

MERCHANT SHIPPING ACT, 2013.

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MERCHANT SHIPPING BILL, 2013.

A BILL ENTITLED

An Act to consolidate the laws relating to the registration ships, the regulation of shipping, maintenance of safety at sea and for connected matters.

[]

ENACTED by the President and the National Assembly.

PART I – PREMINARY

Short title and commencement

1. This Act may be cited as Merchant Shipping Act 2013, and shall come into operation on such date as the Minister shall by Order published in the Gazette determine.

Interpretation

2. In this Act unless the context otherwise requires-

“Administration” means The Gambia Maritime Administration;

“aircraft” means any ship or vessel designed for flying but capable of being maneuvered on water and includes a seaplane or any ship or vessel able to fly upon or hover over water.

“apprentice” includes a trainee officer , a cadet and other ratings in sea service;

“bankruptcy” includes insolvency and any other process leading to the liquidation of assets;

“assessor” means a person appointed under section 482 to hold a marine inquiry;

“Assistant to the Registrar” means a person appointed by the Registrar under section 7 to be his assistant;

“Board” means the governing body of the Administration;

“boarding ground” means a place at which the master of a ship is required to present the ship for the purposes of embarking or disembarking a pilot;

“cargo” includes livestock;

“cargo ship” means a ship which is not a passenger ship or fishing vessel;

“Certificate of Competency” means a certificate issued to a seafarer which entitles the seafarer to serve in the capacity or grade stated in the certificate;

“compulsory Pilotage Area” means the whole or part of a pilotage area in respect of which a declaration has been made under section 459;

“Consular Officer” means a person discharging the duties of a consular office on behalf of the Government of The Gambia and when used in relation to a country other than The Gambia, an officer recognised by the Government of The Gambia as the consular officer of that country;

“Court” means the High Court;

“crew” in relation to a ship includes seafarers and apprentices;

“deposition” includes summary of

evidence;

Cap 68.07

“Director-General” means the Director - General appointed under The Gambia Maritime Administration Act;

“duly qualified medical practitioner” means a person registered or licensed by the Medical and Dental Council of The Gambia;

“Employment Agreement” means an agreement entered into under section 125;

“Employment Record Book” means an employment record book issued under section 221;

“equipment” in relation to a ship includes every thing or article belonging to or used in connection with or necessary for the navigation and safety of a ship;

“exempt pilot” means a person holding a current pilotage exemption certificate that entitles him to be in navigational command of a particular ship, or of a ship within a particular class of ship, in the pilotage area in respect of which it is issued;

“fishing vessel” means a vessel for the time being, used (or in the context of an application for registration, intended to be used) for or in connection with fishing for fish, whales, walrus or other living resources of the sea, other than a vessel used (or intended to be used) for fishing otherwise than for profit;

“foreign ship” means a ship which is not registered or licensed in The Gambia;

“Gambian ship” means a ship which is registered or licensed in The Gambia under this Act, or owned by a Gambian but exempted under this Act from being

registered or licensed;

“Gambian waters” means the territorial and inland waters of The Gambia including all tributaries or creeks thereof, directly or indirectly opening into or adjacent thereto, within the limits of The Gambia;

“Government” means the Government of the Republic of The Gambia;

“Government ship” means a ship-

(a) that belongs to the state or to an authority or instrumentality of the state; or

(b) that is held by a person on behalf or for the benefit of the state but does not include a ship belonging to The Gambia Armed Forces;

“grain” includes millet, wheat, maize, oats, rye, barley, rice, pulses and seeds;

“internal waters” means all waters landward of the territorial sea baseline of The Gambia;

“inland waters” means all the internal waters of The Gambia which are navigable;

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

“length” in relation to a ship, means the distance measured from the forepart of the stern to the aft side of the head of the stern part in a direct line over the fore and after enter line or in a ship not having a stern part, to the foreside of the rudder stock at the point where the rudder stock passes out of the hull;

“licensed Gambian ship” means a ship or vessel that is licensed under section 53 of this Act;

“Licensed Pilot” means a person holding a pilotage licence that entitles him or her to be in pilotage charge of a ship in the pilotage area in respect of which it is issued;

“machinery” includes propulsion systems, steering systems, pressurized containers and pumping systems, windlasses electrical systems and all similar apparatus required for, or affecting, the safety or operation of a ship or the safety of the personnel on board a ship;

“managing owner” in relation to a ship, includes any person not being an agent in whom the owner of such ship has vested authority to manage and operate the ship;

“maritime labour certificate” means a certificate referred to in Part VII of this Act;

“master” in relation to a ship means every person (except a pilot) lawfully having for the time being, command or charge of any ship and in relation to a fishing vessel, means the skipper;

“Merchant Ship” means any ship other than a fishing vessel or ship which forms part of The Gambia Armed Forces;

“Minister” means the Minister for the time being responsible for maritime affairs;

“officer” in relation to ship’s officers includes a master, a deck officer and an engineer officer;

“official log book’ in relation to a ship means the official log book kept under section 223;

“Organisation” means International Maritime Organisation;

“owner” in relation to a ship, includes a demise or bareboat charterer and a managing owner;

“passenger” means any person carried on board a ship except-

- (a) the master, a member of the crew or a person employed or engaged in any capacity on board the ship or the business of the ship assigned on the ship articles of agreement as such person;
- (b) a child under one year of age;
- (c) a person carried on the ship under an obligation imposed on the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances which either the master, the owner or charterer if any, could not prevent or forestall; or
- (d) a supernumerary.

“passenger ship” means a ship which is constructed or which is habitually or on any particular occasion used for carrying more than twelve passengers on international voyage;

“persons qualified to own a Gambian ship” has the meaning assigned to it in section 12;

“Pilot” in relation to a ship, means a person not belonging to the ship who has the lawful conduct of the ship;

“Pilotage Area” means a port or place declared as a pilotage area under section 458;

“Pilotage Board” the pilotage authority appointed by the Minister under section 460;

“Pilotage Exemption Certificate” means a pilotage exemption certificate issued under section 465;

“pleasure craft” means a ship, however propelled that is exclusively used for pleasure;

“port” means a port declared under section 4 of the Ports Act to be a port;

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“port of registry” in relation to any ship means the port where she is for the time being registered;

“Proper Officer” in relation to any function or activity under this Act, means a person authorised to perform that function or activity and may include a consular officer;

“Public Office” has the same meaning given to it by the 1997 Constitution of The Gambia;

“register” means the register of Gambian ships maintained for The Gambia;

“Registrar” means the Registrar of Shipping and Seafarers appointed by the Board;

“restricted zone” means a zone to which access is restricted for security reasons pursuant to this Act or Regulations made hereunder;

“tonnage regulations” means regulations made under section 35;

“safety regulations” means regulations made under section 256;

“seafarer” means a person who is employed or engaged or works in any capacity on board a ship;

“security incident” means any suspicious act or circumstance threatening the security of –

- (a) a ship, including a mobile offshore drilling unit and a high speed craft,
- (b) a port facility,
- (c) a fixed and floating platform,
- (d) a mobile offshore drilling unit,
- (e) a ship-port interface, or
- (f) a ship-to-shore activity;

“ship” includes every description of vessel used in navigation;

“surveyor” means a surveyor of ships, a classification society or organisation appointed by the Board or the Administration under this Act to carry out surveys and inspection of ships;

“tackle” means, in relation to a vessel, the tackle, machinery, gear, apparatus or appliance used on board a ship for loading and unloading;

“vessel” includes every description of watercraft with its equipment whether self-propelled or not, that is used or capable of

being used on water as a means of transportation for the purposes of navigation, fishing, commerce or for any other purpose;

“wages” means remuneration to crew for the work done as agreed between the crew and vessel owner or managing owner and it includes emoluments; and

“wreck” includes flotsam, jetsam, lagan and derelict found in water or on the shores of The Gambia, cargo, stores, tackle or equipment, the personal property of shipwrecked persons, and any wrecked or part of a wrecked aircraft or cargo;

PART II – RESTRICTION ON TRADING IN GAMBIAN WATERS

Trading in
Gambian
waters

3. (1) A ship shall not trade in and from Gambian waters, unless the ship-

- (a) is a Gambian ship; or
- (b) possesses a certificate of foreign registry or similar document.

(2) Subject to any treaty or agreement with any foreign Government, only Gambian ships may engage in local trade in Gambian waters.

(3) A person not qualified to own a Gambian ship as specified in section 13 shall not engage in any charter or otherwise engage any Gambian ship for local trade in Gambian waters, except in accordance with such conditions as the Board of the Gambia Maritime Administration may direct in writing.

(4) Where the master, owner or agent of a ship contravenes sub-section (1) or (2) or where a person contravenes sub-section (3), the master, owner, agent or that

person commits an offence and is liable on conviction to a fine not exceeding the Dalasis equivalent of one million United States dollars (US\$1 million) and the ship shall be detained until the fine is paid.

PART III - REGULATIONS IN RESPECT OF VESSELS OPERATING IN INLAND WATERS

Regulations in respect of vessels operating in Inland waters

4. (1) The Minister may make regulations in respect of vessels operating in inland waters including near coastal voyages.

(2) Without prejudice to the generality of sub-section (1), the said regulations shall have regard to-

- (a) safety of navigation;
- (b) the safety of such vessels;
- (c) sale of alcohol on board such vessels;
- (d) passenger list;
- (e) cargo that may be carried and the method of storing the cargo;
- (f) the safety equipment to be carried aboard such vessels;
- (g) sanitary requirements, ventilation, lighting access, shelter, screens, cooking and toilet facilities for deck and unberthed passengers;
- (h) fees to be charged for any licences;
- (i) the qualifications of seaman on board such vessels;

- (j) the maintenance of good order on board such vessels;
- (k) penalty for damaging an aid to navigation;
- (l) notification by master of a sunken vessel to the Administration;
- (m) lights to be carried and exhibited and the steering and sailing rules to be observed;
- (n) the duties of masters of vessels carrying explosives and dangerous cargoes;
- (o) the licensing, supervision and regulation of boats and boatmen plying for hire and for securing the orderly conduct of such boatmen;
- (p) surveys and inspection;
- (q) issue of safety certificates;
- (r) provision of evidence of financial responsibility or security against risks of damage to third parties;
- (s) number of passengers to be carried on such vessels; and
- (t) safe manning scale for such vessels.

PART IV – APPOINTMENT OF REGISTRAR OF SHIPPING AND SEAFARERS AND PROPRIETARY INTERESTS IN SHIPS

Registrar 5. (1) There shall be a Registrar of Shipping and Seafarers.

(2) The Registrar or his or her assistant or delegate shall not be liable for any act or omission done or made by him or her bona fide and without negligence under or for the purpose of this Act.

Delegation by the Registrar 6. Subject to this Act, the Registrar may by written instrument, delegate to a person such of his or her powers and functions under this Act.

Assistants to the Registrar 7. The Director General may in respect of the port of registry, by instrument appoint Assistants to the Registrar to assist the Registrar.

Proper Officers 8. (1) The Minister may by notice in the Gazette appoint a person to be a Proper Officer for the purposes of this Act.

(2) The Minister may by notice in the Gazette, determine that a specified class of persons is a class of persons for the purposes of this section, and a person included in the class of persons shall be deemed to have been appointed a Proper Officer.

Register of Ships 9. (1) The Registrar shall cause to be kept at the port of registry, a register to be known as the Register of ships.

(2) The Registrar shall cause to be published in the register, particulars of all ships registered under this Act and any other entries as may be required under this Act to be entered in the register, upon the payment of the prescribed fee.

(3) A person may upon the payment of the prescribed fee, inspect the register at any time during the hours of official attendance by the Registrar

Port of Registry 10. The Minister shall by notice in the Gazette appoint a port in The Gambia as a port of registry for registration of Gambian ships.

Register 11. (1) The Registrar shall keep such register as he or she considers necessary including-

- (a) a register for merchant ships;
- (b) a register for fishing vessels and ships under construction.

(2) Entries in the register under subsection (1) shall be made in accordance with the following provisions-

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

registered and shall not be entitled to dispose in severalty of any interest in a ship or any share therein in respect of which they are registered; and

- (e) a body corporate may be registered as owner by its corporate name.

(4) As soon as the requirements of this Act preliminary to registration of a ship have been complied with, the Registrar shall enter in the register the following particulars -

- (a) the name of the ship and the previous name and registry, if any;
- (b) details contained in the tonnage certificate;
- (c) the particulars respecting its origin stated in the declaration of ownership;
- (d) the name, address, occupation and nationality of its owner and where there is more than one owner, the share in the ship held by each owner;
- (e) the port of registry and official number or identity marks;
- (f) the international call sign of the ship, where one is assigned;
- (g) the name of the builder, place and year of build of the ship;
- (h) description of the main technical characteristics of the ship; and
- (i) details with respect to any

mortgages.

(5) The Registrar shall not register a ship purchased or otherwise acquired from a foreign subject or corporation where a bill of sale or other document under or by virtue of which the ship became vested in the applicant for registry contains any provision, (express, implied or constructive) restricting the use of the vessel or imputing any measure of continued control thereof by the Government of a foreign country.

(6) Only those individual owners, joint owners and corporations recorded as owners in the register shall be regarded as owners of the ship or part thereof.

(7) The Registrar shall keep a record in the manner approved by the Director General of-

- (a) the date of deletion or suspension of the previous registration of the ship;
- (b) the name, address, nationality and other details as appropriate; and
- (c) other changes, if any.

Qualifications
for owning
Gambian ships

12. The following persons are qualified to be owners of Gambia ships which are to be registered under the Act-

Cap ...

- (a) a citizen of The Gambia;
- (b) a body corporate incorporated in The Gambia under the Companies Act;

Cap.....

- (c) a partnership registered under the Partnership Act; and

- (d) foreign individual or company in joint venture relationship with a Gambian company.

Ships bareboat chartered in by Gambian charterers

13. (1) This section applies to any ship which-

- (a) is registered under the law of a country other than The Gambia (the county of original registration);

- (b) is chartered on bareboat charter terms to a charterer who is a person qualified to own a Gambian ship; or

- (c) is so chartered in circumstances where the conditions for registration prescribed under section 12 read with the requisite modifications are satisfied with respect to the charterer and the ship.

(2) The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the charterer and the ship.

(3) A ship to which this section applies is entitled to be registered if an application for registration is duly made.

(4) The registration of a ship registered under this section shall remain in force (unless terminated earlier by the provisions of this Act) until the end of the charter period.

(5) Throughout the period of registration of a ship -

- (a) the ship shall as a Gambian ship, be entitled to fly the Gambian flag;

- (b) this Act shall apply to the ship as a Gambian ship; and
- (c) any other enactment applicable to Gambian ships or ships registered under this Act shall apply to the ship as a Gambian ship or as a registered ship.

Exemption from registration

14. A ship is exempt from registration if it is-

- (a) an air cushioned vehicle not engaged in trade;
- (b) less than twenty four meters in overall length; and
- (c) in the opinion of the Registrar, of traditional build.

Obligation to register Gambian ships

15. Subject to section 14, every Gambian ship and every Gambian Government ship shall be registered under this Act.

Application for Registration

16. (1) An application for registration of a ship shall be made in the prescribed form-

- (a) in the case of individuals, by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one or by his or their agent; and
- (b) in case of a body corporate, by its agent and the authority of the agent shall be testified by writing, under the common seal of that body.

(6) The Registrar may demand proof of ownership to his or her satisfaction before proceeding with the registration of a ship.

Declaration of Ownership 17. (1) A person shall not be registered as owner of a Gambian ship or of a share therein until such person or in the case of a body corporate, the person authorised by section 97 (2) to make declarations on its behalf has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the tonnage certificate and containing the following particulars-

(a) his or her full name and address;

(b) a statement of the time when and the place where the ship was built or where the ship was built outside The Gambia and the time and place of the building is not known a statement to that effect, and in addition, in the case of a ship previously registered outside The Gambia, a statement of the name by which she was so registered; and

(c) statement of the number of shares and the owners of these shares in the ship in respect of which such person or body corporate, as the case may be is entitled to be registered.

Evidence to be produced on the first registration 18. (1) On the first registration of a ship, the following evidence shall be produced in addition to the declaration of ownership-

(a) in the case of a ship built in The Gambia, a builder's certificate signed by the builder of the ship and containing a true account of the proper denomination and of the tonnage of the ship as estimated by him or her and of the name of the

person, if any, on whose account the ship was built and, if there has been any sale, the bill of sale under which the ship or a share therein has become vested in the applicant for registration;

(b) in the case of a foreign-built ship, the same evidence as in the case of a ship built in The Gambia unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him or her or that the builder's certificate cannot be produced, in which case there shall be registered only the bill of sale under which the ownership of the ship became vested in the applicant for registration; and

(c) in the case of a ship condemned by the competent authority, the official copy of the condemnation.

(2) In the case of every ship built in The Gambia, the builder shall if requested to do so, deliver to the owner a signed certificate containing the particulars specified in the sub-section (1)(a).

(3) A builder who fails to comply with sub-section (1) or (2) or willfully makes a statement in a certificate given thereunder commits an offence and is liable on conviction to a fine not exceeding one million Dalasis or imprisonment for a term of six months or both the fine and imprisonment.

Restriction on registration

19. A ship which is or has been registered in another country shall not be eligible for registration under this Act unless-

(a) a certificate has been issued to the effect that ship has been deregistered;

- (b) a certificate has been issued to the effect that the ship will be deregistered on the day that the new registration is effected;
- (c) the ship's foreign registration has been cancelled or will be cancelled on the day that the new registration is effected;
- (d) no mortgages are outstanding against the ship; and
- (e) where there are mortgages outstanding against the ship, the mortgagees have consented in writing to the de-registration or cancellation of the ship's foreign registration.

Removal from
the register

20. (1) The Registrar may, subject to service of notice, terminate a ship's registration in the following circumstances-

- (a) on application by owner;
- (b) on the ship being destroyed (which includes, but not limited to, ship-wreck, demolition, fire and sinking);
- (c) if taking into account any requirements of this Act relating to the condition of the ship or its equipment so far as relevant to its safety or any risk of pollution or to the safety, health and welfare of persons employed or engaged in any capacity on board the ship, he or she considers that it would be inappropriate for the ship to remain registered;
- (d) when a registered fishing vessel which has been licensed to fish ceases to be so licensed for a continuous period of six months or more;

(e) when a fishing vessel which requires a licence to fish but at the time of registration did not have such a licence and has not acquired such a licence within six months of the issue of its certificate of registry;

(f) when a penalty imposed on the owner of the ship in respect of a contravention of provisions of this Act or any regulations in force under this Act, has remained unpaid for a period of more than three months (and no appeal against that penalty is pending); or

(g) when any summons for any such contravention has been duly served on the owner of a ship, and he or she has failed to appear at the time or place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time.

(2) When the Registrar terminates registration under sub-section (1) (a) or (b) he or she shall-

(a) forthwith issue a closure transcript to the owner of the ship; and

(b) notify any mortgagees of the closure of the registration.

(3) On receipt of the closure transcript, the owner shall immediately surrender the ship's certificate of registration for cancellation

Restriction on de-registration of ships

21. The Registrar shall not permit the de-registration of a ship without the consent in writing of all registered mortgagees of the ship registered under this Act.

Documents to be retained by

22. On registration of a ship, the Registrar

Registrar

shall retain in his or her possession-

- (a) a copy of the tonnage certificate;
- (b) a builder's certificate, if available;
- (c) a bill of sale of the ship previously made;
- (d) a copy of condemnation, if any;
- (e) all declarations of ownership;
- (f) application for registration; and
- (g) certificate of deregistration, if any.

Name of ship

23. (1) A Merchant Ship registered in the register for merchant ships shall have a name; and two or more merchant ships shall not bear the same name.

