriate authorities of the underlying registry, or the owners, or any of the mortgagees, if any, have withdrawn their consent to the bareboat charter registration in Malta;
- (e) the registration in the underlying registry has for any reason been terminated;
- (f) the charter lapses or is terminated by any of the parties to it; or
- (g) the period for which the ship has been bareboat charter registered lapses and no extension has been granted in accordance with article 84H.

(8) Upon the closure of a registration in terms of subarticle (7) the ship shall cease to be a Maltese ship and the registrar shall immediately notify the appropriate authorities of the underlying registry, the owners and the mortgagees, if any, of such closure.

(9) The registrar may refuse to issue a deletion certificate or a transcript of registry showing the closure of registry until -

- (a) any certificate of bareboat charter registry, whether provisional or otherwise, issued in terms of article 84F has been surrendered to him; and
- (b) all liabilities and obligations in respect of the ship towards the Authority, the Government of Malta and any body corporate established by law, whether for fees, charges, fines or otherwise have been paid.

Bareboat charter registration in a foreign registry.

**84O.** Notwithstanding any other provision of this Act a Maltese ship registered under Part II of this Act may be bareboat charter registered in a foreign registry if the Registrar-General gives his consent in writing thereto in terms of article 84P.

Consent of the Registrar-General.  
Amended by:  
XXII. 2000. 46.

**84P.** (1) The Registrar-General may, under such conditions as he may deem fit to impose, give his consent referred to in article 84O if -

- (a) the ship is registered as a Maltese ship under Part II of this Act;
- (b) the bareboat charter registry where the ship is to be registered is a compatible registry; and
- (c) the following documents are submitted to him:
  - (i) an application for bareboat charter registration in a foreign registry made by the owners containing such information as may be required by the Registrar-General;
  - (ii) the consent in writing to such registration of all registered mortgagees, if any;
  - (iii) a written undertaking by the owners to surrender the certificate of registry issued under this Act within thirty days from entry into the bareboat charter registry;
  - (iv) a written undertaking by the charterer that the Maltese flag shall not be hoisted during the period of bareboat charter registration; and
  - (v) a copy of the bareboat charter,

and such consent shall be valid for a period not exceeding the duration of the bareboat charter or for a period not exceeding two years, whichever is the shorter period, and, in any case, such consent shall lapse on the expiry of the registry of the ship under Part II of this Act unless this has been extended as provided for in that same Part of this Act.

(2) At the request of the owner or his authorised agent the Registrar-General may extend and further extend his consent referred to in article 84O for the remaining period of the charter or until the expiry of the registration of the ship under Part II of this Act, whichever is the shorter period, but in no case for periods exceeding two years at a time.

(3) The owners shall produce to the registrar any amendments



or modifications to the bareboat charter within thirty days of such amendments or modifications being effected.

**84Q.** (1) Subject to the provisions of subarticle (2) a ship registered under Part II of this Act shall be bareboat charter registered in a foreign registry by the name under which it is registered under this Act.

Name of ship bareboat charter registered in a foreign registry.

(2) The name of a Maltese registered ship bareboat charter registered in a foreign registry may be changed with the written permission of the Registrar-General in terms of article 56 only if such change is being effected also in the bareboat charter registry.

**84R.** The registration in a foreign bareboat charter registry of a ship registered under this Act not made in accordance with the provisions of this Part of this Act shall be null and void.

Registration in a foreign bareboat charter registry not in terms of this Act.

**84S.** (1) Upon the bareboat charter registration of a Maltese ship in a foreign registry -

Bareboat charter registration of a Maltese ship in a foreign registry.

- (a) the owners shall immediately notify the registrar of such registration, and within thirty days surrender to the registrar the certificate of registry issued to the ship under this Act and deliver to the registrar a transcript or an extract of the foreign bareboat charter registration; and
- (b) the registrar, if satisfied that such registration has been effected according to the provisions of this Act, shall make an entry thereof in the register of the said ship.

(2) The owners shall immediately notify the registrar of the closure or lapse of the bareboat charter registration in a foreign registry, and shall within thirty days of the closure of such registry, deliver to the registrar a transcript or an extract of the foreign bareboat charter registration showing such closure.

**84T.** (1) Unless otherwise provided for in this Part of this Act, the owners of a Maltese ship bareboat charter registered in a foreign registry shall comply with all the provisions of this Act as if the ship were not so registered in the foreign registry.

Obligations while ship is a foreign bareboat charter registry.

(2) During the time a Maltese ship is bareboat charter registered in a foreign registry in terms of the provisions of this Part of this Act -

- (a) notwithstanding the provisions of article 73, such ship shall not hoist the Maltese flag; and
- (b) notwithstanding the provisions of article 5, the home port of such ship shall be that of the bareboat charter registry.

(3) The owners shall, within fifteen days from the entry into the foreign bareboat charter registry, make and deliver to the registrar a declaration to the effect that the name of the foreign home port has been marked on the stern of the ship in lieu of the name Valletta.

Payment of fees while ship is in foreign bareboat charter registry.

**84U.** A Maltese ship bareboat charter registered in a foreign registry shall, notwithstanding such registration, continue to be subject to the payment of all the fees set out in this Act, or in any regulations made thereunder, in respect of Maltese ships.

International convention certificates of ship bareboat charter registered in foreign registry.

**84V.** A Maltese ship bareboat charter registered in a foreign registry required to be issued with international convention certificates in terms of an international convention to which Malta is a party shall be issued with such certificates under the authority of the government of the bareboat charter registry:

Provided that where the State of the bareboat charter registry is not a party to such convention the certificate required under such convention may be issued under the authority of the Government of Malta.

Title, mortgages and encumbrances of ship bareboat charter registered in a foreign registry.

**84W.** (1) Notwithstanding that a Maltese ship may be bareboat charter registered in a foreign registry, all matters with respect to title over the ship, mortgages and encumbrances shall continue to be governed by Maltese law.

(2) Any transaction affecting the title over the ship or relating to the registration, amendment, transfer and transmission and discharge of mortgages shall be made and registered in accordance with the provisions of this Act and only by the persons specified therein.

(3) The registration of any mortgages or encumbrances in the bareboat charter registry shall be null and void.

Termination of bareboat charter registration in foreign registry.  
*Amended by:  
XXII. 2000. 47.*

**84X.** (1) The Registrar-General may withdraw the consent referred to in article 84O, if any of the applicable provisions of this Act are not complied with:

Provided that the Registrar-General shall withdraw such consent, if -

- (a) the Minister, in the national interest or in the interest of Maltese shipping, has ordered the Registrar-General to withdraw his consent;
- (b) any of the conditions required to be fulfilled in terms of subarticle (1) of article 84P is not so fulfilled; or
- (c) the charter terminates or is terminated by any of the parties to it.

(2) Upon the withdrawal of the consent of the Registrar-General in terms of subarticle (1) -

- (a) the registrar shall inform the appropriate authorities of the bareboat charter registry, the owners, the charterers, and the mortgagees, if any, of such withdrawal; and
- (b) the bareboat charter registration shall be terminated.

(3) Upon the termination of the bareboat charter registration -

- (a) the registrar shall make an entry thereof in the register, and the ship shall thereupon be again subject to all the

provisions of Maltese law;

- (b) within thirty days from the termination of such registration the owners shall make and deliver a declaration to the registrar that the certificate of bareboat charter registration has been surrendered to the foreign bareboat charter registry, and thereupon the registrar, unless the registry of the ship under Part II of this Act is also being closed, shall again deliver to the owners the certificate of registry which had been surrendered to him in terms of article 84S; and
- (c) within thirty days from the termination of such registration the owners shall deliver to the registrar a transcript or an extract of register showing that the bareboat charter registration has been cancelled.

**84Y.** All documents required by the registrar for the purposes of this Act shall be certified as required by the registrar.

Certification of documents.

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### PART III

#### TAXATION AND CONCESSIONS

**85.** (1) For the purposes of this Part of this Act, unless the context otherwise requires -

"dividend" has the same meaning as is assigned to it by article 2 of the Income Tax Act;

"exempted ship" means either a ship declared to be an exempted ship by the Minister in terms of article 85A, or a ship owned entirely, or chartered by a company or companies registered under this Part of this Act, being a ship of not less than one thousand nett tons engaged in the carriage of goods or passengers registered under Part II or Part IIA of this Act and in respect of which the registration fees provided for in article 6 have been duly paid;

"operation" in respect of an exempted ship means the operation of such ship by the owner thereof and includes the operation of such ship under charter in any year in respect of which the charterer shall have paid to a registrar an amount equal to the annual registration fee for that year in addition to that paid by the owner;

"resident in Malta" means:

- (a) in the case of an individual, a person who is either ordinarily resident in Malta or is domiciled in Malta; and
- (b) in the case of a body of persons, any such body as is formed and registered in Malta, or which has its principal place of business in Malta or which is controlled, directly or indirectly by a person or persons resident in Malta.

Definitions and Registration of companies under this Part of this Act.

*Amended by:*  
*XXIV.1986.12;*  
*XXXVII.1988.36;*  
*XXXVII.1990.15;*  
*XXII.2000.49.*  
Cap. 123.

(2) A company qualified to own a Maltese ship wishing to own or operate exempted ships shall register with the Minister responsible for finance by submitting to him in writing the following particulars:

- (a) the name of the company;
- (b) the address of the registered office of the company;
- (c) the name and tonnage of the ship which it wishes to own or operate as an exempted ship;

and shall notify the Minister in writing from time to time of any alterations in such particulars.

Minister may declare a ship to be an exempted ship.  
Added by:  
XXIV. 1986.13.

**85A.** (1) The Minister may with the concurrence of the Minister responsible for finance and subject to such conditions as he may deem appropriate, declare to be an exempted ship, a ship of any nett tonnage, irrespective of operations or trade in which engaged, which but for such tonnage, operations or trade would otherwise satisfy all other requirements of an exempted ship under subarticle (1) of article 85.

(2) A company qualified to own Maltese ships wishing to have a ship as is referred to in subarticle (1) declared to be an exempted ship shall apply to the Minister in writing to have the ship so declared, entering in the application the particulars mentioned in article 85(2); and shall notify the Minister in writing from time to time of any alterations in such particulars.

(3) The Minister shall once every year publish in the Gazette a list of the declarations made in accordance with subarticle (1) during the preceding year.

Exemption from Income Tax.  
Amended by:  
XXIV.1986.14;  
XXXVII.1988.37;  
XXXVII.1990.16;  
XXII. 2000.50.  
Cap. 123.

**86.** (1) Notwithstanding anything contained in the Income Tax Act, or in any enactment replacing that Act, if the condition contained in subarticle (3) is complied with, no tax under that Act shall be charged or payable on the income of a company registered under this Part of this Act in respect of gains or profits derived from the ownership or operation of an exempted ship while she was an exempted ship or on any dividend paid to the shareholders of such company and where the shareholder is itself a company, any dividend paid to the shareholders of such company to the extent that such dividend is paid out of gains or profits derived from the ownership or operation of an exempted ship while she was an exempted ship or out of such company's share in such profits.

Cap. 123.

(2) Notwithstanding anything contained in the Income Tax Act or in any enactment replacing that Act, no tax under that Act shall be payable by any person on interest or other income payable to him by any company registered in terms of Part III of this Act in respect of any debt or other obligation contracted or undertaken by such company in relation to any ship:

Provided that the application of such exemption to persons resident in Malta shall be restricted to such persons who are licensed banks, credit or financial institutions under the provisions of applicable law.

(3) The condition referred to in subarticle (1) is that in respect of the year or other period in respect of which exemption from tax is claimed, separate accounts were kept clearly distinguishing the payments and receipts by the company in respect of the ownership and operation of an exempted ship and payments and receipts in respect of any other business.

(4) In the case of a company whose objects are limited for the sole purpose of owning and, or, operating exempted ships, and ancillary transactions and which actually owns and, or, operates only exempted ships, a declaration may be submitted to the Commissioner of Inland Revenue in the form set out in the Fifth Schedule to this Act by a person holding the warrant of a certified public accountant and auditor under the Accountancy Profession Act, or by a person holding the warrant of advocate in terms of the Code of Organisation and Civil Procedure in lieu of a tax return required in terms of the Income Tax Act, and the relative provisions of the Income Tax Act shall, for the purpose of this Act, be construed accordingly.

Cap. 281.

Cap. 12.

Cap. 123.

**87.** (1) Notwithstanding anything contained in the Death and Donation Duty Act or in any enactment replacing that Act, if the conditions contained in subarticle (2) are complied with -

Exemption from death and donation duties.

Amended by:  
XXIV. 1986.15.

(a) shares in a company registered under this Part of this Act and devoted solely to the business of owning or operating exempted ships shall be exempt from all duties under that Act to the extent of such part of the value thereof as is attributable to -

- (i) the value of an exempted ship or any part thereof;
- (ii) the proceeds of sale of an exempted ship;
- (iii) other assets of the company acquired directly out of the profits derived from the ownership or operation of an exempted ship or out of the proceeds of sale of such other assets;

(b) to the extent that the value of such shares is exempt from duty under paragraph (a), such value shall not be taken into account in determining the rate of duty payable under the said Act.

(2) The conditions referred to in subarticle (1) are:

(a) that it is shown to the satisfaction of the Commissioner of Inland Revenue that the shares and debentures of the company and of any other company holding, whether directly or indirectly, shares or debentures of the company are wholly owned by persons having their ordinary place of residence outside Malta; and

(b) that accounts of the company are produced to the Commissioner of Inland Revenue and have been kept in such manner as to show clearly -

- (i) the profits of the company derived from the ownership or operation of an exempted ship as

distinct from profits arising in any other way;

- (ii) the amounts from time to time expended by the company directly out of such profits on the acquisition of other assets and out of the proceeds of sale of such other assets on the acquisition of further assets; and
- (iii) the proceeds of sale of exempted ships.

(3) A company registered under this Part of this Act shall be regarded as devoted wholly to the business of owning or operating exempted ships notwithstanding that it has power to engage in and has engaged in operations incidental to the ownership or operation of exempted ships or the investment in other assets of the profits derived from such ownership or operation or the variation of such other assets, provided that the principal business of the company remains that of owning or operating exempted ships.

Exemption from duty on documents.  
*Amended by:*  
*XXXI. 1981.64;*  
*XXIV.1986.16;*  
*XXXVI.1988.39;*  
*XXXVII. 1990.17.*

**88.** Notwithstanding anything contained in the Duty on Documents Act, or in any enactment replacing that Act, no duty chargeable in accordance with that Act shall be payable in respect of any instrument connected with or involving:

- (a) the registration of an exempted ship under Part II and Part IIA of this Act and other registrations relating to an exempted ship made under the said part; or
- (b) the allotment of any newly issued share or stock of a company registered under this Part of this Act or the purchase, transfer, assignment or negotiation of any share or stock of any such company; or
- (c) the sale or other transfer of an exempted ship or share thereof; or
- (d) the registration of any mortgage or other charge over any registered ship, the transfer or the discharge thereof, any receipt relative thereto, and any assignments granted in connection with:
  - (i) the financing of any registered ship, or
  - (ii) the securing of any claims against such ship.

Concessions at option of company.  
*Added by:*  
*XXXVII.1988.40.*

**88A.** The concessions and other benefits granted by this Act are so granted at the option of the company benefiting therefrom and any such company may, by notice in writing to the Minister, opt not to be entitled to any such concession which shall be thereby waived and such waiver shall be indefinite and irrevocable in respect thereof.

## PART IV

## MASTERS AND SEAMEN

*Certificate of competency*

- 89.** For the purposes of this Part of this Act, unless the context otherwise requires, the term "certificate of competency" includes certificate of proficiency and licence and any other similar document.
- 90.** (1) Every Maltese ship when going to sea from any place shall be provided with such number and description of officers and crew as the Minister may by regulations prescribe:
- Provided that the Minister may in such regulations authorise the Registrar-General to exempt any ship or a class of ships from all or any of the requirements of such regulations.
- (2) If the requirements of subarticle (1) are not complied with, the master or owners of the ship shall for each offence be liable to a fine (*multa*) not exceeding five hundred units.
- 91.** The Minister may by regulations prescribe:
- (a) the grades in respect of which certificates of competency shall be granted, recognised or endorsed in accordance with this Act;
  - (b) the conditions for the issue, recognition or endorsement of certificates of competency granted, recognised or endorsed in accordance with this Act;
  - (c) the conditions for the replacement, suspension, cancellation and alteration of certificates of competency issued, recognised or endorsed in accordance with this Act; and
  - (d) any other matter affecting certificates of competency.
- 92.** *Repealed by Act XXXVII of 1990.*
- 93.** *Repealed by Act XXXVII of 1990.*
- 94.** *Repealed by Act XXXVII of 1990.*
- 95.** (1) All certificates of competency granted under this Act, and all recognitions of certificates of competency under this Act, shall be made in duplicate, one part to be delivered to the person entitled to the certificate or recognition and one to be preserved.
- (2) Such last-mentioned part of the certificate or recognition shall be preserved, and a record thereof and of all certificates deemed to be granted under this Act, and of any suspension,

Interpretation.  
Amended by:  
*XIII. 1983.5;*  
Substituted by:  
*XXXVII.1990.18.*  
Amended by:  
*XXII. 2000.102.*

Manning of  
Maltese ships.  
Substituted by:  
*XXXVII.1990.18.*  
Amended by:  
*XXII. 2000.102.*

Certificates of  
competency.  
Substituted by:  
*XXXVII.1990.18*  
Amended by:  
*XXII. 2000.102..*

Examination for  
certificates of  
competency.

Grant of  
certificates on  
passing  
examination.

Foreign certificates  
of competency, etc.

Form and record of  
certificates.

cancellation or alteration thereof, and of any other matter affecting them, shall be kept, in such manner as the Minister directs, by the Registrar-General or by such other person as the Minister directs.

(3) Any such certificate or recognition and any record under this article shall be admissible in evidence without the necessity of any proof of their authenticity other than that which appears on the face of them and shall, until the contrary is proved, be evidence of their contents.

Loss of certificate.

**96.** *Repealed by Act XXXVII of 1990.*

Production of certificates of competency.

**97.** (1) The master of every Maltese ship -

- (a) on signing the agreement with the crew before the shipping master, shall produce to him the certificates of competency or the recognitions of certificates of competency required by this Act in respect of the master, mates and engineers of the ship; and
- (b) in the case of a running agreement shall also, before the second and every subsequent voyage, produce to the shipping master the certificate or recognition as aforesaid of any mate or engineer then first engaged by him who is required by this Act to hold a certificate or a recognition of a certificate.

(2) Upon the production of the documents aforesaid, the shipping master shall, if the documents are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate (in this Act referred to as the shipping master's certificate) to the effect that the proper certificates of competency have been so produced.

(3) The master shall, before proceeding to sea, produce the shipping master's certificate to the person from whom clearance is required, and the ship may be detained until the certificate is produced.

Forgery of certificates of competency.  
*Amended by:  
XIII. 1983.5;  
XXII. 2000.2.*

**98.** If any person -

- (a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any certificate of competency or any recognition of a certificate of competency, or an official copy of any such certificate or recognition; or
- (b) makes, assists in making, or procures to be made, any false representation for the purpose of procuring, or having recognised, either for himself or for any other person, a certificate of competency; or
- (c) fraudulently uses a certificate, or a recognition of a certificate, or a copy of a certificate or of a recognition of a certificate, of competency which has been forged, altered, cancelled or suspended, or to which he is not entitled; or
- (d) fraudulently lends his certificate of competency or recognition of a certificate of competency, or allows it



to be used by any other person,  
that person shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

#### *Masters*

**99.** (1) The master is appointed and may be dismissed by the owner of the ship; and any agreement purporting to deprive the owner of the power to dismiss the master shall have no effect.

Appointment and dismissal of master.

(2) A master shall not be entitled to any compensation if he is dismissed with good cause or is removed by the court.

(3) Where a master is dismissed without good cause he shall, unless it is by agreement otherwise provided, be entitled to an indemnity related to the length of his service with the ship or the owner thereof and, where the master is so dismissed during the course of the voyage, the indemnity shall not be less than his wages for the entire voyage and the expenses of his repatriation.

**100.** (1) In the discharge of his duties the master shall be responsible for any negligence or misconduct even where the fault is slight, and shall be answerable for all damage resulting from non-observance of any law or regulation; his liability ceases only if it is shown that he exercised all proper care.

Duties and liability of the master.

(2) The master shall be responsible for the proper management and navigation of the vessel, for the safety of the vessel, her crews and passengers, for the prompt receipt and proper stowage, care and discharge of cargo, and for the maintenance of discipline on board; and he shall be on board at all times during the voyage.

(3) The master shall also be responsible for the loss of, or any damage to, articles taken in or put on board by passengers, including any loss through theft, or injury caused, by members of the crew except in case of theft or injury committed by force of arms or happening through circumstances over which the master had no control.

(4) The master shall not carry goods on deck unless the shipper consents, and if he does so he shall be answerable for any damage due to the goods having been so carried:

Provided that, in the absence of an agreement to the contrary, this subarticle shall not apply to voyages between Malta and Sicily or Malta and Tripoli or Tunis or to goods which according to usage are carried on deck.

(5) The master shall give to the owners a true and faithful account of all dealings and other matters relating to the ship at such reasonable times as he may be directed so to do.

(6) Nothing in this article shall affect the provisions of Part IX of this Act.

Powers of the master.

**101.** (1) The master may, in the absence of the owner, or if communication in time is impossible, incur expense, or bind the owner by contract, for necessary repairs to the ship or for the supply of necessaries, and may borrow money on the credit of the owner to pay for necessaries to be supplied.

(2) The master may also, where this course is necessary and is the best course, and communication with the owner in time is impossible, sell the ship.

Ship's papers.

**102.** The master of every ship shall keep on board:

- (a) the certificate of registry of the ship;
- (b) the certificates required by Part V of this Act to be in force in respect of the ship;
- (c) the bill of health;
- (d) the agreement with the crew and the muster roll;
- (e) the bills of lading and charter-parties;
- (f) the official log book.

Passengers' list.  
Amended by:  
XIII.1983.5.  
Substituted by:  
XXII.2000.51.

**103.** (1) The master of every Maltese ship and the master of every ship carrying passengers on any voyage to Malta from a place outside Malta, or from Malta to any place outside Malta, shall furnish to such person as the Minister may by regulations direct a return giving the total number of persons on board as well as such other information relative to such persons as may be prescribed, in such form and manner and within such time as may be prescribed.

(2) The Minister may by such regulations exempt any passenger ship or any passenger ship undertaking such voyage or voyages as may be prescribed in the regulations generally or in respect of any voyages or classes of voyages from the provisions of such regulations.

(3) Any passenger to which regulations under subarticle (1) refer shall furnish the master with such information required by the master for making any such return.

(4) If -

- (a) the master of a ship fails to make a return as required by this article or makes a false return;
- (b) any passenger refuses to give information required by the master of the ship for the purpose of the return, or for that purpose gives the master information which he knows to be false or recklessly gives information which is false,

the master, or as the case may be, the passenger, shall be guilty of an offence against this article and shall on conviction be liable to a fine (*multa*) not exceeding five hundred units in the case of the master, and not exceeding one hundred units in the case of a passenger.

(5) The Minister may extend the provisions of these regulations to the owner, bareboat charterer, manager, or any other

person or organisation who may have assumed responsibility for operating the passenger ship from the owner, the obligations of the master with regard to such regulations, and may moreover provide that any person or organisation to whom such obligations may have been so extended preserve and keep such records for such period and in such manner as may be prescribed and supply such periodic or other returns thereof as may be prescribed, and the provisions of subarticle (4) hereof shall apply *mutatis mutandis* to such person or organisation as they apply to the master.

(6) The provisions of this article and of any regulations made hereunder shall not apply to ships of war and troop ships and to pleasure yachts unless such pleasure yachts are or will be crewed and carry more than twelve passengers for commercial purposes.

**104.** (1) Where a vessel sustains damage, or is stranded, abandoned or lost, or where owing to stress of weather or other cause is forced to enter any port, the master shall, within twenty-four hours after the event if the event happens in any port, or within twenty-four hours after his arrival in any port if the event happens elsewhere, make a sea-protest in manner provided by this article.

Sea-protest.  
Amended by:  
XXIV.1995.362.

(2) The master shall also, at the time of making his sea-protest, produce his official log book and the ship's log and cause them to be endorsed by the authority before whom the sea-protest is made.

(3) In Malta, the sea-protest shall be made before the judge of the Civil Court, First Hall; elsewhere it shall be made before a Maltese consular officer or, in the absence of such officer, before a local authority.

(4) In the sea-protest the master shall state on oath the place and time of sailing, the nature of his cargo, the course pursued, the perils encountered and the damage sustained by the vessel, and all other relevant facts, in particular those relating to the casualty in respect of which the sea-protest is made.

(5) The authority before whom the sea-protest is made shall, immediately after the master has made his statement, examine on oath not less than three members of the crew and, where practicable, some of the passengers.

(6) Where a sea-protest is required to be made, the master shall, except in the case of imminent danger, not discharge any goods from the vessel until he makes the sea-protest.

(7) It shall be competent to any interested party to prove any fact contrary to those stated in a sea-protest; and if a sea-protest is not made within the time specified in subarticle (1), any interested party may prove any fact which should have resulted from the sea-protest, or otherwise related to the casualty, by any other means.

(8) If the master fails to comply with any of the provisions of this article he shall be answerable to any interested party for any damages and interest.

Documents to be handed over to successor.

*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**105.** (1) If during the progress of a voyage the master is dismissed, removed or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and if he fails without reasonable cause so to do he shall be liable to a fine (*multa*) not exceeding one hundred units.

(2) The successor shall immediately on assuming the command of the ship enter in the official log book a list of the documents so delivered to him.

*Conditions for admission to employment*

Employment of children and persons under eighteen years.

*Substituted by:*  
*XXII. 2000. 52.*

**106.** (1) Subject to the provisions of this article and notwithstanding the provisions of any other law or of any regulations, rules and orders made or deemed to be made thereunder, no person under the age of sixteen years shall be employed in any Maltese ship.

(2) The Minister may make regulations -

- (a) prescribing circumstances and capacities in which and the conditions subject to which persons under the age of sixteen years but who have attained such age as may be prescribed in the regulations may be employed in a Maltese ship;
- (b) prescribing circumstances and capacities in which persons over the age of sixteen years but under the age of eighteen years or under such lower age as may be specified in the regulations may not be employed in a Maltese ship or may be so employed only subject to such conditions as may be specified in the regulations.

(3) Regulations made for the purposes of this article may make different provision for different employments and different descriptions of ship and any other different circumstances.

Registration of persons under eighteen years who are members of the crew.

*Substituted by:*  
*XXII. 2000. 52.*

**107.** (1) There shall be included in every agreement with the crew a list of all persons under the age of eighteen years who are members of the crew, together with particulars of the dates of their birth, and, in the case of a ship in which there is no such agreement, the master of the ship shall, if persons under the age of eighteen years are employed therein, keep a register of those persons with particulars of the dates of their birth and of the dates on which they become or cease to be members of the crew, and the register so kept shall at all times be open to inspection by the Minister or an officer authorised by the Minister in that behalf or an appropriate inspector, or any other person having power to enforce compliance with the provisions of this Act.

(2) There shall be included in every agreement with the crew a short summary of the provisions of this article and of article 106.

**108.** (1) Subject to the provisions of this article, no person shall be employed in any capacity in any Maltese ship unless there has been delivered to the master of the ship a certificate granted by a duly qualified medical practitioner certifying that the person is fit to be employed in that capacity.

Medical examination.  
Substituted by:  
XXII. 2000. 52.

(2) The provisions of subarticle (1) shall not apply to the employment of a person authorised to be so employed on the ground of urgency by the shipping master or by a Maltese consular officer, but a person in whose case any such authorisation is given shall not be employed for more than a single voyage, except in accordance with and subject to the provisions of subarticle (1).

(3) The Minister may make regulations as appear to him to be necessary for the medical examination of all persons seeking employment in any capacity on board ships and the issue of medical certificates in respect of such persons.

(4) Without prejudice to the generality of the foregoing subarticle, regulations made thereunder may, in particular -

- (a) prescribe the nature of the medical examination or examinations to be made and the particulars to be included in the medical certificates;
- (b) prescribe the period of validity of medical certificates;
- (c) provide for the acceptance, in substitution of a medical certificate, of evidence in a prescribed form that the required certificate has been issued; and
- (d) provide for any other matter affecting the medical examination or examinations to be made and the medical certificates to be issued or recognised.

(5) For the purposes of this article, "duly qualified medical practitioner" means a medical practitioner authorized by law to practice as a legally qualified medical practitioner in Malta or unless otherwise prescribed in the country in which such certificate is issued.

**109.** (1) If any person is employed in any ship in contravention of any of the provisions of articles 106 and 108 or in contravention of any regulations made under these articles, the master or owner of the ship shall be liable to a fine (*multa*) not exceeding five hundred units, or, in the case of a second or subsequent offence, not exceeding one thousand units; and where a person under the age of sixteen years or a person under the age of eighteen years is taken into employment in any ship in contravention of the aforesaid provisions of this Act on the production by, or with the privity of, the parent of a false or forged certificate or on a fake representation by the parent that the person is of an age at which such employment is not in contravention of the said provisions, that parent shall be liable to a fine (*multa*) not exceeding five hundred units.