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

(3) The Registrar may in accordance with the provisions of any regulations refuse registration of a ship by a name by which it is proposed to register that ship where it is-

(a) already the name of a registered Gambian ship; or

(b) a name so similar to a Gambian ship as is calculated or likely to deceive or to offend the public interest.

(4) Where the Registrar refuses to register a ship by the name that is proposed or where the requirements of the

regulations are not complied with, the ship shall not be registered under the name proposed or until the regulations are complied with as the case may be.

(5) A person, who acts or suffers any other person under his or her control to act in contravention of this section or omits to do or suffers any other person under his or her control to omit to do anything required by this section commits an offence and is liable on conviction to a fine not exceeding five million Dalasis.

(6) In addition to the fine under subsection (5), a ship to which the offence relates may be detained until the provisions of this section are complied with.

Change of
name of ship

24. (1) A change may not be made in the name of a Gambian ship without the previous consent in writing of the Registrar.

(2) An application for a change of name shall be made in the prescribed form.

(3) The Registrar shall not grant permission to change the name of a Gambian ship, unless he or she is satisfied that all the registered mortgagees thereof have been notified of the proposed change of name.

(4) An approval for a change of name shall be granted by the Registrar in accordance with the regulations and a change of name of ship in the register shall be carried out in the manner set out in the regulations made under this Part.

Identify marks
for fishing
vessels

25. (1) On registration of a fishing vessel, the Registrar shall allocate to it a combination and sequence of letters and numerals hereinafter called "identity mark"

which he or she shall cause to be entered in the register.

(2) The same letters and identity mark of a registered fishing vessel shall not be allocated to any other fishing vessel.

(3) A registered fishing vessel shall display the identity mark allocated it under this section on each side of its bow and show its port of registry on the stern.

(4) The skipper and owner of a fishing vessel which displays an identity mark not allocated to it under this section commits an offence.

Offences under Section 24 or 25

26. A person, who contravenes or permits any other person under his control to contravene section 24 or 25 commits an offence and is liable on conviction to a fine of five million Dalasis.

Call Sign

27. A Merchant Ship or a fishing vessel which is equipped either with a wireless radio transmitting station or with a radio installation shall also have an internationally registered code designation, that is to say international call letters or numbers as appropriate to the flag state of registration assigned to the ship.

Effect of failure to register

28. A ship required by this Act to be registered-

(a) shall not be recognised as a Gambian ship;

(b) is not entitled to rights and privileges accorded to Gambian ships under this Act,

unless it is so registered.

Ships registered

29. (1) A ship which immediately before

under repealed Acts the coming into operation of this Act was registered under a repealed Act shall be deemed to be de-registered after three months from the date when the Act comes into force.

(2) After the three month period, the ship shall be registered under this Act.

Period of registration 30. The registration of a ship shall, unless terminated under this Act, be valid for a period of five years from the date of registration specified in the certificate of registration unless it is renewed in accordance with the provision of section 32.

Renewal notices and time limit for renewal 31. (1) Three months before the expiry of the registration period, the Registrar shall issue to the owner of the ship a renewal notice.

(2) An application for renewal of registration may be made during the last three months of the current registration period.

Application for renewal of registration 32. (1) An application for renewal shall be in a form approved by the Administration and shall be accompanied by-

(a) a declaration of eligibility; and

(b) a declaration that there has been no change to any registered details of the ship that has not been notified to the Registrar.

(2) Where no application for renewal is made, the Registrar shall notify each and every mortgagee of the expiration of the ship's registration.

Change in registered particulars of 33. (1) Where there is change-

(a) in the registered particulars of a

ship

ship other than a change in the tonnage of the ship; or

- (b) in the name or address of the owner(s) entered in the register (not being a change of ownership),

an application shall be made as soon as practicable to the Registrar for the change to be recorded in the register.

(2) The application shall be in writing and accompanied by the certificate of registration and such evidence as to the change as may be required by the Registrar.

(3) On recording the change in the registered particulars, the Registrar shall cancel the existing certificate and issue to the owner(s) a new certificate of registration expiring on the same date as the existing one.

Sub-Part I – TONNAGE MEASUREMENT OF SHIPS

Survey

34. (1) Every ship shall before registration, be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations made under this Act.

(2) The surveyor shall issue a tonnage certificate specifying the ship's tonnage and that it is built in accordance with regulations made under this Act and such other particulars descriptive of the identity of the ship as may for the time being be required by the Registrar.

(3) The tonnage certificate shall be delivered to the Registrar before the ship is registered.

35. (1) The Minister may make regulations hereinafter referred to as "Tonnage Regulations" to-

- (a) provide for determination of the gross and net tonnages of a ship by a surveyor and the issue of an International Tonnage Certificate as appropriate;
- (b) make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
- (c) make any provisions of the regulations dependent on compliance with such conditions to be evidenced in such manner as may be specified in the regulations;
- (d) provide for the determination of gross and net tonnages of a ship and issue or authorise the issue of an International Tonnage Certificate (1969) by a Government of a country where the International Convention Tonnage Measurement of Ships (1969) is in force at the request of the Administration;
- (e) provide for cancellation and delivery up of certificate which has lost its validity to the Administration;
- (f) prohibit or restrict the carriage of goods or stores in spaces not included in the tonnage of a ship and provide for making the master and the owner each liable to a fine not exceeding five million Dalasis when such prohibition or restriction is

contravened;

- (g) provide for inspection of ships registered in a country where the International Convention on Tonnage Measurement of Ships (1969) is in force when in a port in the Gambia;
- (h) provide for acceptance of certificates issued under the authority of a Government of a country where the International Convention on Tonnage Measurement of Ships (1969) is in force by the Administration;
- (i) make failure to deliver up a certificate an offence;
- (j) provide for the form of International Tonnage Certificate (1969); and
- (k) provide for the determination of gross and net tonnages of ships other than Tonnage Measurement Convention ships and issue a Gambian Tonnage Certificate in respect of such ships.

(2) In the "Tonnage Regulations", provision may be made-

- (a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;
- (b) for indicating on the ship, by

such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and

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

(3) In making the "Tonnage Regulations", the Minister shall incorporate the provisions of the International Convention on Tonnage Measurement of Ships, (1969) including any amendments made thereto.

Ships in port through stress of weather

36. The provisions of the "Tonnage Regulations" shall not apply to a ship which is in The Gambia port on account of any deviation from its intended voyage due to stress of weather or any other cause of force majeure which the owner or master could not forestall.

Ascertaining the tonnage of a ship.

37. (1) Where the tonnage of a ship has been ascertained in accordance with the "Tonnage Regulations" and such tonnage has been assigned to that ship, that tonnage shall be registered and thereafter be deemed to be the tonnage of that ship.

(2) The tonnage of a ship ascertained under sub-section (1) shall be entered in every subsequent registration of the ship unless-

- (a) an alteration is made in the form or capacity of the ship; or
- (b) it is discovered that the tonnage of the ship has been erroneously computed,

and in either of these cases the ship shall be re-measured and her tonnage ascertained and registered in accordance with the "Tonnage Regulations".

Alterations
between
surveys

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

(2) An owner or master who fails to comply with sub-section (1) commits an offence and is liable on conviction to a fine not exceeding five million Dalasis.

Appointment of
surveyors

39. (1) The Administration may appoint duly qualified persons within or outside The Gambia as surveyors to survey and measure ships under and for the purpose of this Act.

(2) The Minister may by notice in the Gazette nominate within or outside The Gambia, a classification society or organisation for the purpose of surveying ships.

(3) A classification society or organisation so nominated may appoint competent persons to survey and measure ships.

Marking of
ships

40. (1) A ship shall before being registered in The Gambia, be marked permanently and conspicuously in accordance with regulations made under this Part.

(2) Where the Registrar is satisfied that a ship is insufficiently or inaccurately marked, he or she may suspend the Certificate of Registration of the ship or in

the absence of such certificate he or she may detain the ship until the insufficiency or inaccuracy has been remedied to his or her satisfaction.

Certificate of Registry

41. (1) A Certificate of Registry shall be in such form as may be prescribed by the Minister.

(2) The Certificate of Registry shall include-

(a) the name of the owner of ship, his or her occupation and address and where there are more than one, the proportions in which they are interested in the ship;

(b) the date and place where the ship was built;

(c) the details given in the tonnage certificate. and

(d) the International Maritime Organisational (IMO) number of the ship.

Power to make regulations in relation to Certificate of Registration

42. The Minister may make regulations relating to the grant of a new Certificate of Registration such as-

(a) the loss and replacement of a certificate;

(b) the endorsement of the change of ownership on the certificate; and

(c) the delivery up of the certificate of a ship that is lost or broken up or has been removed from the register or has ceased to be a Gambian ship.

Issue and
custody of
Certificate of
Registration

43. (1) The Certificate of Registration shall-

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

(2) A person who has in his or her possession or under his or her control the Certificate of Registration of a ship shall not refuse or omit without reasonable cause, to deliver the certificate on demand to the person entitled to the custody thereof for the purposes of lawful navigation of the ship or to the Registrar, a surveyor, customs officer or other person entitled by law to require its delivery.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding three million Dalasis.

(4) Where in any proceedings in respect of an offence under this section, the court is satisfied that the certificate is lost, the Court shall advise the Registrar in writing.

Improper use
of Certificate of
Registration

44. (1) The master or owner of a Gambian ship, who uses or attempts to use, for the purposes of navigation of such ship, a Certificate of Registration not legally granted in respect of the ship, in respect of such use or attempt, commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or imprisonment for a term not exceeding one year or both the fine and imprisonment.

Provisional
Certificate of
Registration

(2) A ship to which an offence under sub-section (1) relates is liable to forfeiture.

45. (1) Where an owner of a ship intends to apply to have the ship registered as a Gambian ship but there is no Registrar immediately available, a Proper Officer or other appropriate authority designated to act on behalf of the Government may grant to its owner or master, on his or her application, which shall include a statutory declaration a Provisional Certificate stating-

- (a) the name of the ship;
- (b) the date and place of its purchase and the name of its purchasers;
- (c) the name of its master; and
- (d) the best particulars respecting its tonnage, the time and place of its construction which he or she is able to obtain,

and he or she shall forward a copy of the Certificate at the first convenient opportunity to the Registrar.

(2) The statutory declaration referred to in sub-section (1) shall include-

- (a) a declaration as to ownership; and
- (b) a declaration that the foreign registry, if any, of the ship has been closed.

(3) A Provisional Certificate under this section shall have the effect of a Certificate of Registration, until-

- (a) the expiration of three (3) months after the date of its

issue;

(b) the arrival of the ship at a port in The Gambia; or

(c) a permanent certificate of registration is issued,

whichever happens first and on either of these events happening, the Provisional certificate shall cease to have effect.

Temporary
Pass in lieu of
certificate of
registration

46. (1) Where it appears to the Minister that by reason of special circumstances it is desirable that permission be granted to a ship to pass, without being previously registered, from any port in The Gambia to any port within or outside The Gambia, the Minister shall, where the ship belongs to a country whose laws provide for the issue of a temporary pass, direct the Registrar to grant a pass and that pass for the time and within the geographical limits therein mentioned shall have the same effect as a Certificate of Registration.

(2) When so directed under sub-section (1), the Registrar shall grant the pass.

Registration of
alterations and
registration
anew

47. (1) When a Gambian ship is so altered as not to correspond with the particulars relating to its tonnage or description in the register, notification of the alteration shall be given by the owner within thirty days after the completion of the alteration to the Registrar and the notice shall be accompanied by a tonnage certificate stating the particulars of the alteration.

(2) Upon receipt of notice of alteration of a Gambian ship under sub-section (1), the Registrar shall either cause the alteration to be registered or direct that the ship be registered anew.

(3) Where there is failure to comply with the requirements of sub-section (1) or with the direction under sub-section (2), the Registrar may suspend the Certificate of Registration of the ship in respect of which the failure occurs.

(4) An owner of a ship that has been altered who fails to register the ship anew or to register the alteration commits an offence and is liable on conviction to a fine not exceeding three million Dalasis.

Rules for registration of alterations

48. (1) For the purposes of the registration of an alteration in a ship, the ship's Certificate of Registration shall be produced to the Registrar within thirty days after the alteration, and he or she shall either-

(a) retain the Certificate and grant a new Certificate of Registration containing description of the ship as altered; or

(b) endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration and the fact that a new Certificate has been granted or an endorsement has been made shall be entered by the Registrar in the register.

Provisional certificate where ship is registered anew

49. (1) Where a Gambian ship is outside The Gambia and consequent upon notification, is to be registered anew a Proper Officer shall-

(a) grant to the master or owner on his or her application, either a Provisional Certificate describing the ship as altered; or

(b) provisionally endorse the particulars of the alteration on the existing certificate.

(2) Where the Proper Officer grants a Provisional Certificate or provisionally endorses a certificate under this section, he or she shall add to the certificate or endorsement, a statement that the same is made provisionally.

(3) The master or owner of a ship in respect of which a Provisional Certificate is granted or a certificate is endorsed under this section shall within ten days of the ship's arrival thereafter at a port in The Gambia, deliver that certificate to the Registrar.

(4) A master who fails to comply with sub-section (3) commits an offence and is liable on conviction to a fine not exceeding five million Dalasis.

(5) Where a ship in respect of which a Provisional certificate is granted or a certificate is endorsed under this section arrives at a port in The Gambia, an application for registration of that ship anew shall be made to the Registrar within seven days and the other requirements requisite for registration shall be complied with.

(6) An owner of a ship who fails to comply with sub-section (5) commits an offence and is liable on conviction to a fine not exceeding five million Dalasis, and in addition a fine of one million Dalasis for each day that the offence continues.

Registration
anew on
change of
ownership

50. Where the ownership of a Gambian ship is changed, the Registrar may on the application of the owner of the ship, direct that the ship be registered anew although registration anew is not required under this

Act.

Procedure for
registration
anew

51. (1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of first registration and on the receipt of the existing Certificate of Registration and upon compliance with the other prerequisites to registration (or such of them as the Registrar may consider material) he or she shall make such new registration and grant a certificate accordingly.

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

Restriction on
re-registration
of abandoned
ships

52. Where a ship has ceased to be registered as a ship by reason of having been wrecked or abandoned or for any other reason other than capture by enemy, the ship shall not be re-registered until such ship has at the expense of the applicant for registration, been surveyed by a surveyor and certified by him or her to be seaworthy.

Sub-Part II - LICENSING OF SHIPS

Ships to be
licensed

53. (1) A Gambia ship under twenty four meters in length or fifteen gross tons and every vessel of whatever length or tonnage trading or operating solely within inland waters of the Gambia shall instead of being registered, be licensed.

(2) The following ships are exempt from licensing-

(a) pleasure craft of less three

meters in length not equipped with propulsion machinery;

(b) pleasure craft of less than three meters in length equipped with propulsion machinery of not more than 3.75 horse power; and

(c) ships registered under this Act.

(3) The Administration may in writing exempt, either generally or specifically ships from compliance with sub section (1) on such conditions as the Administration may determine.

Qualifications for owning a licensed Gambian Ship

54. (1) A ship shall not be licensed in The Gambia unless it is owned wholly by a person referred to in section 12 of this Act.

(2) The owner of a licensed Gambian ship shall within seven days or such further period as may be allowed by the Administration after change of ownership, notify the Registrar in writing of the change.

(3) Where the owner(s) of a licensed Gambian ship fails to comply with sub-section (2), the licence of the ship shall be cancelled.

Regulations for licensing of ships

55. The Minister may make regulations regarding the licensing of Gambian ships and in particular for-

(a) the manning, life-saving, safety, pollution prevention and firefighting equipment of such ships;

(b) the examination and certification of officers, skippers, engine room and deck ratings;

- (c) surveys and inspections;
- (d) appointment of surveyors;
- (e) keeping of records;
- (f) fees to be paid for licensing;
- (g) discipline on board; and
- (h) operating permits.

Sub-Part III - TRANSFER AND TRANSMISSION

Transfer of ship or shares

56. (1) A transfer of ownership of a registered ship or a share therein when disposed of to a person qualified to own a Gambian ship, shall be transferred through a Bill of Sale.

(2) The Bill of Sale referred to in subsection (1) shall contain such description of the ship as is contained in the tonnage certificate or some other description sufficient to identify the ship to the satisfaction of the Registrar.

(3) The Bill of Sale referred to in subsection (1) shall be in the prescribed form and shall be executed by the transfer or in the presence of and attested by a witness.

Declaration of transfer

57. When a registered ship or a share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until the transferor 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 referring to the ship and containing a statement of the qualifications of the transferee to own a Gambian ship, or where the transferee is a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Gambian

ship.

Registration of transfer

58. (1) A Bill of Sale for the transfer of ownership of a registered ship or a share therein, when duly executed, shall be produced to the Registrar at the port of registry of the ship with the declaration of transfer and the Registrar shall thereupon enter in the register, the name of the transferee as owner or part-owner of the ship, and shall endorse on the Bill of Sale the fact that entry has been made with the day and hour of entry.

(2) A Bill of Sale of a ship or share therein shall be entered in the register in order of their production to the Registrar.

Transmission of property in a ship on death or insolvency

59. (1) Where the property in a registered ship or a share therein is transmitted to a person qualified to own a Gambian ship on the death or insolvency of a registered owner, or by any lawful means other than transfer under this Act-

(a) that person shall authenticate the transmission by making or signing a declaration (in this Part referred to as a “declaration of transmission”), identifying the ship and containing several statements required to be contained in a declaration of transfer, and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) where the transmission is consequent on insolvency, the declaration of transmission shall be accompanied by such evidence as is for the time being admissible in a court of competent jurisdiction as proof of title of the persons claiming under insolvency; and

(c) where the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract there from.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register the name of the person entitled under the transmission as owner of the ship or of the share of the property which has been transmitted, and where there is more than one such person, he or she shall enter the names of those persons, but those persons, however numerous, shall for the purposes of this Part with respect to the number of persons entitled to be registered as owners, be considered as one person.

Transfer of
ship or sale by
order of court

60. (1) Where the High Court orders a sale of a ship or any share therein whether under this Part or otherwise, 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.

(2) The person named by the court under sub-section (1) is entitled to transfer the ship or share in the same manner and to the same extent as if he or she were the registered owner.

(3) The Registrar shall obey the requisition of the person named by the Court under sub-section (1) in respect of any such transfer to the same extent as of such person were the registered owner.

(4) A Proper Officer, on recording such notice shall inform the Registrar by whom the certificate was granted whether any previous exercise of the power to which

the certificate refers has taken place.

Power of the
court to prohibit
transfer

61. (1) Without prejudice to the exercise of any other power of the court, The High Court may, on application of any interested person, make an order prohibiting for the time specified in the order, any dealing with a ship or a share therein.

(2) The Court may-

- (a) make the order on any terms or conditions it thinks fit;
- (b) refuse to make the order; or
- (c) discharge the order when made, with or without costs,

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

Sub-Part 4 - MORTGAGES

Mortgage of
ships or shares

62. (1) A registered ship or a share in it may be made a security for the repayment of a loan or the discharge of any other obligation.

(2) The instrument creating any such security referred to as a "mortgage" shall be in the form prescribed by the regulations made under this Act.

(3) Where a mortgage executed in accordance with sub-section (2) above is produced to the Registrar at the ship's port of registry, he or she shall record it in the register.

(4) Mortgages shall be registered in the order in which they are produced to the

Registrar for the purposes of registration and the Registrar shall by memorandum under his or her hand notify each mortgagee that it has been registered by him or her and stating the day and hour of the registration.

(5) The transfer of a mortgage or its transmission shall not affect the order of priority of the mortgage.

Mortgage of
provisionally
registered
ships

63. (1) Where a ship is provisionally registered, a mortgage executed outside The Gambia may be produced to a consular officer who shall notify the Registrar of the production of the mortgage and the name of the parties thereto with the amount secured and the mortgage shall as soon as possible be produced to the Registrar to be registered.