Penalties.  
Substituted by:  
XXII. 2000. 52.

(2) If the master of a ship fails to comply with any of the provisions of article 107, or on being so required by the Minister or an officer authorised by the Minister in that behalf or an

appropriate inspector, or any other person having power to enforce compliance with the provisions of this Act, refuses or neglects to produce for inspection by that officer any register as is required to be kept by him under the article aforesaid or any certificate delivered to him under articles 106 or 108 or in terms of any regulations made under these articles, he shall be liable to a fine (*multa*) not exceeding five hundred units.

Medical examination of young persons and children.

**110.** *Repealed by article 52 of Act XXII of 2000.*

Penalties.  
*Amended by:*  
*XIII. 1983.5.*

**111.** *Repealed by article 52 of Act XXII of 2000.*

#### *Engagement of seamen*

Not lawful to engage in business of finding employment for seamen.  
*Amended by:*  
*XIII. 1983.5.*

**112.** *Repealed by article 53 of Act XXII of 2000.*

Agreements with crew.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**113.** (1) The master of every Maltese ship, other than ships employed solely in navigation on the coasts of Malta, shall enter into an agreement (in this Act called the "agreement with the crew") in accordance with this Act with every seaman whom he carries to sea as one of his crew from any port.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

Form, period and conditions of agreements with crew.  
*Amended by:*  
*XXII. 2000. 54.*

**114.** (1) An agreement with the crew shall be in a form approved by the Minister and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs his name.

(2) The agreement with the crew shall show the place at which it is made, the surname and other names of the seaman, his birthplace, and his age or the date of his birth, and shall contain as terms thereof the following particulars:

- (a) the name of the ship on board which the seaman undertakes to serve;
- (b) either the nature and, as far as is practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, which shall not exceed twelve months, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;
- (c) the number and description of the crew;
- (d) if possible, the place and date at which each seaman is to be on board or to begin work;

- (e) the capacity in which each seaman is to serve;
- (f) the amount of wages which each seaman is to receive;
- (g) the agreed leave, being agreed leave not less favourable to the crew than that, if any, prescribed under this Act;
- (h) any regulations as to conduct on board and as to fines (*multa*) and other lawful punishment for misconduct which have been approved by the Minister as regulations proper to be adopted and which the parties agree to adopt;
- (i) any regulations as to the provisions to be provided for seamen employed in Maltese ships;
- (j) a list of persons under the age of eighteen years and the dates of their births.

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

(4) Saving any other provision of this Act, an agreement with the crew under this article shall be terminated by -

- (a) the mutual consent of the parties thereto; or
- (b) the death of the seaman; or
- (c) the loss or total unseaworthiness of the ship; or
- (d) the sale of the ship; or
- (e) the expiration of time.

**115.** The following provisions shall have effect with respect to agreements with the crew:

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

Special provisions  
as to agreements  
with crew.

*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2, 55.*

- substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature;
- (e) an agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Act referred to as "running agreements";
  - (f) a running agreement shall not extend beyond the twelve months' period of time next following the date of the making of the agreement or the first arrival of the ship at her port of destination after the termination of that period;
  - (g) on every return to the port where the crew was engaged before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement or if he omits to make an endorsement which he is required to make under this paragraph, he shall for each offence be liable to a fine (*multa*) not exceeding fifty units;
  - (h) the duplicate of the agreement retained by the master on the first engagement of the crew as well as any endorsements made on the agreement shall, on the expiration of the agreement, be delivered to the shipping master who shall retain same for a period of five years after the expiration of the agreement;
  - (i) the duplicate of the agreement delivered to the shipping master on the first engagement of the crew shall be kept by the shipping master until he receives the other duplicate of the agreement retained by the master on the expiration of same.

Terms not to be contrary to the provisions of this Act.

*Amended by:*  
*XIII. 1983.5.*  
*Substituted by:*  
*XXII. 2000. 56.*

Copy of agreement to be accessible to crew.

*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**116.** To the extent that any terms or conditions adopted by the parties to an agreement with the crew are contrary to the provisions of this Act in matters relating to wages and conditions of employment of seamen and masters on board ships such terms and conditions shall have no effect and the relevant provisions of this Act shall be deemed to apply.

**117.** The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement with the crew to be posted up in some part of the ship which is accessible to the crew, and if he fails without reasonable cause so to do he shall for each offence be liable to a fine (*multa*) not exceeding ten units.



- 118.** If any person fraudulently alters, makes any false entry in, or delivers a false copy of, any agreement with the crew, or assists in committing or procures to be committed any such offence, that person shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.
- Forgery etc. of agreements with crew.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.
- 119.** Every erasure, interlineation, or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship) shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration by the written attestation of two witnesses.
- Alterations in agreements with crew.  
Amended by:  
XXII. 2000. 57.
- 120.** In any legal or other proceeding a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case without producing, or giving notice to produce, the agreement or any copy thereof.
- Seaman not bound to produce agreement.
- 121.** *Repealed by article 58 of Act XXII of 2000.*
- Engagement of seamen in foreign ports.  
Amended by:  
XIII. 1983.5.
- 122.** The master shall, every time there are changes in the crew of a Maltese ship, deliver to the Registrar General a list of the crew or a copy thereof:
- Deposit of list of the crew.  
Amended by:  
XIII. 1983.5.  
Substituted by:  
XXII. 2000. 59.
- Provided that the Registrar General may exempt any ship or class of ships from the requirement of this article, either absolutely or subject to such conditions as he thinks fit.
- 122A.** (1) Except where otherwise provided in this Act, all correspondence, documents, forms or other writings shall be in the English language:
- Use of English language.  
Added by:  
XXII. 2000. 59.
- Provided that a foreign language version of any document may be appended to the English language version thereof.
- (2) All written signs displayed on board a Maltese ship shall be in the English language with, if it is considered necessary by the master, a foreign language version appended thereto.
- 122B.** (1) Where in the opinion of an appropriate inspector the crew of a Maltese ship consists of or includes persons who do not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, the appropriate inspector shall inform the master of his opinion and the ship shall not go to sea and may be detained.
- Crew's knowledge of English.  
Added by:  
XXII. 2000.59.
- (2) If a ship goes to sea or attempts to go to sea in contravention of this article, the master or owner of the ship shall be liable to a fine (*multa*) of five hundred units.

Conditions of  
service regulations.  
Added by:  
XXII. 2000. 59.

**122C.** (1) Subject to the provisions of this article and notwithstanding the provisions of any other law or of any regulations, rules and orders made or deemed to be made thereunder, the conditions of service of persons employed on Maltese ships and of Maltese citizens serving in foreign ships shall be governed by regulations made by the Minister under this article.

(2) Without prejudice to the generality of the foregoing subarticle, regulations made thereunder may, in particular, make provision in respect of -

- (a) apprenticeship in a calling aboard a ship;
- (b) the engagement of persons on Maltese ships and the engagement by foreign ships of Maltese citizens;
- (c) the implementation of any international convention relating to the employment, welfare, security, certification or status of seafarers;
- (d) the avoidance of agreements made contrary to such regulations;
- (e) wages in general, and the rights related thereto of persons employed in Maltese ships, securing safe working conditions, health and welfare for seafarers and apprentices employed in ships;
- (f) the minimum wage payable to persons employed on Maltese ships;
- (g) the annual leave and holidays entitlement of persons employed on Maltese ships;
- (h) the maximum hours of work or the minimum hours of rest for persons employed on Maltese ships;
- (i) the maintenance of records of daily hours of work or of daily hours of rest of persons employed on Maltese ships;
- (j) the maximum duration of service periods on board Maltese ships following which a seafarer is entitled to repatriation;
- (k) the posting on board Maltese ships of a table containing the shipboard working arrangements;
- (l) the employment of persons under the age of eighteen years:

Provided that unless specified in regulations made under this article the minimum wage shall be that prescribed in the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187) of the International Labour Organisation, including any revisions thereof.

(3) Regulations made under this article may provide that a person who contravenes the provisions thereof shall be liable to such penalty as may be provided for in the regulations, being a penalty of not more than one thousand units.

*Certification of Able Seamen and Ships' Cooks*

**123.** *Repealed by Act XXXVII of 1990.*

Rating of seaman as A.B.

**124.** *Repealed by Act XXXVII of 1990.*

Certificated cooks for certain ships.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

*Discharge of seamen*

**125.** (1) When a seaman serving in a Maltese ship under an agreement with the crew is on the termination of his engagement discharged, he shall be discharged in manner provided by this Act:

Discharge.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2, 60.*

Provided that this subarticle shall not apply where the seaman is proceeding on temporary leave while remaining in the service of the owner of the ship.

(2) If the master or owner of a ship acts in contravention of this article he shall for each offence be liable to a fine (*multa*) not exceeding ten units.

**126.** (1) The master of a Maltese ship shall sign and give to a seaman discharged from his ship at any place, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Minister, specifying the period of his service and the time and place of his discharge, and if the master fails to do so he shall for each offence be liable to a fine (*multa*) not exceeding ten units.

Certificate of discharge and return of certificates of competency.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) The master shall also, upon the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if without reasonable cause he fails to do so he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

**127.** *Repealed by article 61 of Act XXII of 2000.*

Reports of seamen's character.'

**128.** If any person -

- (a) makes a false report of character under this Act, knowing the same to be false; or
- (b) forges or fraudulently alters any certificate of discharge or report of character or copy of a report of character; or
- (c) assists in committing, or procures to be committed, any of such offences as aforesaid; or
- (d) fraudulently uses any certificate of discharge or report of character or copy of a report of character which is false or altered or does not belong to him,

False or forged certificate of discharge or report of character.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

he shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

Discharge of  
seamen on change  
of ownership.

*Amended by:*  
*XIII. 1983.5.*  
*Substituted by:*  
*XXII. 2000. 62.*

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

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

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

*Added by:*  
*XXII. 2000.63.*

**129A.** (1) Except as hereinafter provided, every agreement with the crew shall be deemed to provide that the seaman or apprentice, if the agreement terminates at a port other than the port of engagement (whether by effluxion of time, or by any act of the parties, or by shipwreck or sale of the ship, or by the inability of the seaman or apprentice to proceed in the ship by reason of sickness or injury or any other cause whatsoever) be returned to a proper return port at the expense of the master or owner of the ship, and such master or owner, whether principal or agent, shall make such arrangements as may be necessary and defray all expenses incurred for the return of such seaman or apprentice and such liability shall include the cost of any maintenance and medical treatment which is necessary for the seaman or apprentice until his arrival at a proper return port, and such seaman or apprentice shall not become a charge upon the Government of Malta.

(2) A seaman or an apprentice who has been left behind or discharged from his ship as a result of his desertion, or his imprisonment, or his inability to proceed in the ship owing to sickness or infirmity wilfully concealed at the time of the engagement, shall not be entitled to be returned at the expense of the owner or master under subarticle (1) but such master or owner, whether principal or agent, shall make all arrangements necessary and defray all expenses incurred for the return of the seaman or apprentice to a proper return port as if he was so entitled, and such master or owner may be reimbursed his expenses out of any wages owing to the seaman or apprentice at the time he left the ship or out of the proceeds from the sale of any of his effects left on board or, if this should not prove sufficient by ordinary process of law, but such seaman or apprentice shall not become a charge upon the Government.

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

(4) Where a seaman or an apprentice becomes eligible to receive, and receives, medical aid or periodical payments at the expense of his employer under the terms of any law providing for compensation to injured or sick workmen such receipt shall be in full or part payment as the case may be of the entitlement under this article and not in addition thereto.

(5) This article shall apply in respect of a foreign ship that engages a seaman or an apprentice in Malta; and "owner" in such a case includes any person appointed or nominated by the owner or the charterer if the ship is on demise charter, to act as his agent and who was so acting at the time the seaman or apprentice was engaged.

**130.** (1) Where the service of a seaman or of an apprentice belonging to a Maltese ship terminates otherwise than by the consent of the seaman to be discharged during the currency of the agreement, the master of the ship shall, besides giving the certificate of discharge required under this Act and besides paying the wages to which the seaman or apprentice is entitled, make adequate provision in accordance with this Act for his maintenance and for his return to a proper return port, and if the service terminates at a port in which there is a registrar or a Maltese consular officer, such officer shall endorse upon the agreement with the crew of the ship which the seaman or apprentice is leaving the particulars of any provision so made.

Repatriation of seamen on termination of service at foreign port.  
*Amended by:*  
*XXII. 2000. 64.*

(2) If the master fails, without reasonable cause, to comply with this article, the expenses of maintenance and of the journey to the proper return port -

- (a) if defrayed by the seaman or apprentice, shall be recoverable as wages due to him;
- (b) if defrayed by any such officer as aforesaid or by any other person, shall (unless the seaman has been guilty of barratry) be a charge on the ship to which the seaman or the apprentice belonged, and may also be recovered against the person who is the owner of the ship for the time being or, where the ship has been lost, against the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a Maltese citizen or not being a body corporate established under the laws of Malta either against the owner for the time being or against the person who was the owner at the time of the transfer, at the suit of the person defraying the expenses, or, in the case they have been allowed out of public money, as a debt due to the Government of Malta.

#### *Payment of wages*

**131.** All wages to which a seaman may be entitled, subject to deductions made in accordance with this Act, shall be paid before or at the time the seaman lawfully leaves the ship at the end of his engagement; and in the event of a seaman's wages or any part thereof not being so paid or settled, then, unless the delay is due to the act or default of the seaman or to any reasonable dispute as to liability or to any other cause not being the wrongful act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

Time of payment of wages.

Payment of wages before shipping master.

*Amended by:*  
*XIII. 1983.5.*

**132.** *Repealed by article 65 of Act XXII of 2000.*

Master to deliver account of wages.

*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000. 2, 66.*

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

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

(3) If the master of a ship fails without reasonable cause to comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

Settlement of wages.

*Amended by:*  
*XXII. 2000.67.*

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

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

(3) The release shall be delivered to and retained by the shipping master and on production from his custody shall, until the contrary is proved, be evidence of its contents, provided its authenticity is proved.

(4) Notwithstanding anything in this article, a seaman may except from the release signed by him under this article any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release. The release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall subarticle (4) apply to any payment, receipt or settlement made with respect to any such claim or demand.

Deductions from wages and book to be kept for that purpose.

**135.** (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of article 133, except in respect of a matter happening after the delivery.

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

Notice of disrating of seaman.

**136.** (1) Where the master of a Maltese ship disrates a seaman he shall forthwith enter or cause to be entered in the official log book a statement of the disrating, and furnish the seaman with a copy of the entry; and any reduction of wages consequent on the

disrating shall not take effect until the entry has been so made and the copy so furnished.

(2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of articles 133 and 135 and treated accordingly.

**137.** (1) Every fine imposed on a seaman or apprentice for any act of misconduct for which his agreement imposes a fine shall be collected by deduction from his wages and, when so deducted, shall be remitted forthwith to the shipping master.

Deduction and payment of fines due under agreement.  
*Amended by: XXII. 2000.68.*

(2) If a master or owner fails without reasonable cause to pay or remit any fine as required by this article he shall for each offence be liable to a fine (*multa*) not exceeding six times the amount of the fine not so paid or remitted.

(3) An act of misconduct for which any fine has been inflicted and paid by, or deducted from the wages of, a seaman or apprentice shall not be otherwise punished under this Act.

**137A.** Where a seaman has agreed with the master of a Maltese ship for payment of his wages in a specific currency, any payment of or on account of his wages if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement for the time being current at the place where the payment is made.

Rate of exchange.  
*Added by: XXII. 2000.69.*

#### *Rights of seamen in respect of wages*

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

When right to wages begins.

**139.** (1) A seaman shall not by any agreement forfeit his rights on the ship, or be deprived of any remedy for the recovery of his wages, to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship, or abandon any right that he may have or obtain in the nature of salvage; and every stipulation in any agreement inconsistent with any provision of this Act shall be void.

Right to recover wages and salvage not to be forfeited.

(2) Nothing in this article shall apply to a stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to any other ship.

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

Wages not to depend on freight.

all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claim to wages.

Termination of service by wreck or loss of ship.

**141.** (1) Where by reason of the wreck or loss of the ship on which a seaman is employed his service terminates before the date contemplated in the agreement, he shall, subject to the provisions of this article, be entitled, in respect of each day on which he is in fact unemployed during a period of two months from the date of the termination of the service, to receive wages at the rate to which he was entitled at that date.

(2) A seaman shall not be entitled to receive wages under this article if the owner shows that the unemployment was not due to the wreck or loss of the ship, and shall not be entitled to receive wages under this article in respect of any day if the owner shows that the seaman was able to obtain suitable employment on that day.

(3) In this article "seaman" includes every person employed or engaged in any capacity on board any ship but, in the case of a ship which is a fishing boat, does not include any person who is entitled to be remunerated only by a share in the profits or the gross earnings of the working of the boat.

Termination of service by illness, etc.

**142.** Where the service of a seaman terminates before the date contemplated in the agreement by reason of his being left on shore at any place abroad under a certificate granted as provided by this Act of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Wages not to accrue during refusal to work or imprisonment.

**143.** A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement for his commencement of such work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Forfeiture of wages when illness caused by own fault.

**144.** When a seaman is by reason of illness incapable of performing his duty and it is proved that the illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is by reason of the illness incapable of performing his duty.

Compensation to seaman improperly discharged.

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



- 146.** As respects wages due or accruing to a seaman or apprentice to the sea service -
- (a) they shall not be subject to a garnishee order in accordance with but subject to the provisions of article 382 of the Code of Organization and Civil Procedure;
  - (b) any assignment thereof made prior to the accruing thereof shall not bind the person making the same;
  - (c) any authority for the receipt thereof shall not be irrevocable;
  - (d) a payment of wages to the seaman or apprentice shall be valid notwithstanding any previous assignment of those wages.

Restriction on assignment of, and charge upon, wages.

Cap. 12.

*Power of court to rescind contracts*

- 147.** Where a proceeding is instituted before any court in relation to any dispute between an owner or master of a ship and a seaman or apprentice arising out of or incidental to their relation as such, or is instituted for the purpose of this article, the court, if having regard to all the circumstances of the case thinks just to do so, may rescind any contract between the owner or master and the seaman or apprentice upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this article.

Power of court to rescind contract between owner or master and seaman.

*Accommodation, Provisions and Health*

- 148.** (1) The Minister may make regulations with respect to the crew accommodation to be provided in Maltese ships of a class specified in the regulations.
- (2) Without prejudice to the generality of the foregoing subarticle, regulations made thereunder may in particular -
- (a) prescribe the minimum space per person which shall be provided by way of sleeping accommodation for seamen and apprentices and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
  - (b) prescribe the equipment to be provided for the sleeping accommodation, mess rooms, sanitary accommodation and galleys in a ship;
  - (c) regulate the spaces in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
  - (d) provide for the protection of the crew against injury, condensation, heat, cold and noise on a ship;
  - (e) prescribe the water, heating, lighting, ventilation and sanitary facilities to be provided on a ship;

Accommodation for seamen.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2, 70.

- (f) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation, and authorise the surveyor to inspect any such works;
  - (g) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed; and
  - (h) provide for the inspection, measuring and marking of crew accommodation on a ship and its certification for the purpose of ascertaining tonnage.
- (3) Regulations made under this article may -
- (a) make different provision with respect to different classes of ships or with respect to ships which were registered in Malta at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen and apprentices of different descriptions;
  - (b) exempt any ship or class of ships from any requirements of the regulations, either absolutely or subject to such conditions as the Minister thinks fit;
  - (c) require the master of a ship or any officer authorised by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed.
- (4) If the provisions of any regulations made under this article are contravened in the case of a ship, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding five hundred units.
- (5) Regulations under this article may be made by reference in whole or in part to the requirements of the Accommodation of Crews Convention (Revised), 1949 (No.92) and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) both of the International Labour Organisation, including any revisions thereof.

Provisions and water.  
 Amended by:  
 XIII. 1983.5.  
 Substituted by:  
 XXII. 2000.71.

**149.** (1) The Minister may make regulations requiring provisions and water to be provided for persons employed in Maltese ships or any class of ships as may be specified in the regulations.

(2) The Minister may exempt any ship or class of ships from any requirements of regulations made under this article, either absolutely or subject to such conditions as he thinks fit.

(3) Where the provisions of any regulations made under this article are not complied with in the case of a ship the master or owner shall be liable, in addition to paying compensation under article 150A, to a fine (*multa*) not exceeding one thousand units unless he proves that the failure to comply was not due to his neglect or default.

(4) Where a person empowered under this Act to inspect the provisions and water to be supplied to the persons employed in a Maltese ship is not satisfied that they are in accordance with regulations made under this article, he shall inform the master of the ship of his opinion, and the ship's certificate of registry, whether provisional or otherwise, may be suspended until the defects are remedied.

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

Complaint as to provisions or water.  
*Substituted by: XXII. 2000.71.*

(2) Where the person making an examination under this article finds that the provisions or water are of bad quality or deficient in quantity, he shall communicate that fact in writing to the master of the ship, and if the master does not replace them with provisions or water fit for human consumption within a reasonable time or, without reasonable excuse, permits them to be used, he shall be liable to a fine (*multa*) not exceeding one thousand units unless he proves that the failure to replace them or permit them to be used was not due to his neglect or default.

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

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

**150A.** (1) If during the voyage of a Maltese ship the allowance of provisions provided for a person is less than that prescribed or any of those provisions are of bad quality, the person shall receive by way of compensation for the deficiency or bad quality, for so long as it lasts, such amounts as may be prescribed to be paid to him in addition to, and to be recoverable as, wages.

Allowance for short or bad provisions.  
*Added by: XXII. 2000.71.*

(2) Where the deficiency occurred because the provisions could not be procured or supplied in proper quantities and proper equivalent substitutes were supplied in lieu thereof, those circumstances shall be taken into consideration for the purposes of subarticle (1) and the compensation reduced or denied accordingly.

**151.** (1) The master of a Maltese ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out the provisions and articles in the presence of a witness whenever any dispute arises as to quantities.

Weights and measures on board.  
*Amended by: XIII. 1983.5; XXII. 2000.2.*

(2) If the master of a ship fails without reasonable cause to

comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding ten units.

Medical stores regulations.  
Amended by:  
XIII. 1983.5.  
Substituted by:  
XXII. 2000. 72.

**152.** (1) The Minister may make regulations protecting the health of persons on board Maltese ships and requiring Maltese ships to carry such medicines, medical stores, equipment, facilities, appliances and books containing instructions and advice, as may be specified in the regulations, and the regulations may make different provisions for different descriptions of ships or different circumstances.

(2) The owner and master of every Maltese ship shall ensure that the ship carries medicines, medical stores, equipment, facilities, appliances and books in accordance with the scales laid down under subarticle (1).

(3) Where an appropriate inspector is of the opinion that the medicines, medical stores, equipment, facilities, appliances and books on a Maltese ship are deficient in quantity or quality or are placed in improper receptacles, he shall give notice in writing to the master, owner or agent of the ship, and the ship's certificate of registry, whether provisional or otherwise, may be suspended until the default has been remedied:

Provided that if the master or owner of the ship fails to remedy the default and comply with the requirements of this article, the master or owner shall be liable to a fine (*multa*) not exceeding five hundred units unless he proves that the non-compliance was not caused through his inattention, neglect or wilful default.

Occupational safety regulations.  
Amended by:  
XIII. 1983.5.  
Substituted by:  
XXII. 2000. 73.

**153.** (1) Notwithstanding the provisions of any other law the Minister may make regulations for securing, as far as is practicable, safe working conditions and safe means of access for persons employed in Maltese ships.

(2) Without prejudice to the generality of subarticle (1) and to any provision of this Act, or any regulations, rules or orders made thereunder, regulations under this article may -

- (a) make provisions for -
  - (i) the structural features of the ship,
  - (ii) any machinery or equipment used on board,
  - (iii) special safety measures on and below deck,
  - (iv) any loading equipment,
  - (v) fire-fighting and fire prevention,
  - (vi) any anchors, chains and lines,
  - (vii) dangerous cargo and ballast, and
  - (viii) personal protective equipment;
- (b) require the maintenance, inspection and testing of any equipment and impose conditions on its use;
- (c) require, prohibit, or regulate the use of any material or process;

- (d) require the provision and use of any protective clothing or equipment;
- (e) limit the hours of employment of masters, seamen and apprentices in any specified operation or in any specified circumstances;
- (f) make provision for the discharge by persons appointed from among the persons employed in a ship, of functions in connection with the arrangements to be made under regulations; and
- (g) make provision specifying the respective responsibilities and duties of the Authority, owners, masters, seamen, pilots and apprentices in the prevention of accidents at sea.

(3) Regulations made under this article may provide that a person who contravenes the provisions thereof shall be liable to such penalty as may be provided for in the regulations, being a penalty of not more than one thousand units.

**154.** (1) The Minister may charge such persons as he may deem proper (in this Act referred to as “appropriate inspectors”) with ensuring compliance with the provisions of this Act relating to ships, their operation, crew, equipment, accommodation, provisions and water and conditions on board, and in so doing may in particular charge an appropriate inspector either with ensuring compliance with the provisions of this Act in general or of any particular provision or provisions thereof.

Appropriate  
inspectors.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2, 74.

(2) Appropriate inspectors shall perform their duties according to instructions given from time to time by the Minister, and in the performance of their duties they may-

- (a) go on board any ship and inspect the same or any part thereof or any article on board to which the aforesaid provisions of this Act apply;
- (b) require the production of all books, certificates (including certificates of competency), papers or documents which they consider important;
- (c) require the attendance of such persons as they think fit to call before them and examine, and administer the oath to, such persons.

(3) If any person obstructs an appropriate inspector in the performance of his duty, or refuses or neglects to attend as a witness before him after having been required to do so, or refuses to make any answer or to produce any document in his possession, that person shall for each offence be liable to fine (*multa*) not exceeding one hundred units.

(4) The Minister may by regulations under this Act, provide that appropriate inspectors shall carry such identity card showing such details and containing such information as may be prescribed.

*Facilities for making complaint*

Facilities for making complaint.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**155.** (1) If a seaman or apprentice whilst on board states to the master of the ship his desire to make a complaint to the shipping master, or to an appropriate inspector, or to a Maltese consular officer, against the master or any of the crew, the master shall, so soon as the service of the ship will permit -

- (a) if the ship is at a place where there is any such person as aforesaid to whom the complaint is to be made, after such statement; and
- (b) if the ship is not then at such place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make his complaint.

(2) If the master of a ship fails without reasonable cause to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding ten units.

*Deceased and distressed seamen and seamen left behind*

Effects and wages of deceased seamen.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**156.** If any seaman or apprentice belonging to a Maltese ship dies while he belongs to that ship, the following provisions shall have effect with respect to any money or effects belonging to the seaman or apprentice and to any wages due to him:

- (a) the master of the ship shall take charge of any moneys or effects belonging to the seaman or apprentice which are on board;
- (b) if the seaman or apprentice dies while the ship is in Malta, the shipping master, and in any other case, the Maltese consular officer at or near the place of the occurrence, shall claim and take charge of any such money or effects which are at such place and not on board the ship;
- (c) the shipping master or the Maltese consular officer may, if he thinks fit, sell any of the property delivered to him, or of which he takes charge, under this article, and the proceeds of any such sale shall be deemed to form part of the said property;
- (d) the master of the ship shall enter in the official log book:
  - (i) a statement of the amount of the money and a description of the effects;
  - (ii) a statement of the sum due to the deceased for wages and the amount of deduction, if any, to be made from the wages, and the entry shall be signed by the master and attested by a mate and some other member of the crew;
- (e) the master shall pay and deliver all such property and

wages to the shipping master, if his port of destination is in Malta, within forty-eight hours after his arrival at that port, and in any other case, to the Maltese consular officer of the first port, at which the ship touches and remains for forty-eight hours, in which there is such an officer;

- (f) a consular officer taking charge or receiving any such property and wages shall remit the same to the Minister or shall deal with such property and wages as the Minister directs;
- (g) in all cases in which a seaman or apprentice dies during the progress of a voyage or engagement, the master shall give to the shipping master or consular officer to whom payment and delivery are made as aforesaid, such account and in such form as they may require of the property of the deceased and of any wages due to him, and no deduction claimed by the master shall be allowed unless claimed in such account and unless verified by an entry in the official log book made and attested as required by this Act;
- (h) if the master of the ship fails to comply with this article, he shall be accountable for the property to the Minister and shall deliver and pay the same accordingly, and shall in addition be liable for each offence to a fine (*multa*) not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding fifty units.

**157.** (1) If a seaman or apprentice belonging to a Maltese ship is left behind, the master of the ship shall -

- (a) as soon as may be enter in the official log book a statement of the property left on board by the seaman or apprentice and of the amount due to him on account of wages at the time he was left behind; and
- (b) on the termination of the voyage during which the seaman or apprentice was left behind, furnish, within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, the shipping master, if the voyage terminates in Malta, or, if the voyage terminates at a port in which there is a Maltese consular officer, to such officer, such accounts and in such form as they may require of the property left on board by the seaman or apprentice and of any wages due to him, as well as of the deductions, if any, to be made from such wages, and of any expenses caused to the master or owner of the ship by the absence of the seaman where the absence is due to desertion, neglect to join his ship or other conduct constituting offence under article 171.

(2) The master of the ship shall deliver to the officer to whom the account aforesaid is made the property of the seaman or

Effects and wages of seamen left behind.

*Amended by:*  
*XIII.1983.5;*  
*XXII. 2000.2.*

apprentice as shown in that account and, subject to any deductions or expenses allowed under this article, the amount due for wages as shown in that account; and that officer shall give to the master a receipt therefor.

(3) No deduction claimed by the master shall be allowed unless claimed in such account and verified by an entry in the official log book made and attested as required by this Act; and no expenses claimed by the master or owner shall be allowed unless claimed in the account aforesaid and appear to the officer receiving the account to be properly chargeable and, when so required by him, verified by vouchers.

(4) The officer to whom payment and delivery as aforesaid have been made shall remit the property and any amount received on account of wages under this article to the Minister or deal with such property and wages in such manner as the Minister directs.

(5) If the master of a ship fails without reasonable cause to comply with this article, he shall (in addition to any other liability) be liable for each offence to a fine (*multa*) not exceeding fifty units.

Expenses of  
medical attendance  
in case of injury or  
illness.

**158.** (1) If the master of, or a seaman or apprentice belonging to, a Maltese ship receives any hurt or injury in the service of the ship, or suffers from any illness (not being an illness due to his own wilful act or to his own misbehaviour), the expenses of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master or seaman or apprentice until he is cured, dies, or is returned to a proper return port, including any period during which he is unemployed after he has been cured and before he has been returned to a proper return port, and of his conveyance to the port, and, in the case of death, the expenses (if any) of his burial, shall be defrayed by the owner of the ship, without any deduction on that account from his wages:

Provided that an owner shall not be liable by virtue of this article to pay the expenses of the maintenance of any person during any period after he has been cured or of his conveyance to a proper return port if he shows that that person has failed to accept suitable employment on board a Maltese ship proceeding within a reasonable time to a proper return port or had failed to comply with any other reasonable arrangements made for his return to a proper return port.

(2) If the master or seaman or apprentice is, on account of any illness, temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expenses of the removal and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship shall be defrayed in like manner.

(3) The expenses of all medicines, surgical and medical advice and attendance given to a master or seaman or apprentice whilst on board his ship shall be defrayed in like manner.

(4) In all other cases any reasonable expenses duly incurred by



the owner for any seaman or apprentice in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service shall, if duly proved, be deducted from the wages of the seaman or apprentice.

**159.** (1) If any of the expenses attendant on the illness, hurt or injury of a seaman or apprentice, which are to be paid under this Act by the master or owner, are paid by any authority on behalf of the Government of Malta, or if any other expenses in respect of the illness, hurt or injury of any seaman or apprentice whose wages are not accounted for under this Act to that authority, are so paid, those expenses shall be repaid to the authority by the master or owner of the ship.

Recovery of expenses from owner.

(2) If the expenses are not so repaid, the amount thereof shall with costs be a charge upon the ship and be recoverable from the master or from the owner of the ship for the time being or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a Maltese citizen or not being a body corporate established under the laws of Malta, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, at the suit of the person defraying the expenses or as a debt due to the Government of Malta.

(3) In any proceeding for such recovery, a certificate of the facts signed by that authority, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by that authority.

**160.** (1) The master of a Maltese ship shall not leave a seaman or an apprentice behind at any place, ashore or at sea (except where the seaman is discharged in accordance with this Act), unless he previously obtains, endorsed on the agreement with the crew the certificate of the shipping master or of a Maltese consular officer stating the cause of the seaman or apprentice being left behind, whether the cause be unfitness or inability to proceed to sea, desertion, disappearance, or otherwise.

Certificate required where seaman is left behind.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

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

(3) If the master of a ship fails to comply with this article he shall (without prejudice to his liability under any other provision of this Act) be liable for each offence to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine, and in any legal proceedings for the offence it shall lie on the master to prove that the certificate was obtained, or could not be obtained, or could not be obtained without unreasonable delay to the ship, or was

unreasonably withheld.

Account and  
payment of wages  
in case of seaman  
left behind.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**161.** (1) Where a master of a Maltese ship leaves a seaman or an apprentice behind on shore at any place on the ground of his unfitness or inability to proceed to sea, he shall deliver in duplicate to the officer giving the certificate required by this Act a full and true account of the wages due to the seaman or apprentice.

(2) The master shall pay the amount of wages due as aforesaid either to the seaman or apprentice himself, or to the said officer.

(3) Where payment is made to the shipping master or to a consular officer, that officer shall retain one duplicate of the account delivered to him and, if satisfied with the account, endorse on the other duplicate a receipt for the payment and return it to the master, and the master shall deliver the duplicate within forty-eight hours of his return to his port of destination, if that port is in Malta, to the shipping master, and in any other case to the Maltese consular officer of that port.

(4) If the master fails without reasonable cause to comply with this article or knowingly delivers a false account, he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

Application of  
payments on  
account of wages.

**162.** Where the amount of wages due to a seaman or to an apprentice left behind on the ground of unfitness or inability to proceed to sea is paid to the shipping master or to a consular officer, that officer shall deal with the sum so paid to him in the following manner:

- (a) if the seaman or apprentice subsequently obtains employment at or quits the port at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of his maintenance, except such as the owner or master is by this Act required to defray, and shall pay the remainder to the seaman or apprentice and deliver to him an account of the sums so received and expended on his behalf;
- (b) if the seaman or apprentice dies he shall deal with the sum as part of the property of a deceased seaman;
- (c) if the seaman or apprentice is sent to a proper return port at public expense he shall account for the sum to the Minister.

Regulations as to  
relief and  
maintenance of  
distressed seamen.

**163.** The Minister may make regulations with respect to the relief, maintenance and return to a proper return port of shipwrecked seamen and apprentices and of seamen and apprentices found otherwise in distress in any place and may by those regulations (in this Act referred to as the "distressed seamen regulations") make such conditions as he thinks fit with regard to that relief, maintenance and sending to a proper return port; and where the regulations so provide, any payment made thereunder shall be a charge on the Consolidated Fund.

**164.** Where either -

- (a) any seaman or apprentice, whether a citizen of Malta or not, is found in any place and has been shipwrecked from a Maltese ship, or, by reason of having been discharged or left behind from any such ship, is in distress in that place; or
- (b) any seaman or apprentice, being a citizen of Malta who has been engaged to serve in a ship belonging to the government of, or registered in, any foreign country, is in distress in any place,

Provision for relief and maintenance of distressed seamen.  
*Amended by:*  
*XXII. 2000. 75.*

the Maltese consular officer at that port, or such person as may be designated in the distressed seamen regulations, shall in accordance with and on the conditions prescribed by those regulations, provide in accordance with this Act for the return of those seamen or apprentices to a proper return port and also provide for their necessary clothing and their maintenance until their departure for such port and, in case of death, for burial expenses and, in addition, in the case of shipwrecked seamen or apprentices, for the repayment of any expenses incurred in their conveyance to a port after their shipwreck and their maintenance while being so conveyed.

**165.** (1) Where any expenses (other than excepted expenses as defined by this article) are incurred by or on behalf of the Government of Malta, or are incurred by the government of a foreign country and are repaid or repayable to that government by or on behalf of the Government of Malta, on account of a distressed seaman or apprentice, either for his maintenance, necessary clothing, conveyance to a proper return port or, in case of death, for his burial, or otherwise in accordance with this Act, those expenses (together with the wages, if any, due to the seaman or apprentice) shall be a charge upon the ship, whether Maltese or foreign, to which the distressed seaman or apprentice belonged, and shall be recoverable as a debt due to the Government of Malta from the master of the ship or from the owner of the ship for the time being or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss or, where the ship has been transferred to some person not being a Maltese citizen or not being a body corporate established under the laws of Malta, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, and also, if the ship is a foreign ship, from the person who, whether as principal or as agent, engaged the seaman or apprentice for service in the ship.

Recovery of expenses of relief of distressed seamen.

(2) In any proceedings for such recovery, a certificate of the expenses signed by the person defraying the expenses together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid.

(3) For the purposes of this article, "excepted expenses" are expenses incurred in cases where the certificate obtained under this Act on leaving a seaman or apprentice behind states, or the Minister is otherwise satisfied, that the cause of the seaman or apprentice being left behind is desertion, disappearance,

imprisonment for misconduct or discharge from his ship by a competent court on the ground of misconduct, and expenses incurred on account of the return to the proper port of a distressed seaman or apprentice who has been discharged at the port at which he was shipped or at some neighbouring port.

Penalty for forcing men ashore.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**166.** A person belonging to a Maltese ship shall not wrongfully force a seaman or an apprentice on shore and leave him behind or otherwise cause a seaman or an apprentice to be wrongfully left behind at any place, either on shore or at sea, and if he does so he shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

Mode of providing for return.  
Amended by:  
XXII. 2000.76.

**167.** (1) A seaman or apprentice may be sent to a proper return port by any reasonable route.

(2) Provision may be made for the return of a seaman or apprentice, if he is fit to work, by providing him with suitable employment on board a ship, proceeding to a proper return port, which is in want of men to make up its complement, or, if that is not practicable, by providing him with a passage in any ship or aircraft, or with the money for his passage, and, as to any part of the route which is by land, by paying the expenses of his journey and of his maintenance during the journey, or providing him with the means to pay those expenses.

(3) Where the master of a ship is required by this Act to provide for the return of a discharged seaman or apprentice to a proper return port, the master may, instead of providing the passage or the expenses of his journey, or of providing him with the means to pay his passage or those expenses, deposit with the officer whose sanction or certificate is required under this Act such sum as that officer considers sufficient to defray the expenses of the return of the seaman or apprentice to a proper return port.

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

(5) If any question arises as to what return port a seaman or apprentice is to be sent in any case, or as to the route by which he should be sent, that question shall be decided by the officer aforesaid, and in deciding any question under this provision, that officer shall have regard both to the convenience of the seaman or apprentice and to the expenses involved and also, where that is the case, to the fact that a ship which is in want of men to make up its complement is about to proceed to a proper return port or to a port in the vicinity thereof; but nothing in this article shall relieve the owner from the obligation and expense of returning the seaman or apprentice to his proper return port.

Provisions as to taking distressed seamen on ships.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**168.** (1) Where a distressed seaman or apprentice is, for the purposes of his return to a proper return port, placed on board a Maltese ship, the officer by whom he is so placed shall endorse on the agreement with the crew of the ship the name of the seaman or apprentice so placed on board, together with any particulars

directed to be endorsed by the distressed seamen regulations.

(2) The master of every Maltese ship shall receive on board his ship, and afford a passage and maintenance to, all distressed seamen or apprentices whom he is required under this Act to take on board his ship, not exceeding one for every fifty nett tons, and shall during the passage provide every such distressed seaman or apprentice with a proper berth or sleeping place, effectually protected against sea and weather.

(3) On the production of a certificate, signed by the officer by whose direction any such distressed seaman or apprentice was received on board, specifying the number and names thereof and the time when each of them was received on board, and on a declaration made by the master before any officer authorised to administer oaths, stating a number of days during which each distressed seaman or apprentice has received maintenance, and stating the full complement of his crew and the actual number of seamen employed on board his ship, and any variation in that number, whilst the distressed seamen or apprentices received maintenance, the master shall be entitled to be paid, in respect of the maintenance and passage of every seaman or apprentice so conveyed, maintained and provided for by him, exceeding the number (if any) wanted to make up the complement of his crew, such sum *per diem* as the Minister allows.

(4) If any master of a Maltese ship fails without reasonable cause to comply with this article in the case of any distressed seaman or apprentice, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units.

**168A.** (1) Subject to the provisions of this article and to other provisions of this Act, the provisions of the Social Security Act or any enactment replacing that Act, shall not apply in respect of foreign seamen employed on Maltese ships.

Provision of  
insurance policy.  
Added by:  
XXII. 2000. 77.  
Cap. 318.

(2) The owner shall maintain an insurance policy issued by such insurer or class of insurers approved by the Registrar-General in respect of every member of the crew of his ship to cover:

- (a) liability to pay hospital, medical, maintenance, funeral and other expenses incurred in relation to the injury to, or illness or death of, a member of the crew;
- (b) liability to repatriate and to compensate a member of the crew for the loss of his employment caused in consequence of the actual or constructive total loss of the ship or of a major casualty rendering the ship unseaworthy and necessitating the signing off of the crew;
- (c) liability to pay compensation or damages in accordance with Maltese Law and practice in relation to the injury to, or illness or death of, a member of the crew;
- (d) liability for wages payable to an injured or sick member of the crew or on death to his estate;

(e) liability in respect of loss of or damage to the personal effects of a crew member.

(3) The Minister may make regulations as appear to him to be necessary regulating the maintenance of an insurance policy as required by subarticle (2) and the compensation to be paid in case of injuries or death sustained by members of the crew.

(4) In the case of a Maltese member of the crew, no benefits under the Social Security Act or any enactment replacing that Act, shall be forfeited because any compensation as is mentioned under subarticles (2) and (3) is granted to the crew member or his survivors.

(5) Regulations made under this article may provide that a person who contravenes the provisions thereof shall be liable to such penalty as may be provided for in the regulations, being a penalty of not more than one thousand units.

*Provisions as to discipline*

Powers of the master to enforce discipline.

**169.** (1) The master has authority over his crew, his passengers and persons on board, to enforce obedience to his lawful commands for the navigation and management of his ship and the preservation of good order on board.

(2) The master may, where he has reasonable cause to believe and in fact believes that it is necessary for the preservation of order and discipline, or for the safety of the vessel or the persons or property on board, arrest and confine, or cause the arrest and confinement of, any person on board his ship in a reasonable manner and for such time as may be reasonable in the circumstances.

Misconduct endangering life on ship.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**170.** If a master, seaman or apprentice belonging to a Maltese ship, by wilful breach of duty or by neglect of duty or by reason of drunkenness -

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

he shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

Desertion and absence without leave.  
Amended by:  
XXIV. 1986.17.

**171.** If a seaman lawfully engaged, or an apprentice to the sea service, belonging to a Maltese ship commits any of the following offences he shall be liable to be punished as follows:

- (a) if he deserts from his ship he shall be guilty of the

offence of desertion and shall be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also of the wages he may earn in any other ship in which he may be employed until his next return to Malta or to the port at which he was engaged, and to satisfy any excess of wages paid by the master or owner of the ship to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him;

- (b) if he neglects, or refuses without reasonable cause, to join his ship, or to proceed to sea in his ship, or is absent without leave at any time within twenty-four hours of the ship's sailing from a port, either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion, or is not treated as such by the master, be guilty of the offence of absence without leave, and be liable to forfeit out of his wages a sum not exceeding two days' pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute.

**172.** *Repealed by article 18 of Act XXIV of 1986.*

Power of court to order offender to be taken on board ship.

**173.** (1) If a seaman lawfully engaged, or an apprentice to the sea service, belonging to a Maltese ship commits any of the following offences, in this Act referred to as "offences against discipline", he shall be liable to be punished as follows:

General offences against discipline.  
*Amended by:*  
*XXIV.1986.19.*

- (a) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (b) if he is guilty of wilful disobedience to any lawful command, he shall be liable to forfeit out of his wages a sum not exceeding two days' pay;
- (c) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to forfeit for every twenty-four hours' continuance of disobedience or neglect either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute;
- (d) if he assaults the master or any mate or certificated engineer of the ship, he shall be liable to imprisonment for a period not exceeding twelve weeks;
- (e) if he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to forfeit a sum not exceeding twelve

weeks' pay;

- (f) if he wilfully damages his ship or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained and also, at the discretion of the court, to imprisonment for a period not exceeding twelve weeks.

(2) If a seaman or an apprentice as aforesaid is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

(3) Nothing in this article or in article 171 shall take away or limit any remedy which an owner or master would but for those provisions have for any breach of contract or otherwise in respect of the matters constituting an offence under those articles, but an owner or master shall not be compensated more than once in respect of the same damage.

Penalty for false statement as to last ship or name.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**174.** If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship, or of his own name, he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

Entry of offences in official log.

**175.** If any offence, within the meaning of this Act, of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine -

- (a) an entry of the offence or act shall be made in the official log book and signed by the master and also by the mate or one of the crew;
- (b) the offender, if still on the ship, shall before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply as he thinks fit;
- (c) a statement of a copy of the entry having been so furnished or of the entry having been so read over and, in either case, of the reply (if any) made by the offender shall likewise be entered and signed in manner aforesaid; and
- (d) in any subsequent legal proceedings the entries by this article required shall, if practicable, be produced or proved, and in default of that production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offence or act of misconduct.



**176.** (1) In every case of desertion from a ship in any port abroad the master shall produce the entry of the desertion in the official log book to the person by this Act authorised to grant certificates for leaving seamen behind abroad; and that person shall thereupon make and certify a copy of the entry.

Entries and certificates of desertion abroad.

(2) The copy shall be forthwith transmitted to the Registrar-General by the person by whom the copy is made and certified; and such copy shall, until the contrary is proved, be evidence of its contents, provided its authenticity is proved.

**177.** The shipping master shall keep at his office a list of the seamen who, to the best of his knowledge and belief, have deserted or failed to join their ships after signing an agreement to proceed to sea in them, and shall on request show the list to a master of a ship, and shall not be liable in respect of any entry made in good faith in the list.

Register of deserters.

**178.** (1) Whenever a question arises whether the wages or effects of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement, or, if the voyage was to terminate in Malta and the ship has not returned, that he is absent from her, and that an entry of his desertion has been duly made in the official log book.

Facilities for proving desertion in proceedings for forfeiture of wages.

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

**179.** (1) Save as hereinafter provided, any punishment not restrictive of personal liberty provided for by article 171 and by subarticle (1) of article 173, shall be treated as a fine (*multa*).

Nature and application of forfeitures.

(2) Where any wages or effects are forfeited for desertion from a ship, those effects may be converted into money, and those wages and effects, or the money arising from the conversion of those effects, shall, subject to the reimbursement of the expenses caused by the desertion of the offender to the master or owner of the ship, be paid to the registrar of the court ordering that forfeiture.

(3) For the purposes of the reimbursement of the expenses aforesaid, the master or owner, or his agent, may, if the wages are earned subsequently to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the court in any legal proceeding relating to such wages may order them to be paid accordingly.

(4) Where any wages are forfeited for damage caused to the ship, or to her stores or cargo, the forfeiture shall be for the benefit of the master or owner by whom the wages are payable.

Forfeitures and deductions may be determined in suits for wages.

**180.** Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of criminal proceedings.

Ascertainment of amount of forfeiture out of wages.

**181.** If a seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage or run; and if the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Penalty for enticing to desert and harbouring deserters.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**182.** (1) If any person by any means whatever persuades or attempts to persuade a seaman or apprentice belonging to a Maltese ship to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine (*multa*) not exceeding fifty units.

(2) If a person wilfully harbours or secretes a seaman or apprentice belonging to a Maltese ship who has wilfully neglected or refused to join or has deserted from, his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine (*multa*) not exceeding fifty units.

Deserters from foreign ships.  
*Amended by:*  
*XIII. 1983.5.*

**183.** *Repealed by article 20 of Act XXIV of 1986.*

*Stowaways and Seamen carried under compulsion*

Stowaways.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**184.** If a person secretes himself and goes to sea in a ship, or attempts to secrete himself in a ship to go to sea, without the consent of either the owner or master of the ship, or of a mate or other person in charge of the ship, or of any other person entitled to give that consent, such person (in this Act referred to as a "stowaway") shall be liable to a fine (*multa*) not exceeding twenty units or, in the discretion of the court, to imprisonment for a period not exceeding four weeks, and in the case of a second or subsequent conviction to imprisonment for a period not exceeding three months.

Discipline of stowaways and persons carried under compulsion.

**185.** Every seafaring person whom the master of a ship is, under the authority of this Act or of any other law, compelled to take on board and convey, and every stowaway, shall, so long as he remains in the ship, be deemed to belong to the ship and be subject to the same laws and regulations for preserving discipline, and to the same fines and punishments for offences constituting or tending to constitute a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

**186.** (1) The master of any ship arriving at any port in Malta with any stowaway on board shall, without delay, report the matter to the Minister and shall take all reasonable measures to prevent such person from landing without the written authority of the Minister; and may for that purpose keep the stowaway in custody while the ship is in port.

Duties of master as to stowaways.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) Where any such stowaway leaves the ship without being authorised as aforesaid, the master of the ship shall be deemed to have suffered him to land.

(3) If the master contravenes any of the provisions of this article he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

**187.** Where a stowaway lands without such authority as aforesaid, the Minister may cause the stowaway to be taken back on board the ship and the master shall receive him back on board; and if the master fails or refuses to do so he shall be liable to a fine (*multa*) not exceeding one hundred units.

Stowaway may be taken back on board.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**188.** Where for any reason, except with the permission of the Minister, a person arriving in Malta in a ship as a stowaway is left behind in Malta, the cost of his maintenance, if any, incurred by the Government of Malta and the expense necessary for the removal of such person from Malta, shall be a liability of the agent of the ship from which the stowaway has landed, and any such cost or expense shall, unless met by the said agent, be recoverable from him.

Liability of ship's agent.

**189.** (1) The master of any ship shall without delay give notice to the Minister, or to any customs or police officer, of the presence on board of any person found attempting to secrete himself in such ship for the purpose of going to sea as a stowaway, and shall assist in causing such person to be landed.

Master to notify discovery of stowaway.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If a master contravenes any of the provisions of this article he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

#### *Official logs*

**190.** (1) An official log shall be kept in every Maltese ship, other than a ship employed solely in navigation on the coasts of Malta, in the appropriate form for that ship approved by the Minister.

Official logs to be kept and to be evidence.

(2) The Minister shall approve forms of official log books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Act.

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

(4) An entry required by this Act in an official log book shall

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

(5) Every entry in the official log book shall be signed by the master and by the mate or some other member of the crew, and also-

- (a) if it is an entry of illness, injury or death, shall be signed by the surgeon or medical practitioner on board, if any; and
- (b) if it is an entry of wages due to, or of the effects of, a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master.

(6) All entries made in an official log book in manner provided by this Act shall, until the contrary is proved, be evidence of their contents, provided the authenticity of the log book is proved.

Entries required in official log book.

**191.** The master of a ship for which an official log book is required shall enter or cause to be entered in the official log book the following matters:

- (a) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;
- (b) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture, or to exact a fine, together with such statement concerning the copy or reading over of that entry, and concerning the reply (if any) made to the charge, as is by this Act required;
- (c) every offence for which punishment is inflicted on board, and the punishment inflicted;
- (d) every arrest and confinement made in pursuance of article 169, and the circumstances leading thereto;
- (e) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;
- (f) every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted (if any);
- (g) every marriage taking place on board with the names and ages of the parties;
- (h) the birth of a child, or the death of a person, happening on board, in manner provided by articles 285 and 304 of the Civil Code;
- (i) every will made at sea, in manner provided by article 678 of the Civil Code;
- (j) the name of every seaman or apprentice who ceases to

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be a member of the crew, otherwise than by death, with the place, time and manner, and cause thereof;

- (k) the wages due to, and the effects left on board by, any seaman or apprentice who dies during the voyage, and the gross amount of any deductions to be made therefrom;
- (l) every collision with any other ship, and the circumstances under which the same occurred; and
- (m) any other matter directed by or under this Act or by or under any other law to be entered.

**192.** (1) If an official log book is not kept in the manner required by this Act, or if any entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall for each offence be liable to the specific fine in this Act or in any other law mentioned in respect thereof or, where there is no such specific fine, to a fine (*multa*) not exceeding ten units.

Offences in respect of official logs.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If any person makes, or procures to be made, or assists in making, an entry in an official log book in respect of any occurrence happening previously to the arrival of the ship at a final port of discharge more than twenty-four hours after that arrival, he shall for each offence be liable to a fine (*multa*) not exceeding thirty units.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in an official log book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log book, he shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units, or to both such imprisonment and fine.

**193.** (1) The master or owner of every ship required by this Act to discharge the crew in the presence of the shipping master shall, within forty-eight hours after the ship's arrival at her final port of destination in Malta or upon the discharge of her crew, whichever first happens, deliver the official log book of the voyage to the shipping master.

Delivery of official logs to shipping master.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If the master or owner of a ship fails without reasonable cause to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

**194.** (1) Where by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required at the same date, the master or owner of the ship shall, if the ship is then in Malta, within fifteen days, and, if the ship is elsewhere, within three months, after the cessation, deliver or transmit to the shipping master the official log book duly made out to the time of cessation.

Official logs to be sent home in case of transfer or loss of ship.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to

the shipping master the official log book (if any) duly made out to the time of the loss or abandonment.

(3) If the master or owner of a ship fails without reasonable cause to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

#### *Identity cards*

Issue of Maltese seaman's card.  
Amended by:  
XXII. 2000. 78.

**195.** (1) There shall be issued to every Maltese seaman, on application by him in accordance with this Act, an identity document to be known, and in this Act referred to, as a Maltese seaman's card, in the form and containing the particulars specified in the Fourth Schedule to this Act:

Provided that the Minister may, by regulations amend, add to, vary, revoke or substitute the Fourth Schedule.

(2) An application for a Maltese seaman's card shall be made in person at the office of the Registrar-General and the applicant shall produce such documents and furnish such information as the Registrar-General may require.

(3) The Registrar-General, if satisfied that the applicant is a person entitled to an identity document under this Act, shall issue to him a Maltese seaman's card.

(4) For the purposes of this article and of articles 200 and 201, "Maltese seaman" means a person who, being a citizen of Malta, is employed or engaged, or ordinarily employed or engaged, in sea-going ships (whether Maltese or foreign), other than fishing boats or ships forming part of the navy of any country, as a master or a member of the crew thereof.

Safe custody of card.

**196.** Every person to whom a Maltese seaman's card has been issued shall keep it in his safe custody and shall produce it on demand to the shipping master.

Loss, destruction or defacement of a Maltese seaman's card.

**197.** (1) If a Maltese seaman's card is lost, destroyed or defaced, the person to whom the card was issued shall, as soon as practicable, report the fact to the Registrar-General and, in the case of a defaced card, shall surrender the defaced card at the office of the Registrar-General.

(2) Upon an application for the issue of a card in substitution of a card lost, destroyed or defaced, and upon payment of the fee if any, the Registrar-General, if satisfied that the card has been lost, destroyed or defaced and, in the case of a defaced card, that it has been surrendered as required by this Act, shall issue a fresh card.

(3) A fee of seventy-five cents (or such other fee as the Minister may from time to time prescribe) shall be paid for each Maltese seaman's card issued in substitution for a card which has been lost, destroyed or defaced:

Provided that no fee shall be charged if the Registrar-General is satisfied that such loss, destruction or defacement could not reasonably be avoided by the seaman or is due to fair wear and

tear.

**198.** If any of the particulars entered upon a Maltese seaman's card shall become or be found to be incorrect, the person to whom the card was issued shall, as soon as practicable, report the fact to the Registrar-General and shall surrender the incorrect card at his office; and the Registrar-General may thereupon either cause the card to be amended or order the issue of a card in substitution therefor.

Incorrect particulars entered on card.

**199.** (1) No person (other than the Registrar-General or a person authorised in that behalf by the Minister or by the Registrar-General, acting in accordance with the provisions of this Act or instructions given by the Minister or by the Registrar-General) shall make any mark or entry upon, or erase, cancel or alter any mark or entry made upon, or otherwise deface or destroy, a Maltese seaman's card.

Entries upon, and assignment or charge of, card.

(2) No person shall assign or charge, or agree to assign or charge, any Maltese seaman's card, and the assignment of, or any charge on, a Maltese seaman's card shall be void and of no effect.

**200.** A Maltese seaman who has in his possession more than one Maltese seaman's card or holds, in addition to a Maltese seaman's card, a distinctive seaman's document of identity issued under the authority of the Government of any foreign country, shall without delay and in person produce such cards and documents of identity to the Registrar-General and shall surrender to him such one or more of the cards being Maltese seaman's cards as the Registrar-General shall require.

Possession of more than one identity document.

**201.** A person to whom a Maltese seaman's card has been issued shall surrender it to the Registrar-General forthwith upon ceasing to be a Maltese seaman and the Registrar-General may require any person to whom such a card has been issued to surrender the same to him.

Surrender of card on ceasing to be a Maltese seaman.

**202.** Any person who comes into possession of a Maltese seaman's card issued to some other person shall forthwith deliver or forward it to the Registrar-General.

Delivery of card issued to other persons.

**203.** (1) Any person who contravenes or fails to comply with any of the provisions of article 196, of article 197(1), or of articles 198, 199, 200, 201 and 202, or fails to comply with any requirement of the Registrar-General under article 201, shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

Penalties.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) Article 98 shall have effect as if references therein to a certificate of competency included references to a Maltese seaman's card.

#### *Application of Part IV*

**204.** This Part of this Act shall, unless the context or subject matter requires a different application, apply to all sea-going ships registered under this Act, and to the owners, masters and crews of

Application of this Part to ships registered in Malta.

such ship, subject as hereinafter provided with respect to -

- (a) pleasure yachts, and
- (b) fishing boats.