(2) Where the Registrar has received notice of the provisional registration of a ship and the production of a mortgage relating to the ship, the mortgage shall be deemed to be registered and its priority shall be preserved from the time of receipt by the Registrar of the notice of mortgage, or from the time of receipt of the mortgage whichever first happens and the Registrar shall make an appropriate entry in the register.

(3) The provisions of section 62 shall apply to mortgages under this section as they apply to mortgages under that section, provided that the day and hour of registration shall not derogate from any priority preserved under sub-section (2) of this section.

(4) On the final registration of a ship provisionally registered under this section, the priority of any mortgage recorded under this section shall be preserved notwithstanding that such provisional

registration may have ceased to have effect before the final registration.

Entry on discharge of mortgage

64. Where a registered mortgage is discharged, the Registrar shall on production of the mortgage with the 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 and on that entry being made, the estate, if any, which passed to the mortgagee shall vest in the person in whom having regard to intervening acts and circumstance, if any, it would have vested if the mortgage had not been created.

Priority of registered mortgages

65. Where two or more mortgages are registered in respect of the same ship or share, the priority of mortgagees shall be determined by the order in which the mortgages were registered (and not by reference to any other matter).

Mortgagee not treated as owner

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

Power of sale of mortgagee

67. (1) Subject to sub-section (3), every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he or she is registered, and to give effectual receipts for the purchase money, but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of the High Court sell the ship or share without the concurrence of every prior mortgagee.

(2) A mortgagee referred to in sub-section (1) shall be entitled to enforce his or her mortgage by *action in rem* in admiralty whenever any sum secured by the mortgage is unpaid when due or otherwise, in accordance with the terms of any deed or instrument collateral to the mortgage.

(3) A registered mortgagee of a Gambian Government ship shall not without first obtaining an order from the High Court, dispose of the ship or any share in it in respect of which he or she is registered or give receipts for the purchase money.

Mortgage not affected by bankruptcy

68. A registered mortgage of a ship or a share in it shall not be affected by any bankruptcy of the mortgagor and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the mortgagor or any trustee or assignee on his or her behalf.

Transfer of mortgage

69. (1) A registered mortgage of a ship or share in it may be transferred to any person.

(2) The instrument effecting the transfer shall be in the prescribed form.

(3) The Registrar shall on the production of such instrument, record it by entering in the register the name of the transferee as mortgagee of the ship or share in it and shall by a memorandum signed by him or her testify on the instrument of transfer that it has been recorded by him or her stating the day and hour of the record.

Transmission of interest in mortgage by death, bankruptcy

70. Where the interest of a mortgagee in a ship or share in it is transmitted on his or her death or bankruptcy, or by any lawful means, other than by a transfer under this Act, the transmission shall be-

- (a) authenticated by declaration of the person to whom the interest is transmitted, containing a statement of the manner in which, and the person to whom the property has been transmitted; and
- (b) accompanied by the like evidence as is by this Part required in the case of a transmission of the ownership of a ship or share in it.

(2) The Registrar shall, on receipt of the declaration and the production of the evidence referred to in sub-section (1), enter the name of the person entitled under the transmission in the register as the mortgagee of the ship or share in it.

Authority to sell
or mortgage
out of The
Gambia

71. (1) Where a registered owner of a Gambian ship or share in it is desirous of disposing by way of sale or mortgage, that ship or share at any place out of The Gambia may make an application in writing to the Registrar.

(2) In any such application, there shall be set forth the following particulars-

- (a) the name and address of the person by whom the power mentioned in the Certificate of Sale or Mortgage is to be exercised together with-
 - (i) in the case of a sale, the minimum price at which the sale is to be made if it is intended to fix any such minimum; or
 - (ii) in the case of a mortgage, the maximum amount thereof, if it is intended to fix any such maximum; and

(b) the place where the power is to be exercised, or if no place is specified, a declaration that the power may be exercised anywhere, subject to this Act.

(c) the limit of time within which the power may be exercised.

(3) Subject to section 72 (1), in the case of an application to dispose a ship by way of sale, the Registrar shall enable any such applicant to dispose of the ship or share in a desirable manner.

(4) On receiving an application under this section, the Registrar shall enter in the register, a statement of the particulars set forth in the application and shall grant to the applicant, a Certificate of Sale or a Certificate of Mortgage as the case may require.

(5) A Certificate of Sale and a Certificate of Mortgage shall-

- (a) each be in the prescribed form;
- (b) not authorise any sale or mortgage to be made in The Gambia or by a any person not named in the certificate; and
- (c) contain a statement of the particulars set forth in the application and also a statement of any registered mortgages and certificates of any registered mortgages and certificate of sale or mortgage affecting the ship or share in respect of which the certificate is given.

ship, and such a certificate shall not be granted under this Part, except on the application made by declaration in writing of all persons appearing on the register to be interested therein as owners or mortgagees.

(2) The power conferred by a Certificate of Sale shall be exercised in conformity with the directions contained therein.

(3) An agreement for sale entered into in good faith in the exercise of the power conferred by any Certificate of Sale to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying at any time between the giving of the power and completion of sale.

(4) Where any Certificate of Sale contains a specification of the place at which, and a limit of time not exceeding twelve months within which the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given.

Sale of a ship
under
Certificate of
Sale granted in
The Gambia

73. (1) Where a Gambian ship is sold in the exercise of power conferred by a Certificate of Sale granted under this Part to persons qualified to own a Gambian ship-

(a) a transfer of the ship shall be made by Bill of Sale in the manner provided by this Part, and the Bill of Sale when duly executed, and the certificate of sale shall be produced to a Proper Officer at the place at which the ship is sold and that officer shall thereupon endorse and sign on the certificate of sale a statement of fact of the

ship having been sold, and shall forthwith notify the Registrar.

(b) the ship may be registered anew in the manner provided by the Act; and

(c) the Registrar upon receipt of the Certificate of Sale and the ship's Certificate of Registration from a Proper Officer, each of these Certificates having endorsed there-upon an entry of the fact of the sale having taken place, shall thereupon enter the sale of the ship in the register.

(2) Where no agreement is entered into in the exercise of powers conferred by a Certificate of Sale granted under this Part, that Certificate shall be delivered to the Registrar and the Registrar shall thereupon cancel the certificate, and shall enter the fact of the cancellation in the register and every certificate so cancelled shall be void.

Registration in
The Gambia
where ship
sold under
Certificate of
Sale granted in
a foreign state

74. (1) Where a ship registered in a foreign country is sold in exercise of a power conferred by a Certificate of Sale granted under the law of that country to persons qualified to own a Gambian ship, that ship may be registered in The Gambia in accordance with this section.

(2) An application for registration anew should be made to the Registrar and there shall be produced to the Registrar a Bill of Sale by which the ship is transferred, the Certificate of Sale and the Certificate of Registry of the ship.

(3) The Registrar on registering the ship anew shall-

(a) retain the Certificates of Sale

and Registration, and shall endorse on each of these certificates an entry of the fact of a sale having taken place and shall forward these certificates, so endorsed to the Registrar of the ship's former registry; and

- (b) enter in the register such particulars as are by this Act required to be entered therein in the case of first registration of a ship in The Gambia and also a statement of any Registered mortgages or Certificate of Mortgages enumerated on the Certificate of Sale.

Rule as to
Certificates of
Sale or
Mortgage

75. The following rules shall be observed as to Certificates of Sale or Mortgage-

- (a) the power shall be exercised in conformity with directions contained in the certificates;

- (b) a mortgage executed thereunder shall be registered by the endorsement of record thereof on the certificate by the proper officer at the place at which the mortgage is executed;

- (c) a mortgage executed in good faith thereunder shall not be impeached by reason of the person whom the power was given dying at any time between the giving of the power and the execution of the mortgage;

- (d) where the certificate

contains a specification of the place at which, and a limit of time not exceeding twelve months within which the power is to be exercised, a mortgage in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given;

(e) every mortgage which is so registered as provided in this section on the Certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the Certificate in the register and where there are more mortgages than one so registered the respective mortgage claiming there-under shall notwithstanding any express, implied or constructive notice be entitled to priority before the other according to the date and time each mortgage is registered on the certificate and not according to the date of the mortgage;

(f) subject to the foregoing rules, a mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he or she would have had, and been subject to, if his or her mortgage had been registered in the register instead of the certificate;

(g) the discharge of a mortgage so

registered on the certificate may be endorsed on the certificate by the Registrar or proper officer on the production of such evidence as is by this Act, required to be produced to the Registrar for the entry of the discharge of a mortgage in the register, and, on that endorsement being made, the interest, if any, which passed the mortgage shall vest in the same person or persons in whom it would have vested if the mortgage had not been made; and

(h) on the delivery of any Certificate of Mortgage to the Registrar by whom it was granted, he or she shall after recording in the register, in such manner as to preserve its priority, any unsatisfied mortgage registered thereon, cancel the certificate and enter the fact of the cancellation, in the register and every certificate so cancelled shall be void.

Loss of
Certificate of
sale or Mort-
gage

76. Where it is shown to the satisfaction of the Registrar that-

- (a) a Certificate of Sale or Mortgage is lost, destroyed or so damaged as to be useless; or
- (b) the powers given under the Certificate have never been exercised or if they have been exercised on proof of the several matters or things that have been done,

the Registrar may, as circumstances require-

- (i) issue a new Certificate,
- (ii) direct such entries to be made in the register; and
- (iii) direct such other things to be done, as might have been made or done if the loss or destruction had not taken place.

Revocation of Certificate of Sale or Mortgage

77. (1) The owner of a Gambian ship or a share therein in respect of which a Certificate of Sale or Mortgage has been granted specifying the places where the power thereby given is to be exercised, may by an instrument under his or her hand, authorise the Registrar by whom the Certificate was granted to give notice to the proper officer at every such place that the Certificate is revoked.

(2) After the authorisation under subsection (1), notice shall be given accordingly and recorded by the Proper Officer receiving it, and after it is recorded, the Certificate shall be deemed to be revoked in respect of any sale or mortgage to be thereafter made at that place.

(3) After it has been recorded, the notice shall be exhibited to every person applying for the purpose of effecting or obtaining a transfer or mortgage under the Certificate.

PART VIII - MARITIME LIENS

Maritime liens

78. Subject to the provisions of this Act, each of the following claims against an owner, operator, a demise charterer or manager of a vessel shall be secured by a maritime lien on the vessel-

- (a) claims for 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;

- (b) claims in respect of loss of life or personal injury occurring whether on land or on water in direct connection with the operation of vessel;
- (c) claims for reward for the salvage of the vessel;
- (d) claims for port, canal and other waterway dues and pilotage dues;
- (e) claims based on tort arising out of physical loss or damage caused by the operation of vessel other than loss of or damage to cargo, containers and passengers' effects carried on the vessel.

Priority of Maritime liens

79. The maritime liens set out in section 78 shall take priority over registered mortgages which comply with the following conditions except as provided in subsection (5) and (6) of section 86-

- (a) where the mortgages have been effected and registered in accordance with the law of the state in which the vessel is registered;
- (b) the register and any instruments required to be deposited with the Registrar in accordance with the law of the state in which the vessel is registered shall be open to public inspection and extracts from the register and copies of any such instrument are obtainable from the Registrar;
- (c) where the register or any instru-

ments referred to in subparagraph (b) specifies at least the name and address of the person in whose favour the mortgage has been effected or that it has been issued to bearer and the maximum amount secured if that is the requirement of the law of the state of registration; and

- (d) if the amount is specified in the instrument creating the mortgage and the date and other particulars which according to the law of the state of registration, determine the ranking to other registered mortgages.

Order of
Priority of liens

80. (1) The maritime liens set out in section 78 shall rank in the order listed, except that maritime liens securing claims for reward of salvage of the vessel shall take priority over all other maritime liens which have attached to the vessel prior to the time when the operations giving rise to the said liens were performed.

(2) The maritime liens-

- (a) set out in each of sub-sections (a), (b), (d) and (e) of section 78 shall rank *pari passu* among themselves; and
- (b) securing claims for reward for the salvage of a vessel shall rank in the inverse order of the time when the claims secured thereby accrued such claims shall be deemed to have accrued on the date on which each salvage operation was terminated.

Right of ship
builders and

81. Where a preferential right arises pursuant to the provisions of the law

ship repairers relating to bankruptcy or insolvency in respect of a ship in the possession of-

(a) a ship builder, in order to secure claims of the building of the ship; or

(b) a ship repairer in order to secure claims for the repair of the ship effected during such possession,

such right shall be postponed to all the maritime liens set out in section 78, but may take precedence over any mortgage or other preferential rights registered under this Part so long as the ship is in the possession of the ship builder or ship repairer, as the case may be.

Characteristic of maritime liens

82. Subject to section 80, maritime liens follow the vessel notwithstanding any change of ownership or of registration or flag.

Claims arising from radioactive products etc.

83. A maritime lien shall not attach to a vessel to secure claims set out in subparagraph (b) and (e) of section 78 which arise out of or result from-

(a) damage in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimants pursuant to international conventions or laws of The Gambia providing for strict liability and compulsory insurance or other means of securing the claims; or

(b) the radioactive properties or a combination of radioactive properties with toxic, explosives or other hazardous properties of nuclear fuel or radioactive

products or waste.

Extinction of
maritime liens

84. (1) The maritime liens set out in section 78 of this Act shall be extinguished after a period of one year unless prior to the expiry of such period, the vessel has been arrested or seized and such arrest or seizure has lead to a forced sale.

(2) The one year period referred to in subsection (1) shall commence-

- (a) with respect to the maritime lien set out in section 78 (a) upon the claimant's discharge from the vessel; or
- (b) with respect to the maritime liens set out in section 78 (b) to (e), where the claims secured thereby arise and shall not be subject to suspension or interruption, provided, however that the time shall not run during the period that the arrest or seizure of the vessel is not permitted by law.

Notice of
forced sale

85. (1) Prior to the forced sale of a vessel in The Gambia, the Administration shall ensure that notice in accordance with this Act is served on-

- (a) the authority in charge of the register in the state of registration;
- (b) all holders of registered mortgages which have not been issued to bearer;
- (c) all holders of registered mortgages issued to bearer and all holders of maritime liens; and
- (d) the registered owner of the

vessel.

(2) The notice shall be provided at least thirty days prior to the forced sale and shall contain either of the following-

- (a) the time and place of the forced sale and such particulars concerning the forced sale proceedings leading to the forced sale as the Administration shall determine is sufficient to protect the interests of persons entitled to notice;
- (b) where the time and place of the forced sale cannot be determined with certainty, the appropriate time and anticipated place of the forced sale and such particulars concerning the forced sale as the Administration shall determine is sufficient to protect the interests of persons entitled to notice; or
- (c) where notice is provided in accordance with subparagraph (b), additional notice of the actual time and place of the forced sale shall be provided when known, but in any event not less than seven days prior to the forced sale.

(3) The notice specified in sub-section (2) shall be in writing and may be given by registered mail or any electronic or other appropriate means, which confirm the receipt by persons as specified in sub-section (1), if known.

(4) In addition, the notice shall be given by press announcement in the state where the forced sale is conducted and if considered appropriate by the Administration, in other publications.

Effect of forced sale

86. (1) In the event of forced sale of the vessel in The Gambia, all registered mortgages except those assumed by the purchaser with the consent of the holders and all liens and other encumbrances of whatsoever nature shall cease to attach to the vessel except that-

- (a) at the time of the sale, the vessel is within the jurisdiction of The Gambia; and
- (b) the sale has been effected in accordance with this Act and in particular the provisions of section 85.

(2) The costs and expenses arising out of the arrest or seizure and subsequent sale of the vessel shall be paid first out of the proceeds of sale, and they shall include, *inter alia*, the costs for the upkeep of the vessel and the crew as well as wages, other sums and costs referred to in section 78 (a) incurred from the time of arrest of seizure.

(3) The balance of proceeds shall be distributed to the extent necessary to satisfy the respective claims in accordance with the provisions of this Act.

(4) Upon satisfaction of all claimants, the residue of the proceeds, if any, shall be paid to the owner and it shall be freely transferable.

(5) In the event of a forced sale of a stranded or sunken vessel following its removal by a public authority in the

interest of safe navigation or the protection the marine environment, the costs of such removal shall be paid out of the proceeds of the sale before all other claims secured by maritime lien on the vessel.

(6) Where at the time of the forced sale, the vessel is in the possession of a ship builder or of a ship repairer who under this Act enjoys a right of retention, such ship builder or ship repairer shall surrender possession of the vessel to the purchaser, but he or she is entitled to obtain satisfaction of his or her claim out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens mentioned in section 78.

(7) The Administration shall ensure that any proceeds of a forced sale are actually available and freely transferable.

Disposition of proceeds of sale

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

- (a) maritime liens under section 78;
- (b) preferential rights under section 81; and
- (c) mortgages and other preferential rights registered under this Part to the extent necessary to satisfy their claims.

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

88. (1) When a vessel registered in a state which is a party to the International Convention on Liens and Mortgages 1993 has been the subject of a forced sale in any state which is a party to the said Convention, the Administration shall at the

request of the purchaser, issue a certificate to the effect that the vessel is free from all registered mortgages except those assumed by the purchaser, and of all liens, encumbrances provided that the requirements set out in section 80 (1) subparagraphs (a) and (b) have been complied with.

(2) Upon the production of the certificate, the Registrar shall-

- (a) delete all registered mortgages except those assumed by the purchaser;
- (b) register the vessel in the name of the purchaser; and
- (c) issue a certificate of de-registration for the purposes of new registration, as the case may be.

Non application
to non commercial
Government
vessel

89. The provisions of sections 78 to 88 inclusive shall not create any rights or enable any rights to be enforced against any vessel owned or operated by a state or used only on Government non-commercial service.

Provisions
relating to
infancy or other
incapacity

90. (1) Where by reason of the infancy, unsoundness of mind or any other cause, a person interested in a ship or a share therein is incapable of making a declaration or doing anything required or permitted by this Act to be made or done in connection with registration of the ship or share, the guardian or committee, if any, of that person, or if there is none, a person appointed on application made on behalf of any such person or of any other person interested, to a court of competent jurisdiction, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do

such act or thing in the name and on behalf of the incapacitated person.

(2) An act done in accordance with subsection (1) in the name, and on behalf of an incapacitated person shall be as effectual as if done by the infant or person of unsound mind.

Notice of trust not received

91. A notice of any trust, express, implied or constructive shall not be entered in the register or be receivable by the Registrar; and subject to any rights and powers appearing by the register to be vested in any other person, the registered owner of a ship or a share therein shall have power absolutely to dispose of the ship or share in the manner provided for in this Act and to give effectual receipts for any money paid or advanced by way of consideration.

Definition of "beneficial interest" and equities not excluded by the Act

92. In this Part, "beneficial interest" includes interests arising under contract and other equitable interests and accordingly without prejudice-

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

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

Liability of the Beneficial Owner

93. A person who has a beneficial interest, otherwise than by way of mortgage in a ship or share in a ship registered in the name of some person as owner, shall as well as the registered owner be subject to all pecuniary penalties imposed by this or any other enactment on the owners of ships or share therein so however that proceedings may be taken for the enforcement of any such penalties against both or either of the person and registered owner, with or without joining the other of them.

Registration of ship's Managing Owner or Manager

94. (1) The name and address of the managing owner or manager for the time being of every ship registered in The Gambia shall be registered with the Registrar.

(2) Where there is no managing owner or manager, there shall be registered the name of such other person to whom the management of the ship is entrusted by or on behalf the owner and any person whose name is so registered shall for the purpose of this Act be under the same obligations and subject to the same liabilities, as if he or she were the managing owner.