Partial application  
to pleasure yachts.  
*Substituted by:*  
*XXII. 2000. 79.*

**205.** The provisions of articles 113 to 120 (both inclusive), of articles 121 to 122C (both inclusive), of articles 125, 133, 137 and 148, and of articles 190 to 194 (both inclusive) and to the extent as may be prescribed, any other provision of this Part of this Act, as the Minister may by regulations prescribe, shall not apply to pleasure yachts.

Partial application  
to fishing boats.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2, 80.*

**206.** (1) The provisions of this Part of this Act shall apply to fishing boats subject as in this article provided.

(2) The provisions relating to compulsory agreements with the crew shall apply only to fishing boats of twenty-five tons and upwards, and -

- (a) in the application of article 114 to such fishing boats, the following provisions shall have effect:
  - (i) the agreement with the crew (hereinafter referred to as "fishing boat's agreement") shall be made in such form as the Minister may approve with respect to fishing boats; and
  - (ii) a fishing boat's agreement shall, in lieu of the amount of wages, specify, where the circumstances so require, the remuneration which each seaman is to receive, whether in wages or by share in the catch, or in both ways; and
- (b) in the application of article 115 to such fishing boats as aforesaid, a fishing boat's agreement may be made by the owner instead of by the master and the provisions of this Act with respect to the making of the agreement shall apply accordingly.

(3) Article 126 shall apply only to fishing boats of twenty-five tons or upwards.

(4) Articles 133 and 135 shall not apply to fishing boats, but the following provisions shall have effect with respect to fishing boats, that is to say:

- (a) the owner of a fishing boat, being a boat of twenty-five tons or upwards, shall deliver to the master, and the owner or master of such a boat shall deliver to every seaman of that boat, a full and true account in a form approved by the Minister, of the wages or other remuneration of the master or seaman, as the case may be, and of all deductions to be made therefrom on any account whatever; and a deduction from the remuneration of a master or seaman shall not be allowed unless it is included in the account so delivered, or is in regard to a matter happening after such delivery;



- (b) the master may by notice to the owner, and a seaman may by notice to the owner or the master, dispense with the delivery of such account;
- (c) except where the account is so dispensed with and except in so far as it relates to remuneration consisting in a share of the catch, the account shall be delivered not less than four hours before the paying off or discharge of the master or seaman;
- (d) if the owner or master of a boat fails without reasonable cause to comply with this subarticle, he shall for each offence be liable to a fine (*multa*) not exceeding ten units.

(5) The tonnage of a fishing boat for the purposes of this article shall be taken to be, in the case of a steam trawler her gross tonnage and in any other case her registered tonnage as ascertained for the purpose of that registry.

(6) For the purposes of this article "fishing boat" means a vessel which is for the time being employed in sea fishing or in the sea-fishing service, including vessels employed as tenders or carriers to fishing boats or for the purpose of collecting and conveying to land the catch of fishing boats, but shall not include a vessel used for catching fish otherwise than for profit.

## PART V

### SAFETY OF LIFE AT SEA

#### 1. CONSTRUCTION AND EQUIPMENT OF SHIPS

##### *Rules as to construction, equipment and safety*

**206A.** (1) The Safety Convention shall, unless otherwise provided in any rules made under articles 207 to 212 (both inclusive), apply to all Maltese ships and to all other ships while they are in Maltese waters as if the requirements thereof were imposed on such ships by rules made under those articles.

Application of the Safety Convention.  
*Added by:*  
*XXII. 2000.81.*

(2) For the purposes of subarticle (1), the term "the Safety Convention" shall have the same meaning as is assigned to it in article 213.

**207.** (1) The Minister may make rules (in this Act referred as "construction and survey rules") prescribing requirements for the hull, equipment and machinery of ships to which this article applies and requiring any such ships to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the rules.

Construction and survey rules.  
*Amended by:*  
*XXII. 2000.82.*

(2) This article applies to:

- (a) Maltese passenger ships, and any foreign passenger ship which carries passengers to or from any place, or between places, in Malta;
- (b) sea-going ships of not less than five hundred tons gross tonnage, or of not less than such lower tonnage and of such description as the Minister may by order in the Gazette specify, except that it applies to such sea-going ships not registered under this Act only while they are in Maltese waters;
- (c) such other ships as the Minister may prescribe.

(3) Without prejudice to the generality of the foregoing provisions of this article, rules under this article may require the provision in Maltese passenger ships -

- (a) of plant exhibited as provided by or under the rules, and of other information, relating to the boundaries of water-tight compartments, the openings therein, the means of closing such openings and the arrangements for correcting any list due to flooding;
- (b) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage.

Rules for life-saving appliances.  
Amended by:  
XXII.2000.83.

**208.** (1) The Minister may, in relation to any ships to which this article applies, make rules (in this Act referred to as "rules for life-saving appliances") with respect to all or any of the following matters, namely:

- (a) the arrangement of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of passengers carried;
- (b) the number, description and mode of construction of the boats, life-rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;
- (c) the equipment to be carried by any such boats and rafts, and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;
- (d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;
- (e) the quantity, quality and description of buoyant apparatus to be carried on board ships, either in addition to or in substitution for boats, life-rafts, life-jackets and lifebuoys;
- (f) the position and means of securing the boats, life-rafts, life-jackets, lifebuoys and buoyant apparatus;
- (g) the marking of the boats, life-rafts and buoyant apparatus as to show their dimensions and the number

of persons authorised to be carried on them;

- (h) the manning of the lifeboats and the qualifications and certificates of lifeboat men;
  - (i) the provision to be made for mustering the persons on board and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);
  - (j) the provision of suitable means situated outside the engine room whereby any discharge of water into the boats can be prevented;
  - (k) the assignment of specific duties to each member of the crew in the event of emergency;
  - (l) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;
  - (m) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire;
  - (n) the practice in ships of boat-drills and fire-drills;
  - (o) the provision in ships of means of making effective distress signals by day and night;
  - (p) the provision, in ships engaged on voyages in which pilots are likely to be embarked, of suitable pilot-ladders, and of ropes, lights and appliances designed to make the use of such ladders safe;
  - (q) the examination and maintenance at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.
- (2) This article applies to:
- (a) Maltese ships;
  - (b) all other ships while they are in Maltese waters.

**209.** (1) The Minister may make rules (in this Act referred to as "radio rules") requiring ships to which this article applies to be provided with a radio installation other than a radio navigational aid of such a nature as may be prescribed by the rules and to maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed; and the rules may contain provisions for preventing, so far as practicable, electrical interference with the radio installation by other apparatus on board.

Radio rules.  
Amended by:  
XXII.2000.83.

- (2) This article applies to:
- (a) Maltese ships;
  - (b) all other ships while they are in Maltese waters.
- (3) Without prejudice to the generality of the foregoing provisions of this article, rules under this article may -
- (a) prescribe the duties of radio officers and operators,

including the duty of keeping a radio log book;

- (b) apply to any radio log book required to be kept under the rules any of the provisions of articles 193 and 194;
- (c) require the master of the ship to cause to be entered in the official log book such particulars relating to the operation of the radio installation, and the maintenance of the radio service, as may be specified in the rules;
- (d) prescribe requirements for such portable radio apparatus as boats or life-rafts may be required to carry by the rules for life-saving appliances.

Rules for direction-finders.  
Amended by:  
XXII.2000.85.

**210.** (1) The Minister may make rules (in this Act referred to as "rules for direction-finders") requiring ships to which this article applies to be provided with a direction-finder of such a nature as may be prescribed by the rules.

(2) This article applies to:

- (a) Maltese ships;
- (b) all other ships while they are in Maltese waters.

(3) Without prejudice to the generality of the foregoing provisions of this article, rules under this article may provide for the position of the direction-finder in the ship, for the communication between the direction-finder and the bridge, for testing the direction-finder at intervals and as occasion may require and for recording the result of the tests.

Further provisions as to radio navigational aids.

**211.** The Minister may make rules prescribing:

- (a) the requirements that radio navigational aids, other than direction-finders, shall comply with if they are carried on board Maltese ships, including requirements relating to their position and method of fitting;
- (b) the requirements that apparatus designed for the purpose of transmitting or reflecting signals shall comply with, being apparatus in Malta, or off the shores of Malta and maintained from Malta.

Openings in passenger ship's hulls and water tight bulk heads.

**212.** The Minister may in relation to any Maltese passenger ship make rules for any of the following matters:

- (a) for closing and keeping closed the openings in ships' hulls and in water tight bulk heads;
- (b) for securing, keeping in place and inspecting contrivances for closing any such openings as aforesaid;
- (c) for operating the mechanisms of contrivances for closing any such openings as aforesaid and for drills in connection with the operation thereof;
- (d) for requiring entry to be made in the official log book or other record to be kept of any of the matters aforesaid.

**213.** (1) Any rules made under articles 207, 208, 209 and 210 shall include such requirements, in regard to the matters in respect of which the rules are made, as appear to the Minister to implement the provisions in regard to those matters of the international convention entitled "The International Convention for the Safety of Life at Sea" signed in London on 1st November, 1974 and the Protocol thereto signed in London on 17th February, 1978 or any other international convention or protocol relating to safety of life at sea ratified or acceded to by the Government of Malta (in this Act referred to as "the Safety Convention").

Rules to implement international conventions.  
*Amended by:*  
*XXIV.1988.21;*  
*XXII.2000.85.*

(2) Any reference in subarticle (1) to an international convention or protocol shall include reference to any amendment to such convention or protocol ratified, acceded to or accepted by the Government of Malta.

#### *Declarations of survey*

**214.** Where for the purpose of the issue of a certificate in respect of a ship under this Part of this Act a ship has been surveyed in accordance with the construction and survey rules by the appropriate surveyors, the surveyors, if satisfied on the survey that they can with propriety do so, shall deliver to the owners declarations of survey in a form approved by the Minister.

Declarations of survey.

**215.** (1) The owner of a ship which has been surveyed shall, within fourteen days after the receipt by him of a declaration of survey, transmit it to the Minister.

Transmission of declarations of survey.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) If the owner fails without reasonable cause so to transmit a declaration of survey, he shall be liable to a fine (*multa*) not exceeding two units for every day during which the transmission is delayed.

**216.** (1) If the owner of a ship feels aggrieved by the declaration of survey of a ship surveyor, or an engineer surveyor, or a radio surveyor, or by the refusal of such a surveyor to give a declaration he may appeal to the court of survey in manner directed by the rules of that court.

Appeal to court of survey.

(2) On any such appeal the chairman of the court of survey shall report to the Minister on the question raised by the appeal, and the Minister may act on receipt of such a report as he may act on receipt of a declaration of survey.

(3) Subject to any order made by the chairman of the court of survey, the costs of and incidental to the appeal shall follow the event.

#### *Certificates in respect of ships*

**217.** (1) If the Minister, on receipt of declarations of survey in respect of a Maltese passenger ship, is satisfied that the ship complies with the construction and survey rules, the rules for life-

Passenger ships safety certificates and exemption certificates.

saving appliances, the radio rules, and the rules for direction-finders, applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with the requirements of the Safety Convention applicable as aforesaid; and any certificate issued under this subarticle is in this Act referred to as a "general safety certificate":

Provided that, if the voyages on which the ship is to be engaged are short international voyages and she complies only with such of those rules as are applicable to those voyages, the certificate shall show that the ship complies with the requirements of the Safety Convention applicable to her as a ship plying on short international voyages; and any such certificate is in this Act referred to as a "short-voyage safety certificate".

(2) If the Minister, on receipt of declarations of survey in respect of any such passenger ship as aforesaid is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by his Act or by the rules in question, from any of the requirements of the construction and survey rules, rules for life-saving appliances, radio rules, or rules for direction-finders, applicable to the ship and to such international voyages as she is to be engaged on, whether short voyages or otherwise, and that she complies with the rest of those requirements and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship -

- (a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages, and being engaged only in the trades, and complying with the other conditions (if any), specified in the certificate; and
- (b) a certificate showing that the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is in this Act referred to as a "qualified safety certificate" or a "qualified short-voyage safety certificate", as the case may be.

Passenger ship  
certificate.

**218.** (1) If the Minister, on receipt of declarations of survey in respect of a passenger ship to which article 207 applies, is satisfied that the requirements of this Part of this Act in respect of construction and equipment applicable to such ship have been complied with, he shall, on the application of the owner, issue a certificate stating such compliance and stating, according to the declarations -

- (a) the limits (if any) beyond which the ship is not fit to ply; and
- (b) the number of passengers which the ship is fit to carry,

distinguishing, if necessary, the number to be carried in each part of the ship, and any conditions or variations to which the number is subject;

and any certificate issued under this subarticle is in this Act referred to as a "passenger ship certificate".

(2) Any general safety certificate or short-voyage safety certificate, whether qualified or not, may be combined in one document with a passenger ship certificate.

**219.** (1) If the Minister, on receipt of declarations of survey in respect of a Maltese ship, not being a passenger ship, is satisfied that the ship complies with the construction and survey rules applicable to the ship and to such voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid, and any such certificate is in this Act referred to as a "cargo ship safety construction certificate".

Cargo ship safety construction certificates and exemption certificates.

(2) If the Minister, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or by the construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship -

- (a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages, and complying with the other conditions (if any) specified in the certificate; and
- (b) a certificate showing that the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is in this Act referred to as a "qualified cargo ship safety construction certificate".

**220.** (1) If the Minister, on receipt of declarations of survey in respect of a Maltese ship, not being a passenger ship, is satisfied that the ship complies with the rules for life-saving appliances applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid; and any certificate issued under this subarticle is in this Act referred to as a "safety equipment certificate".

Cargo ships safety equipment certificates and exemption certificates.

(2) If the Minister, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is

exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or by the rules for life-saving appliances, from any of the requirements of those rules applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements and is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship -

- (a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages, and complying with the other conditions (if any), specified in the certificate; and
- (b) a certificate showing that the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is in this Act referred to as a "qualified safety equipment certificate".

Radio certificates  
and exemption  
certificates.

**221.** (1) If the Minister, on receipt of declarations of survey in respect of a Maltese ship, not being a passenger ship, is satisfied that the ship complies with the radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders as are applicable as aforesaid; and any certificate issued under this subarticle is in this Act referred to as a "radio certificate".

(2) If the Minister, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or by the rules in question, from any of the requirements of the radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship -

- (a) an exemption certificate stating which of the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, being requirements applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages, and complying with the other conditions (if any), specified in the certificate; and
- (b) a certificate showing that the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is in this Act referred to as a "qualified radio certificate".

- (3) Where any Maltese ship is wholly exempt from the



requirements of the radio rules and the rules for direction-finders, the Minister shall, on the application of the owner, issue an exemption certificate stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders and specifying the voyages on which, and the conditions (if any) on which, the ship is so exempt.

**221A.** Where the Minister is satisfied that a cargo ship satisfies the requirements of the foregoing provisions of this article for the issue of a cargo ship safety construction certificate, a safety equipment certificate, and a radio certificate, he may issue in respect of such ship in lieu of such certificates a cargo ship safety certificate and such certificate shall for the purposes of this Act be deemed to be a cargo ship safety construction certificate, a safety equipment certificate and a radio certificate in respect of such cargo ship, and any reference in this Act to such certificates shall be deemed to include a reference to a cargo ship safety certificate.

Cargo ship safety certificate.  
Added by:  
XXII. 2000.87.

**222.** Where a ship complies with all the requirements of the construction and survey rules, rules for life-saving appliances, radio rules, and rules for direction-finders, applicable to the ship and to the voyages on which she is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Minister may issue in respect of the ship a general safety certificate, short-voyage safety certificate, cargo ship safety construction certificate, safety equipment certificate, a radio certificate, as the case may be, notwithstanding that she is exempt from, or for some other reason does not comply with, any requirement of those rules that are not applicable requirements of the Safety Convention.

Issue of certificates on partial compliance with rules.

**223.** (1) The Minister may request the government of a country to which the Safety Convention applies to issue in respect of a Maltese ship any certificate, other than a passenger ship certificate, the issue of which is authorised under the foregoing provisions of this Part of this Act; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister and not by the government of that country.

Issue of certificates by foreign governments on request by Minister.

(2) Where in pursuance of a request made under this article the government of the country requested to issue a certificate is willing to issue a qualified certificate but is not willing to issue the corresponding exemption certificate, the Minister may issue the exemption certificate in respect of the ship.

**224.** The issue of any certificate under the foregoing provisions of this Part of this Act shall be made in duplicate and against the payment of such fees as may be prescribed.

Certificates in duplicate and fees for certificates.

**225.** (1) The owner or master of a ship in respect of which any certificate issued under the foregoing provisions of this Part of this Act is in force shall, as soon as possible after any alteration is made in the ship's hull, equipment, appliances or machinery affecting the

Notice of alterations and additional surveys.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

efficiency thereof or the seaworthiness of the ship, give written notice to the Minister containing full particulars of the alteration.

(2) If notice of any alteration is not given as required by this article, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

(3) If the Minister has reason to believe that since the making of the last declaration of survey in respect of any ship as aforesaid-

(a) any such alteration has been made as is mentioned in subarticle (1); or

(b) the hull, equipment, appliances or machinery of the ship have sustained an injury or are otherwise insufficient, the Minister may, without prejudice to his powers under article 228, require the ship to be again surveyed to such extent as he thinks fit, and, if such requirement is not complied with, may cancel any certificate issued in respect of the ship under the foregoing provisions of this Part of this Act.

(4) For the purpose of this article the expression "alteration" in relation to anything includes the renewal of any part of it.

Duration of  
certificates.  
Amended by:  
XXII. 2000.88.

**226.** (1) A passenger ship certificate shall remain in force for a period not exceeding one year from its date of issue, and all other certificates referred to in the foregoing provisions of this article shall remain in force for a period which shall not exceed five years.

(2) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the requirements relating to radiotelegraphy, radiotelephony and direction-finders, shall remain in force for the same period as the corresponding qualified certificate.

(3) The Minister may grant an extension of any certificate granted under the foregoing provisions of this Part of this Act in respect of any Maltese ship for a period not exceeding three months from the date when a certificate would, but for the extension, have expired.

(4) Without prejudice to the powers conferred by subarticle (5), where a certificate under article 219 is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under this article, the Minister may if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year and not exceeding, together with the period for which it was issued and any period by which it has previously been extended under this subarticle, the period for which it could have been issued under this article.

(5) Notwithstanding the foregoing provisions of this article no certificate therein referred to shall remain in force after notice is given by the Minister to the owner or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

**227.** Any certificate issued by the Minister under the foregoing provisions of this Part of this Act shall be admissible in evidence without the necessity of any proof of its authenticity other than that which appears on the face of it, and shall, until the contrary is proved, be evidence of its contents.

Certificates admissible in evidence.

**228.** (1) The Minister may cancel any certificate issued in pursuance of the foregoing provisions of this Part of this Act where he has reason to believe -

Cancellation of certificates.

- (a) that a declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or
- (b) that the certificate has been issued upon false or erroneous information; or
- (c) that since the making of the declaration the hull, equipment or machinery of the ship have sustained an injury or are otherwise insufficient.

(2) In every such case the Minister may require the owner to have the hull, equipment or machinery of the ship again surveyed, and to transmit further declarations of survey, before he re-issues the certificate or grants a fresh one in lieu thereof.

**229.** (1) The Minister may require any certificate which has expired or been cancelled under the foregoing provisions of this Part of this Act to be delivered up as he directs.

Delivery up of certificates.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If the owner or master fails without reasonable cause to comply with such requirement, he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

**230.** (1) The owner or master of every ship required to have a certificate or certificates under this Part of this Act shall forthwith on the receipt of the certificates by him or his agent cause one of the duplicates thereof to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible while the certificate remains in force and the ship is in use.

Posting up of certificates.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If the owner or master fails without reasonable cause to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

(3) If a ship plies or goes to sea and this article is not complied with, then for each offence the owner thereof shall be liable to a fine (*multa*) not exceeding two hundred units, and the master shall also be liable to a further fine (*multa*) not exceeding fifty units.

**231.** If any person -

- (a) knowingly and wilfully makes, or assists in making, a false or fraudulent declaration of survey or certificate issued or issuable under the foregoing provisions of this Part of this Act; or
- (b) forges or assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or

Penalty for forgery of certificate or declaration.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to, any such declaration or certificate,

that person shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units, or to both such imprisonment and fine.

*Enforcement of rules*

Prohibition of proceeding to sea without appropriate certificates.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**232.** (1) No Maltese passenger ship shall proceed to sea on an international voyage unless there is in force in respect of the ship a general safety certificate, a short-voyage safety certificate, a qualified safety certificate, or a qualified short-voyage safety certificate which is applicable to the voyage on which the ship is about to proceed and to the trade she is for the time being engaged in.

(2) No passenger ship to which article 207 applies shall proceed to sea, or on any voyage or excursion, from any port in Malta unless there is in force in respect of the ship a passenger ship certificate applicable to the voyage or excursion on which the ship is about to proceed or that voyage or excursion is one in respect of which the Minister has exempted the ship from the requirements of this subarticle.

(3) No Maltese ship, not being a passenger ship, shall proceed to sea unless there is in force in respect of the ship -

- (a) if the ship is one to which article 207 applies, either -
  - (i) a cargo ship safety construction certificate, or
  - (ii) a qualified cargo ship safety construction certificate; and
- (b) if the ship is about to proceed on an international voyage, both -
  - (i) a safety equipment certificate or a qualified safety equipment certificate, and
  - (ii) a radio certificate or a qualified radio certificate or an exemption certificate stating that the ship is wholly exempt from the requirements relating to radiotelegraphy, radiotelephony and direction-finders, such certificate or certificates being applicable to the ship and to the voyage on which she is about to proceed:

Provided that this subarticle shall not prohibit a ship from proceeding to sea as aforesaid if there is in force in respect of the ship such certificate or certificates as would be required if she were a passenger ship.

(4) For the purposes of this article a qualified certificate shall not be deemed to be in force in respect of a ship about to proceed on an international voyage unless there is also in force in respect of the ship the corresponding exemption certificate; and an exemption

certificate shall be of no effect unless it is by its terms applicable to the voyage on which the ship is about to proceed.

(5) If a ship proceeds or attempts to proceed to sea, or on any voyage or excursion, in contravention of this article:

- (a) in the case of a passenger ship, the owner or master of the ship shall, without prejudice to any other remedy or penalty under this Act, be liable to a fine (*multa*) not exceeding four hundred units; and
- (b) in the case of a ship not being a passenger ship, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

(6) The master of every passenger ship to which article 207 applies, and of any other Maltese ship, shall produce to the officer from whom a clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this article to be in force when the ship proceeds to sea, or on a voyage or excursion; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced; and a passenger ship may be so detained whether or not a clearance for the ship is demanded.

(7) Where an exemption certificate issued in respect of a ship specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

**233.** (1) The owner or master of any ship to which article 207 applies shall not receive or have on board thereof, or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger ship certificate in respect of that ship; and if he does so he shall for each offence be liable to a fine (*multa*) not exceeding four hundred units.

Penalty for carrying passengers in excess or on more than one deck below water line.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) The owner or master of any passenger ship to which article 207 applies shall not carry passengers on more than one deck below the water line; and if he does so he shall for each offence be liable to a fine (*multa*) not exceeding five hundred units.

**234.** Where the Minister, for the purpose of enabling persons to be moved from any place in consequence to a threat to their lives has permitted more persons to be carried on board a ship than are permitted under this Act, the carriage of that excess shall not be an offence under this Act.

Removing of persons in case of danger.

**235.** (1) If a Maltese passenger ship in respect of which a safety certificate is in force has on board a total number of persons less than the number of persons stated in that certificate to be the number for which the life-saving appliances on the ship provide, the Minister may, at the request of the master or owner, issue a memorandum stating the total number of persons carried on the ship on that voyage and the consequent modifications which may be made for the purpose of that voyage in the particulars with

Modification of safety certificates as respects life-saving appliances.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

respect to life-saving appliances stated in the certificate, and that memorandum shall be annexed to the certificate; and the certificate shall have effect for the purpose of that voyage as modified by the memorandum.

(2) Every such memorandum shall be returned to the Minister at the end of the voyage to which it relates; and if it is not so returned, the master or owner of the ship shall be liable to a fine (*multa*) not exceeding twenty units.

Provisions as to  
life-saving  
appliances.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**236.** (1) It shall be the duty of the owner and master of every Maltese ship to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

(2) In the case of any ship -

- (a) if the ship is required by the rules for life-saving appliances to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or
- (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault of negligence of the owner or master; or
- (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion; or
- (d) if such appliances are not kept so as to be at all times fit and ready for use; or
- (e) if any provision of the rules for life-saving appliances applicable to the ship is contravened or not complied with,

then, the owner of the ship (if in fault) shall for each offence be liable to a fine (*multa*) not exceeding one hundred units, and the master of the ship (if in fault) shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

(3) Nothing in the foregoing provisions with respect to life-saving appliances shall prevent any person from being liable under any other provision of law, whether of this Act or otherwise, to any other or higher fine or punishment than is provided by this article, but a person shall not be punished twice for the same facts.

Entry in log book  
of boat-drill, etc.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**237.** (1) The master of every Maltese ship shall cause to be entered in the official log book a statement of every occasion on which boat-drill or fire-drill is practised on board the ship or on which the appliances and equipment required by the rules for life-saving appliances to be carried are examined to see whether they are fit and ready for use, and of the result of any such examination;

and if the boat-drill or fire-drill are not practised on board the ship or the said appliances and equipment are not examined in any such period as is prescribed by the said rules in respect of the ship, the master shall cause a statement to be entered as aforesaid of the reasons why the drill was not practised, or the appliances and equipment were not examined, in that period.

(2) If the master of a ship fails to comply with any requirement of this article he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

**238.** (1) If the master of a Maltese ship fails to cause an entry to be made in the official log book in contravention of rules made in pursuance of article 209(3)(c), or if a radio officer or operator contravenes any rules made in pursuance of paragraph (a) of the said subarticle, he shall be liable to a fine (*multa*) not exceeding twenty units, and if the rules made under the article aforesaid are contravened in any other respect in relation to any Maltese ship, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

Enforcement of radio rules, rules for direction-finders and radio navigational aids.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If any of the rules made in pursuance of article 210 is not complied with in relation to any Maltese ship, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

(3) If any Maltese ship proceeds, or attempts to proceed, to sea carrying radio navigational aid not complying with rules made under article 211, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units; and if any person establishes or operates any such apparatus as is mentioned in paragraph (b) of the article aforesaid being apparatus that does not comply with the said rules, he shall be liable to a fine (*multa*) not exceeding one hundred units.

**239.** If any of the rules made in pursuance of article 212 is not complied with in relation to any Maltese passenger ship, the master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

Enforcement of rules made under article 212.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**240.** (1) The master of every ship, whether a Maltese or a foreign ship, which carries any passenger to a place in Malta from a place out of Malta, or from a place in Malta to any place out of Malta, shall furnish to such person and in such manner as the Minister may direct, a return giving the total number of any passengers so carried, distinguishing, if so directed by the Minister, the total number of any class of passengers so carried, and giving, if the Minister so directs, such particulars with respect to passengers as may be for the time being required by the Minister.

Return to be furnished by master as to passengers.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

(3) If the master of a ship fails to make a return as required by this article, or makes a false return, and if any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this article, or give any false

information for the purpose, the master or passenger shall be liable for each offence to a fine (*multa*) not exceeding twenty units.

Inspection to ensure compliance with rules.

**241.** (1) A surveyor of ships may inspect any ship for the purpose of seeing that any rules made under the foregoing provisions of this Part of this Act have been complied with.

(2) If the surveyor finds that any of the said rules have not been complied with, he shall give written notice to the owner or master stating in what respect the said rules have not been complied with and what, in his opinion, is required to rectify the matter.

(3) Every notice so given shall be communicated in manner directed by the Minister to the officer from whom the ship may seek to obtain a clearance, and a clearance shall not be granted to the ship, and the ship may be detained, until a certificate under the hand of a surveyor of ship is produced to the effect that the matter has been rectified.

*Foreign Safety Convention ships*

Countries to which Safety Convention applies and Safety Convention ships.

**242.** (1) The Minister, if satisfied -

- (a) that the government of any country has accepted, or denounced, the Safety Convention; or
- (b) that the Safety Convention extends, or has ceased to extend, to any territory,

may by order in the Gazette make a declaration to that effect.

(2) A country which has been so declared to have accepted, and which has not been so declared to have denounced, the Safety Convention, and a territory to which the Safety Convention is so declared to extend, not being a territory to which it has been so declared that the Safety Convention has ceased to extend, are in this Act referred to as a "country to which the Safety Convention applies".

(3) A ship registered in a country to which the Safety Convention applies is in this Act referred to as a "Safety Convention ship" or a "Safety Convention passenger ship", as the case may require.

Certificates of foreign convention ships.

**243.** (1) The Minister may, at the request of the government of a country to which the Safety Convention applies, issue in respect of a ship registered in that country any certificate the issue of which in respect of a Maltese ship is authorised under the foregoing provisions of this Part of this Act if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the said government and not by the Minister.

(2) The Minister may make such regulations as appear to him to be necessary for the purpose of securing that certificates issued in accordance with the Safety Convention by the government of



any country other than Malta in respect of Safety Convention ships not registered under this Act, or having effect under the preceding subarticle as if so issued, shall be accepted as having the same force as corresponding certificates issued by the Minister under this Act; and any certificate required by those regulations to be so treated is in this Act referred to as an "accepted Safety Convention certificate".

- (3) A surveyor of ships may verify:
- (a) that there is in force in respect of a Safety Convention ship not registered under this Act an accepted Safety Convention certificate;
  - (b) that the condition of the hull, equipment and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such certificate;
  - (c) except where such certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate;
  - (d) that any conditions on which such a certificate, being an equivalent of an exemption certificate, is issued are complied with.

(4) Where there is attached to an accepted Safety Convention certificate in respect of a Safety Convention passenger ship not registered under this Act a memorandum which -

- (a) has been issued by or under the authority of the government of the country in which the ship is registered; and
- (b) modifies, for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect, for the purpose of that voyage, as if it were modified in accordance with the memorandum.

**244.** (1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger ship not registered under this Act -

- (a) the ship shall not be required to be surveyed except for the purpose of determining the number of passengers she is fit to carry;
- (b) on receipt of any declaration of survey for the purpose aforesaid, the Minister may issue a certificate under article 218 containing only a statement of the particulars set out in subarticle (1)(b) of that article, and a certificate so issued shall have effect as a passenger ship certificate.

Passenger ship holding Convention certificates.

(2) Where there is produced in respect of any such passenger ship as aforesaid an accepted Safety Convention certificate and also a certificate issued by or under the authority of the government of the country in which the ship is registered showing the number of passengers that the ship is fit to carry, and the Minister is satisfied that that number has been determined substantially in the same manner as it would have been determined for the issue of a passenger ship certificate under this Act, he may, if he thinks fit, dispense with any survey of the ship for the purpose of determining the number of passengers that she is fit to carry and direct that the certificate issued as aforesaid shall have effect as a passenger ship certificate, and thereupon that certificate shall have effect accordingly.

Miscellaneous  
privileges of ships  
holding  
Convention  
certificates.

**245.** (1) Where an accepted Safety Convention certificate is produced in respect of a foreign Safety Convention passenger ship, the ship shall be exempt from the rules for life-saving appliances, from article 294 and from article 310(d) and (f).

(2) Where there is produced in respect of a foreign ship not being a passenger ship -

- (a) an accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate; or
- (b) accepted Safety Convention certificates equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate,

the ship shall be exempt from the construction and survey rules.

(3) Where an accepted Safety Convention certificate, being the equivalent of a safety-equipment certificate, is produced in respect of a foreign Safety Convention ship, not being a passenger ship, the ship shall be exempt from the rules for life-saving appliances and from article 294.

(4) Where an accepted Safety Convention certificate is produced in respect of a foreign Safety Convention ship and the certificate shows that the ship complies with the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, or that she is exempt from some of those requirements and complies with the rest, or that she is wholly exempt from those requirements, the ship shall be exempt from the radio rules and rules for direction-finders.

Further provisions  
as to production of  
Convention  
certificate.

**246.** (1) The master of every foreign Safety Convention ship shall produce to the officer from whom a clearance for the ship is demanded in respect of an international voyage from a port in Malta accepted Safety Convention certificates that are the equivalent of certificates issued by the Minister under the foregoing provisions of this Part of this Act that would be required to be in force in respect of the ship if she were a Maltese ship, and a clearance shall not be granted, and the ship may be detained, until such certificates are so produced.

(2) The production of an accepted Safety Convention

certificate being the equivalent of -

- (a) a qualified certificate; or
- (b) an exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders,

shall not avail for the purposes of either of the last two preceding articles unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

*Exemption from safety requirements and Interpretation*

**247.** (1) The Minister may exempt any ships or classes of ships from any rules or regulations made under the foregoing provisions of this Part of this Act, either absolutely or subject to such conditions as he thinks fit.

Power of Minister to exempt from safety requirements.

(2) Without prejudice to the generality of subarticle (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister may, if he is of opinion that the ship complies with the safety requirements that are adequate for that voyage, exempt the ship from any of the safety requirements imposed by or under this Act.

**248.** (1) Nothing in the foregoing provisions of this Part of this Act -

Exemption of certain ships from certain provisions of this Act.

- (a) prohibiting or preventing a ship from proceeding to sea unless there is in force in relation to the ship, or are produced, the appropriate certificates issued by the Minister under the aforesaid provisions or the appropriate accepted Safety Convention certificates;
- (b) conferring powers on a surveyor of ships for the purpose of verifying the existence, validity or correctness of a Safety Convention certificate or that the conditions on which such certificate was issued are complied with;
- (c) imposing a penalty for the contravention of any rules relating to openings in ships' hulls and watertight bulk heads,

shall apply to any ship of war, troopship, pleasure yacht or fishing vessel, or to any ship of less than five hundred tons gross tonnage other than a passenger ship, or to any ship not propelled by mechanical means:

Provided that this subarticle shall not prevent the application -

- (i) to any ship of three hundred tons gross tonnage or upwards of so much of the provisions mentioned in paragraphs (a) and (b) as relates to certificates issued under article 221 or

equivalent accepted Safety Convention certificate;

- (ii) to any ship to which article 207, by virtue of paragraph (b) of subarticle (2) thereof, applies and which is registered under this Act, of so much of the provisions mentioned in paragraph (a) as relates to certificates issued under article 219,

by reason only that she is less than five hundred tons gross tonnage.

(2) Notwithstanding that any of the foregoing provisions of this Part of this Act is expressed to apply to foreign ships while they are within any port in Malta, that provision shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

Definition of international voyage for purposes of foregoing provisions.

**249.** For the purposes of the foregoing provisions of this Part of this Act -

"international voyage" means a voyage from a port in one country to a port in another country, either of those countries being a country to which the Safety Convention applies; and

"short international voyage" means an international voyage -

- (a) in the course of which a ship is not more than two hundred nautical miles from a port or place in which the passengers and crew could be placed in safety, and
- (b) which does not exceed six hundred nautical miles in length between the last port of call in one country in which the voyage begins and the final port of destination;

so however that for the purpose of the definitions contained in this article -

- (i) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and
- (ii) every colony, overseas territory, protectorate or other territory for whose international relations a government that has accepted the Safety Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country.

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## 2. LOAD LINE AND LOADING

### *General Provisions*

**250.** The following provisions of this Part of this Act, that is to say articles 251 to 276 (both inclusive), in this Act referred to as "the load line provisions of this Act", apply to all ships except:

Application of following provisions of this Part of Act.

- (a) ships of war;
- (b) ships solely engaged in fishing; and
- (c) pleasure yachts.

**251.** (1) The Minister may make rules in accordance with the load line provisions of this Act, and in making those rules the Minister shall have regard in particular to the international convention entitled the International Convention on Load Lines signed in London on 5th April, 1966 or any other international convention or protocol relating to load lines ratified or acceded to by the Government of Malta (in this Act referred to as "the Load Line Convention").

Load line rules.  
Amended by:  
XXII. 2000.89.

(2) The said rules (in this Act referred to as "the load line rules") may make provision:

- (a) for the surveying and periodical inspection of ships to which the load line provisions of this Act apply;
- (b) for determining freeboards to be assigned from time to time to such ships;
- (c) for determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description prescribed by the rules; and
- (d) for determining, by reference to that mark and the freeboards for the time being assigned to any such ship, the position in which each side of the ship is to be marked with lines of a description prescribed by the rules, indicating the various maximum depths to which the ships may be loaded in circumstances prescribed by the rules.

(3) The load line rules may include the following provisions, that is to say -

- (a) provisions specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which the load line provisions of this Act apply as appear to the Minister to be relevant to the assignment of freeboards to such ships;
- (b) provisions whereby, at the time when freeboards are assigned to a ship in accordance with the load line rules, such particulars relating to those requirements as may be determined in accordance with the rules are to

be recorded in such manner as may be so determined; and

- (c) provisions for determining, by reference to those requirements and that record, whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is for the purposes of the load line provisions of this Act to be taken to comply, or not to comply, with the conditions of assignment,

and those provisions shall be set out separately in the load line rules under the title of "rules as to conditions of assignment".

(4) The load line rules may also include provisions requiring such information relating to the stability of any ship to which freeboards are assigned thereunder, and such information relating to the loading and ballasting of such ship, as may be determined in accordance with the rules to be provided for the guidance of the master of the ship in such manner as may be so determined.

(5) In relation to any matter authorised or required by this Act to be prescribed by the load line rules, those rules may make different provision by reference to, or to any combination of, any of the following, that is to say different descriptions of ships, different areas, different seasons of the year and any other different circumstances.

(6) Except in so far as the context otherwise requires, in the load line provisions of this Act, "deck-line" means such a mark as is referred to in subarticle (2)(c), and "load lines" means such lines as are referred to in paragraph (d) of that subarticle.

(7) Any reference in subarticle (1) to an international convention or protocol shall include reference to any amendment to such convention or protocol ratified, acceded to or accepted by the Government of Malta.

#### *Maltese ships*

Compliance with load line rules.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**252.** (1) Subject to any exemption conferred by or under the load line provisions of this Act, no ship to which those provisions apply, being a ship registered under this Act, shall proceed to sea or attempt to proceed to sea unless -

- (a) the ship has been surveyed in accordance with the load line rules;
- (b) the ship is marked with a deck-line and with load lines in accordance with those rules;
- (c) the ship complies with the conditions of assignment;
- (d) the information required by those rules to be provided as mentioned in article 251(4) is provided for the guidance of the master of the ship in the manner determined in accordance with the rules.

(2) If any ship proceeds or attempts to proceed to sea in

contravention of the preceding subarticle, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding two hundred units.

(3) Any ship which, in contravention of subarticle (1), attempts to proceed to sea without being surveyed and marked as mentioned in paragraphs (a) and (b) of that subarticle may be detained until she has been so surveyed and marked.

(4) Any ship as is mentioned in subarticle (1) which does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of article 280.

**253.** (1) Where a ship to which the load line provisions of this Act apply, being a ship registered under this Act, is marked with load lines, the ship shall not be so loaded that -

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged, or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of the preceding subarticle, the owner or master of the ship shall, subject to subarticle (5), be liable to -

- (a) a fine (*multa*) not exceeding four hundred units; and
- (b) such additional fine (*multa*) not exceeding an amount calculated in accordance with the next following subarticle as the court thinks fit to impose having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) An additional fine imposed under subarticle (2)(b) shall not exceed one hundred and sixty units for every complete centimetre, and for any fraction of a centimetre over and above one or more complete centimetres, by which -

- (a) in a case falling within subarticle (1)(a) the appropriate load line on each side of the ship was submerged, or
- (b) in a case falling within paragraph (b) of that subarticle the appropriate load line on each side of the ship would have been submerged as therein mentioned;

and, if the amount by which that load line was or would have been submerged was less than a complete centimetre, such additional fine shall not exceed one hundred and sixty units.

(4) If the master of a ship takes a ship to sea when she is loaded in contravention of subarticle (1), or if any other person, having reason to believe that the ship is so loaded, sends or is party to sending her to sea when she is loaded, in contravention of that subarticle, then (without prejudice to any other fine to which he may be liable under subarticle (2)) he shall be liable to a fine (*multa*) not exceeding four hundred units.

Submersion of load lines.

Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(5) Where a person is charged with an offence under subarticle (2), it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) Without prejudice to any proceedings under the preceding provisions of this article, any ship which is loaded in contravention of subarticle (1) may be detained until she is so loaded.

(7) For the purpose of the application of this article to a ship in any circumstances prescribed by the load line rules in accordance with article 251(2)(d), "the appropriate load line" means the load line which, in accordance with those rules, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

Miscellaneous offences in relation to marks.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**254.** Where a ship to which the load line provisions of this Act apply, being a ship registered under this Act, is marked in accordance with any requirements as to marking imposed by or under the load line provisions of this Act, then if -

- (a) the owner or master fails without reasonable cause to keep the ship so marked; or
- (b) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, except where he does so under the authority of a person empowered under the load line rules to authorise him in that behalf,

he shall be liable to a fine (*multa*) not exceeding two hundred units.

Issue of load line certificate.

**255.** (1) Where a ship to which the load line provisions of this Act apply, being a ship registered under this Act, has been surveyed and marked in accordance with the load line rules, the appropriate certificate shall be issued to the owner of the ship on his application.

(2) For the purposes of this article, the appropriate certificate -

- (a) in the case of an existing ship of not less than one hundred and fifty tons gross tonnage, and in the case of a new ship of not less than twenty-four metres in length, is a certificate to be called an "International Load Line Certificate (1966)"; and
- (b) in the case of any other ship, is a certificate to be called a "Malta load line certificate".

(3) Subject to the next following subarticle, any certificate required by subarticle (1) to be issued shall be issued by the Minister and shall be in such form, and shall be issued in such manner, as may be prescribed by the load line rules.

(4) The Minister may request a contracting government to issue an International Load Line Certificate (1966) in respect of any ship



to which the load line provisions of this Act apply which is a ship registered under this Act and falling within subarticle (2)(a); and the following of the load line provisions of this Act shall have effect in relation to such a certificate so issued, which contains a statement that it has been issued at the request of the Government of Malta, as they have effect in relation to an International Load Line Certificate (1966) issued by the Minister.

**256.** Where a certificate, issued in pursuance of the last preceding article and for the time being in force, is produced in respect of the ship to which the certificate relates -

Effect of load line certificate.

- (a) the ship shall be deemed to have been surveyed in accordance with the load line rules; and
- (b) if lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by the load line rules, and the position of those lines so marked correspond to the position of the deck-line and load lines as specified in the certificate, the ship shall be deemed to be marked as required by those rules.

**257.** (1) The load line rules may make provision for determining the period during which any certificate issued under article 255 is to remain in force, including:

Duration, endorsement and cancellation of load line certificates.

- (a) provision enabling the period for which any such certificate is originally issued to be extended within such limits and in such circumstances as may be prescribed by the rules; and
- (b) provision for cancelling any such certificate in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to -

- (a) periodical inspections of the ship in accordance with the load line rules, and
- (b) any extension of the period for which the certificate was issued,

as may be prescribed by the rules.

**258.** (1) Subject to any exemption conferred by or under the load line provisions of this Act, no ship to which the said provisions apply, being a ship registered under this Act, shall proceed or attempt to proceed to sea unless the appropriate certificate is in force in respect of the ship.

Ship not to proceed to sea without load line certificate.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) Before any such ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the officer from whom a clearance of the ship is demanded; and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(3) If any ship proceeds or attempts to proceed to sea in

contravention of this article, the master of the ship shall be liable to a fine (*multa*) not exceeding two hundred units.

(4) In this article "the appropriate certificate" means the certificate which is the appropriate certificate for the purposes of article 255.

Publication of load line certificate and entry of particulars in official log book.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**259.** (1) Where a certificate is issued under article 255 -

- (a) the owner of the ship shall forthwith on receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and shall cause it to be kept so framed and posted up and legible as long as the certificate remains in force and the ship is in use; and
- (b) the master of the ship, before making any other entry in the official log book relating to the ship, shall enter in it the particulars as to the positions of the deck-line and the load lines which are specified in the certificate.

(2) Before a ship to which the load line provisions of this Act apply, being a ship registered under this Act, leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship -

- (a) shall enter in the official log book such particulars relating to the depth to which the ship is for the time being loaded as may be prescribed by regulations made by the Minister under this article; and
- (b) subject to the next following subarticle, shall cause a notice, in such form and containing such of those particulars as may be specified in the said regulations for the purposes of this paragraph, to be posted up in some conspicuous place on board the ship;

and, where such a notice has been posted up, the master of the ship shall cause it to be kept as posted up and legible until the ship arrives at some other dock, wharf, harbour or place.

(3) If the owner or master of a ship fails to comply with any requirement imposed on him by the preceding provisions of this article, he shall be liable to a fine (*multa*) not exceeding fifty units.

Inspection of ships.

**260.** A ship surveyor or engineer surveyor may inspect any ship to which the load line provisions of this Act apply, being a ship registered under this Act, for the purpose of seeing that the said provisions have been complied with in respect of the ship.

#### *Foreign ships*

Convention certificates.

**261.** (1) This article applies to any foreign ship which, being a ship to which the load line provisions of this Act apply -

- (a) is registered in a Convention country or, not being registered in any such country or elsewhere, flies the

flag of a Convention country; and

- (b) is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length.

(2) The Minister may, at the request of the government of a parent country of a ship to which this article applies, issue in respect of the ship a certificate in such form as may be prescribed by the load line rules if the Minister is satisfied that he could properly issue a certificate in respect of the ship under subarticle (1) of article 255 if the ship were registered under this Act.

(3) The load line rules may make such provision as appear to the Minister to be appropriate for securing that certificates which are issued as International Load Line Certificate (1966) in respect of ships to which this article applies, and are so issued by governments other than the Government of Malta, shall be recognised for the purposes of the load line provisions of this Act in such circumstances as may be prescribed by the rules.

(4) Certificates issued as mentioned in subarticle (2) or subarticle (3) shall be included among the certificates to be called "International Load Line Certificates (1966)"; and for the purposes of the load line provisions of this Act "valid Convention certificate" means a certificate which either-

- (a) has been issued under subarticle (2) and is for the time being in force, or
- (b) having been issued as mentioned in subarticle (3), is produced in circumstances in which it is required by the load line rules to be recognised for the purposes of the load line provisions in this Act.

**262.** (1) Subject to the next following subarticle and to any exemption conferred by or under the load line provisions of this Act, no foreign ship to which those provisions apply shall proceed or attempt to proceed to sea from any port in Malta unless:

- (a) the ship has been surveyed in accordance with the load line rules;
- (b) the ship is marked with a deck-line and with load lines in accordance with those rules;
- (c) the ship complies with the conditions of assignment; and
- (d) the information required by those rules to be provided as mentioned in article 251(2) is provided for the guidance of the master of the ship in the manner determined in accordance with those rules.

(2) Subarticle (1) shall not apply to a ship in respect of which a valid Convention certificate is produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of the preceding provisions of this article, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding two hundred units.

Compliance with  
load line rules.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(4) Any ship which in contravention of this article attempts to proceed to sea without being surveyed and marked as mentioned in subarticle (1)(a) and (b) may be detained until she has been so surveyed and marked.

(5) If any ship as is mentioned in subarticle (1), not being a ship in respect of which a valid Convention certificate is produced, does not comply with the conditions of assignment, article 283 shall have effect in relation to the ship as if she were unsafe by reason of one of the matters specified in that article.

Submersion of load lines.

**263.** (1) Where a foreign ship to which the load line provisions of this Act apply is within any port in Malta and is marked with load lines, the ship shall not be so loaded that -

- (a) if the ship has no list, the appropriate load line on each side of the ship is submerged, or
- (b) if the ship has a list, the appropriate load line on each side of the ship would be submerged if the ship had no list.

(2) Articles 253(2), (3), (5) and (6) shall have effect for the purposes of this article as if any reference to subarticle (1) of that article, or to paragraph (a) or paragraph (b) of the said subarticle (1), were a reference to subarticle (1), or as the case may be, to the corresponding paragraph of subarticle (1):

Provided that, in the case of a ship to which article 261 applies, the ship shall not be detained, and no proceedings shall be brought by virtue of this subarticle, unless the ship has been inspected by a ship surveyor or engineer surveyor in pursuance of article 266.

(3) In relation to a ship in respect of which a valid Convention certificate is produced, "load line" in subarticle (1) means a line marked on the ship in the position of a load line specified in that certificate; and for the purposes of the application of the relevant provisions to such a ship in any circumstances for which a particular load line is specified in the certificate, the "appropriate load line" means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(4) Where a valid Convention certificate is not produced in respect of a ship, then, for the purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the load line rules in accordance with paragraph of article 251(2)(d), "the appropriate load line" means the load line which, in accordance with those rules, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(5) In subarticles (3) and (4) "the relevant provisions" means the provisions of article 253(1) as applied by subarticle (2).

Malta load line certificates.

**264.** (1) Where a ship to which the load line provisions of this Act apply, not being a ship registered under this Act, has been surveyed and marked in accordance with the load line rules, then,

on the application of the owner of the ship, a Malta load line certificate shall be issued to him by the Minister.

(2) Subject to the next following subarticle, the provisions of articles 256 and 257 shall have effect in relation to a certificate issued under subarticle (1) as they have effect in relation to a certificate issued under article 255.

(3) Any certificate issued under subarticle (1) in respect of a ship to which article 261 applies shall be valid only so long as the ship is not plying on international voyages and shall be cancelled by the Minister if he has reason to believe that the ship is plying on international voyages.

**265.** (1) Subject to any exemption conferred by or under the load line provisions of this Act, before a foreign ship to which those provisions apply proceeds to sea from any port in Malta, the master of the ship shall produce the appropriate certificate to the officer from whom a clearance for the ship is demanded; and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is produced.

Production of certificate for clearance.

(2) For the purposes of this article, the appropriate certificate -

- (a) in the case of a ship to which article 261 applies, where a clearance for the ship is demanded in respect of an international voyage, is a valid Convention certificate;
- (b) in any other case is either a valid Convention certificate or a Malta load line certificate for the time being in force in respect of the ship.

**266.** (1) Subject to the following provisions of this article, a ship surveyor or engineer surveyor may inspect any foreign ship to which the load line provisions of this Act apply while the ship is within any port in Malta.

Provisions as to inspection.

(2) Without prejudice to the powers conferred by article 368, any such surveyor may go on board any ship to which article 261 applies, while the ship is within any port in Malta, for the purpose of demanding production of any International Load Line Certificate (1966) or Malta load line certificate for the time being in force in respect of the ship.

(3) If on any such demand a valid Convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under article 368(1) shall be limited to seeing -

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that lines are marked on the ship in the positions of the load lines specified in the certificate;
- (c) that 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; and
- (d) that the fittings and appliances for the protection of

openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) If on an inspection of a ship under this article the ship is found to have been so materially altered in respect of the matters referred to in paragraph (c) or paragraph (d) of subarticle (3) that the ship is manifestly unfit to proceed to sea without danger to human life, then article 283 shall have effect in relation to the ship as if she were unsafe by reason of one of the matters specified in that article.

(5) When a ship is detained under article 283 as applied by this article, the Minister shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

#### *Exemptions*

Power to make exemption orders.

**267.** (1) If in the opinion of the Minister the sheltered nature and conditions of international voyages -

- (a) between near neighbouring ports in Malta and in another Convention country, or
- (b) between near neighbouring ports in any two or more countries or territories outside Malta,

make it unreasonable or impracticable to apply the load line provisions of this Act to ships plying on such voyages, and the Minister is satisfied that the government of the other country or territory (or, as the case may be, of each of the other countries or territories) concurs in that opinion, the Minister may, by order in the Gazette specifying the ports, direct that ships plying on international voyages between those ports, or any class of such ships specified in the order, shall be exempt from the load line provisions of this Act.

(2) The Minister may by order in the Gazette direct that ships under eighty net tons engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from the load line provisions of this Act while not carrying cargo, or, if the order so provides shall be exempt from those provisions whether carrying cargo or not.

(3) Any order under this article may be made subject to such conditions as the Minister thinks fit; and where any such order is made subject to conditions, the exemption conferred by the order shall not have effect in relation to a ship unless the ship complies with those conditions.

Further powers to exempt ships.

**268.** (1) In this article any reference to exempting a ship is a reference to exempting a ship either -

- (a) from all the load line provisions of this Act and of the load line rules, or

- (b) from such of those provisions as are specified in the instrument conferring the exemption.

(2) On the application of the owner of a Maltese ship to which the load line provisions of this Act apply and which is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length, the Minister may exempt the ship if in his opinion the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of the load line provisions of this Act and of the load line rules, the development of those features and their incorporation in ships on international voyages might be seriously impeded.

(3) On the application of the owner of a Maltese ship to which the load line provisions of this Act apply and which is either -

- (a) an existing ship of less than one hundred and fifty tons gross tonnage or a new ship of less than twenty-four metres in length, or
- (b) a ship (not falling within the preceding paragraph) which does not ply on international voyages,

the Minister may exempt the ship.

(4) Without prejudice to the last preceding subarticle, where a Maltese ship to which the load line provisions of this Act apply and which is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length, does not ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Minister, on the application of the owner of the ship, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(5) Any exemption conferred under this article may be conferred subject to such conditions as the Minister thinks fit; and, where any such exemption is conferred subject to conditions, the exemption shall not have effect unless those conditions are complied with.

**269.** (1) Where the Minister exempts a ship under the last preceding article, he shall issue the appropriate certificate to the owner of the ship.

Issue of exemption certificates.

(2) For the purposes of this article, the appropriate certificate -

- (a) where the exemption is conferred under subarticle (2) or subarticle (4) of the last preceding article, is a certificate to be called an "International Load Line Exemption Certificate"; and
- (b) where the exemption is conferred under subarticle (3) of that article, is a certificate to be called a "Malta load line exemption certificate".

(3) Any certificate issued under this article shall be in such form and shall be issued in such manner as may be prescribed by the load line rules.

Duration and termination of exemptions, and endorsement and cancellation of exemption certificate.

**270.** (1) The load line rules may make provision for determining the period during which any exemption conferred under article 268, or any certificate issued under article 269, is to remain in force, including provision -

- (a) enabling the period for which any such exemption or certificate is originally conferred or issued to be extended within such limits and in such circumstances as may be prescribed by the rules; and
- (b) for terminating any such exemption, or for cancelling any such certificate, in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship there shall be endorsed on the certificate such information relating to -

- (a) periodical inspections of the ship in accordance with the load line rules, and
- (b) any extension of the period for which the certificate was issued,

as may be prescribed by the rules.

International Load Line Exemption Certificates.

**271.** (1) The load line rules may make such provision as appears to the Minister to be appropriate for securing that exemption certificates which, in accordance with the Load Line Convention, are issued in respect of ships to which article 261 applies, and are so issued by governments other than the Government of Malta, shall have, in such circumstances as may be prescribed by the rules, the like effect for the purposes of the load line provisions of this Act as if they were valid Convention certificates.

(2) Certificates issued as mentioned in subarticle (1) shall be included among the certificates to be called "International Load Line Exemption Certificates".

#### *Subdivision load lines and deck cargo*

Subdivision load lines.

**272.** Where in pursuance of the law of any country made for the purpose of giving effect to the international convention entitled the International Convention for the Safety of Life at Sea signed in London on 10th June, 1948, a passenger ship to which the load line provisions of this Act apply is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this article, would be the appropriate load line for the purposes of article 253 in the case of a Maltese ship, or for the purposes of article 263 in the case of a foreign ship, those articles shall have effect as if that subdivision load line were the appropriate load line for the purposes of those articles.

Deck cargo.  
Amended by:  
XIII.1983.5;  
XXII.2000.2.

**273.** (1) The Minister may make regulations (in this Act referred to as the "deck cargo regulations") prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which the load line



provisions of this Act apply; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year and any other different circumstances.

(2) If the load line rules provide (either generally or in particular cases or classes of cases) for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then, without prejudice to the generality of the preceding subarticle, the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any such special requirements as are mentioned in subarticle (2), the Minister shall have regard in particular to the relevant provisions of the Load Line Convention.

(4) If any provisions of the deck cargo regulations are contravened -

- (a) in the case of a Maltese ship, or
- (b) in the case of any other ship while the ship is in any port in Malta,

the master of the ship shall, subject to the next following subarticle, be liable to a fine (*multa*) not exceeding one thousand units.

(5) Where a person is charged with an offence under subarticle (4), it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) For the purpose of securing compliance with the deck cargo regulations, any person authorised in that behalf by the Minister may inspect any ship to which the load line provisions of this Act apply which is carrying cargo in any uncovered space on her deck; and for the purposes of any such inspection any such person shall have all the powers of a surveyor of ships.

*Miscellaneous and supplementary provisions*

**274.** Articles 224, 227, 229 and 231 shall have effect in relation to any certificate issued under the load line provisions of this Act as they have effect in relation to a certificate to which those provisions relate.

Application of articles 224, 227, 229 and 231 to load line certificates.

- 275.** (1) The Minister, if satisfied -
- (a) that the government of a country has accepted, or has denounced the Load Line Convention, or
  - (b) that the Load Line Convention extends, or has ceased to extend, to a particular territory,

Convention countries.

may by order in the Gazette make a declaration to that effect.

- (2) A country the government of which has been so declared to

have accepted, and which has not been so declared to have denounced, the Load Line Convention, and a territory to which the Load Line Convention has been so declared to extend, not being a country to which it has been so declared that that Convention has ceased to extend, are in this Act referred to as a "Convention country".

(3) Any such government as is referred to in subarticle (2) is in this Act referred to as a "contracting Government".

Interpretation for purposes of load line provisions.