(3) Where default is made in complying with this section, the owner commits an offence or if there are more owners than one, each owner commits an offence in proportion to his or her interest in the ship, to a fine not exceeding in the aggregate two million Dalasis each time the ship leaves a port in The Gambia.

Power of the Registrar to dispense with declaration etc.

95. Where under this Part-

- (a) a person is required to make a declaration on behalf of himself or herself or another body corporate, or any evidence is required to be

produced to the Registrar; and

- (b) it is shown to the satisfaction of the Registrar that from any reasonable cause the person is unable to make a declaration or that evidence cannot be produced,

the Registrar may with the approval of the Director General and on the production of such other evidence, and subject to such terms as he or she may think fit, dispense with the declaration or evidence.

Mode of declarations

96. (1) A declaration required to be made under this Part shall be made before a Registrar, a proper officer or any other person authorised by law to administer oaths.

(2) A declaration required to be made under this Part may be made on behalf of a body corporate by the Secretary or any other officer authorised by it for the purpose.

Application of fees

97. All fees authorised to be taken under this Part shall, except where otherwise provided in this Act, be applied in the payment of the general expenses of carrying into effect the provisions of this Part.

Returns to be made by the Registrar

98. The Registrar shall transmit to the Director General returns in such form and at such times as the Director General may direct, of all registrations, transfers, transmission, mortgages and other dealings with ships which have been registered by him or her in his or her capacity as Registrar and such other particulars as may be directed by the Director General.

Evidence of Register, Certificate of

99. (1) A person may on application to the Registrar during the hours of his or her

Registry

official attendance and on payment of the prescribed fees, inspect the register.

(2) The following documents shall be admissible in evidence in the manner provided by this Act, namely-

- (a) any register under this Part on its production from the custody of the Registrar or other person having lawful custody thereof;
- (b) Certificate of registry under 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; and
- (d) every declaration made in pursuance of this Part in respect of a Gambian ship.

(3) A copy or transcript of the register of Gambian ships kept by the Administration shall be admissible in evidence and have the same effect to all intents as the original register of which it is a copy or transcript.

Document and instruments as to registration

100. (1) The following instruments and documents shall be in the form prescribed by the Minister-

- (a) declaration of ownership by an individual owner;
- (b) declaration of ownership on behalf of body corporate as owner;
- (c) certificate of registry;
- (d) provisional certificate;
- (e) declaration of ownership on behalf of body corporate as transferee;
- (f) declaration of ownership taking by transmission; and
- (g) deletion certificate from the previous registry.

(2) The Minister may from time to time, make such alterations in the form so prescribed as he or she may consider necessary, and shall by notice in the Gazette give due notice of his or her intention to alter any such form.

(3) The Registrar shall not be required without the special direction of the Director General, to receive and enter in the register any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or share therein or any interest therein which is made in any form other than that for the time being required under this Part, or which contains any particulars other than those contained in such form.

(4) The Director General may also for carrying into effect this Part, give such instructions to his or her officers regarding-

- (a) the manner of making entries in the register;
- (b) the execution and attestation of powers of attorney;
- (c) any evidence required for identifying any person;
- (d) referring to himself or herself, any question involving doubt or difficulty; and
- (e) any act or thing to be done in pursuance of this Part as he or she thinks fit.

Forgery of documents

101. A person who forges, fraudulently alters or assists in forging or fraudulently altering or procures to be forged or fraudulently altered, any register, builder's certificate, tonnage certificate, certificate of Registry, declaration, bill of sale or instrument of mortgage under this Part or any entry or endorsement required by this Part to be made in or on any these documents, commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or imprisonment for a term not exceeding three years or both.

False declaration

102. (1) A person who, in the case of any declaration made in the presence of, or produced to a Registrar under this Part or in any document or other evidence produced to such Registrar-

- (a) willfully makes or assists in making or procures to be made, any false statement concerning the title to or ownership of the interest existing in any ship or share in a ship; and

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

commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or imprisonment for a term not exceeding three years or both.

Liabilities of ships not recognised

103. Where a Gambian ship which is required to be registered under this Act is not registered-

(a) she shall not be entitled to any benefits, privileges or advantages usually enjoyed by Gambian ships as regards the payment of dues, the liability to fines and forfeiture; and

(b) the punishment of offences committed on board such ship or by any person belonging to such ship shall be dealt with in the same manner in all respects as if she were a recognised Gambian ship.

Fees

104. The Minister shall from time to time by regulations, prescribe the fees payable in respect of registration, transfer including transmission, new registration, mortgage and transfer of mortgage.

PART V – NATIONAL CHARACTER AND FLAG

Duty to declare national character

105.(1) An officer of customs shall not grant clearance to any ship until the master of the ship has declared the name of the nation to which he or she claims the ship belongs, and that officer shall thereupon write such name on the clearance.

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

National Colours

106. The national flag of The Gambia is hereby declared to be the proper national colours for all Gambian ships.

Right to fly flag of The Gambia

107. (1) A ship registered in accordance with this Act is entitled to fly the national flag of The Gambia.

(2) Nothing in this section shall be construed to prohibit ships which are exempt from registration under this Act using the national colours of The Gambia in Gambia waters.

Showing of national colours

108. (1) A Gambian ship shall hoist the proper national colours-

- (a) on a signal being made to her from any ship or aircraft belonging to Gambian Armed Forces;
- (b) on entering or leaving any Gambian or foreign port;
- (c) when passing a warship of any navy;
- (d) while in a Gambian port from sunrise to sunset.

(2) The master of a ship who fails to comply with sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(3) Where there is hoisted on board any Gambian ship, any colours or pendant usually worn by ships of Gambian navy or the national colours of any other country,

the master of the ship or the owner thereof if he or she is on board the ship, and every other person hoisting the pendant or colours commits an offence and is liable on conviction to a fine not exceeding five million Dalasis.

(4) Colours or pendant used in the commission of an offence under sub-section (1) are subject to seizure.

Penalty for assuming
Gambian Flag

109. (1) When a person uses the national colours of The Gambia and assumes The Gambia national character on board a ship which is not a Gambian ship, for the purposes of making the ship appear to be a Gambian 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 act.

(2) In any proceeding for enforcing such forfeiture as is mentioned in sub-section (1), the burden of proving the title to use a Gambian flag and to assume a Gambian national character shall lie on the person using or assuming the same.

National flag
on foreign
ships

110. (1) A person, who uses or permits any person to use Gambian colours on board a foreign ship for the purpose of making that ship appear to be a Gambian ship, commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or imprisonment for a term not exceeding three years, or both.

(2) In any proceedings under this section, the burden of proving the right to use the flag and to assume the appearance of a ship is on the person using the Gambian colours.

Penalty for concealing Gambian character or assuming foreign character

111. (1) The master or owner of a Gambian ship who does anything or permits anything to be done or carries or permits to be carried any paper or document, with intent to-

- (a) conceal the Gambian character of the ship from any person entitled by law to enquire into same;
- (b) assume a foreign character, or
- (c) deceive a person referred to in paragraph (a),

commits an offence and is liable on conviction to a fine not exceeding two million Dalasis or imprisonment for a term not exceeding two years or both.

(2) A ship in relation to which an offence is committed under sub-section (1) is liable to forfeiture.

Penalty for acquiring ownership if unqualified

112. Where an unqualified person acquires as owner, otherwise than by such transmission as is provided under this Act, an interest, either legal or beneficial, in a ship using national colours of The Gambia and assuming the Gambian national character, that interest shall be subject to forfeiture under this Act.

PART VI – MANNING AND CERTIFICATION

Manning regulations and qualification of persons serving on Gambian ships

113. (1) The Minister may make such regulations as he or she considers necessary or expedient to provide for the manning requirements for Gambian ships and the qualifications of officers and seafarers

of such ships and without prejudice to the generality of such powers, may make regulations-

- (a) determining the categories of Gambian ships by reference to their tonnage, the nature of their cargo and the trading areas or voyages in which they are engaged;
- (b) with respect to the manning requirements in relation to such classes or description of ships as may be prescribed and in particular, requiring ships to carry such number of qualified officers of any description, seafarers or qualified seafarers of any description as may be specified;
- (c) requiring that in any case a ship shall be under the charge of a properly certificated master and that watches at sea and in port are always kept by appropriately qualified officers;
- (d) providing for medical standards to be attained by persons serving on board Gambian ships;
- (f) requiring officers, seafarers and other persons performing prescribed functions in relation to the operation and maintenance of Gambian ships to be holders of certificate of competency appropriate to the capacity in which they serve;
- (g) providing for the responsibilities of companies in the engagement of officers and seafarers;
- (h) relating to the holding and conduct

of examinations for such certificates, qualification of candidates for such examinations, the qualification of the examiners, the appointment, removal, and the remuneration of such examiners, the fees for such examinations and all such matters as the Administration thinks necessary or expedient for the purpose of such examinations;

- (i) providing for the programmes of training and the curricula be followed in the training of seafarers;
 - (j) providing for the establishment, maintenance and operation of schools for the training of persons for certification as seafarers and designating from time to time institutions as recognized or affiliated places of training;
 - (k) providing for endorsement and recognition of certificates issued by other Administrations; and
 - (l) prescribing the manner in which enquiries may be instituted before a board of enquiry appointed under section 115, the procedure to be followed in the conduct of such proceedings and matters incidental to or consequential on such proceedings.
- (2) In making regulations, the Minister shall have due regard to the provisions of -
- (a) the International Convention on Standards of Training, Certification and Watch keeping for Seafarers 1978 together with

such amendments thereof; and

- (b) any relevant Convention of International Labour Organization.

Power to exempt

114. The Administration may exempt any ship or class of ships from the requirements of any regulations made under section 113 and such exemption may be confined to a particular period or to one or more particular voyages.

Board of Enquiry

115. (1) Where a seafarer -

- (a) is alleged to be suffering from any habit or mental or physical condition rendering him or her unfit to be a seafarer;
- (b) is accused of dishonesty, incompetence or misconduct in the performance of his or her functions as a seafarer; or
- (c) allegedly procured his or her certificate of competence through misleading, false or fraudulent misrepresentation,

the Administration may appoint a Board of Enquiry consisting of three persons who are qualified to enquire into the allegation.

(2) The Board of Enquiry shall report its findings in writing to the Administration together with recommendations for action.

Powers of a Board of Enquiry

116. A Board of Enquiry appointed under section 115 shall have all the powers of a person holding an enquiry under section 484.

Cancellation of Certificate by Administration

117. The Administration acting on the recommendation of a Board of Enquiry or the Minister consequent on the conviction

of a seafarer for an offence, may by instrument in writing, cancel or suspend a certificate issued under section 113 and order that it be surrendered at such place and within such time as he or she directs.

Withdrawal of approval 118. The Administration may with respect to a certificate approved under section 113 by instrument in writing, withdraw the approval whether indefinitely or for such period as it may specify, where a recommendation to that effect is made by a Board of Enquiry or by the Minister consequent on the conviction of a seafarer for an offence.

Appeals against cancellation etc of Certificate 119. (1) A person, who is aggrieved by an order of the Administration under section 117 or 118 may appeal to the Court against such order within such time and in such manner as may be prescribed.

(2) The Court may-

- (a) dismiss the appeal and confirm the order;
- (b) allow the appeal and set aside the order;
- (c) vary the order as it thinks fits; or
- (d) where the matter had been enquired into pursuant to section 116, allow the appeal and direct that the matter be re-heard by another Board of Enquiry appointed under that section.

Offences 120. (1) A person who-

- (a) serves as a seafarer on board a Gambian ship without being a holder of a valid certificate appropriate to the capacity in

which he or she is engaged to serve; or

- (b) either on his or her own account or acting in the capacity of an agent, engages any person as a seafarer without taking all the necessary steps to ascertain whether such a person is a holder of a valid certificate appropriate to the category in which he or she is engaged to serve,

commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or to imprisonment for a term not exceeding two years or both.

(2) For the purpose of sub-section (1) (b) where it is established that a seafarer is engaged to serve in any capacity without being a holder of a certificate appropriate to that capacity, the onus shall be on the person who engaged that seafarer to prove that he or she has taken all necessary steps to ascertain that the seafarer was at the time when he or she was engaged the holder of a valid certificate appropriate to the capacity in which he or she was engaged to serve.

(3) A person who-

- (a) makes, procures or assists in making any false representation for the purpose of obtaining for himself or herself or for any other person, any certificate or certified copy thereof; or
- (b) forges, assists in forging or procures for forging such certificate or copy;

- (c) fraudulently alters or assists in the fraudulent alteration of such certificate or copy or procures it to be fraudulently altered;
- (d) fraudulently makes use of any certificate or a copy that is forged, altered, cancelled or suspended or to which he or she is not entitled;
- (e) fraudulently lends his or her certificate to, or allows it to be used by any other person; and
- (f) makes or has in his or her possession any document so closely resembling such certificate as to be calculated to deceive,

commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or an imprisonment for a term not exceeding two years or both.

(4) A person who-

- (a) not being a holder of a valid certificate; or
- (b) during a period pursuant to section 116 or 117 has his or her certificate suspended or approval thereof withdrawn, takes or uses any title or description implying or calculated to induce persons to believe that he or she is entitled to serve as a seaman on a Gambian ship,

commits offence and is liable on conviction to a fine not exceeding two million Dalasis or imprisonment for a term not exceeding one year, or both.

(5) A seafarer who, without reasonable cause, fails to comply with a direction of the Administration under section 116 or 117 to surrender his or her certificate commits an offence and is liable on conviction to a fine not exceeding one million Dalasis or a term of imprisonment not exceeding eight months.

Saving and transitional

121. The provisions of this Act shall not affect the validity of a certificate issued prior to the date of coming into operation of this Act under the repealed Acts and the holder of such a certificate shall, while the certificate remains valid, be regarded as a person holding a certificate of competency under this Act.

PART VII – ENGAGEMENT, DISCHARGE AND WELFARE OF SEAFARERS

Application of Part VII

122. (1) This Part, unless a contrary intention appears, applies to and in relation to a ship registered under this Act-

(2) This Part does not apply to-

- (a) a vessel trading or operating solely within the inland waters of The Gambia;
- (b) an air cushioned vehicle;
- (c) a pleasure craft;
- (d) a ship which in the opinion of the Registrar, is of traditional build;

- (e) ships of war; and
- (f) Government vessels not engaged in trade;

Exemption of particular ships

123. The Administration may subject to such conditions as it thinks fit, exempt a particular ship or a particular class or description of ships from all or any requirement of this Part.

Appointment and Functions of Registrar of Shipping and Seafarers

124. (1) There shall be appointed by the Board, a Registrar of Shipping and Seafarers.

(2) The functions of the Registrar shall be-

- (a) to deal with any matters pertaining to registration of ships in The Gambia;
- (b) to monitor and audit the conduct of all businesses in connection with the engagement and discharge of all persons who serve on board Gambian ships and all Gambian seamen who serve on foreign ships;
- (c) to afford facilities for engaging and discharging seafarers by maintaining registers of the names and conduct of-
 - (i) seafarers who apply to him or her for engagement,
 - (ii) seafarers shipped or discharged by him or her,
 - (iii) seafarers who produce continuous discharge certificates in proof of service in a foreign or a Gambian ship, or

- (iv) seafarers who serve on
Gambian ships;
- (d) to cause copies of the
certificates referred to in
paragraph (b) (iii) to be kept at
his or her office; and
- (e) to perform such other duties
relating to seafarers,
apprentices and ships in
pursuance of this or any other
enactment relating to shipping
entrusted to him or her.

(3) The Director General may appoint such persons as it thinks fit as Assistant Registrars who shall perform their duties under the directions of the Registrar.

(4) A person shall not engage or recruit a Gambian seafarer for employment on board a Gambian or foreign ship except in accordance with regulations made by the Minister on recruitment and placement of Gambian Seafarers.

(5) A person who contravenes sub-section (4) commits an offence and is liable on conviction to a fine not exceeding ten million Dalasis or imprisonment for a term not exceeding three years or both.

Seafarers'
Employment
Agreement

125. (1) The owner of a Gambian ship or a person duly authorised by him or her shall enter into an Employment Agreement in accordance with this Act with every seafarer whom he or she engages and carries to sea as one of his or her crew.

(2) The master of a ship other than a Gambian ship shall enter into an employment agreement in accordance with this

Act with every seaman who he or she engages in The Gambia as one of his or her crew.

Contents of
Seafarers'
Employment
Agreement

126. (1) A seafarers' employment agreement shall be-

- (a) in the prescribed form;
- (b) dated at the time of first signature thereof;
- (c) signed by the owner of the ship or a person duly authorised by the owner before the seafarer signs his or her name;
- (d) in the case of a non Gambian ship, signed by the master before the seaman signs his or her name.

(2) The employment agreement shall state the rights and obligations of the parties, including the following particulars-

- (a) the full name, age and birthplace of the seafarer;
- (b) the place and date of agreement;
- (c) the name of the ship or ships which the seafarer is to serve;
- (d) the number of crew on board;
- (e) the voyage or voyages to be undertaken (if known);
- (f) the capacity in which the seafarer is employed;
- (g) the place and date of commencement of service;

- (h) the scale of provisions to be supplied to the seafarer;
- (i) the amount of wages which each seafarer is to receive;
- (j) the time that it is to expire after arrival at the port of discharge before the seafarer is discharged;
- (k) amount of paid annual leave or where applicable, the formula used for calculating it;
- (l) any regulations as to conduct on board and as to fines, and other lawful punishment for misconduct which have been made by the Minister which the parties agree to adopt;
- (m) a list of persons under the age of eighteen years and their dates of births.

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

(4) An employment agreement made to employ a seafarer under this section shall be terminated by-

- (a) mutual consent of the parties thereto;
- (b) death of seafarer;
- (c) wreck, loss or total unseaworthiness of the ship;
- (d) dismissal of the seafarer after

the requisite notice has been given to him or her by the ship owner;

- (e) where the agreement relates to employment for a particular period, on the expiration of that period and if the period expires during a voyage, on the arrival of the ship at the next port of call after the expiry of the period.

(5) An employment agreement referred to under section 125 of this Act shall be deemed to incorporate the provisions of any collective agreement between ship owners and seafarers provided such collective agreement is compatible with the employment agreement.

Regulations for disciplinary offences

127. For the purpose of maintaining discipline on board a Gambian ship, the Minister may make regulations for-

- (a) specifying misconduct on board as a disciplinary offence and enabling the master or such an officer as may be designated by the master to impose fines on seafarers committing disciplinary offences;
- (b) procedure for the hearing of appeals against fines for disciplinary offences;
- (c) the setting up of a disciplinary committee of persons employed in the ship and for the exercise by all powers of the master in dealing with disciplinary matters;
- (d) the payment of fines for disciplinary matters;

(e) any misconduct on the part of the master or any member of the crew; and

(f) on board employment procedures.

Prohibition against double punishment

128. Where any conduct is both a disciplinary offence and an offence against any of the provisions of this Act, and it has been dealt with as a disciplinary offence, it shall not be dealt with as an offence against that provision.

Procedures relating to certain Employment Agreements

129. The following provisions shall have effect with respect to an employment agreement made in the case of a ship trading in and beyond the waters of The Gambia-

(a) the agreement shall, subject to the provisions of this Act as to substitute, be signed by each seafarer;

(b) the master shall cause the agreement to be read over and explained to each seafarer or otherwise ascertain that each seafarer understands the agreement before he or she signs it and shall attest each signature;

(c) when the crew is first engaged, the agreement shall be signed in the triplicate, with the Administration, the owner and the master each given a copy, and it shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequent to the first departure of the ship;

(d) where a substitute is engaged in the place of a seafarer who duly

signed the agreement and whose services were within twenty four hours of the ship proceeding to sea lost by death, desertion or other unforeseen cause, the master shall before the ship proceeds to sea if practicable, and if not, as soon as possible thereafter, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness and the witness shall attest the signature;

- (e) an agreement may be made for a voyage or if the voyage of the ship averages less than six months in duration, may be made to extend over two or more voyages is in this Act referred to as a “running agreement”;
- (f) a running agreement shall not extend beyond twelve months following the date of the making of the agreement or the first arrival of the ship at the port of destination after the termination 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 seafarers, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all these made have been made as required by law and where the master willfully makes a false statement in any such endorsement he or she commits

an offence;

- (h) the triplicate employment agreement retained by the owner on the first engagement of crew shall be kept by the owner for a period of seven years after the expiration of the agreement and shall be produced on demand by a Proper Officer; and
- (i) except as provided in section 143, an employment agreement shall not purport to deprive any court of its jurisdiction to hear and determine disputes respecting the agreement.