**276.** (1) For the purposes of the load line provisions of this Act, except in so far as the context otherwise requires -

"alteration" includes deterioration;

"existing ship" means a ship which is not a new ship;

"international voyage" means a voyage between -

(a) a port in Malta and a port outside Malta, or

(b) a port in a Convention country (other than Malta) and a port in any other country, whether a Convention country or not, which is outside Malta,

and for the purposes of this definition -

- (i) in determining what are the ports between which a voyage is made, no account shall be taken of any deviation by a ship from her intended voyage which is due solely to stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled, and
- (ii) any colony, protectorate or other dependency, any territory for whose international relations a government is separately responsible, and any territory for which the United Nations are the administering authority, shall be taken to be a separate territory;

"new ship" means a ship whose keel is laid, or which is at a similar stage of construction on or after the material date; and for the purposes of this definition the material date -

(a) in relation to a new ship whose parent country is a Convention country other than Malta, is the date as from which it is declared under article 275 either that the government of that country has accepted the Load Line Convention or that it is a territory to which that convention extends, and

(b) in relation to any other ship, is the date on which the load line provisions of this Act come into force;

"parent country", in relation to a ship, means the country or territory in which the ship is registered, or, if the ship is not registered anywhere, the country or territory whose flag the ship flies.

(2) Where in accordance with the tonnage regulations of this

Act alternative tonnages are assigned to a ship, the gross tonnage of the ship shall, for the purposes of the load line provisions of this Act, be taken to be the larger of those tonnages.

(3) For the purpose of the load line provisions of this Act, the length of a ship shall be ascertained in accordance with regulations made by the Minister under this subarticle or with such provisions as may be contained in the load line rules.

*Ships not subject to the load line provisions*

**277.** (1) This article applies to Maltese ships being either -

- (a) ships to which the load line provisions of this Act do not apply; or
- (b) ships to which those provisions apply but which, by virtue of an order made or exemption conferred under those provisions, are exempt from all the said provisions.

Ship's draught of water to be recorded.  
*Amended by:*  
*XIII.1983.5;*  
*XXII.2000.2.*

(2) The Minister may, in any case or class of cases in which he thinks it expedient so to do, direct any person appointed by him for the purpose, to record, in such manner and with such particulars as he directs, the draught of water of any sea-going ship, as shown on the scale of feet or decimetres on her stem or stern post, and the extent of her freeboard, upon her leaving any dock, wharf, port or harbour for the purpose of proceeding to sea; and the person so appointed shall thereupon keep that record and shall forward a copy thereof to the Minister.

(3) The master of every sea-going ship shall, upon her leaving any dock, wharf, port or harbour for the purpose of proceeding to sea, record her draught of water and the extent of her freeboard in the official log book and shall produce the record to any officer authorised in that behalf by the Minister whenever required by such officer, and if he fails without reasonable cause to produce the record he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

(4) The master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water permit that person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of that record; and if any master fails to do so, or impedes, or suffers anyone under his control to impede, any person so appointed in the execution of his duty he shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

(5) In this article "freeboard", means, in the case of any ship which is marked with a deck-line, the height from the water to the upper edge of the deck-line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured.

## 3. UNSEAWORTHY SHIPS

Unseaworthy ship.  
Amended by:  
XIII.1983.5;  
XXII.2000.2.  
Substituted by:  
XXII.2000.90.

**278.** (1) For the purposes of articles 278 to 283C of this Act a ship is an “unseaworthy ship” or “unsafe ship” or is in an “unseaworthy state” if, having regard to the nature of the service for which it is intended, the ship is, by reason of the matters mentioned in subarticle (2), unfit to proceed to sea without danger to human life, property or the marine environment.

(2) The matters referred to in subarticle (1) are -

- (a) the condition, or the unsuitability for its purpose, of -
  - (i) the ship or its hull or equipment or machinery, or
  - (ii) any part of the ship or its hull or equipment or machinery;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;
- (d) unfamiliarity by the master or the crew with essential shipboard procedures relating to the safety of ships;
- (e) any other matter relevant to the safety of the ship including without prejudice to the generality of the foregoing the fact that the ship is in contravention of any regulation made under Part VA of this Act;

and are referred to in articles 278 to 283C of this Act, in relation to any ship, as “the matters relevant to its safety”.

(3) In articles 278 to 283C of this Act, “proceed to sea” shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve proceeding to sea, be construed as “going on such voyage or excursion

Offence to send  
unseaworthy ships  
to sea.  
Substituted by:  
XXII.2000.90.

**279.** (1) If any person sends or attempts to send, or is a party to sending or attempting to send, a ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall, unless he proves that he used all reasonable means to ensure her being sent to sea in a seaworthy state or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, be liable in respect of each offence to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine (*multa*).

(2) If the master of a ship knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall, unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, be liable in respect of each offence to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine (*multa*).

(3) The provisions of subarticle (1) shall apply *mutatis mutandis* to any person who sends or attempts to send, or is a party to sending or attempting to send, a foreign ship to sea from any port

in Malta.

**280.** (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship and the master and every person charged with the loading of the ship, or the preparing of the ship for sea, or of the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep her in a seaworthy condition for the voyage during the voyage.

Obligations as to seaworthiness in relation to the crew.  
*Substituted by: XXII. 2000.90.*

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

**281.** (1) Where it appears to the Registrar-General that a Maltese ship, being in any port in or outside Malta, or a foreign ship, being at a port in Malta, is an unsafe ship, the Registrar-General may -

Power to detain unsafe ships.  
*Amended by: XXIV. 1995.362.*  
*Substituted by: XXII. 2000.90.*

- (a) in the case of a Maltese ship wherever she may be, suspend her certificate of registry and prohibit her from proceeding to sea; or
- (b) in the case of a Maltese ship at a port in Malta, or a foreign ship, cause her to be detained, until he is satisfied that she is fit to proceed to sea.

(2) Where the ship is detained pursuant to subarticle (1), the Registrar-General may adopt any measures or means he thinks suitable or necessary to prevent the ship from sailing while it is unseaworthy.

(3) Where a ship has been detained under subarticle (1) -

- (a) a detention notice specifying the grounds of the detention of such ship and prohibiting the ship from proceeding to sea until it is released shall forthwith be served on the master of the ship;
- (b) in the case of a foreign ship, a copy of such detention notice shall forthwith be sent to the nearest consular officer of the country to which the ship belongs;
- (c) the Registrar-General may at any time, if he thinks it expedient, refer the matter to the court of survey; and
- (d) the Registrar-General may at any time, if he is satisfied that such ship is no longer unsafe, order her to be released either upon or without any conditions.

(4) A ship detained under this article shall not be released by reason of her Maltese register being subsequently closed.

References of  
detention notices to  
court of survey.  
*Substituted by:*  
*XXII. 2000.90.*

**282.** (1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of article 281 of this Act in connection with any opinion formed by the Registrar-General constituted a valid basis for that opinion shall, if the master or owner of the ship so requires by a notice given to the Registrar-General within ten days from the service of the detention notice, be referred to the court of survey.

(2) Where a notice is given by the master or owner of the ship in accordance with subarticle (1), the giving of the notice shall not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the court of survey so directs.

(3) The court of survey shall have regard, in coming to its decision, to any other matter not specified in the detention notice which appear to it to be relevant to whether the ship was or was not an unsafe ship.

(4) Where on a reference under this article the court of survey decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the Registrar-General's opinion, it shall either cancel the detention notice or affirm it with such modifications as it may in the circumstances think fit; and in any other case the court of survey shall affirm the notice in its original form.

(5) The court of survey shall include in its decision a finding whether there was or was not a valid basis for the detention of the ship as an unsafe ship.

(6) Where the owner or master of a foreign ship, being at a port in Malta, appeals to the court of survey, the consular officer referred to in article 281, on his request, may appoint a competent person to be assessor in lieu of the assessor who, if the ship were a Maltese ship, would be appointed otherwise than by the Minister.

Compensation in  
connection with  
invalid detention of  
ship.  
*Substituted by:*  
*XXII. 2000.90.*

**283.** (1) If on a reference under article 282 of this Act relating to a detention notice in relation to a ship -

- (a) the court of survey decides that any matter did not constitute a valid basis for the Registrar-General's opinion, and
- (b) it appears to the court of survey that there were no reasonable grounds for the Registrar-General to form that opinion,

the court of survey may award the owner of the ship such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the court of survey thinks fit.

(2) Any compensation awarded under this article shall be payable by the Authority.

Liability for costs.  
*Added by:*  
*XXII. 2000.90.*

**283A.** (1) If a ship is detained or has her certificate of registry suspended in accordance with article 281, the owner of the ship shall be liable to pay to the Registrar-General his costs of and incidental to the detention of the ship.

(2) For the purposes of this article the costs of and incidental to any measures or means adopted in terms of article 281(2) and to any proceedings before a court of survey, shall be part of the costs of the detention of the ship, and any dispute as to the amount of these costs shall be referred to the Registrar of Courts who shall, on request by the Registrar-General, ascertain and certify the proper amount of those costs.

**283B.** (1) If a Maltese ship, being in any port in or outside Malta, or a foreign ship, being at a port in Malta, is unsafe, then, subject to subarticles (4) and (5), the master and the owner of the ship shall each be guilty of an offence.

Owner and master liable in respect of unsafe ship.  
Added by:  
XXII. 2000.90.

(2) Where, at the time when a ship is unsafe, any responsibility of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either -

- (a) directly, under the terms of a charter-party or management agreement made with the owner, or
- (b) indirectly, under the terms of a series of charter-parties or management agreements,

the reference to the owner in subarticle (1) shall be construed as a reference to that other person or (as the case may be) to each of those other persons.

(3) A person guilty of an offence under this article shall be liable to a fine (*multa*) not exceeding one thousand units or to imprisonment for a period not exceeding two years or to both such fine (*multa*) and imprisonment.

(4) It shall be a defence in proceedings for an offence under this article to prove that at the time of the alleged offence -

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge; or
- (b) it was reasonable for such arrangements not to have been made.

(5) It shall also be a defence in proceedings for an offence under this article to prove -

- (a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely -
  - (i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety, or
  - (ii) where the accused is liable to proceedings under this article by virtue of subarticle (2), so much of those responsibilities as had been assumed by him as mentioned in that subarticle,

had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and

- (b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a);

and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subarticle (6).

(6) Those matters are -

- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
- (b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subarticle (5)(a) -
- (i) to terminate it, or
  - (ii) to intervene in the management of the ship, in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.

(7) In this article -

“management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and

“relevant responsibilities” shall be construed in accordance with subarticle (5).

(8) References in this article to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

Owner liable for unsafe operation of ship.  
Added by:  
XXII. 2000.90.

**283C.** (1) It shall be the duty of the owner of a ship to which this article applies to take all reasonable steps to secure that the ship is operated in a safe manner.

(2) This article applies to a Maltese ship, being in any port in or outside Malta, and to a foreign ship, which is within the territorial waters of Malta while proceeding to or from a port in Malta, unless such ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.



(3) If the owner of a ship to which this article applies fails to discharge the duty imposed on him by subarticle (1), he shall be liable to a fine (*multa*) not exceeding one thousand units or to imprisonment for a period not exceeding two years or to both such fine (*multa*) and imprisonment.

(4) Where any such ship -

(a) is chartered by demise, or

(b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of article 283B,

any reference to the owner of the ship in subarticle (1) or (3) shall be construed as including a reference -

(i) to the charterer under the charter by demise, or

(ii) to any such manager as is referred to in paragraph (b) above, or

(iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,

and accordingly the reference in subarticle (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

#### 4. CARRIAGE OF DANGEROUS GOODS

**284.** For the purposes of this Part of this Act, "dangerous goods" includes aquafortis, vitriol, naphta, benzine, gun-powder, lucifer matches, nitro-glycerine, petroleum, explosives, and any goods declared to be dangerous by the rules made under the next following article.

Dangerous goods.

**285.** (1) The Minister may make rules for regulating in the interests of safety the carriage of dangerous goods in ships to which this article applies.

Rules as to the carriage of dangerous goods.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) This article applies to -

(a) Maltese ships;

(b) other ships while they are within any port in Malta.

(3) If any of the rules made in pursuance of this article is not complied with in relation to any ship to which this article applies, the owner or master of the ship shall be liable for each offence to a fine (*multa*) not exceeding three hundred units, and the ship shall be deemed, for the purposes of this Part of this Act, to be unsafe by reason of improper loading.

(4) The Minister may exempt any ships or classes of ships from any rules made under this article, either absolutely or subject to

such conditions as he thinks fit.

Restrictions on carriage of dangerous goods.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**286.** (1) A person shall not send or attempt to send by any vessel, whether Maltese or foreign, and any person not being the master or owner of the vessel shall not carry or attempt to carry in any such vessel, any dangerous goods without distinctly marking their nature on the outside of the package containing the same and giving written notice of the nature of those goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.

(2) If any person fails without reasonable cause to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units:

Provided that if he shows that he was merely an agent in the shipment of any such goods as aforesaid and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, he shall be liable to a fine (*multa*) not exceeding ten units.

Misdescription of dangerous goods.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**287.** A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any vessel, whether Maltese or foreign, any dangerous goods under a false description and shall not falsely describe the sender or carrier thereof; and if he acts in contravention of this article he shall for each offence be liable to a fine (*multa*) not exceeding five hundred units.

Power to deal with goods suspected of being dangerous.

**288.** (1) The master or owner of any vessel, whether Maltese or foreign, may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

(2) Where any dangerous goods, or any goods which in the judgement of the master or owner of the vessel are dangerous goods, have been sent or brought aboard any vessel as aforesaid without being marked, or without such notice having been given, as provided in article 286, the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the master nor the owner of the vessel shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

Forfeiture of dangerous goods improperly sent or carried.  
Amended by:  
XXIV.1995.362.

**289.** (1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel whether Maltese or foreign, without being marked, or without such notice being given, as provided in article 286, or under a false description, or with a false description of the sender or carrier thereof, any court taking cognizance of any offence in relation to those goods, or the Civil Court, First Hall, at the instance of the Minister by way of application, may declare those goods, and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the court directs.

(2) The court shall have, and may exercise, the aforesaid

powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence relating to dangerous goods, and is not before that court, and has no notice of the proceedings and notwithstanding that there is no evidence to show to whom the goods belong; but the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

**290.** (1) Where grain is loaded on board any Maltese ship, or is loaded within any port in Malta on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner or the 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 be guilty of an offence under this subarticle and the ship shall be deemed, for the purposes of this Part of this Act, to be unsafe by reason of improper loading.

Carriage of grain.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) Where any ship, having been loaded with grain outside Malta without taking all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Malta so laden, the owner or master of the ship shall be guilty of an offence under this subarticle and the ship shall be deemed for the purposes of this Part of this Act to be unsafe by reason of improper loading:

Provided that this subarticle shall not have effect if the ship would not have entered any such port but for stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(3) Without prejudice to the generality of the two preceding subarticles, any particular precaution prescribed by rules made by the Minister under this subarticle, in relation to the loading of ships generally or of ships of any class, as being a precaution to be treated for the purposes of those subarticles as a necessary or reasonable precaution to prevent grain from shifting, shall be so treated in the case of ships generally or of ships of that class, as the case may be:

Provided that this subarticle shall not apply when a ship is loaded in accordance in all respects with any provisions approved by the Minister as respects the loading in question other than rules made under this subarticle.

(4) If any person commits an offence under subarticle (1) or subarticle (2), he shall for each offence be liable to a fine (*multa*) not exceeding three hundred units.

(5) On the arrival at any port in Malta from a port outside Malta of any ship carrying a cargo of grain, the master shall cause to be delivered to the Minister a notice stating -

- (a) the draught of water and freeboard, as defined by this Part of this Act, of the said ship after the loading of her cargo was completed at the final port of loading; and
- (b) the following particulars of the grain carried, namely -
  - (i) the kind of grain and the quantity thereof, stated

- in metric units of volume or weight;
- (ii) the mode in which the grain is stowed; and
  - (iii) the precautions taken to prevent the grain from shifting;

and if the master fails to deliver any notice required by this subarticle, or if in any such notice he makes any statement that he knows to be false in a material particular or recklessly makes any statement that is false in any material particular, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units.

(6) Any person having a general or special authority in that behalf from the Minister may, for securing the observance of the provisions of this article, inspect any grain and the mode in which it is stowed, and for those purposes he shall have all the powers of a surveyor of ships.

(7) In this article, the expression "grain" includes wheat, maize, oats, rye, barley, rice, pulses and seeds; and the expression "ship carrying a cargo of grain" means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage, reckoning one hundred cubic feet or two tons weight of grain as equivalent to one ton of registered tonnage.

Saving for other enactments relating to dangerous goods.

**291.** The provisions of this Part of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorise any person to be sued or prosecuted twice in the same matter.

## 5. PREVENTION OF COLLISIONS

Collision regulations.

**292.** (1) The Minister may make regulations for the prevention of collisions at sea and in navigable waters (in this Act referred to as the "collision regulations"), and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed, by ships.

(2) The collision regulations, together with the provisions of this Part of this Act relating thereto or otherwise relating to collisions, shall apply to all Maltese vessels and shall also be observed by all foreign ships within Maltese territorial and inland waters, and in any case arising in a Maltese court concerning matters arising within the said waters foreign ships shall, so far as respects the collision regulations and the aforesaid provisions of this Act, be treated as if they were Maltese ships.

Observance of collision regulations.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**293.** (1) All owners and masters of ships shall observe the collision regulations, and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by those regulations.

(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship, that master or owner shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding five hundred units or to both such imprisonment and fine.

(3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

(4) Nothing in subarticle (3) shall affect any liability of the owner of the ship for damage.

**294.** (1) A surveyor of ships may inspect any ship, whether Maltese or foreign, for the purpose of seeing that the ship is properly provided with lights and the means of making fog signals, in conformity with the collision regulations, and if the surveyor finds that the ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency and also what, in his opinion, is requisite in order to remedy the same.

Inspections as to  
lights and signals.

(2) Every notice so given shall be communicated to the officer from whom the ship may seek to obtain clearance; and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the ship is properly provided with lights and with the means of making fog signals in conformity with the collision regulations.

(3) Where the certificate as to lights and fog signals is refused, the owner or master may appeal to the court of survey in manner directed by the rules of that court.

(4) On any such appeal the chairman of the court of survey shall report to the Minister on the question raised by the appeal, and the Minister, when satisfied that the requirements of the report and of this Act as to lights and fog signals have been complied with, may grant, or direct a surveyor of ships or other person appointed by him to grant, the certificate.

(5) Subject to any order made by the chairman of the court of survey, the costs of and incidental to the appeal shall follow the event.

(6) A surveyor, in making an inspection under this article, shall, if the owner or master of the ship so requires, be accompanied on the inspection by some person appointed by the owner or master, and, if in that case the surveyor and the person so appointed agree, there shall be no appeal under this article to the court of survey.

(7) Such fees as the Minister may prescribe shall be paid in respect of an inspection of lights and fog signals under this article.

Duty of vessel to assist the other in case of collision.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

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

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

(2) If the master or person in charge fails without reasonable cause to comply with this article, he shall be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine; and if he is a certified officer an inquiry into his conduct may be held and his certificate cancelled or suspended.

Collision to be entered in official log book.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**296.** (1) In every case of collision in which it is practicable so to do, the master or every ship shall, immediately after the occurrence, cause a statement thereof and of the circumstances under which the same occurred, to be entered in the official log book, and the entry shall be signed by the master and also by the mate or one of the crew.

(2) If the master fails to comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

Application of collision regulations beyond Maltese jurisdiction.

**297.** Whenever it is made to appear to the Minister that the government of any foreign country is willing that the collision regulations, or the foregoing provisions of this Part of this Act relating thereto or otherwise relating to collisions, or any of those regulations or provisions, should apply to the ships of that country when beyond the limits of Maltese territorial waters, the Minister may by order in the Gazette direct that those regulations and provisions shall, subject to any limitations of time, conditions and qualifications contained in the order, apply to the ships of the country aforesaid, whether within Maltese territorial or inland waters or not, and that such ships shall, for the purposes of such regulations and provisions, be treated as if they were Maltese ships.

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## 6. MISCELLANEOUS PROVISIONS

General equipment of passenger ships.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**298.** (1) A sea-going passenger ship shall have her compasses properly adjusted from time to time to the satisfaction of a surveyor of ships.

(2) A passenger ship shall be provided with a safety valve on

each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of, and the pressure on, the ordinary valve.

(3) If a ship plies or goes to sea, or attempts to ply or go to sea, from any port in Malta without being equipped as required by this article, then for each matter in which default is made, the owner or master of the ship shall be liable to a fine (*multa*) not exceeding one hundred units.

**299.** A person shall not unduly increase the weight on the safety valve of any ship and, if he does so, he shall, in addition to any other liability he may incur by so doing, be liable for each offence to a fine (*multa*) not exceeding one hundred units.

Placing of undue weight on safety valve.  
Amended by:  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**300.** (1) The master of any Maltese ship, on meeting with dangerous ice, a dangerous derelict, a tropical storm, or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal, and in accordance with such rules as may be made by the Minister for the purposes of this article, to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

Report of dangers to navigation.  
Amended by:  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) If the master of a ship fails to comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

(3) Every person in charge of a wireless telegraph station in Malta shall, on receiving the signal prescribed by the said rules for indicating that a message is about to be sent under this article, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Minister, shall transmit the message in such manner as may be required by the Minister, and compliance with this subarticle shall be deemed to be a condition of every licence authorising the establishment or operation of the station.

(4) For the purposes of this article, the expression "tropical storm" means a hurricane, typhoon, cyclone or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

**301.** (1) The Minister may make rules prescribing what signals shall be used by Maltese ships as signals of distress and the circumstances in which, and the purposes for which, any signal so prescribed is to be used and the circumstances in which it is to be revoked.

Signals of distress.  
Amended by:  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) If the master of a ship uses or displays or permits any person under his authority to use or display -

- (a) any signal prescribed under this article except in the circumstances and for the purposes prescribed by the rules made under this article; or

(b) any signal that is liable to be mistaken for any signal so prescribed,

he shall be liable to a fine (*multa*) not exceeding fifty units and shall further be liable for any compensation for any labour undertaken, risk incurred, or loss sustained, in consequence of the signal having been supposed a signal of distress.

(3) Nothing in article 300(3) shall interfere with the transmission of signals prescribed under this article.

Signalling lamps.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**302.** No Maltese ship, being a ship of over one hundred and fifty tons gross tonnage, shall proceed to sea unless the ship is provided with a signalling lamp of a type approved by the Minister; and if any ship proceeds or attempts to proceed to sea in contravention of this article, the owner or master thereof shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

Method of giving  
helm orders.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**303.** (1) No person on any Maltese ship shall, when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right", or any equivalent of "starboard" or "right", unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left", or any equivalent of "port" or "left", unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes this article shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

Careful navigation  
near ice.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**304.** (1) The master of a Maltese ship, when ice is reported on or near his course, shall at night either proceed at moderate speed or change his course so as to keep amply clear of the ice reported and of the area of danger.

(2) If the master of any ship fails to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units.

Obligation to assist  
vessels in distress.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**305.** (1) The master of a Maltese ship, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so), unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of subarticle (3) or (4).

(2) Where the master of any ship in distress has requisitioned any Maltese ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by subarticle (1) as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by



subarticle (1) and, if his ship has been requisitioned, from the obligation imposed by subarticle (2), if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If a master fails to comply with the preceding provisions of this article, he shall for each offence be liable to imprisonment for a period not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine.

(6) If the master of a Maltese ship, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log book of his reasons for not going to the assistance of those persons, and if fails to do so, he shall be liable to a fine (*multa*) not exceeding one hundred units.

(7) The master of every Maltese ship shall enter or cause to be entered in the official log book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(8) Compliance by the master of a ship with the provisions of this article shall not affect his right, or the right of any other person, to salvage.

**306.** (1) The master or person in charge of a Maltese vessel shall, so far as he can do so without serious danger to his own vessel, her crew and passengers (if any), render assistance to every person who is found at sea in danger of being lost, even if such person be a citizen of a State at war with Malta; and if he fails to do so he shall for each offence be liable to imprisonment not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine.

Duty to render assistance to persons in danger at sea.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) Compliance by the master or person in charge of a vessel with the provisions of this article shall not affect his right, or the right of any other person, to salvage.

**307.** (1) When a Maltese ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of the accident or damage, or as soon thereafter as possible, transmit to the Minister, by letter signed by the owner or master, a report of the accident or damage and of the probable occasion thereof, stating the name of the ship and the place where she is.

Report of accidents to ships.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

(2) If the owner or master of a ship fails without reasonable cause to comply with this article, he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

Notice of loss of  
Maltese ship.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**308.** (1) If the owner, or the person to whom is entrusted the management, of a Maltese ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Minister notice in writing of the loss and of the probable occasion thereof, stating the name of the ship.

(2) If any such person as aforesaid fails without reasonable cause to comply with this article within a reasonable time, he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

Added by:  
XXII. 2000.91.

#### PART VA

#### PREVENTION OF POLLUTION FROM SHIPS

Prevention of  
pollution from  
ships.  
Added by:  
XXII. 2000.91.

**308A.** (1) The Minister may make regulations as appear necessary to give effect to any provision of any of the following which have been ratified or acceded to or accepted by the Government of Malta -

- (a) the International Convention for the Prevention of Pollution from Ships signed in London on the 2nd November, 1973 and the Protocol thereto signed in London on the 17th February, 1978 (including protocols, annexes and appendices thereto);
- (b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil signed in London on the 2nd November, 1973;
- (c) the International Convention on Oil Pollution Preparedness, Response and Cooperation signed in London on the 30th November, 1990;
- (d) any international agreement not mentioned in paragraphs (a) to (c) above which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships or which regulates the liability of any person arising from pollution of the sea or other waters;

and in paragraph (d) above the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (c) above.

(2) Any reference in subarticle (1) to an international agreement or convention or protocol shall include reference to any amendment to such agreement or convention or protocol ratified, acceded to or accepted by the Government of Malta.

(3) The powers conferred by subarticle (1) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force notwithstanding that the agreement may not be in force.

## PART VI

## EMIGRANT SHIPS

**309.** For the purposes of this Part of this Act, unless the context otherwise requires -

Definitions for purposes of this Part.

"emigrant ship" means a sea-going ship, whether Maltese or foreign, carrying, upon any voyage from Malta to any port out of Europe and not within the Mediterranean Sea, more than fifty steerage passengers or a greater number of steerage passengers than in proportion of one statute adult to every twenty tons of the ship's registered tonnage, and includes a ship which, having proceeded from a port outside Malta, takes on board any port in Malta such number of steerage passengers as would, either with or without the steerage passengers she already has on board, constitute her an emigrant ship;

"statute adult" means a person of the age of twelve years and upwards, and two persons between the ages of one and twelve years shall be treated as one statute adult;

"steerage passenger" means all passengers except cabin passengers, and persons shall not be deemed cabin passengers unless -

- (a) the space allotted to their exclusive use is in proportion of ten clear superficial metres to each statute adult; and
- (b) the fare paid by them is not less than such sum as may be prescribed by the Minister either for the entire voyage or in proportion to the length of the voyage; and
- (c) they have been furnished with a duly signed contract ticket in the form prescribed by the Minister for cabin passengers.

**310.** (1) Every emigrant ship shall, in addition to any other requirement under this Act, be provided with the following articles, namely:

Additional equipment for emigrant ships.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

- (a) with at least three steering compasses and one azimuth compass;
- (b) if proceeding to any place north of the Equator, with at least one chronometer;
- (c) if proceeding to any place south of the Equator, with at least two chronometers;
- (d) with a fire engine in proper working order and of such description and power, and either with or without such other apparatus for extinguishing fire, as the Minister may approve;
- (e) with three bower anchors of such weight, and with cables of such length, size and material, as in the judgement of the Minister are sufficient for the size of

the ship;

- (f) if a foreign ship, with an adequate number, not being less than four, of properly fitted lifebuoys kept ready at all times for immediate use; and
- (g) adequate means, to be approved by the Minister, of making signals by night.

(2) If any requirement of this article is not complied with in the case of an emigrant ship, the master of that ship shall be liable for each offence to a fine (*multa*) not exceeding fifty units.

Regulations with respect to emigrant ships.

**311.** (1) The Minister may make regulations with respect to all or any of the following matters, namely:

- (a) the number of persons that may be carried in an emigrant ship, distinguishing, if he so deems fit, between steerage passengers and other persons;
- (b) the accommodation for steerage passengers in an emigrant ship, including regulations as to passenger decks, berths, hospitals, privies, and the supply of light and ventilation;
- (c) the stowage of cargo, luggage, provisions, water and stores in an emigrant ship;
- (d) the scales of water and provisions to be issued to steerage passengers, including the supply, reprovisioning, carriage and inspection of the water and provisions to be carried in an emigrant ship for that purpose;
- (e) the provision for the use of steerage passengers on emigrant ships of medical stores, including medicines, medical comforts, instruments, disinfectants, and other things proper and necessary for the treatment of diseases and accidents incident to sea voyages;
- (f) the carrying as part of an emigrant ship's complement of duly qualified medical practitioners;
- (g) the manning of an emigrant ship with an efficient crew, stewards, cooks and interpreters;
- (h) the medical inspection of steerage passengers before the clearance outwards of an emigrant ship, including regulations with respect to persons found unfit to proceed on the voyage;
- (i) the preservation of order, the maintenance of discipline, the promotion of health and the securing of cleanliness and ventilation on board emigrant ships;
- (j) the issue, form, stipulations and production of contract tickets in respect of a passage on an emigrant ship, distinguishing between steerage and cabin passengers;
- (k) the minimum fare payable in order that a person may be deemed to be a cabin passenger;
- (l) the survey and inspection of emigrant ships to ensure

compliance with the regulations and the provisions of this Act applicable to such ships.