Further provisions as to Employment Agreement

130. (1) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the employment agreement with signatures to be displayed in some part of the ship which is accessible to the crew.

(2) Every erasure, amendment or alteration in any employment agreement, except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, shall be without effect unless proved to have been made with the consent of all persons interested in the erasure, amendment or alteration.

(3) In any proceedings, a seafarer may introduce evidence to prove the contents of any employment agreement or otherwise to support his or her case without producing or giving notice to produce the agreement or copy thereof.

Stipulations not to be contrary to the law of the flag state

131. In no case shall stipulations adopted by the parties to a new agreement be contrary to the laws of the

flag state of the ship in matters relating to wages and conditions of employment of seafarers and master on board ships.

Seafarer's
certificate of
discharge

132. (1) Subject to section 183, the master shall sign and give to a seafarer discharged from his or her ship either on his or her discharge or on payment of his or her wages, a certificate of discharge in an approved form specifying the period of his or her service and the time and place of the discharge.

(2) A certificate of discharge under subsection (1) shall not contain any statement as to the wages or the quality of work of the discharged seafarer.

(3) The master shall, upon the discharge of every certificated officer whose Certificate of Competency had been delivered to and retained by him or her, return the Certificate to the officer.

Performance
report

133. (1) When a seafarer is discharged from a Gambian ship, the master of the ship shall make and sign a "performance report" in which the master shall report on the conduct, ability and sobriety of the seafarer who is being discharged.

(2) The master before whom the discharge of a seafarer is being made shall, subject to section 183 and if the seafarer so desires give the seafarer a copy of the performance report relating to him or her.

(3) A person who-

(a) makes a false report of performance knowing same to be false;

(b) forges or fraudulently alters a certificate of discharge or performance report or copy of

a performance report;

- (c) fraudulently uses any certificate of discharge or performance report, that is forged or altered or that does not belong to him,

commits an offence and is liable on conviction to a fine of one million Dalasis.

Discharge on
change of
registry

134. Where a Gambian ship ceases to be registered as such, a seafarer employed in the ship shall be discharged from the ship, unless he or she consents in writing to continue his or her employment on the ship and in such case, the provisions of this Part relating to the payment of a seafarer's wages and the powers of Proper Officers to decide disputes about wages shall apply in relation to his or her wages as if the ship had remained registered in The Gambia.

Employment of
persons under
sixteen years

135. (1) A person under the age of sixteen years shall not be employed on a Gambian ship except-

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

(2) Subject to sub-section (1), a person under the age of sixteen years shall not be employed in any capacity in any Gambian ship.

Change of
master

136. (1) Where, during the voyage of a ship, the master is removed, superseded or for any other reason ceases to have command or charge of the ship, and is succeeded by some other person, he or she shall deliver to his or her successor, the certificate of registration and various documents relating to the navigation of the ship and to the crew thereof which are in his or her custody, and where he or she fails without reasonable cause to do so, he or she commits an offence.

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

Regulations on
conditions of
service

137. (1) The Minister may make such regulations as he or she considers necessary or expedient to provide for-

- (a) the conditions of service of persons serving in Gambian ships; and
- (b) in particular matters relating to-
 - (i) apprentice to the sea service,
 - (ii) engagement by foreign ships of Gambian nationals,
 - (iii) the implementation of any international convention relating to employment, welfare, security or certificate or status of sea-farers,
 - (iv) avoidance of agreement made contrary to such regulations,
 - (v) wages in general, and the

rights related thereto of persons employed in Gambian ships, health and welfare of seafarers and apprentices employed in ship,

(vi) the accommodation to be provided for seafarers and apprentices on board ships, the locations and standards of accommodation and all questions relating to accommodation of seafarers and apprentices on board; and

(c) the employment of persons under eighteen years.

(2) In making the regulations under sub-section (1), the Minister shall have due regard to the following Conventions and Recommendations of the International Labour Organisation as revised by the Convention-

(a) Merchant Shipping (Minimum Standards) Convention 1976 (No. 147);

(b) Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention 1976;

(c) Seafarers' Hours of Work and the Manning of Ships Convention 1996 (No. 180);

(d) Seafarers' Wages, Hours of Work and the Manning of Ships

Recommendations 1996
(No. 187);

(e) Medical Examination
(Sea-farers) Convention
1946 (No. 73);

(f) Accommodation of Crews
Convention Revised 1949
(No. 92);

(g) Accommodation of Crews
(Supplementary
Provisions) Convention
1970 (No. 133); and

(h) Recruitment and
Placement of Sea-farers
Convention 1996 (No.
179).

Use of English
Language

138. (1) Except where otherwise provided in this Act, all correspondence, documents, forms or other writings shall be in English Language, and in the case of employment agreement, official log book and muster rolls in a prescribed form, save that a foreign version of any document may be appended to the English Language version thereof.

(2) All written signs displayed on board a Gambian ship shall be in the English Language.

Crew's
knowledge of
English

139. (1) Where in the opinion of the Administration, the crew of a Gambian ship consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting orders in a language of which they have sufficient knowledge, the Administration shall inform the master of

its opinion and the ship shall not proceed to sea until the Administration is satisfied that the situation has been rectified.

(2) If a ship goes to sea or attempts to proceed to sea in contravention of this section both the owner and the master commit an offence and are liable on conviction to a fine not exceeding five million Dalasis.

Sub-Part I- WAGES AND EMOLUMNENTS

Time
and manner of
payment of
wages etc.

140. (1) The master or owner of a Gambian ship shall pay to each seafarer belonging to that ship his or her wages, if demanded-

- (a) within two days after the arrival of the ship at the port where the crew is to be discharged; or
- (b) upon the seafarer's discharge whichever first happens.

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

(3) The account referred to in sub-section (2) shall be delivered to the seafarer not less than twenty four hours before his or her discharge or paying off

(4) The master or owner of a Gambian ship who fails to comply with sub-section (1), (2) and (3) commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Deduction from
wages

141. (1) A deduction from wages of a seafarer shall not be allowed unless it is included in the account delivered in

pursuance of section 209 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 in a book kept for that purpose and shall if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Settlement of wages

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

(2) The release so signed and attested under sub-section (1), shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement

Registrar's decision on wages

143. (1) Whenever the nature and the amount involved in dispute between a master or owner and any of his or her crew is raised before the Registrar and both parties agree in writing to submit the same to him or her, the Registrar shall hear and decide the question so submitted.

(2) A decision made under sub-section (1) by the Registrar shall be conclusive as to the rights of the parties, and shall be admissible in evidence in the manner provided in this Act.

Registrar may require ship's documents

144. (1) In any proceedings under this Act before the Registrar relating to the wages, claims or discharge of a seafarer,

the Registrar may-

- (a) require the owner or agent of the owner or the master or any mate or other member of the crew-
 - (i) to produce any log books or other documents in his or her possession or control relating to a matter in question in the proceedings; or
 - (ii) to attend and be examined; and
- (b) administer oaths.

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

Limits of the Registrar's jurisdiction

145. Where a question as to wages is raised between the master or owner of a ship and a seafarer, and the amount does not exceed five hundred thousand Dalasis, the Registrar or a Proper Officer may on the application of either party, decide the question and the decision shall be final, but if the Registrar or a Proper Officer is of the opinion that the question is one which ought to be decided by a court, he or she may refuse to decide it.

Court may award interest on wages due where there is no employment agreement.

146. In any proceedings by the master of a ship or a person employed in a ship otherwise than under an employment agreement for the recovery of any sum due to him or her as wages, the court, unless it appears to it that the delay in paying the sum was due to-

- (a) a mistake;
- (b) a reasonable dispute as to liability;

- (c) the act or default of the person claiming the amount; or
- (d) any other cause, not being the wrongful act or default of the person liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of twenty percent per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

Allotment notes 147. (1) Subject to this section, a seafarer may by means of an allotment note issued in accordance with regulations, allot to any person part of the wages to which he or she will become entitled in the course of his or her employment in a Gambian ship.

- (2) The Minister make regulations-
 - (a) relating to the limitations to which a seafarer's right to make an allotment are subject;
 - (b) prescribing the form of allotment notes; and
 - (c) relating to the right of a person named in an allotment note to sue in his or her own name.

Wages where service terminated 148. (1) A seafarer whose service terminates before the date contemplated in the employment agreement by reason of his or her being left ashore at a place abroad because of his or her unfitness or inability to proceed on the voyage, is entitled to wages until he or she returns to the proper return port.

(2) Subject to sub-section (3), a seafarer whose service terminates before the date contemplated in the employment agreement by reason of the loss or foundering of the ship on which he or she is employed, is entitled at that date in respect of each day on which he or she is in fact unemployed during a period of two months from the date of termination of the service.

(3) Sub-section (2) does not apply where the seafarer obtains other suitable employment during the period of two months from the date of termination of the service.

Protection of
seafarer's
rights and
remedies

149. (1) A seafarer's lien on a ship, remedies for recovery of wages, right to wages in case of wreck or loss of the seafarer's ship and any right he or she may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) A stipulation in any agreement inconsistent, with sub-section (1) or any other provision of this Act shall be void.

(3) Sub-section (1) does not affect any term of an agreement made with the seafarer belonging to a ship which is to be employed on salvage service which relates to the remuneration to be paid to them for salvage services rendered by that ship.

Claims against
seafarer's
wages for
maintenance

150. (1) Where during a seafarer's employment in a ship, expenses are incurred by a public servant for the benefit of any of his or her dependants and the expenses are of a kind specified in the regulations made and such further conditions as may be so specified are satisfied, the public servant may by notice

in writing require the persons employing the seafarer-

- (a) to retain for a period specified in the notice such proportion of his or her net wages as may be so specified;
- (b) to give to the public servant notice in writing of the seafarer's discharge from the ship; and
- (c) the persons employing the seafarer shall comply with the notice and give notice in writing of its contents to the seafarer.

(2) For the purposes of this section –

- (a) a seafarer's dependants are his or her spouse and any person under the age of eighteen years for whose maintenance he or she is statutorily responsible; and
- (b) expenses incurred for the benefit of any person included in addition to any payment made by him or her or on his or her behalf, expenses incurred for providing him or her with accommodation or care or for exercising supervision over him or her but no expenses shall be specified in the regulations unless they are such that a competent court has power under any enactment in force in The Gambia to order the making of payments in respect thereof.

(3) No more than the following proportion of a seafarer's net wages shall be retained under sub-section (1) whether in pursuance of one or more notices-

(a) one-half, where the notice or notices relates to one dependant only; and

(b) two-thirds, where the notice or notices relates to two or more dependants.

(4) Where a public servant has served a notice under this section on persons employing a seafarer, a competent court may on the application of the public servant, make an order for the payment to the public servant of such sum, not exceeding the proportion of the seafarer's wages which these persons were required by virtue of this section to retain as the court having regard to the expenses incurred by them and the seafarer's means, thinks fit.

(5) Any sums paid out of a seafarer's wages in pursuance of an order under this section shall be deemed to be paid to him or her in respect of his or her wages, and the service on the persons who employed the seafarer of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.

(6) An application for an order under this section for the payment of any sum by the persons who employed a seafarer shall be deemed, for the purposes of any proceedings, to be an application for an order against the seafarer, but the order when served on those persons, shall have the effect of an order against them and may be enforced accordingly.

(7) A notice or order under this section may be served by a registered post.

(8) The Minister may make regulations

prescribing-

- (a) the expenses in respect of which a notice may be served by a public servant under sub-section (1);
- (b) any conditions that must be satisfied if such a notice is to be served;
- (c) the period that may be specified in such a notice being a period beginning with the service of the notice and ending a specified number of days after the sea-farer's discharge from the ship;
- (d) the form of such notice and that to be contained in it; and
- (e) the amount to be deducted from a sea-farer's wages in computing his or her net wages for the purpose of this section, and the amount specified under this paragraph may include amounts allotted by allotment notes issued under section 147.

Master's
remedies for
remuneration
and
disbursements

151. (1) The master of a Gambian ship shall have the same rights, liens and remedies for the recovery of his or her wages as a seafarer has for his or her wages under this Act or any other law.

(2) The master of a Gambian ship and every person lawfully acting as master of a ship by reason of the death or incapacity from illness of the master of the ship has the same rights, liens and remedies for the recovery of disbursements or liabilities

properly made or incurred by him or her on account of the ship as a master has for the recovery of his or her wages.

(3) Where, in any proceedings regarding the claim of a master in respect of wages or of the disbursement or liabilities mentioned in sub-section (2), any rights of set off or counter-claim is set up, the court may enter into and counter-adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceedings and may direct payment of any balance found to be due.

Wages not to depend on freight

152. (1) The right to wages shall not depend on the earning of freight and every seafarer and apprentice who would be entitled to demand and recover any wages if the ship in which he or she has served 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 the freight has not been earned.

(2) Notwithstanding sub-section (1), in the event of wreck or loss of a ship, proof that the seafarer has not exerted himself or herself to the utmost to save ship, cargo and stores shall bar his or her claim for wages.

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

Refusal to work

153. A seafarer shall not be entitled to wages for any time during which-

(a) he or she refuses or neglects to

work when required, whether before or after the time fixed by the agreement for him or her to begin work; or

- (b) he or she is lawfully imprisoned for any offence committed by him or her, unless the court hearing the case otherwise directs.

Illness caused
by own default

154. (1) Where a seafarer is by reason of illness, incapable of performing his or her duty and it is proved that the illness has been caused by his or her own act or default or is a sickness or infirmity willfully concealed at the time of engagement, he or she shall not be entitled to wages for the period during which he or she is by reason of the illness, incapable of performing his or her duty.

(2) Sub-section (1) does not affect the rights of a seafarer to payment or other benefits to which he or she may be entitled under any law providing for compensation for injured or sick workers.

Cost of
procuring
conviction

155. When in any proceeding relating to a seafarer's wages, it is shown that the seafarer has in the course of the voyage, been convicted of an offence and punished by imprisonment or a fine, the court hearing the case may direct any part of the wages due to the seafarer not exceeding one month's wages, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Improper
discharge

156. Where a seafarer who has signed an employment agreement is discharged otherwise than in accordance with the terms of the agreement-

- (a) before the commencement of the voyage;

- (b) before one month's wages are earned; and
- (c) without fault and without consent,

he or she is entitled to receive from the master or owner in addition to any wages he or she might have earned, due compensation for the damage caused to him or her by the discharge, not exceeding two month's wages and he or she may recover that compensation as if it were wages duly earned.

Protection of wages

157. (1) The following provisions apply to wages due or accruing to a seafarer-

- (a) subject to section 150, wages are not subject to any attachment by any court;
- (a) an assignment or sale of wages before they are due does not bind the person making it;
- (d) a power of attorney or authority for the receipt of wages shall not be irrevocable; and
- (e) payment of wages is valid in law notwithstanding that the wages have been sold, assigned, attached or encumbered.

(2) Nothing in sub-section (1) affects the provisions of this Act with respect to allotment notes.

(3) Nothing in this section applies to any disposition relating to the application of wages-

- (a) in the payment of contribution to a fund declared by

regulations to be a fund to which this section applies; and

- (b) in the payment of contribution in respect of the membership of a body declared by regulations to be a body to which this section applies.

Leave and
holidays

158. (1) A seafarer is entitled after twelve months of continuous service with a Gambian shipping company or for the same employer, to an annual leave with pay or to a proportionate part of the annual leave with pay, the duration of which shall be-

(a) in the case of officers, not less than thirty days; and

(b) in the case of ratings, not less than **thirty** days.

(2) For the purpose of calculating the time at which annual leave is due-

(a) periods between consecutive employment agreement shall be included in the reckoning of the continuous service referred to in sub-section (1); and

(b) short interruptions of service not due to the act or fault of the employee and not exceeding a total of six weeks in any twelve months do not break the continuity of the periods of service that proceeds and follows them; and

(c) continuity of service is not interrupted by any change in the management or ownership of the ships in which the person concerned has served.

(3) Interruptions of service due to sickness, injury or public holidays shall not be included in calculating annual leave with pay.

Seafarer may
sue for wages

159. (1) Subject to section 150, a seafarer or a person authorised on his or her behalf, may as soon as any wages due to him or her become payable, sue for

them in a court having jurisdiction in the place at which his or her service has terminated or at which he or she has been discharged, or at which any master or owner or other person upon whom the claim is made resides.

(2) Upon a complaint on oath made to the Court for the purposes of proceedings under this section, the Court may summon the master or owner or other person to appear and to answer the complaint.

(3) Upon the appearance of the master or owner or other person, the court may-

(a) examine upon oath the parties and their respective witnesses regarding the complaint and the amount of the wages due; and

(b) make such order for the payment of any wages found due as appears reasonable and just.

(4) Where a master or owner or other person does not appear, the Court may after ascertaining that the master or owner or other person was duly summoned -

(a) examine on oath the complainant and his or her witnesses regarding the complaint and the amount of wages due; and

(b) make such order for the payment of any wages found due as appears reasonable and just.

(5) Where an order under this section for the payment of the wages is not obeyed within two working days after the making thereof, the Court may issue a warrant to levy the amount of the wages awarded to

be due by distress and sale of goods and chattels of the person on whom the order is made together with all the charges and expenses incurred in connection with the distress and levy and the enforcement of the order.

(6) Where sufficient distress cannot be found, the Court may cause the amount of the wages, charges and other expenses to be levied on the ship in respect of which the wages were earned or on the tackle and apparel thereof, save that if the ship is not within the jurisdiction of the court, no levy may be on the ship but the court may cause the person upon whom the order for payment is made to be arrested and committed to prison for a term not exceeding three months.

Jurisdiction of Court in recovery of wages

160. A Court of competent jurisdiction may hear or determine any action by or on behalf of any seafarer or apprentice for the recovery of wages, where-

- (a) the owner of the ship is bankrupt; and
- (b) the ship is under arrest or is sold by the authority of the court.

Power to rescind contracts

161. (1) Where proceedings are instituted in relation to a dispute between the owner or master of a ship and a seafarer, arising out of or incidental to their relationship as such, or is instituted for the purposes of this section, the Court may, having regard to all the circumstances, rescind any contract between the owner or master and seafarer or any contract or articles of apprenticeship upon such terms as the court thinks just.

(2) The jurisdiction of a court under subsection (1) is in addition to any other jurisdiction that the court may exercise

independently of this section.

Sub-Part II - PROPERTY OF DECEASED SEAFARER

Property of
deceased
seafarer

162. (1) Where a seafarer belonging to a Gambian ship dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the deceased seafarer that are on board the ship.

(2) The master shall enter in the official log book-

(a) a statement of the money and a description of the effects; and

(b) a statement of wages due to the deceased and the amount of deductions if any, to be made from the wages and the balance of the wages due.

(3) The entry under sub-section (2) shall be signed by the master and attested by a mate or some other member of the crew.

(4) The master of the ship shall without delay furnish the Registrar with a statement of the property of the deceased seafarer.

(5) The money, effects and balance of wages referred to in sub-sections (1) and (2) are referred to as the "property of a deceased seafarer".

Delivery of
deceased
seafarer's
property

163. (1) Subject to sub-section (2), the property of a deceased seafarer shall be delivered by the master of a ship through the most practicable means to the personal representatives of the deceased or if there is no personal representative, the master shall deliver the property to the Proper Officer or Registrar as the case

may be, for disposal-

(a) in accordance with the law determining the distribution or succession of personal property of deceased persons of the place in which the deceased was last resident, or

(b) in accordance with the order of a court having jurisdiction to determine the distribution of property of the deceased.

(2) A master may deduct from the property of the seafarer any expenses properly incurred in compliance with sub-section (1).

(3) After complying with sub-section (1), the master shall deliver a statement of account to a Proper Officer in respect of the property of the seafarer.

Forgery of documents

164. A person who for the purpose of obtaining personally or for any other person, any property of a deceased seafarer-

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

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

commits an offence.

Sub-Part III - OCCUPATIONAL SAFETY

Occupational
safety
regulations

165. (1) The Minister may make regulations for securing as far as practicable, safe working conditions and safe means of access for masters and seafarers employed in a Gambian ship and requiring the reporting of injuries sustained by them.

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

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

(3) In making regulations under this section, the Minister shall have due regard to the Prevention of Accidents (Seafarers) Convention 1970 (No. 134) of the Interna-

tional Labour Organisation as amended by Maritime Labour Convention 2006.

Sub-Part IV - PROVISIONS

Provisions and water

166. (1) The Minister may make regulations requiring such provisions and water to be provided for seafarers employed in Gambian ships or any class of ships as may be specified in the regulations.

(2) The Minister may exempt any ship from any requirement of regulations made under this section, either generally or in respect of a particular voyage.

(3) Where the provisions of any regulations made under this section are not complied with in the case of a ship, the master or owner commits an offence and is liable on conviction to a fine of two million Dalasis, unless he or she proves that the failure to comply was not due to his or her neglect or default.

(4) Where a person authorised to inspect the provisions and water to be supplied to seafarers employed in a Gambian ship is not satisfied that they are in accordance with regulations made under this section, the ship may be detained.

Complaints as to provisions and water

167. (1) Where three or more members of the crew of a Gambian 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 to the Registrar or the proper officer, who may either examine the provisions or water complained of or cause them to be examined.

(2) Where the person making an examination under this section finds that the provisions or water are of bad quality or deficient in quality, he or she shall communicate that fact in writing to the

master of the ship and if the master fails to provide water fit for human consumption, he or she commits an offence.

(3) The person making the examination shall enter a statement of the result of the examination in the official log book and send a report to the Registrar and that report shall be admissible in evidence.

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

Allowance for short and bad provisions

168. (1) Where during the voyage of a Gambian ship, the provisions provided for a seafarers is less than that prescribed or any part of those of provisions is of a bad quality, the seafarer 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 or her, in addition to and to be recoverable as wages.

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

Weights and
measures

169. (1) The master of a Gambian ship in which provisions are supplied to the crew shall keep on board proper weights and measures for determining the quantities of the general provisions, and the master shall allow the weights and measures to be used in the presence of a witness at the time of distribution of the provisions and articles whenever any dispute arises about the quantities.

(2) A master, who fails without reasonable cause to comply with sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Sub-Part V – HEALTH AND WELFARE

Medical fitness
regulations

170. (1) The Minister may make regulations necessary for conducting medical examination of all persons seeking employment in any capacity on board ships and the issue of medical certificates in respect of such persons.

(2) In making regulations under sub-section (1), the Minister shall have regard to the Medical Examination (Seafarers) Convention 1946 (No. 79) as revised by the Maritime Labour Convention 2006 and the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978 (STCW) as amended.

Crew
Accommoda-
tion regulations

171. (1) The Minister may make regulations with respect to the accommodation to be provided to the crew in Gambian ships.

(2) Without prejudice to the generality of sub-section (1), regulations made under this section may in particular-

- (a) prescribe the minimum space per person which shall be provided

by way of sleeping accommodation for seafarers and maximum number of persons by whom a specified part of such sleeping accommodation may use;

- (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 supplied on a ship;
- (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 section may exempt any particular ship or any class of ship from any requirements of the regulations.

(4) Regulations made under this section may require the master of a ship or any officer authorised by him or her for the purpose to carry out such inspections of the crew accommodation as may be prescribed.

(5) Where the provisions of any regulations made under this section are contravened in the case of a ship, the owner or master is commits an offence and the ship may be detained if it is in The Gambia.

(6) In this section, "crew accommodation" includes sleeping accommodation, mess rooms, sanitary accommodation provided for the use of seafarers, but does not include any accommodation which is also used by or provided for the use of passengers.

(7) In making regulations under this section, the Minister shall have due regard to the requirements of the Accommodation of Crews Convention (Revised) 1949 (No. 92) and the Accommodation of Crews (Supplementary Provisions) Convention 1970 (No. 133 of the International Labour Organisation as revised by the Maritime Labour Convention 2006 of the same Organisation.

Certificated
cook to be
carried

172. (1) A Gambian ship exceeding one thousand gross tons trading from and beyond the waters of The Gambia shall carry on board a duly certificated ship's cook.

(2) In circumstances of exceptional necessity, the Administration may issue a dispensation permitting a non fully qualified cook to serve in a specified ship for a limited period until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.

Medical stores
regulations

173. (1) The Minister may make regulations requiring Gambian ships to carry such medicines, medical chest, appliances and books containing instructions and advice as may be specified in the regulations.

(2) The owner and master of a ship shall ensure that the ship carries medicines, medical chest, appliances and books in accordance with the scales laid down under regulations made under sub-section (1).

(3) Where a surveyor or other officer of the Administration is of the opinion that the medical chest, appliances and books on a Gambian ship are deficient in quantity or quality or are placed in improper receptacles, he or she shall give notice thereof in writing to the master, owner or agent of the ship and the ship may be detained if the deficiency is not remedied to the satisfaction of the surveyor.

Expenses for
medical
treatment and
Burial

174. (1) Where the master of, or a seafarer belonging to a Gambian ship receives any surgical or medical treatment including the repair or replacement of any appliance, as cannot be postponed without impairing the efficiency of the master or seafarer, reasonable expenses thereof shall be borne by his or her employer.

(2) Where a master or seafarer dies or is buried or cremated outside his or her country of residence, the expenses of his or her burial or cremation shall be borne by his or her employer.

Medical
Practitioner to
be carried

175. (1) A Gambian ship ordinarily engaged on international voyage of more than three days duration, with not less than one hundred persons or more on board shall carry on board as part of her complement, a duly qualified Medical Practitioner who is responsible for providing medical care.

(2) The owner of a Gambian ship who contravenes sub-section (1) commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Facilities for
making
complaints

176. (1) Where a seafarer, while on board a Gambian ship informs the master of the ship that he or she wishes to make a complaint to the Registrar or a Judicial Officer or to the Proper Officer against the master or any of the crew, the master shall as soon as the service of the ship permits, allow the complainant to go ashore so that he or she can make the complaint-

- (a) where the ship is then at a place where there is a Proper Officer or Registrar; or
- (b) if the ship is not at a place where there is a Proper Officer or a Registrar, upon her arrival at such a place.

(2) A master of a ship who fails without reasonable cause to comply with this section commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Assignment
and sale of
salvage

177. Subject to this Act, an assignment or sale of salvage payable to a seafarer that is made before salvage accrues does not bind the person making the assignment or sale and a power of attorney or authority for the receipt of any such salvage may be revoked regardless of its terms.

Seafarer's debt

178. A debt exceeding a prescribed percentage of a seafarer's total earning as indicated in the crew agreement if incurred by a seafarer after he or she is engaged to serve, is not recoverable until the service agreed for is concluded.

Misconduct
endangering
ship

179. (1) This section applies-

- (a) to the master of, or any seafarer employed in, a Gambian ship; and
- (b) to the master of, or any seafarer employed in, a ship which-
 - (a) is registered under the law of any country outside The Gambia, or
 - (ii) is in a port in The Gambia or within Gambian waters while proceeding to or from any such port.

(2) A person who-

- (a) does any act tending to cause immediate loss or destruction of, or

serious damage to the ship, or endanger the life and limb of a person belonging to or on board the ship; and

- (b) refuses or omits to do any lawful act required to be done by him or her 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 and limb,

commits an offence and is liable on conviction to a fine not exceeding ten million Dalasis or imprisonment for a term not exceeding three years or both.

Sub-Part VI – DISCIPLINE

General
offences
against
discipline

180. (1) A seafarer or apprentice lawfully engaged on a Gambian ship who -

- (a) leaves the ship without leave after her arrival at a port, and before the ship is placed in security commits an offence and is liable to forfeit out of his or her wages, a sum not exceeding one week's pay;

- (b) disobeys any lawful command commits an offence and is liable to imprisonment for a term not exceeding one month and in addition to forfeit at the discretion of the court, out of his or her wages a sum not exceeding two days pay;

- (c) commits an act of continued disobedience to any lawful command, or continued neglect of duty commits an offence and is liable to imprisonment for a term

not exceeding three months, and in addition to forfeit at the discretion of the court, for every twenty four hours of disobedience or neglect, either a sum not exceeding two days pay or any expenses properly incurred in hiring a substitute;

(d) assaults the master, crew or any person on board the ship commits an offence and is liable to imprisonment for a term not exceeding twelve months;

(e) conspires with any member of the crew to disobey any lawful command, neglect duty or to impede the navigating of the ship or the progress of the voyage commits an offence and is liable to imprisonment for a term not exceeding three months;

(a) damages his or her ship or misappropriates or convert to his or her own use cash monies or commits criminal breach of trust in respect of or damages any of her stores or cargo commits an offence and is liable to forfeit out of his or her wages, a sum equal to the loss thereby sustained, and in addition at the discretion of the court, imprisonment for a term not exceeding one year;

(b) is engaged in any act of smuggling including drugs, whereby loss or damage is occasioned to the mas-ter or owner of the ship, commits an offence and is liable to pay to the master or owner, a sum sufficient to reimburse the loss or damage

and the whole or a proportionate part of his or her wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

(2) A seafarer or an apprentice does not commit an offence under sub-section (1) by reason only of refusing duty during a lawful strike after his or her ship has arrived and has been secured to the satisfaction of the master and the Ports Authority at a port in The Gambia.

(3) A forfeiture or other payment imposed in respect of an offence under sub-section (1) shall not exceed one half of a month's salary in any one month and shall leave the seafarer a sum which is sufficient for his or her maintenance and that of his or her dependants.

Desertion and
absence
without leave

181. (1) A seafarer lawfully engaged or an apprentice belonging to a Gambian ship, who deserts from his or her ship commits an offence and is liable on conviction to imprisonment for a term not exceeding three months.

(2) A seafarer, lawfully engaged or an apprentice belonging to a Gambian ship who-

(a) neglects or refuses without reasonable cause to join his or her ship or to proceed to sea or his or her ship;

(b) is absent without leave at any time within the period of twenty four hours immediately before the ship sails for a port either at the commencement or during the progress of a voyage;

(c) is absent at any time without

leave and without sufficient reason from his or her ship or duty,

and whose act or omission under paragraph (a), (b) or (c) is not treated by the master as desertion commits an offence.

(3) A person who commits an offence under sub-section (2) is liable to forfeit, out of his or her pay-

(a) two days pay; and

(b) for every period of twenty four hours absence, a sum not exceeding six days pay or expenses incurred in hiring a substitute, whichever is the greater amount.

Improper
negotiation of
advance note

182. (1) A seafarer belonging to a Gambian ship being lawfully engaged who-

(a) has received under his or her agreement, an advance note; and

(b) after negotiating his or her advance note or through misconduct fails to join his or her ship or deserts therefrom after the note becomes payable,

commits an offence and is liable on conviction to a fine of one million Dalasis or imprisonment for a term not exceeding two years or both.

(2) This section shall not limit or otherwise prejudice any remedy, by suit or otherwise-

(a) of any person in respect of

the negotiation of the advanced note; or

(b) which an owner or master would otherwise have for breach of contract.

Certificate of discharge may be withheld

183. (1) Where it is shown to the satisfaction of the Registrar that a seafarer lawfully engaged and belonging to a Gambian ship has through misconduct failed to join his or her ship, the Registrar may direct that the seafarer's certificate of discharge shall be withheld for such period that he or she deems reasonably appropriate.

(2) While the seafarer's certificate of discharge is withheld under sub-section (1), a person having the custody of the documents may notwithstanding anything in this Act or any other enactment, refuse to furnish copies of any of his or her certificates of discharge or certified extracts of any particulars of service or performance.

Summary remedies not to affect other remedies

184. (1) Nothing in sections 181 and 182 shall take away or limit any remedy by action or by summary proceedings before a court of competent jurisdiction which an owner or master would, but for those provisions have for any breach of contract in respect of the matters constituting an offence under those sections.

(2) An owner or master shall not be compensated more than once in respect of the same damage.

Deserters from a Gambian ship in a foreign country

185. (1) Where it appears to the Administration that due facilities will be given by the Government of a foreign country for apprehending and recovering a seafarer who deserts in that country from a Gambian ship, the Administration may

declare that this section shall apply in the case of such foreign country, subject to any limitations, conditions and qualifications as the Administration may impose.

(2) Where a seafarer or apprentice deserts in The Gambia a ship registered in a country to which this section applies, the master of the ship may apply to a court for assistance in apprehending the deserter, and the court and its officers shall give all assistance within their power, and for that purpose the court may on information given on oath, issue a warrant for the deserter to be conveyed on board the ship or delivered to the master or mate of the ship or to the owner of the ship or his or her agent to be so conveyed.

Proof of
desertion when
wages are to
be forfeited

186. Whenever a question arises as to whether the wages of a seafarer or apprentice are forfeited under this Part for desertion from a Gambian ship, it shall be sufficient for the person attempting to enforce the forfeiture to show that-

- (a) the seafarer or apprentice was duly engaged in or belonged to the ship;
- (b) the seafarer left the ship before the completion of the voyage or engagement;
- (c) an entry of the seafarers desertion was duly made in the official log book, and the desertion shall thereupon be deemed to be proved so far as it relates to any forfeiture of wages under this Part, unless the seafarer or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the court that he or she had sufficient reasons for

leaving the ship.

Application of
forfeiture

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

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

Question of
forfeiture
decided in suit
for wages

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

Deduction of
fine from
wages

189. (1) A fine imposed on a seafarer for any act of misconduct shall be subject to the following-

(a) on the offender being discharged, and the offence and the entry in the official log book required by this Act to be made in respect thereof being proved to the satisfaction of the Registrar or proper officer, the master or owner shall deduct the fine from the wages of the offender, and the fine so deducted shall be paid to the proper officer; and

(b) an act or misconduct of which a

fine which is imposed and paid by or deducted from the wages of the seafarer shall not be otherwise punished under this Act.

(2) A master or owner who fails to comply with sub-section (1)(a) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Inciting a seafarer to desert and harbouring deserter

190. A person, who by any means incites a seafarer or any apprentice to neglect or refuse to join or proceed to sea in his or her ship, or to desert his or her ship or otherwise to absent himself or herself from duty commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Penalty on stowaways

191. (1) A person who secretes himself or herself on a ship or in cargo which is subsequently loaded on the ship without the consent of the ship owner or the master or any other responsible person, and who is detected on board after the ship departed from a port commits an offence and on conviction is liable to a fine not exceeding one million Dalasis or imprisonment for a term not exceeding three months, or both.

(2) A person referred to in sub-section (1) so far as he or she remains in the ship, shall be deemed to belong to the ship, and to be subject to the same punishment for offences constituting or encouraging a breach of discipline, as if he or she were a member of the crew and had signed a crew agreement.

Trade disputes involving seafarers

192. (1) Any enactment concerning trade unions shall, so far as it relates to the immunity of persons from legal proceedings for acts committed in contemplation or furtherance of a trade

dispute, apply to seafarers as it applies to other persons.

(2) Notwithstanding anything in any agreement, a seafarer employed in a Gambian ship may terminate his or her employment in that ship by leaving the ship in contemplation or furtherance of a trade dispute after giving to the master not less than forty eight hours notice of his or her intention so to do.

(3) A seafarer shall not be compelled unless the notice is withdrawn, to go to sea within forty-eight hours after the giving of notice but such a notice shall be of no effect unless at the time it is given the ship is in The Gambia and securely moored in a safe berth.

(4) In this section, "trade dispute" means any dispute between employers and seafarers, among seafarers or involving any person, which is connected with employment or with the conditions of labour.

Offence to be entered in official log book

193. Where on or in respect of a Gambian ship-

- (a) an offence is committed under section 181 or 182; and
- (b) an act of misconduct is committed which provides for a fine, and it is intended to enforce the fine-
 - (i) an entry of the offence or act shall be made in the official log book and signed by the master and witnessed by an officer or a member of the crew,
 - (ii) the offender, if still in the ship, shall before the next

subsequent arrival of the ship at any port, or if it is at the time in port, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him or her, and may thereupon make such reply thereto as he or she thinks fit,

- (iii) a statement of copy of the entry was so furnished or that the entry was read over, and in either case the reply, if any, then made by the offender, shall likewise be entered and signed in the manner afore-said, or
- (iv) in any subsequent legal proceedings, the entries made under this section shall, if practicable, be produced or proved and if they are not, the court hearing the case may in its discretion refuse to receive evidence of the offence or act of misconduct.

Sub-Part VII - RELIEF AND REPATRIATION

Repatriation of
seafarers

194. (1) Except as otherwise provided in this Act, it is an implied term of every agreement entered into for the employment of a seafarer in a Gambian ship that, where the agreement terminates at a port other than the port of engagement, the seafarer shall be returned to a proper return port at the expense of the master or owner of the ship.

(2) In accordance with sub-section (1), a ship registered in The Gambia shall provide a financial security to the satisfaction of the Administration for

repatriation of seafarers.

(3) The owner, master or agent of the ship shall make such arrangement as are necessary to defray all expenses incurred for the return of a seaman pursuant to sub-section (1).

(4) The responsibility of the owner, master or agent under this section includes an obligation-

- (a) to pay the cost of maintenance and medical treatment that is necessary for the seaman until his or her arrival at the proper return port;
- (b) to ensure that the seafarer does not become a charge upon the State.

(5) Sub-section (1) applies whether an agreement terminates-

- (a) by effluxion of time;
- (b) by act of the parties;
- (c) by shipwreck;
- (d) by the sale of the ship; or
- (e) by the inability of the seaman to proceed in a ship by reason of sickness or injury.

Seafarer to bear expense of repatriation in certain cases

195. (1) A seafarer who has been left behind or discharged from his or her ship as a result of his or her -

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

- (c) inability to proceed to his or her ship because of an illness or infirmity that was concealed at the time of his or her engagement,

is not entitled to be returned at the expense of the master or owner under section 194.

(2) The owner, master or agent of the ship from which a seafarer mentioned in sub-section (1) has left behind or discharged, shall make all arrangements necessary to defray all the expenses incurred for the return of the seafarer to a proper return port as if the seafarer was entitled thereto.

(3) The owner, master or agent may be reimbursed for any other expenses incurred pursuant to sub-section (2) out of any wages owing to the seaman at the time he or she left the ship or where this is insufficient the owner, master or agent may be reimbursed by ordinary process of law.

(4) Notwithstanding sub-section(1) or (3), the owner, master or agent shall ensure that the seafarer does not become a charge upon the State.

Duty of
Registrar of
shipping and
seafarers

196. (1) Where a seafarer is to be left behind or discharged from his or her ship at a port other than his or her port of engagement, the Registrar or Proper Officer may demand from the owner, master or agent, whether principal or agent a guarantee for the proper discharge of any obligations imposed by section 194 or 195.

(2) Where the guarantee required under this section is refused, the Registrar or the proper officer may withhold his or her consent to the discharge of the seaman

concerned.