(2) Regulations made under this article may, besides any punishment provided in respect of any contravention of the regulations, make provision subjecting the clearance outwards of an emigrant ship to compliance with the regulations and the provisions of this Act applicable to such ships, and to such procedures, surveys, inspections and certificates as may be prescribed by the regulations.

## PART VII

### SPECIAL SHIPPING INQUIRIES AND COURTS

#### *Inquiries and investigations as to shipping casualties*

**312.** A shipping casualty shall be deemed to occur where -

- (a) any ship is or is supposed to have been lost, abandoned, stranded or materially damaged;
- (b) any ship or any ship's boat or any cargo from that ship has caused or is supposed to have caused, any loss, abandonment, stranding or material damage, including loss of life of any person or injury sustained by any person;
- (c) loss of life of any person has occurred on board any ship or any ship's boat;
- (d) any person has sustained injury on board any ship or any ship's boat;
- (e) the Minister by regulations has so prescribed.

Shipping casualties.  
*Substituted by: XXII. 2000.92.*

**313.** (1) A preliminary inquiry respecting a shipping casualty may be held by such person as is appointed by the Minister where -

- (a) a shipping casualty involves or is supposed to involve a Maltese ship; or
- (b) a shipping casualty involves or is supposed to involve any ship and such casualty has occurred on the coasts of Malta, including any port installation or ship repair facility, or at sea within the territorial jurisdiction of Malta, or where any witness is found in Malta; or
- (c) the Minister by regulations has so prescribed.

Preliminary inquiry into shipping casualty.  
*Amended by: XIII. 1983.5; XXII. 2000.2, 93.*

(2) For the purpose of any such inquiry, the person holding the same may -

- (a) go on board any ship and inspect the same and every part thereof, and the machinery, equipment and cargo and may require the unloading or removal of any

cargo, ballast or tackle;

- (b) by summons under his hand, require the attendance of any person he thinks fit to call before him and examine such person on the subject of the inquiry and administer oaths to the persons to be so examined by him;
- (c) by summons under his hand or otherwise, require the production of all books and other documents he considers relevant for the purpose of such inquiry.

Cap. 9.

(3) The provisions of articles 362, 363 and 364 of the Criminal Code shall apply to summons issued under subarticle (2).

(4) If any person summoned in the manner aforesaid refuses or fails without reasonable cause to attend or to reply to any questions put to him at the inquiry, or if any person refuses or fails without reasonable cause to produce any book or document which it may be in his power to produce and which he has been required to produce as aforesaid, or if any person wilfully impedes the person holding the inquiry or fails to comply with any requisition made by him, such person shall for each offence be liable to a fine (*multa*) not exceeding twenty units.

(5) Upon the conclusion of the inquiry, the person holding the same shall make a report to the Minister.

Formal investigation as to shipping casualties.

**314.** (1) A person authorised as aforesaid to make a preliminary inquiry shall, in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such inquiry) that a formal investigation should be held, and in any case where the Minister so directs, apply to the Court of Magistrates to hold a formal investigation; and that court shall thereupon hold the formal investigation.

(2) The person authorised as aforesaid to make a preliminary inquiry shall also apply to the said court to hold a formal investigation where the shipping casualty involves or is likely to involve a question as to the cancelling or suspension of the certificate of a master, mate or engineer.

(3) The said court shall have the same jurisdiction over the matter referred to it as if the shipping casualty had occurred within its jurisdiction and, without prejudice to the provisions of this Part of this Act, shall have all the powers competent to it in the exercise of its ordinary jurisdiction.

Cap. 9.

(4) Where a formal investigation is held under this Part of this Act into any matter in respect of which an inquest is required to be held under the Criminal Code, the provisions of that Code in relation thereto shall be deemed to have been satisfied.

Procedure as to formal investigations.

**315.** (1) The court shall hold the formal investigation with the assistance of one or more assessors of nautical, engineering or other special skill or knowledge, to be appointed out of a list of persons for the time being approved by the Minister, in such manner and according to such regulations as may be prescribed by rules by the Minister under this Part of this Act with respect

thereto:

Provided that where an investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service.

(2) Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

(3) Formal investigations shall be held in some public building or other suitable place not being a court ordinarily used as a police court, unless no other suitable place is, in the opinion of the court, available.

(4) Formal investigations may, whenever the court shall deem it expedient, be conducted in the English language, and any *procès-verbal* or evidence written in that language may be inserted in the record of the investigation as if it were written in Maltese.

(5) It shall be the duty of the person who has applied to the court to hold a formal investigation to superintend the management of the case and to render such assistance to the court as is in his power.

(6) The court, after hearing the case, shall make a report to the Minister containing a full statement of the case and of the opinion of the court thereon, accompanied by such report on, or extracts from, the evidence, and such observations as the court thinks fit.

(7) Each assessor shall either sign the report or state in writing to the Minister his dissent therefrom and the reasons for that dissent.

(8) The court may make such order as it thinks fit respecting the costs of the investigation, or any part thereof.

(9) The fees payable to the assessors shall be those prescribed by the Minister in the rules made under this Part of this Act with respect to formal investigations.

**316.** (1) A duplicate of the report made following a formal investigation, verified and certified by the registrar of the court to be correct, shall be kept in the records of the court.

Other provisions as to reports.

(2) Such report may be produced in evidence in any judicial proceedings.

**317.** (1) Where in connection with any shipping casualty criminal proceedings are taken against any person before the Court of Magistrates as a court of criminal inquiry, the certificated duplicate of the report on the formal investigation into the shipping casualty, with the evidence taken at such investigation, shall be filed in the record of the proceedings, and the report shall have the same effect as the *procès-verbal* referred to in the Criminal Code.

Where criminal proceedings are taken following a shipping casualty.  
Amended by:  
VIII.1990.2.

Cap. 9.

(2) In any such case it shall not be necessary to re-examine any of the witnesses heard at the investigation whose depositions are

filed in the record of the criminal proceedings as aforesaid, unless such re-examination is necessary to establish circumstances which do not result from those depositions or is requested by the defendant.

*Provisions as to certificated officers*

Power of Minister to cancel certificates.

**318.** The Minister may suspend or cancel the certificate or the recognition of a certificate of any master, mate or engineer if it is shown that he has been convicted of any criminal offence.

Inquiry into conduct of certificated officer.

**319.** (1) If the Minister has reason to believe that any master, mate or engineer is from any incompetency or misconduct unfit to discharge his duties, or that in a case of collision or other accident at sea he has failed to render such assistance or give such information as is required under Part V of this Act, the Minister may cause an inquiry to be held by the Court of Magistrates.

(2) Any such inquiry shall be conducted and the results reported in the same manner, and the court shall have the like powers, as in the case of a formal investigation into a shipping casualty under this Part of this Act:

Provided that, if the Minister so directs, it shall be the duty of the person who has brought the charge against the master, mate or engineer, to the notice of the Minister, or of such other person as is designated by the Minister, to conduct the case, and that person shall, in that case, for the purposes of this Act, be deemed to be the party having the conduct of the case.

Removal of master by Civil Court, First Hall.  
*Amended by:*  
*XXIV.1995.362.*

**320.** (1) The Civil Court, First Hall, may remove the master of any Maltese ship if that removal is shown to the satisfaction of the court to be necessary.

(2) The removal may be made upon the request, by way of application, of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The court may appoint a new master instead of the one removed; but where the owner, agent or consignee of the ship is in Malta, such appointment shall not be made without the consent of that owner, agent or consignee.

Power as to certificates of the court holding investigation or inquiry.  
*Amended by:*  
*XXIV.1995.362.*

**321.** (1) The certificate or the recognition of a certificate of a master, mate or engineer may be cancelled or suspended -

- (a) by the court holding a formal investigation into a shipping casualty under this Part of this Act, if the court finds that the loss or abandonment of, or serious damage to, any ship, or loss of life has been caused by his wrongful act or default:

Provided that the court shall not cancel or suspend a certificate, or a recognition of a certificate, unless one at least of the assessors concurs in the finding of the court;



- (b) by the court holding an inquiry under this Part of this Act into the conduct of a master, mate or engineer, if the courts finds that he is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that in a case of collision at sea he has failed to render such assistance or give such information as is required under Part V of this Act;
- (c) by the Civil Court, First Hall, where under the powers given by article 320 the master is removed by that court.

(2) Where any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate or of a recognition of a certificate, the court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancelling or suspending thereof.

(3) The court shall in all cases send a full report on the case, with the evidence, to the Minister, and shall also, if it determines to cancel or suspend any certificate or recognition of a certificate, send the certificate or the recognition cancelled or suspended to the Minister with the report.

(4) A certificate or a recognition of a certificate shall not be cancelled or suspended by the court unless a copy of the report, or a statement of the case, on which the investigation or inquiry has been ordered, or of the application made to the Civil Court, First Hall, has been furnished to or served on the holder of the certificate before the commencement of the investigation, inquiry or hearing.

**322.** (1) A master, mate or engineer whose certificate, or the recognition of whose certificate, is cancelled or suspended under this Part of this Act shall deliver his certificate or the recognition of his certificate -

- (a) if cancelled or suspended by a court, to that court on demand;
- (b) if not so demanded, or if it is cancelled or suspended by the Minister, to the Minister or as the Minister directs, on demand.

(2) If a master, mate or engineer fails to comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

**323.** The Minister may, if he thinks that the justice of the case requires, re-issue and return the certificate, or the recognition of a certificate, of a master, mate or engineer which has been cancelled or suspended or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade.

Delivery of certificate cancelled or suspended.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

Power of Minister to restore certificate.

Effects of  
cancellation or  
suspension of a  
certificate on  
recognition  
thereof.  
*Amended by:*  
*XIII. 1983.5;*  
*XXII. 2000.2.*

**324.** (1) Where a certificate recognised for the purposes of this Act under Part IV thereof has been cancelled or suspended in accordance with the law under which it was issued, the recognition thereof for the purposes of this Act shall be deemed to have likewise been cancelled or suspended, as the case may be, without prejudice to the powers of the Minister under article 323; and the holder of the certificate shall deliver the recognition thereof to the Minister, or as the Minister directs, on demand.

(2) If a master, mate or engineer fails to comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

*Rehearing of investigations and inquiries*

Rehearing of  
investigations and  
inquiries.

**325.** (1) The Minister may, in any case where under this Part of this Act a formal investigation into a shipping casualty, or an inquiry into the conduct of a master, mate or engineer, has been held, order the case to be reheard either generally or as to any part thereof, and shall do so -

- (a) if new and important evidence which could not be produced at the investigation or inquiry has been discovered; or
- (b) if for any reason there has in his opinion been ground for suspecting that a miscarriage of justice has occurred.

(2) The Minister may order the case to be reheard either by the court by which the case was heard in the first instance or by the Court of Appeal.

(3) Where on any such investigation or inquiry, a decision has been given with respect to the cancelling or suspension of the certificate, or of the recognition of a certificate, of a master, mate or engineer, and an application for a rehearing under this article has not been made or has been refused, an appeal shall lie from the decision to the Court of Appeal.

(4) Any rehearing or appeal under this article shall be subject to and shall be conducted in accordance with such conditions and regulations as may be prescribed by rules made in relation thereto under the powers contained in this Part of this Act.

*Court of survey*

Constitution of  
court of survey.

**326.** (1) The court of survey shall consist of a chairman sitting with two assessors.

(2) The chairman shall be a magistrate, or a retired magistrate, or a person qualified to be appointed a magistrate, appointed by the Minister either generally or in each case.

(3) The assessors shall be persons of nautical, engineering or other special skill and experience and, subject to the provisions of

Part VI of this Act as regards foreign ships, one of them shall be appointed by the Minister either generally or in each case, and the other shall be summoned by the registrar of the court, in accordance with the rules made under this Part of this Act with respect to the court of survey, out of a list of assessors for the time being approved by the Minister.

(4) Such fit person as the Minister may from time to time appoint shall be the registrar of the court, and shall, on receiving notice of an appeal or a reference from the Minister, immediately summon the court to meet forthwith in manner directed by the rules aforesaid.

(5) The name of the registrar and his office shall be published in the Gazette.

**327.** (1) The court of survey shall hear every case in open court.

Powers and procedure of the court of survey.

(2) The chairman of the court may appoint any competent person or persons to survey the ship and report thereon to the court.

(3) The chairman of the court, and each assessor, and every person appointed by the chairman to survey a ship shall have for the purposes of this Act all the powers of a person appointed under this Part of this Act to hold a preliminary inquiry into a shipping casualty; and the provisions of article 313(3) and (4) shall, with the requisite modifications, apply for the purposes of this article as they apply for the purposes of that article.

(4) The chairman of the court shall have the same powers as the Minister to order the ship to be released or finally detained but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner or master of the ship, and any person appointed by the owner or master, and also any person appointed by the Minister, may attend at any inspection or survey made in pursuance of this article.

**328.** (1) If the Minister is of opinion that an appeal to the court of survey involves a question of construction or design or of scientific difficulty or important principle, or if the appellant so requires and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, the matter may be referred to such person or persons as appear to possess the special qualifications necessary for the particular case; and where such person or persons are selected by agreement between the Minister and the appellant, the appeal shall be determined by the referee or referees so selected, instead of by the court of survey.

Reference in difficult cases to scientific referees.

(2) The referee or referees shall have the same powers as the chairman of the court of survey.

*Rules*

Power to make rules.

**329.** The Minister may make general rules -

- (a) for carrying into effect the provisions of this Act relating to formal investigations, and to the rehearing, or an appeal from, any investigation or inquiry held under this Part of this Act, and in particular with respect to the procedure, the time, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected and the amount and application of fees;
- (b) for carrying into effect the provisions of this Act relating to the court of survey, and in particular with respect to the summoning of, and procedure before, the court, the requiring on an appeal of security for costs and damages and the amount and application of fees.

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PART VIII

WRECK AND SALVAGE

*Vessels in distress*

Definition of "wreck" and "salvage".

**330.** In this Part of this Act, unless the context otherwise requires-

"wreck" includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea;

"salvage" includes all expenses properly incurred by the salvor in the performance of the salvage services.

Receiver of wreck.

**331.** (1) Where a vessel, whether Maltese or foreign, is wrecked, stranded or in distress on the coasts of Malta or at sea within the territorial jurisdiction of Malta, such person as the Minister may designate or appoint for that purpose (in this Act referred to as the "receiver of wreck") shall take such steps as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel and of the cargo and apparel of the vessel.

(2) The receiver of wreck shall have such powers as the Minister may deem fit to assign to him according to circumstances, and, in addition to the expenses properly incurred by him in the performance of his duties, he may be paid such fees as the Minister directs.

Wreck found in Malta.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**332.** Where any person finds or takes possession of any wreck within the limits of Malta, or finds or takes possession of any wreck outside such limits and brings such wreck within the said limits, he shall -

- (a) if he is the owner thereof, give notice to the receiver of wreck that he has found or taken possession of the same, and describing the marks by which the same may be recognised;
- (b) if he is not the owner thereof, as soon as possible, deliver the same to the receiver of wreck;

and if any person fails, without reasonable cause, to comply with this article he shall for each offence be liable to a fine (*multa*) not exceeding two hundred units and shall, in addition, forfeit any claim to salvage.

**333.** (1) Where a vessel is wrecked, stranded or in distress on the coasts of Malta or at sea within the territorial jurisdiction of Malta, any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver of wreck.

Penalty for taking wreck at time of casualty.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

(2) If any person, whether the owner or not, secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver of wreck or any person authorised by him to demand the same, that person shall for each offence be liable to a fine (*multa*) not exceeding two hundred units.

**334.** If any person takes into any foreign port any vessel stranded, derelict, or otherwise in distress, found on the coasts of Malta or at sea within the territorial jurisdiction of Malta, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found within those limits, and there sells the same, that person shall be liable to imprisonment for a period of not less than three years and not exceeding five years.

Taking wreck to foreign port.

#### *Dealing with wreck*

**335.** Where the receiver of wreck takes possession of any wreck, he shall as soon as convenient cause to be published in the Gazette a description of the wreck and of any marks by which it is distinguished.

Notice of wreck to be given by receiver.

**336.** (1) The owner of any wreck in the possession of the receiver of wreck, upon establishing his claim to the satisfaction of the receiver or through a decision of the competent court, shall, if the claim is made within one year from the date of the notice given in accordance with article 335, and upon paying the salvage, fees and other expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

Claims of owners to wreck.

(2) Upon delivery of a wreck or payment of the proceeds of sale of a wreck by the receiver of wreck in pursuance of the provisions of this Part of this Act, the receiver of wreck shall be discharged from all liability in respect thereof, but the delivery or payment as aforesaid shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck.

Immediate sale of wreck in certain cases.

*Amended by:*  
*XIII. 1983.5.*

**337.** The receiver of wreck may at any time sell any wreck in his custody, if in his opinion -

- (a) it is under the value of twenty liri; or
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept;
- (c) it is not of sufficient value to pay for warehousing;

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

Unclaimed wreck.

**338.** The Government of Malta shall be entitled to all wreck found in Malta which remains unclaimed by the lawful owner for more than one year from the date of the notice given in accordance with article 335.

#### *Removal of wrecks*

Power to remove wrecks.

*Amended by:*  
*XXIV.1995.362.*

**339.** Where any vessel is sunk, stranded or abandoned on or near the coasts within the territorial jurisdiction of Malta in such manner as in the opinion of the Minister to be, or to be likely to become, an obstruction or danger to navigation, the Minister may -

- (a) take possession of, and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy any such vessel or part until the raising, removal or destruction thereof;
- (c) sell, in such manner as he thinks fit, any vessel or part so raised or removed, and also any property recovered in the exercise of the powers under this article, and out of the proceeds of the sale reimburse himself for the expenses incurred by him in relation thereto under this article, and the Minister shall hold the surplus, if any, of the proceeds for the benefit of the persons entitled thereto:

Provided that a sale shall not (except in the case of property which is of a perishable nature, or which would deteriorate in value by delay) be made under this article unless at least seven clear days' notice of the intended sale has been given by advertisement in at least two local newspapers:

Provided further that at any time before any property is sold under this article, the owner thereof shall be entitled to have the same delivered to him on payment to the Minister of the fair market value thereof to be ascertained by agreement between the Minister and the owner, or failing such agreement by some person to be named for the purpose by agreement between the Minister and the owner or by the Civil Court, First Hall, on an application by the Minister or the owner, and the sum paid to the Minister as the value of the property under this provision shall, for the purposes of this article, be deemed to be the proceeds of sale of that property.

**340.** The provisions of this Part of this Act relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel in the same manner as if it were included in the term vessel; and for the purposes of the said provisions any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

Extent of power of removal.

**341.** The powers conferred by this Part of this Act for the removal of wrecks shall be in addition to and not in derogation of any other powers for the like object.

Powers to be cumulative.

### *Salvage*

**342.** (1) Where services are rendered wholly or in part within Maltese waters in saving life from any Maltese or foreign vessel, or elsewhere in saving life from any Maltese vessel, there shall be payable to the salvor by the owner of the vessel, cargo, or apparel saved, a reasonable amount of salvage limited to the amount of the property saved.

Salvage for saving life.

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

(3) Where the vessel, cargo and apparel are destroyed or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister may, in his discretion, award to the salvor, out of the Consolidated Fund, such sum as he thinks fit in whole or part satisfaction of any amount of salvage so left unpaid.

**343.** (1) Where any vessel, whether Maltese or foreign, is wrecked, stranded or in distress at any place on or near the coasts within the territorial jurisdiction of Malta and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, or where any services are rendered by any person other than a receiver of wreck in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel, or wreck, a reasonable amount of salvage limited to the amount of the property saved.

Salvage of cargo or wreck.

(2) This article shall extend to any services rendered as aforesaid in respect of a vessel wrecked, stranded or in distress at any place on the high seas if the property in respect of which salvage may be claimed has been brought within Maltese jurisdiction.

**344.** For the purpose of the salvage provisions of this Act -

Further provisions as to salvage.

- (a) the liability of the owner to pay salvage shall extend to persons having an interest which has been saved by the property being brought into a position of security;

- (b) no salvage shall be due -
  - (i) to persons having such relation to the vessel assisted or saved as it is their duty to render assistance otherwise than under the provisions of this Act, except where the services rendered are of an exceptional nature; or
  - (ii) to persons rendering assistance notwithstanding the express and reasonable prohibition of the vessel to which the services are rendered.

Determination of salvage.  
Amended by:  
XXIV.1995.362.

**345.** (1) The amount and apportionment of salvage, whether of life or property, and also any question whether the services were rendered within or outside Maltese jurisdiction, shall, if not settled by agreement, arbitration or otherwise, be determined by the Civil Court, First Hall:

Provided that every agreement as to assistance or salvage entered into at the time the services are rendered may be rescinded or modified by the said court -

- (a) if it considers that the terms agreed upon under the influence of danger are not equitable;
- (b) if the party making the request for a rescission or modification of the agreement satisfies the court that his consent to the agreement was vitiated by fraud or concealment;
- (c) if the remuneration agreed is excessively disproportionate to the services rendered.

(2) In determining the amount or the apportionment of salvage, the court shall have regard to -

- (a) the measure of success obtained, and the efforts and deserts of the salvor;
- (b) the danger run by the vessel saved, by her passengers, crew and cargo;
- (c) the danger run by the salvor and the salving vessel;
- (d) the time expended, the expenses incurred and the losses suffered, and the risks of liability and other risks run by the salvors, and also the value of the property exposed to such risks, due regard being had to the special appropriation (if any) of the salvor's vessel for salvage purposes;
- (e) the value of the property saved.

(3) Where any dispute arises as to apportionment of any amount of salvage among the owners, master, pilot, crew and other persons in the service of any foreign vessel, the amount shall be apportioned in accordance with the law of the country to which the vessel belongs.

(4) The court may deprive the salvor of all rights to salvage, or may award a reduced salvage, if it appears that the salvor has by his fault rendered the salvage or assistance necessary or has been guilty of theft, fraudulent concealment or other acts of fraud.



**346.** (1) Where salvage is due to any person under this Act, the receiver of wreck may -

- (a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel;
- (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold under this Act, detain the wreck.

(2) Subject as hereinafter provided, the receiver may detain the vessel and cargo and apparel, or the wreck, until payment is made for salvage, or proceedings are taken for the arrest or detention thereof by a competent court.

(3) The receiver of wreck may release any property detained as aforesaid if security is given to his satisfaction or, if the claim for salvage exceeds two hundred liri, and any question is raised as to the sufficiency of the security, to the satisfaction of the Civil Court, First Hall.

Detention of property liable for salvage.

*Amended by:*  
XIII. 1983.5;  
XXIV.1995.362.

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## PART IX

### LIABILITY OF SHIPOWNERS

#### *Liability and limitation thereof*

**347.** Subject to the provisions of this Part of this Act, and to any other exclusion or limitation provided by law in relation to the carriage of goods or otherwise, the owner of a ship shall be responsible for all obligations contracted by the master in relation to the ship, and shall be liable for any damages caused by acts or omissions in the navigation or management of the ship.

Liability of shipowners.

**348.** The owners of a Maltese ship shall not be liable to make good, to any extent whatever, any loss or damage happening without their actual fault or privity in the following cases, namely:

Exclusion of liability in certain cases.

- (a) where any goods, merchandise, or other things whatsoever, taken in or put on board their ship are lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, diamonds, watches, jewels, or precious stones, are taken in or put on board their ship, the true nature and value of which have not at the time of the shipment been declared by the owner or shipper thereof to the owner or master of the ship in the bills of lading or otherwise in writing, are lost or damaged by reason of any theft, embezzlement, making away with or secreting thereof.

Limitation of liability in certain cases.

- 349.** (1) In any of the following occurrences, that is to say-
- (a) where any loss of life or personal injury is caused to any person being carried in a ship;
  - (b) where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board a ship;
  - (c) where any loss of life or personal injury is caused to any person not carried in the ship, through the act or omission of any person (whether on board the ship or not) in the navigation or management of a ship, or in the loading, carriage or discharge of her cargo, or in the embarkation, carriage or disembarkation of her passengers, or through any other act or omission of any person on board the ship;
  - (d) where any loss or damage is caused to any property (other than property mentioned in paragraph (b)) or any rights are infringed through the act or omission of any person (whether on board the ship or not) in the navigation or management of a ship, or in the loading, carriage or discharge of her cargo, or in the embarkation, carriage or disembarkation of her passengers, or through any other act or omission of any person on board the ship,

the owners of the ship, whether the ship is Maltese or foreign, shall not, where all or any of the said occurrences take place without their actual fault or privity, be liable to damages beyond the amounts specified in article 350.

(2) For the purposes of this article, where any obligation or liability arises -

- (a) in connection with the raising, removing or destruction of any ship which is sunk, stranded or abandoned, or of anything on board such ship; or
- (b) in respect of any damage (howsoever caused) to harbour works, basins or navigable waterways,

the occurrence giving rise to the obligation or liability shall be treated as one of the occurrences mentioned in subarticle (1)(b) or (d), and the obligation or liability as a liability to damages.

Amount to which liability is limited.

**350.** (1) The amounts beyond which the owners of a ship shall not be liable as provided in article 349 are:

- (a) in respect of loss of life or personal injury, either alone or together with such loss, damage or infringement as is mentioned in subarticle (1)(b) or (d) of that article, an aggregate amount not exceeding an amount equivalent to three thousand one hundred gold francs for each ton of the ship's tonnage;
- (b) in respect of such loss, damage or infringement as is mentioned in subarticle (1)(b) or (d) of that article, an aggregate amount not exceeding an amount equivalent to one thousand gold francs for each ton of the ship's

tonnage.

(2) Where the liability is in respect of loss of life or personal injury and in respect of such loss, damage or infringement as is mentioned in article 349(1)(b) and (d), a first portion amounting to two thousand one hundred francs for each ton of the ship's tonnage shall be due exclusively in respect of loss of life or personal injury and the balance shall be due exclusively in respect of the other claims:

Provided that where the claims for loss of life or personal injury are not fully satisfied, the unpaid balance shall rank rateably with the said other claims on the balance which would otherwise be due in respect of such other claims.

(3) For the purposes of this article -

- (a) a gold franc shall be taken to be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred; and the Minister may from time to time by order in the Gazette specify the amounts which for the purposes of this article are to be taken as equivalent to three thousand one hundred, two thousand one hundred, and one thousand gold francs, respectively;
- (b) the tonnage of a ship, other than a sailing ship, shall be her registered tonnage with the addition of any engine room space deducted for the purpose of ascertaining that tonnage; and the tonnage of a sailing ship shall be her registered tonnage;
- (c) where a foreign ship has been or can be measured according to Maltese law, her tonnage, as ascertained by that measurement, shall be deemed to be her tonnage;
- (d) where a foreign ship has not been and cannot be measured according to Maltese law, a surveyor of ships, appointed by the court hearing the case in which the tonnage of the ship is in question, shall, on receiving such evidence concerning the dimensions of the ship as it may be practicable to furnish, give a certificate under his hand stating what would in his opinion have been the tonnage of the ship if she had been duly measured according to Maltese law, and the tonnage so stated in that certificate shall be deemed to be the tonnage of the ship.

**351.** The limits set by articles 349 and 350 to the liabilities mentioned therein shall apply to the aggregate of such liabilities which are incurred on any distinct occasion; and shall so apply in respect of each distinct occasion without regard to any liability incurred on another occasion.

Limitation to apply to each distinct occasion.

**352.** Nothing in articles 349 and 350 shall apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property or infringement of any right of, a person

Cases where articles 349 and 350 do not apply.

who is on board or employed in connection with the ship under a contract of service with all or any of the persons whose liabilities are limited by those articles, or by those articles as extended by article 353, if that contract is governed by the law of any country outside Malta and that law either does not set any limit to that liability or sets a limit exceeding that set as aforesaid under this Act.

Extension of exclusion or limitation of liability.

**353.** (1) The persons whose liability in connection with a ship is excluded or limited by the foregoing provisions of this Part of this Act shall include any charterer and any person interested in or in the possession of the ship, and, in particular, any manager or operator of the ship.

(2) In relation to a claim arising from the act or omission of any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owners or of any such person as is mentioned in subarticle (1) -

- (a) the persons whose liability is excluded or limited as aforesaid shall also include the master, member of the crew or servant, and, in a case where the master or member of the crew is the servant of a person whose liability would not be excluded or limited apart from this paragraph, the person whose servant he is; and
- (b) the liability of the master, member of the crew or servant himself shall be excluded or limited as aforesaid notwithstanding his actual fault or privity in that capacity, except in the case mentioned in article 348(b).

Unregistered ships and ships in the course of completion.

**354.** (1) The foregoing provisions of this Part of this Act relating to the exclusion or limitation of liability in relation to ships shall apply to any structure, whether completed or in course of completion, launched or intended for use in navigation as a ship or part of a ship, and shall apply to any barge or like vessel however propelled, and the expression "ship" in this Part of this Act shall be construed accordingly.