Effect of
workmen's
compensation

197. Where a seafarer is eligible to receive and receives medical aid or periodical payment at the expense of his or her employer under the terms of any enactment providing for compensation to injured or sick workers, the receipt thereof-

- (a) removes any right of the seafarer to receive maintenance under section 195 to the extent he or she receives the medical aid; and
- (b) removes any right of the seafarer to receive maintenance under section 194 to the extent and for so long as he or she receives periodical payments.

Application to
foreign vessels

198. Sections 194 to 197 shall, subject to a bilateral agreement with the flag state, apply in respect of a foreign vessel that engages a seafarer in The Gambia and "owner" in such a case includes any person appointed or nominated by the owner or the charterer if the vessel is on demise charter, to act as his or her agent and who was acting at the time the seafarer or apprentice was engaged.

Wages and
effects of sea-
farer left
behind

199. (1) Where a seafarer belonging to a Gambian ship is left at a place other than a proper return port, the master of the ship shall subject to this section and as soon as practicable enter in the official log book, a statement of effects left on board by the seafarer and an account of the wages due to him or her at the time where he or she was left behind.

(2) On termination of the voyage during which the seafarer was left behind, the master shall furnish to the Registrar or the Proper Officer, within forty eight hours

after the arrival of the ship at the port at which the voyage terminates, a delivery and retention accounts.

(3) The master shall if required by the Registrar or Proper Officer, furnish such vouchers as may be reasonably required to verify the delivery and retention accounts.

(4) The master of a ship shall deliver to the Registrar or Proper Officer if he or she will receive them, the effects of a seafarer as shown in a delivery account and subject to any reimbursement allowed under subsection (5), the amount due on account of wages as shown in that account, and the Registrar or proper officer shall give to the master a receipt for any effects so delivered.

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

(6) Before allowing any sum to be retained or to be raised and paid, the Registrar or the Proper Officer may require that evidence be provided by statutory declaration or otherwise that the sums are owing or payable to the master of the ship.

(7) The Registrar or the Proper Officer shall deliver the remainder of the wages and effects to such person at such time and in such manner as may be prescribed,

and shall render such accounts in respect thereof as the Director-General may direct.

(8) In this section-

“delivery account” means an account of the effects and wages of a seafarer left behind or owing at the time a seafarer leaves or is discharged from the ship;

“retention account” means an account of any expense caused to the master or owner of a ship by the absence of a seafarer from the ship due to his or her desertion, neglect to join his or her ship or conduct constituting an offence under section 180 or 181 including in the case of a seafarer who is not entitled to be repatriated at the expense of the master or owner of the ship, any provision made for the return of a seafarer to a proper return port.

Liability of
master

200. The master of a Gambian ship is not liable for any loss of effects or for any damage to the effects of a seaman left behind or discharged at a port of other than his or her proper return port, if the master proves to the proper officer that the loss or damage occurred without his or her neglect or consent after the seaman left his or her ship.

Liability of
Government

201. (1) The Government of The Gambia is not liable with respect to anything done under section 199 except that where, after the wages or effects of a seafarer have been dealt with under section 199 and legal proceedings are not taken by the seafarer against the owner, master or agent of the ship in respect of these wages.

(2) The Director-General shall where notice is given to him or her of the proceedings and a reasonable opportunity

afforded him or her of appearing, comply with any order the court made as respect the wages or effects so far as he or she can do so out of the wages and effects remitted to him or her in respect of the voyage of the ship.

(3) The Director-General is entitled to appear and be heard in any proceedings referred to in sub-section (2).

(4) The Director-General may, if and so far as he or she thinks fit, meet any claim by a seafarer against the owner, master or agent of the ship in respect of any wages or effects dealt with under section 200 although legal proceedings are not actually taken in respect thereof.

(5) Where the Director-General has given notice to the master or owner of the ship and the master or owner of the ship has not given written notice of objection within ten days of the notice being given, any expenses incurred by the Director-General under this sub-section is recoverable by the Government as a civil debt.

(6) For the purpose of this section, any legal proceedings taken or any claim made by a person in whose favour any allotment note has been made are to be treated as proceedings taken or claims made by a seafarer.

Payment to
Government

202. (1) Any sums remitted under section 200 or arising from the sale of effects under that section, and not disposed of in accordance with that section shall be retained by the Government.

(2) The master of a ship who without reasonable cause, contravenes section 199 (1) commits an offence, without prejudice to any other liability which the

ship might be subject.

Non application
of section 199

203. Section 199 does not apply in the case of an absent seafarer where-

- (a) the master of a ship satisfies the Registrar that none of the effects of the seafarer have to his or her knowledge been left on board the ship and that he or she has paid all the wages due to the seafarer;
- (b) the amount of wages earned by the seafarer, after taking into account any deduction made in respect of allotments or advances for which provision is made by the crew agreement appears from the agreement to be less than fifty thousand Dalasis;
- (c) the master of the ship satisfies the Registrar or Proper Officer that the net amount due to the seafarer on account of wages, after taking into account any deductions lawfully made in respect of allotments, advances or otherwise is less than fifty thousand Dalasis; and
- (d) the question of forfeiture of the wages and the effects of the seafarer has been dealt with in proceedings lawfully instituted before the termination of the voyage or within forty eight hours of the arrival of the ship at the port at which the voyage terminates.

Sale of
seafarer's
effects

204. (1) The effects of a seafarer described in section 199 may be sold by the Registrar or Proper Officer in such

manner as he or she thinks fit when they are delivered to him or her unless the Director General directs otherwise.

(2) Where the effects are not sold pursuant to sub-section (1), they may be sold by the Director-General as and when he or she thinks fit unless they are delivered to the seafarer.

(3) For the purpose of section 199, "effects" includes the proceeds of any sale of the effects of a seafarer.

Maintenance
and return of
seafarer
involuntarily
terminating
service

205. (1) Where during the currency of his or her crew agreement, the service of a seafarer belonging to a Gambian ship terminates otherwise than by the consent of the seafarer the master of the ship shall-

- (a) give the seafarer certificate of discharge required under this Act;
- (b) pay to the seafarer the wages to which he is entitled;
- (c) make adequate provision in accordance with this Act for the maintenance and return of the seafarer to the proper return port; and
- (d) record details of these provisions in the official log book.

(2) Where a master fails without reasonable cause to comply with sub-section (1), the expenses of maintenance and the journey to the proper return port-

- (a) where defrayed by the seafarer, are recoverable as wages due to him; and

(b) where defrayed by the Registrar or proper officer or any other person, are a charge upon the ship to which the seafarer belonged.

(3) A charge upon a ship under subsection (2)(b) may also be recovered-

- (a) from the person who is the owner of the ship for the time being;
- (b) where the ship has been lost, from the persons who was the owner at the time of loss;
- (c) where the ship has been transferred to some person, from the owner for the time being; or
- (d) from the person who was the owner of the ship at the time of the transfer,

at the suit of the Registrar or the Proper Officer or other person defraying the expenses where the expenses have been defrayed out of public money, as a debt to the state, by ordinary process of law and in the manner in which wages is recoverable by a seafarer.

Discharge on
change of
ownership

206. (1) Where a Gambian ship is transferred or disposed of, a seafarer belonging to that ship shall be discharged unless he or she consents in writing to complete the voyage of the ship if it is continued.

(2) Where a seafarer is discharged under this section, the provisions of this Act relating to the certificate of discharge and the return of the seafarer to a proper return port shall apply as if his or her service had terminated otherwise than by his or her consent to be discharged during

the currency of the agreement.

Certificate
when seafarer
is left behind

207. (1) Subject to sub-section (2), the master of a Gambian ship shall not leave a seafarer behind at any foreign port or place.

(2) Sub-section (1) does not apply where the seafarer is discharged in accordance with this Act unless-

(a) the master has had the certificate of the Registrar or the Proper Officer endorsed on the crew agreement certifying the cause of the seafarer being left behind; and

(b) the cause is unfitness or inability to proceed to sea, desertion, disappearance or otherwise.

(3) The Registrar or the Proper Officer to whom an application is made for a certificate under this section may examine the grounds on which a seafarer is to be left behind and for that purpose, may, if he or she thinks fit, administer oaths and grant or refuse the certificate as he or she thinks just, but a certificate may not be unreasonably withheld.

Offences

208. (1) The master of a ship who fails to comply with section 205, 206 or 207, without limiting his liability under any other provisions of this Act, commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

(2) In a prosecution for an offence under section 208, the onus of proving that the certificate was obtained or could not be obtained with reasonable delay to the ship or was unreasonably withheld is upon the master of the ship.

Account of wages of seafarer left behind

209. (1) Where the master of a Gambian ship leaves a seafarer behind at any foreign port or place on the ground of his or her unfitness or inability to proceed to sea, the master shall deliver to the person signing the certificate required by section 207-

- (a) a full and true account of the wages due to the seafarer; and
- (b) where the person is a proper officer, the master shall deliver the account in duplicate.

(2) A master who fails without reasonable cause to deliver the account required under sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Payment of seafarer's wages to proper officers

210. (1) The master shall pay to the Proper Officer the wages due to a seafarer left behind on the ground of his or her unfitness or inability to proceed to sea, if such officer will receive the wages.

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

(3) A payment under this section shall be made whenever practicable in cash or by bank draft.

(4) A master who fails without reasonable cause to pay wages as provided by this section commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Application of wages of

211. Where the wages due to a seafarer

seafarer left
behind

left behind on the ground of his or her
unfitness or inability to proceed to sea are
paid to and accepted by the Registrar or
Proper Officer, that officer shall deal with
them in the following manner-

- (a) where the seafarer subsequently
obtains employment at or leaves
the port at which the payment has
been made, the officer shall obtain
out of the money any expenses
such as owner or master is by this
Act required to defray and pay the
remainder to the seafarer and
deliver to him or her an account of
the money received and expended
on his or her behalf;
- (b) where the seafarer dies before the
ship leaves the port, the officer shall
deal with the money as part of the
property of the deceased seafarer;
and
- (c) where the seafarer is sent to the
proper return port at the public
expense under this Act, the officer
shall account for the money to the
Director-General and after retaining
any expenses duly incurred in
respect of the seafarer except such
expenses as the owner, master or
agent of the ship is required by this
Act to defray, the money shall be
dealt with as wages of the seafarer.

Relief of
distressed
seafarer

212.(1) Where a seafarer-

- (a) is found in any place outside The
Gambia after having been ship-
wrecked from a Gambian ship; or
- (b) by reason of having been dis-
charged, or left behind from a
Gambian ship in any place outside
The Gambia or in distress in that

place,

the Registrar or Proper Officer may provide relief to that seafarer in accordance with this Act.

(2) For the purpose of sub-section (1), relief is provided to the seafarer when provision is made-

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

(3) A seafarer for whom relief is provided under sub-section (1)(a) is included within the expression "distressed seafarer" in this Act.

Repayment of relief and return expenses

213. (1) Where any expenses are incurred by a consular officer on behalf of the Government of The Gambia under section 212 or are incurred by the Government of a foreign country and are repaid to such foreign country by the Government of The Gambia, the Administration may pay to the consular officer or foreign government, the amount of the expenses out of any moneys available for the purpose or out of any money appropriated for that purpose by

the National Assembly.

(2) All money paid by the Administration under sub-section (1) together with the wages, if any, due to a distressed seafarer is a charge upon the ship to which the seafarer belonged, and is a debt due to the Government of The Gambia-

- (a) from the owner, master or agent of the ship at the time of the loss; and
- (b) where the ship has been transferred either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer; and
- (c) where the ship is foreign ship, from the person who engaged the seafarer for the service in the ship.

(3) A debt under this section, in addition to any fines and consular fees incurred, may be recovered by the Administration on behalf of the Government of The Gambia by ordinary process of law in the manner in which wages are recoverable by the seafarer.

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

Gambian ship-

- (a) wrongfully forces a seafarer ashore and leaves him or her behind; and
- (b) otherwise causes a seafarer to be wrongfully left behind at any place,

commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Proper return
port

215. For the purpose of this Part, a proper return port is -

- (a) the port at which a seafarer was shipped or engaged;
- (b) the place stipulated by collective agreement;
- (c) a port in the country of the seafarer's residence; or
- (d) such other place as agreed between the seafarer and the owner or master at the time of engagement.

Manner of
return

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

(2) Provision may be made for the return of the seafarer by-

- (a) providing him or her with a suitable employment on board a ship that is proceeding to a proper return port and that is in need of men to make up its complement; or

(b) providing him or her with passage in any ship or aircraft or in other public transport and by providing for his or her maintenance during the journey.

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

(4) A seafarer who is repatriated as a member of a crew, is entitled to the appropriate remuneration for work done during the voyage.

Return of
seafarer to
proper port

217. (1) When any question arises as to what return port a seafarer is to be sent, or as to the route by which he or she should be sent, the question shall be decided by the Registrar or proper officer.

(2) In deciding the question of a seafarer's return to port, the Registrar or the proper officer shall have regard-

(a) to the convenience of the seafarer and to the expense involved; and

(b) to the fact that a ship is in need of men to make up its complement, and is about to proceed to a proper return port or to a port in the vicinity thereof if such is the case.

(3) Nothing in this section relieves the owner from the obligation and expenses of returning the seafarer to his or her proper

return port.

Administration
may provide
temporary
relief

218. (1) The Administration may whenever it deems necessary, spend money on the temporary relief in such manner as it thinks advisable, of a ship-wrecked, destitute or otherwise distressed seafarer-

- (a) not otherwise entitled to relief under this Act or under the laws of the country to which his or her ship belongs; or
- (b) who is citizen of The Gambia employed on a foreign vessel and discharged or left behind in a foreign country.

(2) Any expenses incurred for a ship-wrecked, destitute or otherwise distressed seafarer under this section shall be repaid to the Administration by the owner, master or agent of the vessel to which the distressed seafarer belonged and may be recovered by the Administration on behalf of the country in the same manner as expenses incurred outside The Gambia for distressed seafarer of Gambian ships are recoverable.

Unauthorised
presence on
board ship

219. Where a ship registered in The Gambia or in any other country is in a port in The Gambia, a person who being neither a public servant nor authorised by law to do so-

- (a) goes on board the ship without the consent of the master thereof or any other person authorised to give consent; or
- (b) remains on board the ship after being requested to leave by the master, an officer of the Administration, a police officer or an officer of customs,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Seafarer's
identity
document

220. (1) The Registrar may issue to a citizen of The Gambia, a document known as "Seafarer's Identity Document" in a prescribed form.

(2) The Seafarer's Identity Document shall only be issued to a person who has undertaken a course prescribed by the Administration in an institution which is recognised by it.

(3) A person to whom a Seafarer's Identity Document has been issued who refuses or fails without reasonable cause-

(a) to keep the document securely; or

(b) to produce it when required to such persons and in such circumstances as prescribed,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Employment
Record Book

221. (1) The Registrar may issue to a seaman, a book known as the Employment Record Book.

(2) The Employment Record Book shall be in the prescribed form.

(3) An Employment Record Book may be issued to a seafarer who has duly completed a course prescribed by the Administration in an institution which is recognised by it.

Maritime
Labour

222. (1) In this section-

Certificate and
Declaration of
Maritime
Labour
Compliance

“Convention” means Maritime Labour Convention 2006;

“Declaration of Maritime Labour Convention” means a declaration made under sub-section (4) of this section; and

“Maritime Labour Certificate” means a certificate issued by the Administration or an organisation recognised by it to a ship which complies with the provisions of this section.

(2) This section applies to-

(a) a Gambian ship of five hundred gross tonnage or over which is engaged in international voyage; or

(b) a ship of five hundred gross tonnage or over which is registered in a country which is a party to the Convention and operates from a port or between ports in another country.

(3) A Gambian ship to which sub-section (2) above applies shall at all times carry and maintain a maritime labour certificate in the form set out in Schedule II of this Act certifying that the working and living condition of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance referred to in sub-section 4 have been inspected and meet the requirements of this Part.

(4) A Gambian ship to which sub-section (2) applies shall at all times carry and maintain a declaration of maritime labour compliance, stating that the measures

adopted by the ship owners in respect of working and living conditions of seafarers on board the ship comply with the provisions of this Part.

(5) The maritime labour certificate and the declaration of maritime compliance shall conform to the model prescribed in Schedules II and III of this Act.

(6) Where the Administration or a recognised organisation authorised by the Administration for this purpose has ascertained through inspection that a Gambian ship meets or continues to meet the standards of this Part, it shall issue or renew a Maritime Labour Certificate to that effect and maintain a publicly available record to that certificate.

(7) The maritime labour certificate which shall not exceed five years shall be issued by the Administration or by a recognised organisation authorised by it for this purpose.

(8) The list of matters that must be inspected and found to meet the provisions of this Part or other measures which implement the requirements of this Part regarding the working and living condition of seafarers on board a ship before a maritime labour certificate can be issued are addressed in Schedule V of this Act.

(9) The maritime labour certificate issued under sub-section (7) shall be subject to intermediate inspection by the surveyors of the Administration or by a recognised organisation authorised by it for this purpose to ensure continuing compliance with this Part.

(10) If only one intermediate inspection is

carried out during a period of five years, it shall take place between the second and third anniversary dates of the certificate.

(11) The scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the certificate and the certificate shall be endorsed following a satisfactory intermediate inspection.

(12) For the purpose of sub-section (10), "anniversary date" means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate.

(13) Notwithstanding sub-sections (7) and (8), when a renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.

(14) Whenever the renewal inspection is completed more than three months before the expiry date of the existing maritime labour certificate, the new maritime labour certificate shall be valid for a period not exceeding five years from the date of completion of the renewal inspection.

(15) An interim maritime labour certificate shall be issued whenever any of the following events occurs-

- (a) a new ship is delivered;
- (b) a ship changes its flag; or
- (c) a ship owner assumes responsibility for the operation of a ship which is new to that ship owner.

(16) The interim maritime labour certificate referred to in sub-section (15) may be issued for period of not exceeding six months by the Administration or by a recognised organisation duly authorised for the purpose.

(17) The interim maritime labour certificate may only be issued following verification that the ship has been inspected, as far as practicable, for matters listed in Schedule V to this Act, taking into account verification of items below-

- (a) the ship owner has demonstrated to the Administration or the recognised organisation authorised by it that the ship has adequate procedures to comply with this Part;
- (b) the master is familiar with the requirements of this Part and the responsibilities for implementation of the same; and
- (c) the relevant information has been submitted to the Administration or a recognised organisation authorised by it to produce a declaration of maritime labour compliance.

(18) A full inspection in accordance with sub-sections (7) and (8) of this section shall be carried out prior to the expiration of the interim certificate to enable the issuance of a full term maritime labour certificate.

(19) An interim certificate shall not be issued following the initial six months referred to in sub-section (16) and a declaration of maritime labour compliance

shall not be issued during the validity of the interim certificate.

(20) The declaration of maritime labour compliance shall be attached to the maritime labour certificate and shall consist of two parts-

(a) part I of the declaration shall be drawn up by the Administration and it shall-

(i) identify list of matters to be inspected in accordance with sub-sections (7) and (8),

(ii) identify the provisions of Part VII of this Act,

(iii) refer to ship-type specific requirements under this Act,

(iv) record any substantially equivalent provisions; or

(v) clearly indicate any exemption granted by the Administration in respect of accommodation, re-creation a facilities, food and catering.

(b) Part II shall be drawn up by the ship owner and shall identify the measures adopted to ensure on-going compliance with Part VII of this Act between inspections and the measures proposed to ensure that there is continuous improvement.

(21) The Administration or a recognised organisation authorised by it for this purpose shall certify Part II and shall issue a declaration of maritime labour

compliance.

(22) The result of any subsequent inspection or any other verification carried out in respect of the ship concerned and any significant deficiencies found during such verification shall be recorded together with the date when the deficiencies were found to have been remedied.