(2) The aforesaid provisions shall also apply to a ship which is not registered anywhere and is owned exclusively by persons habitually resident in Malta or by bodies corporate established under and subject to the laws of Malta.

(3) The tonnage of a ship or structure to which the said provisions apply by virtue of this article shall, for the purposes of this Part of this Act, be ascertained as provided by article 350(3) with regard to foreign ships.

Power of court to consolidate claims.  
Amended by:  
XXIV.1995.362.

**355.** (1) Where any liability is alleged to have been incurred by any person in respect of an occurrence in respect of which his liability is limited under this Part of this Act, and several claims are made or apprehended in respect of that liability, such person may apply to the Civil Court, First Hall, for the determination of the amount of his liability and for the distribution of that amount

rateably among the claimants, and in any such case the Civil Court, First Hall, may stay any proceedings pending in relation to the same matter, and any other court may, upon an application in that behalf and notwithstanding any other provision of law, transfer any such proceedings for trial by the Civil Court, First Hall. The Civil Court, First Hall, and on appeal the appellate court, may in any of the circumstances aforesaid proceed in such manner and subject to such procedure as to making persons interested parties to the proceedings and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the applicant, and as to the payment of any costs, as the court thinks just.

(2) In making any distribution in accordance with this article, the court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claim that may later be established before a court of any country outside Malta.

(3) Any distribution under this article shall be made in proportion to the amounts of the established claims, regard being had to the provisions of article 350 and to any other relevant provision, and no rights of preference or other rights in respect of any ship or property shall affect the proportions in which under this article any amount is distributed amongst several claimants.

**356.** All sums paid for or on account of any loss or damage in respect whereof the liability of persons in relation to a ship is limited under the foregoing provisions of this Part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Part owners to account in respect of damages.

**357.** (1) Where a warrant restraining a ship or other property is obtained in connection with a claim which appears to the court to be founded on a liability to which a limit is set by this Part of this Act, or security is given to prevent or obtain release from such a warrant, the court may, and in the circumstances mentioned in subarticle (3) shall, order the release of the ship, property or security, if the conditions specified in subarticle (2) are satisfied; but where the release is ordered, the person upon whose application it is ordered shall be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim and the court shall have jurisdiction so to adjudicate.

Release of ship.

(2) The said conditions are:

- (a) that security which in the opinion of the court is satisfactory (in this article referred to as "guarantee") has previously been given, whether in Malta or elsewhere, in respect of the said liability or any other liability incurred on the same occasion and the court is satisfied that, if the claim is established the amount for which the guarantee was given or such part thereof as corresponds to the claim will be actually available to the claimant; and

(b) that either the guarantee is for an amount not less than the said limit or further security is given which, together with the guarantee, is for an amount not less than that limit.

(3) The circumstances mentioned in subarticle (1) are that the guarantee was given in a port which, in relation to the claim, is the relevant port or, as the case may be, a relevant port, and that port is in a Convention country.

(4) For the purposes of this article -

(a) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which the security was last given;

(b) any question whether the amount of any security is (either by itself or together with any other amount) not less than any limit set by this Part of this Act shall be decided as at the time at which the security is given;

(c) where part only of the amount for which a guarantee is given will be available to a claimant that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subarticle (1).

(5) In this article -

"Convention country" means any country in respect of which the Convention is in force (including any country to which the Convention extends by virtue of Article 14 thereof);

"relevant port" -

(a) in relation to any claim, means the port where the event giving rise to the claim occurred or, if that event did not occur in a port, the first port of call after the event occurred; and

(b) in relation to a claim for loss of life or personal injury or for damage to cargo, includes the port of disembarkation or discharge;

"the Convention" means the International Convention relating to the Limitation of the Liability of Owners of Seagoing Ships signed in Brussels on 10th October, 1957.

(6) If the Minister by order published in the Gazette declares that any country specified in the order is a Convention country within the meaning of this article, the order shall, while in force, be conclusive evidence that the country is a Convention country; but any order made under this article may be varied or revoked by a subsequent order.

Restriction on enforcement after security is given.

**358.** (1) No claim founded on a liability to which a limit is set by this Part of this Act, and no judgment or decree in relation thereto, shall be enforced, except so far as it is for costs, against any other assets, if security for an amount not less than the said limit has been given, whether in Malta or elsewhere, in respect of the liability or any other liability incurred on the same occasion and

the court is of opinion that the security is satisfactory and is satisfied that the amount for which it was given or such part thereof as corresponds to the claim will be actually available to the claimant.

- (2) For the purposes of this article -
- (a) any question whether the amount of any security is not less than any limit set by this Part of this Act shall be decided as at the time at which the security is given;
  - (b) where part only of the amount for which security has been given will be available to the claimant that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subarticle (1).

#### *Apportionment of liability*

**359.** For the purposes of the following provisions of this Part of this Act, "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Meanings for the purposes of the following provisions.

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

Rules as to division of loss.

Provided that if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(2) Nothing in this article shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed, or shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

**361.** Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several:

Damages for personal injuries.

Provided that nothing in this article shall be construed as depriving any person of any right of defence on which, independently of this article, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this article relates in the manner provided by law.

Right of contribution.

**362.** Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, and a proportion of the damage is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault:

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

## PART X

### GENERAL PROVISIONS

#### *Registrar-General and Registrars*

Registrar-General.  
*Amended by:*  
*XXXVII.1988.42;*  
*XVII.1991.82.*

**363.** (1) There shall be a Registrar-General of Shipping and Seamen whose office shall be held by an Executive Director of the Authority, and who shall, subject to the provisions of this Act and the Malta Maritime Authority Act, 1991, undertake the general superintendence of all matters relating to merchant shipping and seamen and ensure the carrying into effect of the provisions of this Act.

(2) The Registrar-General may carry out any of the duties, and shall have all the powers which by this Act are to be carried out by, or are conferred on, the registrars.

Registrars.  
*Amended by:*  
*XXXVII.1988.43;*  
*XVII.1991.82;*  
*XXII.2000.94.*

**364.** (1) The Authority may also appoint registrars for the purposes of this Act in such number as the Authority may deem necessary for the proper execution of this Act.

(2) Registrars shall carry out their duties under the direction of the Registrar-General and in accordance with instructions given by the Authority or by the Registrar-General, and may be removed from office.

(3) The Registrar-General and a registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of Registrar-General or registrar, unless the same has happened through his neglect or wilful act.

Register.  
*Substituted by:*  
*XXXVII.1988.44.*

**365.** (1) Every registrar shall keep a record to be called the register and there shall be made therein all such entries as required so to be made by this Act.

(2) Every registrar shall file and properly index all documents that are required to be kept by him.



**366.** The Registrar-General with the consent of the Minister may, for carrying into effect the provisions of this Act, give such instructions to the registrars and their officers as to the manner of making entries in the register, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to referring to him any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Act, as he thinks fit.

Instructions as to registry.  
Amended by:  
XXXVII. 1988.4.

*Surveyors of ships*

**367.** (1) For the purposes of this Act, a surveyor of ships is a person fit to be a surveyor of ships appointed, either generally or for specific purposes or on special occasion, by the Minister or by organizations or bodies authorised by the Minister in that behalf, and such person as aforesaid may be appointed as a ship surveyor or as an engineer surveyor, or as both, or as a radio surveyor.

Surveyors of ships.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2, 95.

(2) The Minister shall have power in respect of surveyors -

- (a) to remove any surveyor of ships;
- (b) to fix and alter, whether by regulation or otherwise, the remuneration or fees payable to them in respect of surveys, inspections or other services rendered by them;
- (c) to regulate the amount and payment of any travelling or other expenses incurred by them in the execution of their duties and functions and the person by whom and the conditions under which the payment of those expenses is to be made;
- (d) to make regulations as to the performance of their duties and functions and in particular as to the manner in which surveys and inspections of ships are to be made and as to the notice to be given by them when surveys are required.

(3) If a surveyor of ships demands or receives directly or indirectly any fee, remuneration or gratuity whatsoever in respect of any duties or functions performed by him under this Act otherwise than by the direction of the Minister, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred units.

(4) Until such time as the Minister has under this article fixed the remuneration or fees payable to surveyors, Part III of the Schedule to the Commercial Code shall have effect as if the fees therein established had been fixed by the Minister under this article. The provisions of Part III of the said Schedule shall, however, be deemed to have been repealed with effect from the date on which the remuneration or fees payable to surveyors have been fixed by the Minister under this article.

Cap. 13.

(5) (a) The Minister may make regulations prescribing the criteria in accordance with which organizations or bodies of surveyors may be recognised for the purposes of this article.

(b) Without prejudice to the provisions of paragraph (a)

the Minister may by order make a list of organizations or bodies of surveyors which are recognised by any other State or any international body as meeting the minimum criteria as may be set out in any regulation made under paragraph (a) hereof, and may by a subsequent order, amend, delete or substitute any such order.

(c) Any organization or body appearing on a list as provided for in paragraph (b) hereof shall be recognised for the purposes of this article.

Powers of  
surveyors.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2, 96.

**368.** (1) A surveyor of ships in the execution of his duties and functions may go on board any ship at all reasonable times and inspect the same or part thereof, or any of the machinery, boats, equipment or articles on board thereof, or any books, certificates (including certificates of competency), papers or documents to which the provisions of this Act, or of any of the rules or regulations made under this Act, apply, not unnecessarily detaining the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason he considers it necessary so to do, may require the ship to be taken into dock for the purpose of surveying the hull thereof.

(2) If any person hinders any surveyor of ships from going on board any ship or otherwise impedes him in the execution of his duties or functions under this Act, or fails to comply with any lawful requirement of the surveyor, that person shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

Returns by  
surveyors to  
Registrar- General.  
Amended by:  
XIII. 1983.5;  
XXII. 2000.2.

**369.** (1) Surveyors of ships shall make such returns to the Registrar-General as the Registrar-General may require with respect to build, dimensions, draught, burden, rate of sailing, room for fuel, crew accommodation and the nature and particulars of machinery and equipment of ships surveyed by them.

(2) The owner, master and engineer of any ship so surveyed shall, on demand, give to the surveyors all such information and assistance within his power as they require for the purposes of those returns.

(3) If any owner, master or engineer, on being applied to for that purpose, fails without reasonable cause to give any such information or assistance, he shall for each offence be liable to a fine (*multa*) not exceeding fifty units.

#### *Jurisdiction and proceedings*

Jurisdiction of  
Civil Court, First  
Hall.  
Amended by:  
L.N. 148 of 1975;  
XXXIV.1995.362.

**370.** (1) The Civil Court, First Hall, shall continue to exercise, as part of its ordinary jurisdiction and in accordance with the mode of procedure in force in that court, the jurisdiction hitherto exercised by it by virtue of the Vice-Admiralty Court (Transfer of Jurisdiction) Ordinance.\*

(2) The Minister may by rules regulate the procedure to be followed by or before the said court in any matter falling within the jurisdiction of that court by virtue of this article and such other

\*Repealed by this Act.

related matters, including the fees payable in connection with proceedings before the said court, as the Minister may deem it expedient so to regulate:

Provided that until rules made under this article otherwise provide, the provisions of articles 3, 4 and 5 of the Ordinance† aforesaid shall continue to have effect notwithstanding the repeal by this Act of that Ordinance.

**371.** (1) Where under this Act a ship is to be or may be detained, any commissioned officer on full pay in the naval or military service of the Republic of Malta, or any police officer not below the rank of inspector, or any officer of customs, or any officer of the Ministry responsible for shipping, or any Maltese consular officer, or an appropriate inspector, may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable for each offence to a fine (*multa*) not exceeding two hundred units.

	†Articles 3, 4 and 5 of the Vice-Admiralty Court (Transfer of Jurisdiction) Ordinance provide as follows:
Cases for damage by collision.	<b>3.</b> (1) Nevertheless, in cases for damage by collision, the provisions contained in article 54 of the Rules made, for the said Vice Admiralty Court, by Her Majesty's Order in Council dated 23rd August, 1883, respecting certain acts called preliminary acts, shall continue to be observed; and both the Commercial Court and the Court of Appeal may, instead of committing to experts appointed under the provisions of the Code of Organization and Civil Procedure an inquiry into the facts, appoint assessors to assist the court itself in such inquiry, as was provided in article 106 of the said Rules.
Cap.12.	(2) The Court of Appeal may appoint, as assessors, other persons than those who may have been appointed by the Commercial Court, and may appoint assessors even though the Commercial Court shall have proceeded otherwise.
Provisions concerning the preliminary acts. Cap.12.	<b>4.</b> As long as it shall not be otherwise provided by rules made as provided in article 29 of the Code of Organization and Civil Procedure the following provisions, with reference to the preliminary acts mentioned in the last preceding article of this Ordinance shall be observed: (a) the laws and usages of the said Vice-Admiralty Court shall continue to be applicable to those acts; (b) the plaintiff shall file his preliminary act with the writ of summons containing his claim for damages; (c) the defendant, unless he shall have already filed his act as plaintiff shall file it with a note, not later than seven working days from the day on which the writ of summons shall have been served upon him.
Fees.	<b>5.</b> (1) The fees to be levied by the Registrar, or to be taxed to advocates, legal procurators, experts, or witnesses, shall be regulated in accordance with the Tariffs in Schedule A annexed to the Code of Organization and Civil Procedure.
Cap. 12.	(2) The fees of assessors shall be those allowed by the Rules mentioned in article 3 of this Ordinance.

Detention of ships.  
Amended by:  
L.N. 148 of 1975;  
XIII. 1983.5;  
XXII. 2000.2, 97.

(2) Where a ship so proceeding to sea takes to sea when on board thereof there is, in the execution of his duty, any officer authorised to detain the ship, or any surveyor or officer of the Ministry responsible for shipping or any officer of customs, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also to a fine (*multa*) not exceeding two hundred units.

(3) Where under this Act a ship is to be detained, the officer authorised to clear the ship outwards shall, and where under this Act a ship may be detained such officer may, refuse to clear that ship outwards or to grant a transire to that ship.

Offences by body of persons.

**372.** Where an offence under this Act is committed by an association or body of persons, every person who at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such association or body of persons, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Fixing and imposition of fines.  
Added by:  
XXVII. 1988.45.

**372A.** (1) All penalties contemplated by any provision of this Act may be fixed and imposed by the Registrar-General.

Cap. 12.

(2) The imposition of a penalty in terms of this Act shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organisation and Civil Procedure.

Enforcement of fines.  
Added by:  
XXXVII. 1988.45.

**372B.** The Registrar-General shall serve a demand note upon the person upon whom a fine is imposed and if payment is not made within seven days from the date of the service of such demand note, the Registrar-General may proceed to enforce payment after two days from the service on the debtor of an intimation for payment made by means of a judicial act.

Value of unit.  
Added by:  
XXII. 2000.98.

**372C.** The term “unit” with reference to any fine (*multa*) that may be imposed under this Act shall be equivalent to one lira or to such other sum as the Minister with the concurrence of the Minister responsible for justice may by order from time to time determine.

#### *Application of Act to foreign ships by Order*

Application of Act by order to foreign ships.

**373.** Where it has been made to appear to the Minister that the government of any foreign country is desirous that any of the provisions of this Act which do not apply to the ships of that country should so apply and there are no special provisions in this Act for that application, the Minister may order that such of those provisions as are in the order specified (subject to the limitations, if any, contained therein) apply to the ships of that country, and to the owners, masters, seamen and apprentices of those ships, when not locally within the jurisdiction of the government of that country, in the same manner in all respects as if those ships were Maltese ships.

*Regulations, Rules and Orders*

**374.** (1) Without prejudice to the powers conferred by the foregoing provisions of this Act, the Minister may make regulations, rules or orders, or give instructions, for the carrying into operation of any of the provisions of this Act and for prescribing the fees to be paid for any service provided and any other thing done under or for the purposes of this Act, and in particular, but without prejudice to the generality of the foregoing, for prescribing anything that is required or authorised by this Act to be prescribed.

Power to make regulations etc.  
Amended by:  
XXXVII. 1990.20.

(2) Regulations, rules and orders made under the provisions of this Act shall include such requirements, in regard to the matters in respect of which the regulations, rules or orders are made, as appear to the Minister to implement the provisions in regard to those matters of international conventions or protocols ratified or acceded to by the Government of Malta.

(3) Any power conferred on the Minister by this Act to make regulations, rules or orders, or to give instructions, shall include power -

- (a) to vary, alter or repeal any such regulation, rule, order or instruction, without prejudice to the making of a new regulation, rule or order, or the giving of a new instruction;
- (b) subject to such limitations or other express provision contained in this Act, to provide for fines (*multa* or *ammenda*) or imprisonment, or both, and for such other sanction as the Minister may deem appropriate;
- (c) to make such transitional or other incidental or supplementary provisions as may appear to the Minister to be appropriate.

(4) Regulations, rules and orders made under any of the provisions of this Act may be made in the English language only.

(5) Regulations, rules and orders made under this Act shall be laid on the Table of the House of Representatives as soon as may be after they are made and if, within the period of twenty-eight days after they are so laid, the House resolves that they be annulled or amended, the same shall thereupon cease to have effect or shall be so amended, as the case may require, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations, rules or orders.

(6) In reckoning for the purposes of subarticle (5) any such period of twenty-eight days, no account shall be taken of any time during which the House of Representatives is not in session or during which it is adjourned for more than seven days.

Ratification, etc.,  
of certain treaties,  
etc., relating to  
merchant shipping.  
Cap. 304.  
Added by:  
XXII. 2000.99.

**375.** (1) For the purposes of the Ratification of Treaties Act, the Government of Malta is hereby empowered to ratify, or accede to the treaties or conventions (including protocols, annexes and appendices thereto) referring to merchant shipping listed in subarticle (2), and the Minister may upon the ratification or accession of any of the said treaties or conventions make regulations giving effect to the provisions thereof, and such power shall include the power to provide that any provision of this Act inconsistent with the provisions of any such treaty or convention shall no longer apply.

(2) The treaties and conventions to which subarticle (1) refers are the following:

- (a) Convention on Limitation of Liability for Maritime Claims signed in London on the 19th November, 1976;
- (b) Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 signed in London on the 2nd May, 1996;
- (c) Athens Convention relating to the Carriage of Passengers and their Luggage by Sea signed in Athens on the 13th December, 1974;
- (d) Protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 signed in London on the 19th November, 1976;
- (e) Protocol of 1990 to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 signed in London on the 29th March, 1990;
- (f) International Convention on Salvage signed in London on the 28th April, 1989;
- (g) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation signed in Rome on the 10th March, 1988;
- (h) Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf signed in Rome on the 10th March, 1988;
- (i) International Convention on Maritime Search and Rescue signed in Hamburg on the 27th April, 1979;
- (j) International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea signed in London on the 3rd May, 1996;
- (k) International Convention for Safe Containers signed in Geneva on the 2nd December, 1972;
- (l) Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 signed in Torremolinos on the 2nd April, 1993;
- (m) International Convention on Maritime Liens and

- Mortgages signed in Geneva on the 6th May, 1993;
- (n) International Convention on Arrest of Ships, 1999 signed in Geneva on the 12th March, 1999;
  - (o) Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) signed in Geneva on the 13th October, 1976;
  - (p) Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 signed in Geneva on the 22nd October, 1996;
  - (q) Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) signed in Geneva on the 13th October, 1970;
  - (r) Accommodation of Crews Convention (Revised), 1949 (No. 92) signed in Geneva on the 8th June, 1949;
  - (s) Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) signed in Geneva on the 14th October, 1970;
  - (t) Repatriation of Seamen Convention, 1926 (No. 23) signed in Geneva on the 7th June, 1926;
  - (u) Repatriation of Seafarers Convention (Revised), 1987 (No. 166) signed in Geneva on the 24th September, 1987;
  - (v) Food and Catering (Ships' Crews) Convention, 1946 (No. 68) signed in Seattle on the 6th June, 1946;
  - (w) Labour Inspection (Seafarers) Convention, 1996 (No. 178) signed in Geneva on the 22nd October, 1996;
  - (x) Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) signed in Geneva on the 22nd October, 1996;
  - (y) Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) signed in Geneva on the 6th October, 1936;
  - (z) Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) signed in Geneva on the 24th September, 1987.

(3) The Minister shall upon the ratification or accession of any treaty or convention to which this article refers publish a notice in the Gazette stating the date on which such treaty or convention shall come into force with regard to Malta.

(4) The House of Representatives may by resolution add to the list of treaties or conventions in subarticle (2).

(5) Any reference in this article to a treaty or a convention or a protocol shall include reference to any amendment to such treaty or convention or protocol ratified, acceded to or accepted by the Government of Malta.

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Substituted by:  
L.N. 37 of 1989;  
L.N. 152 of 1989.  
Amended by:  
L.N. 86 of 1993.  
Substituted by:  
L.N. 125 of 1995;  
L.N. 278 of 2002.  
Amended by:  
L.N. 340 of 2002.

**FIRST SCHEDULE**  
[Article 6]  
**REGISTRATION FEES**

A. The fee on registration and the annual fee for all ships shall be as follows:

Ship	Fee on Registration	Annual	
		Basic Fee Lm	Tonnage Tax
Fishing vessels of less than 24 metres length overall			
Commercial	10 cents per net tonnage	10	5 cents per net tonnage
Recreational	Lm 50	10	Lm 50
All other ships of less than 24 metres length overall			
less than 50 gross tonnage	Lm 50	10	Lm 75
of 50 gross tonnage or more		20	
Pleasure yachts of 24 metres length overall or more	10 cents per net tonnage subject to minimum of Lm 75	50	15 cents per net tonnage subject to minimum of Lm 150
All other ships of 24 metres length overall or more	Rates as appear in para B subject to reduction as appear in para C	100 for year of registration and 300 thereafter	Rates as appear in para B subject to reduction or increase as appear in para C

B. The rates per net tonnage payable on registration and annually in respect of all ships, except pleasure yachts, of 24 metres in length overall and more, are as follows

Ship of Net Tonnage (NT)		Fee on Registration	Annual Tonnage Tax
Exceeding	Not Exceeding		
0	2,500	Lm250	Lm375
2,500	8,000	Lm250 plus 10 cents for every NT in excess of 2,500 NT	Lm375 plus 15 cents for every NT in excess of 2,500 NT
8,000	10,000	Lm800 plus 3 cents for every NT in excess of 8,000 NT	Lm1,200 plus 8 cents for every NT in excess of 8,000 NT
10,000	15,000	Lm860 plus 3 cents for every NT in excess of 10,000 NT	Lm1,360 plus 6 cents for every NT in excess of 10,000 NT
15,000	20,000	Lm1,010 plus 3 cents for every NT in excess of 15,000 NT	Lm1,660 plus 5 cents for every NT in excess of 15,000 NT
20,000	30,000	Lm1,160 plus 3 cents for every NT in excess of 20,000 NT	Lm1,910 plus 4 cents for every NT in excess of 20,000 NT



30,000	50,000	Lm1,460 plus 3 cents for every NT in excess of 30,000 NT	Lm2,310 plus 3 cents for every NT in excess of 30,000 NT
Exceeding 50,000		Lm2,060 plus 3 cents for every NT in excess of 50,000 NT	Lm2,910 plus 2 cents for every NT in excess of 50,000 NT

C. The fees due on registration and the annual tonnage tax in respect of all ships, except pleasure yachts, of 24 metres length overall and more shall be subject to reduction or increase as follows:

Age of Ship		Reduction on Fee on Registration %	Reduction or Increase on Annual Tonnage Tax %	
Equal to or Exceeding	Less than			
Years				
0	5	50	- 30	
5	10	25	- 15	
10	15	-	-	
15	20	-	+ 5	
20	25	-	+ 10	Subject to minimum increase of Lm500
25	30	-	+ 25	
Equal to or exceeding 30		-	+ 50	

D. Registration fees for any one year paid after the anniversary of registration for that year shall be increased by ten per cent.

E. Dues on any ship shall be rounded upwards to the nearest whole lira.

F. The Minister may, under such conditions as he may deem appropriate, exempt any ship or any class of ships from the payment of all or part of the fees payable in terms of these regulations.

G. For the purposes of this Schedule,

"age" in relation to a ship, means the difference between the year in which the ship was built and the year in respect of which the fee is due;

"fishing vessel" means a vessel granted a licence or permit to fish in terms of the Fisheries Conservation and Management Act;

"gross tonnage", "length overall" and "net tonnage" shall be that as may be ascertained in terms of the tonnage regulations made under this Act.

*Substituted by:  
XVII. 1991.82;  
XXII. 2000.100.*

**SECOND SCHEDULE****[ARTICLE 69]****DOCUMENTS TO BE IN THE FORM PRESCRIBED BY THE MINISTER**

1. Provisional Certificate of Registry
  2. Certificate of Registry
  3. Renewal Certificate of Registry
  4. Provisional Certificate of Bareboat Charter Registry
  5. Certificate of Bareboat Charter Registry
  6. Renewal Certificate of Bareboat Charter Registry
  7. Certificate of Surveyor
  8. Declaration of ownership by individual owner
  9. Declaration of ownership by individual transferee
  10. Declaration of ownership on behalf of body corporate as owner
  11. Declaration of ownership on behalf of body corporate as transferee
  12. Declaration of owner taking by transmission
  13. Declaration by mortgagee taking by transmission
  14. Declaration of bareboat charter by individual charterer
  15. Declaration of bareboat charter on behalf of body corporate as charterer
  16. Bill of Sale
  17. Mortgage
  18. Transfer of Mortgage
  19. Special Privilege
-

THIRD SCHEDULE

[ARTICLE 72]

NATIONAL COLOURS FOR MALTESE SHIPS



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FOURTH SCHEDULE  
[ARTICLE 195]

FORM OF MALTESE SEAMAN'S CARD

1

2

DECLARATION

1. This card is a seaman's identity document for the purpose of the Seafarer's Identity Documents Convention, 1958, adopted by the General Conference of the International Organisation on 13th May, 1958.

2. This card must be carefully preserved and produced on demand to the Shipping Master.

3. If the card is lost the fact must be reported to the Registrar-General of Shipping and Seamen.

4. Only the Registrar-General or a duly authorised person may make an entry or alteration on this card. The Holder may not do so himself. If any particulars require alteration, apply to the Registrar-General. It is a punishable offence to forge or fraudulently alter this card or to allow it to be used by another person.

5. This card may be held only by persons who, being citizens of Malta, are employed or engaged, or ordinarily employed or engaged, in seagoing employment. If the Holder ceases to be entitled to a Maltese Seaman's Card, he must surrender the card to the Registrar-General, but it will be re-issued on resumption of entitlement to a card. Failure to observe this or any other requirement of the Merchant Shipping Act, in relation to Identity Cards, may render the offender liable to prosecution.

I DECLARE (i) that the person to whom this card relates has satisfied me as to entitlement to hold the card and (ii) that the photograph within bearing an official stamp is a true likeness of that person and that the signature and preserved a personal description of that person are true.

Date.....

OFFICE STAMP

SIGNATURE OF  
ISSUING OFFICER

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Note: Any person finding this card must deliver it or forward it to the Registrar-General of Shipping and Seamen, Valletta, Malta.

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3

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MALTESE SEAMAN'S CARD  
PERSONAL PARTICULARS

All particulars to be in BLOCK CAPITALS

Serial No. ....

Surname .....

National Insurance No.....

Other names .....

Union or Society No.....

Birth (a) Date .....

(b) Place .....

Photograph of Holder

Colour (a) Eyes .....

(b) Hair .....

Complexion .....

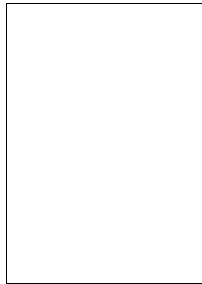
EMBOSSING  
STAMP

Height ..... ft ..... ins.

..... meters .....centimetres

Distinguishing marks (if any).....

.....



Signature of Holder

Discharge Book No .....

(or if holder is unable to sign, his left thumbprint and the signature of a witness)

Nationality .....

Home Address .....

.....

Name and address of next-of-Kin

.....



Added by:  
XXXVII.1988.38.

FIFTH SCHEDULE  
[ARTICLE 86]

DECLARATION IN LIEU OF TAX RETURN IN RESPECT OF A  
COMPANY OWNING AND, OR, OPERATING AN EXEMPTED SHIP

Name of Company .....

Name and official number of ship .....

Declaration made by .....

of .....

Year of Assessment .....

I the undersigned do solemnly declare that I have ascertained to the best of my ability that the above mentioned company is the owner of the above mentioned ship which is an exempted ship under the provisions of the Merchant Shipping Act, and that the objects of the company limit its operations to the owning and, or, operation of an exempted ship, and the company qualifies for the concessions granted by the said Act for the period commencing ..... and ending ..... and that the relative registration fees for this period have been paid.

I also declare that I have ascertained to the best of my ability that the company has not engaged in any business other than the ownership and, or, operation of exempted ships and that during any period not covered by the above mentioned dates the company has not traded and has not had any income which would not be exempted under the said Merchant Shipping Act.

I finally declare that to the best of my knowledge the company does not stand to lose any of the concessions granted nor has it waived any of the said concessions under the Act.

I make this declaration in full knowledge of the consequence of false declarations under the laws of Malta.

Signature .....

Identity Document No. ....

Status .....

Date: .....

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