(23) This record shall be inscribed upon or appended to the declaration of maritime labour compliance or made available in some other way to seafarers, surveyors of the Administration, port state control officers, ship owners and seafarers' representatives.

(24) A certificate issued under subsection (7) or (15) shall cease to be valid upon the occurrence of any of the following events-

(a) if the relevant inspections are not completed within the periods specified under subsection (6) and (9);

(b) if the certificate is not endorsed in accordance with subsection (11);

(c) when a ship changes flag;

(d) when a ship owner ceases to assume the responsibility for the operation of a ship; or

(e) when substantial changes have been made to the ship's accommodation and recreational facilities;

(25) In respect of matters covered by subsection 24(c), (d) or (e), a new certificate shall only be issued when the

Administration or a recognised organisation authorised by the Administration to issue a certificate is fully satisfied that the ship complies with the requirements of this Part.

(26) A maritime labour certificate issued by the Administration or a recognised organisation duly authorised by it shall be withdrawn if there is evidence that the ship concerned does not comply with the requirements of Part VII of this Act and the necessary corrective action has not been taken by the ship owner.

(27) In determining whether a maritime labour certificate should be withdrawn in accordance with sub-section (26), the Administration or the recognised organisation authorised by it shall take into consideration the seriousness or the frequency of such deficiencies.

General
Regulations

222A. The Minister may make regulations to make provision for and in relation to-

- (a) the circumstances, manner and form in which the Registrar shall issue and record a Seafarer's Identity Document;
- (b) the circumstances and manner in which a Seafarer's Identity Document is to be delivered up to the Registrar;
- (c) the issue and form of an Employment Record Book; and
- (d) endorsement to be made in an Employment Record Book;
- (e) hours of work or rest;
- (f) recruitment and placement of Gambian seafarers;

- (g) seafarer's on board complaint procedures; and
- (h) on shore seafarer complaint handling procedure.

PART VIII - OFFICIAL LOG BOOK AND ORDINARY SHIP'S LOG

Official log
book

223. (1) An official log book in the prescribed form shall be kept in every Gambian ship.

(2) The Minister may make regulations prescribing-

- (a) the form of the official log book;
- (b) the particulars to be entered in the official log book;
- (c) the persons by whom such entries are to be made, signed or witnessed; and
- (d) the procedure to be followed in making of such entries and their amendment or cancellation.

(3) The official log book may at the discretion of the master, be left distinct from or combined with the ordinary ship's log, but in all cases the spaces in the official log book should be fully filled with entries.

(4) An entry required to be made in the official book-

- (a) shall be made as soon as possible after the occurrence to which it relates;

- (b) where it is not made on the same day as the occurrence, it shall be made and dated to show the dates of the occurrence and the entry respecting it;
- (c) where it is made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, it 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 an officer or some other member of the crew, and if it is an entry of illness, injury or death, it shall also be signed by the medical practitioner on board, if any.

(6) An entry made in an official log book in the manner provided by the Act is admissible in evidence to prove the facts stated therein.

Entries in
official log book

224. The master of a ship shall, subject to any regulations made under section 223, enter or cause to be entered in the official log book particulars of-

- (a) every conviction by a court of a member of his or her crew and the punishment imposed;
- (b) every offence committed by a member of his or her crew for which it is intended to prosecute or to make a forfeiture or impose a fine, together with a statement concerning the furnishing of a copy, or reading over the entry and concerning the reply if any, made to the charge, as required by this Act;

- (c) every offence for which punishment is imposed on board and the punishment imposed;
- (d) every case of illness or injury happening to each member of his or her crew, with the nature thereof and the medical treatment given, if any;
- (e) every refusal of a member of the crew to take medicines;
- (f) every birth and death, whenever occurring;
- (g) every marriage taking place on board, with the names and ages of the parties;
- (h) the name of every seafarer who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (i) the wages due to the seafarer who dies during the voyage and the gross amount of all deductions to be made from these wages;
- (j) every collision with any other ship and the circumstances under which it occurred;
- (k) the date and time of the display in the ship of a notice containing particulars of the ship's draught and freeboard; and
- (l) any matter directed by this Act to be entered.

to the Director-
General

Gambian ship shall subject to sub-section (2), deliver or transmit to the Director-General, the official log book or book covering a period of six months.

(2) Where the crew of a Gambian ship is engaged under a running agreement as referred to in section 129, the master or owner shall deliver or transmit the official log book to the Director General within twenty one days of such log book being completed.

(3) A master or owner of a ship who fails without reasonable cause to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

Delivery of
official log book
on change of
ownership or
employment or
loss or aban-
donment of
ships

226. (1) Where by reason of transfer of ownership or change of employment of a ship, the official log book ceases to be required in respect of the ship, the master or owner of the ship shall if the ship is in The Gambia, within one month, or if she is elsewhere, within six months after such event deliver or transmit to the Director General the official log book and the agreement with the crew duly made out to the time of the cessation.

(2) Where a ship is lost or abandoned, the master or the owner thereof shall as soon as possible deliver or transmit to the Director-General, the official log book duly made out to the time of the loss or abandonment.

(3) The owner or master of a ship, who fails, without reasonable cause, to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

Offence in
respect of
official log book

227. (1) Where-

- (a) an official log book is not kept in the manner required by this Act; or
- (b) an entry directed by this Act to be made therein is not made at the time in the manner directed by this Act;

the master of the ship commits an offence and except as otherwise expressly provided in this Act, is liable on summary conviction to a fine not exceeding one million Dalasis.

(2) A person who makes, procures to be made or assists in making an entry in an official log book in respect of any occurrence happening previous to the arrival of the ship at the fixed port of discharge of crew, more than twenty four hours after that arrival, commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

(3) A person who wilfully-

- (a) destroys, mutilates or renders illegible an entry in; or
- (b) makes or procures to be made or assists in making a false or fraudulent entry in, or omission from;

an official log book commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

Ordinary ship's
log

228. (1) A Gambian ship shall carry on board, an ordinary ship's log on which shall be recorded the daily activities of the ship and such other particulars as may be prescribed.

(2) The ordinary ship's log shall comprise a deck log, engine room log and radio log where appropriate.

(3) Where it is not practicable for a ship to produce the official log book, the ordinary log book of the ship shall be admissible in evidence.

Returns of
crew list

229. (1) The master of a Gambian ship shall make out and sign a list of crew of the ship in the prescribed form containing the following particulars-

- (d) the number and date of the ship's register and its net tonnage;
- (e) the length and the general nature of the voyage or employment;
- (f) the names, ages and places of birth of all the crew, the ratings on board, their last ships or other employments, the dates and places of their last ships or other employments and the dates and places of their joining the ship;
- (g) the names of any members of the crew who have ceased to belong to the ship, with the times, places, causes and circumstances thereof;
- (h) the names of any members of the crew who have been maimed or hurt, with the time, places, causes and circumstances thereof;
- (i) the wages due at the time of death to any crew who has died;
- (j) particulars of the property

belonging to any of the crew who has died;

(k) details of any marriage that has taken place on board, with the date thereof and the names and ages of the parties; and

(l) the number of the Seafarer's Identity Documents and where applicable, of the certificates of competency of the crew.

(2) The list of the crew in the case of ships-

(a) trading exclusively within the waters of The Gambia, shall be delivered or transmitted by the master or owner to the Director-General not later than twenty one days after 30th June and the 31st December each year; and

(b) in the case of ships other than those referred to in paragraph (a), shall be delivered or transmitted by the master to the owner who shall retain the list for a period of seven years after receipt and who shall produce the same on demand made therefore by the Director – General or to the proper officer-

(i) within forty eight hours after the arrival of the ship at its final port of destination in The Gambia; or

(ii) upon the discharge of the crew whichever first happens.

(3) Where a Gambian ship is lost or abandoned, the ship's master or owner

shall as soon as possible, deliver to the Director-General the list of crew duly made out to the time of loss or abandonment.

(4) For the avoidance of doubt, "crew" in this section includes the master and apprentices.

Returns of births and deaths of Gambian citizens on foreign ships

231. The master of a ship not registered in The Gambia which calls at a port or such other place as the Director-General may with respect to any ship or class of ships direct in The Gambia, in the course of or at the end of a voyage shall upon arrival at such port or to the place, make a return of births and deaths of citizens of The Gambia occurring in any such ships to the Director-General.

Returns to be sent to the Registrar of Births and Deaths

232. The Director-General shall cause the information contained in any return referred to in sections 230 and 231 to be sent to the Registrar of Births and Deaths.

Penalties imposed on master

233. The master of any ship who fails to comply with any requirement of section 229, 230, 231 and 232 commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

PART IX- PREVENTION OF COLLISION

Collision Regulations

234. (1)The Minister may make regulations, referred to as "Collision Regulations"-

- (a) for the prevention of collision at sea;
- (b) respecting the lights and shapes to be carried and exhibited;
- (c) respecting steering and sailing rules to be observed by ships; and

(d) respecting sound and light signals.

(2) In making such regulations, the Minister shall have regard to the Convention on International Regulations for Preventing Collision at Sea 1972, as amended or any other treaty for the time being in force for the prevention of collision at sea.

Gambian ships
to observe
Collision
Regulations

235. (1) A Gambian ship, wherever she may be, shall comply with the Collision Regulations and shall not carry or exhibit any other light or use any other fog signals than those prescribed by the Regulations.

(2) Where an infringement of the Collision Regulations is caused by willful default of the master or owner of a ship, he or she commits an offence and is liable on conviction to a fine not exceeding three million Dalasis.

(3) Sub-section (1) and (2) shall apply to owners and pilots of seaplanes on the surface of water as they apply to the owners and masters of ships.

Foreign ships
in Gambian
waters

236. (1) The Collision Regulations together with the provisions of this Part relative thereto or otherwise relating to collisions shall be observed by all ships and seaplanes of foreign registry in and within Gambian waters.

(2) In any case before a court in The Gambia concerning a breach of the Collision Regulations arising within Gambian waters, foreign ships and seaplane shall be treated as if they were ships and seaplanes registered in The Gambia.

Damage
caused by non-
observance of

237. Where any damage to person or property arises from the non-observance

Collision Regulations – No Presumption of Fault

by any ship, seaplane or craft of any of the Collision Regulations, the damage shall not be deemed to have been occasioned by the willful default of the person in charge of the ship, seaplane or craft at the time.

Inspection to enforce compliance with collision regulations

238. (1) A surveyor of ships may inspect a ship of any nationality in a port of The Gambia to determine whether the ship is properly provided with lights and shapes and means of making sound signals required by the Collision Regulations.

(2) Where a surveyor of ship finds on inspection that a ship is not provided as required by sub-section (1), he or she shall specify in writing the action required to rectify the deficiency and may detain the ship until the deficiency is rectified to his satisfaction.

(3) For the purposes of an inspection under this section, a surveyor shall have all the powers provided under sections 530 and 532.

Duty to render assistance following collision

239. (1) After a collision between ships, the master of each ship shall, if and so far as he or she can do so without danger to his or her own ship, crew and passengers, if any-

(a) make his or her best efforts to give to the other ship, the master, crew and passengers if any, such assistance as may be practicable and as may be necessary to save them from any danger caused by the collision;

(b) stand by the other ship, until he or she has ascertained that such ship has no need for further assistance; and

(c) give the master of the other ship the name and port of registry of his or her ship and the names of the ports from which his or her ship sailed and to which it is bound.

(2) The master of a ship who fails, without reasonable cause to comply with any of the provisions of sub-section (1) commits an offence and is liable on conviction to a fine not exceeding five million Dalasis or imprisonment for a term not exceeding two years or both.

Obligation to notify hazards of navigation

240. (1) The master of a Gambian ship, upon encountering dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation, shall send information accordingly by any means of communication at his or her disposal and in accordance with regulations to all ships in the vicinity or to such authorities ashore as may be prescribed.

(2) A person in charge of a radio station in The Gambia or on board any Gambian ship, shall, on receiving the signal prescribed in the regulations for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and if so required by regulations referred to in sub-section (1) shall transmit the message in the prescribed manner.

Master to proceed moderately in danger area

241. The master of a Gambian ship, when ice is reported on or near course, shall at night proceed at a safe speed adapted to the prevailing circumstances or change his or her course so as to keep amply clear of the ice reported and of the area of danger.

Offence and penalty

242. The master of a Gambian ship who fails to comply with section 241 commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Obligation to assist ships etc in distress

243. (1) The master of a Gambian ship, on receiving at sea a signal from any source that a ship or aircraft or survival craft thereof is in distress, shall go with all reasonable speed to the assistance of the persons in distress and inform them if possible that he or she is doing so, and where-

- (a) he or she is unable to do so; or
- (b) in the special circumstances of the case he or she considers it unreasonable or unnecessary to proceed to their assistance;

he or she shall enter in the log of the ship the reason for failing to proceed to the assistance of the persons in distress.

(2) The master of a ship shall be released from the obligation imposed by subsection (1) when he or she learns that one or more ships other than his or her own have been requisitioned under section 244 and are complying with the requisition.

(3) A master who fails to comply with the provisions of this section commits an offence and is liable conviction to a fine not exceeding two million Dalasis.

Right to requisition ships when in distress

244. (1) The master of a ship in distress, after consultation so far as may be possible, with the masters of ships which answer his or her call for assistance-

- (a) has the right to requisition one or more of these ships as he or she considers best able to render assistance; and

- (b) the master or masters of the ships requisitioned shall comply with the requisition by going with all reasonable speed to the assistance of the persons in distress.

(2) The master of a ship shall be released from the obligation imposed by section 243 (1) and where his or her ship has been requisitioned, from the obligation imposed by sub-section (1), where he or she is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer necessary.

Obligation to assist persons in danger at sea

245. The master of a ship shall, so far as he or she can do so without serious danger to his or her own ship, the crew or the passengers, if any, render assistance to every person, including an enemy, who is found at sea in danger of being lost.

Salvage rights not affected

246. The compliance by a master with any of the provisions of this Part shall not affect the right of any other person to salvage.

Regulations for signals of distress

247. (1) The Minister may make regulations relating to signals of distress and urgency and the signals prescribed by the regulations shall be deemed to be signals of distress and urgency.

(2) The master of a ship who uses, displays or causes or permits any person under his or her authority to use or display-

- (a) any signal except in circumstances and for the purposes prescribed; or
- (b) any signal that is liable to be

mistaken for any prescribed signals,

commits an offence.

(3) In addition to any penalty imposed upon him or her on conviction of an offence under sub-section (2), a master of a covered in the same manner in which salvage is recoverable.

Report of accidents to ships

248. (1) The owner or master of a ship which-

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person; and
- (b) has sustained any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery,

shall, within twenty four hours after the happening of the accident or causing of the damage or as soon as possible thereafter, transmit to the Director-General or an officer in the Administration, a report of the accident or damage.

(2) A report of accident or damage to a ship made under sub-section(1) shall be signed by the owner or master of the ship and shall state-

- (a) the name of the ship, the port to which she belongs, the official number (if any) of the ship and place where she is located;
- (b) the circumstances in which the accident or damage occurred;
- (c) the probable cause of the accident

or damage;

- (d) port of registry of the ship or the port to which it belongs; and
- (e) to the best of his or her knowledge and belief-
 - (i) the nature and extent of the accident or damage;
 - (ii) probable cause of the accident or damage; and
 - (iii) the location of the ship.

(3) Where the managing owner or in the event of there being no managing owner or where the owner is not resident in The Gambia, the agent of any ship to which this section applies has reason to believe that the ship has sustained or caused any such accident or received such damage as is mentioned in sub-section (1) he or she shall satisfy himself or herself that the accident or damage has been reported to the Administration by the master.

(4) Where a managing owner or agent referred to in sub-section (3) has reason to believe that an accident or damage has not been reported in accordance with sub-section (1) he or she shall as soon as possible send to the Administration notice in writing stating-

- (a) the name of the ship;
- (b) the official number of the ship;
- (c) all the details referred to in sub-section (1).

(5) A master or managing owner or agent who fails without reasonable cause to

comply with this section commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(6) This section applies to all Gambian ships and all foreign ships in Gambian waters.

Loss of
Gambian ship

249. (1) Where the managing owner or agent of a Gambian ship has reason, owing to the non-appearance of the ship or any other circumstance, to believe that the ship has been wholly lost, he or she shall cause a reasonable search to be made for the ship and shall as soon as possible, send to the Director-General a notice in writing signed by him or her stating-

- (a) the name of the ship, the port to which the ship belongs and the official number (if any) of the ship; and
- (b) a report of the loss of the ship and the circumstances and probable cause of such loss.

(2) A managing owner or agent of a ship, who fails without reasonable cause to comply with this section within a reasonable period of time when he or she has reason to believe such ship to have been lost commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Record of boat
drill or fire drill
to be kept in
official log book

250. (1) The master of a Gambian ship shall cause a statement to be entered in the official log book or ordinary ship's log (or where there is none, cause other record to be kept) of every occasion on which a fire drill is practised on board the ship, or on which 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.

(2) Where-

- (a) in the case of a passenger ship, boat drill or fire drill is not practised on board the ship in any week;
- (b) in the case of any other ship, boat drill or fire drill is not practised on board the ship in any two weeks;
- (c) in the case of any ship, the said appliances and equipment are not examined in any such period as is prescribed,

the master shall cause a statement to be entered or other record to be kept as aforesaid, of the reasons why the appliances and the equipment were not examined in the week or two-week period.

(3) A master of a ship who fails to comply with the requirements of this section commits an offence.

Crew sufficient and efficient

251. A Gambian ship shall be manned with crew sufficient and efficient from the point of view of safety of life and property for the purpose of the intended voyage and shall during such voyage be kept so manned

Notices to Mariners and navigational warnings

252. (1) The Administration shall take appropriate steps to advise the seafaring community and the public of any developing or existing conditions which may adversely affect maritime safety.

(2) Information given under sub-section (1) shall take the form of notices to

Mariners and navigational warnings which may be issued and communicated by such means as the circumstances may warrant.

(3) The Administration may require the assistance of any person in the communication of the information given under sub-section (1).

(4) A person who without reasonable cause, refuses to render assistance to the Administration under sub-section (3) when so requested, commits an offence and is liable on conviction to a fine not exceeding one million Dalasis

PART X – SAFETY OF LIFE AT SEA

Interpretation
of this Part

253. In this Part-

“anniversary date” means the day and the month of each year which will correspond to the date of the relevant certificate.

‘certificate’ means a certificate issued in accordance with the Safety Convention as defined therein;

‘fishing vessel’ means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

“international voyage” means a voyage from a country to which the Safety Convention applies to a part outside such country, or conversely;

“short international voyage” means an international voyage-

- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passenger and crew could be placed in safety;

- (b) which does not exceed 600 nautical miles in distance between the last port of call in the country where the voyage begins and the final destination; and
- (c) no account being taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other cause of force majeure.

“Safety Convention” means the International Convention for Safety of Life at Sea 1974 and its Protocol of 1988 together with such amendments thereof or replacement therefore as may be in effect in respect of The Gambia;

“Safety Convention Certificate” means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and includes a safety certificate, safety construction certificate, safety equipment certificate, safety radio certificate and any such certificate that is limited, modified or restricted by an exemption certificate;

“ Safety Convention ship” means a ship that is-

- (a) of a kind which the Safety Convention applies; and
- (b) registered in a country the Government of which is a party to the Safety Convention;

“Safety Convention country” means a country the Government of which has accepted the Safety Convention and which has not denounced that Convention or a territory of such country to which the

Convention extends and remains extended.

“surveyor” includes any person or organisation duly appointed under this Act to act as a surveyor for the purposes of surveying ships and issuing Safety Convention certificates.

List of Safety Convention countries

254. The Administration may by notice published in the Gazette, provide a list of countries including territories thereof, that have ratified, acceded to or denounced the Safety Convention.

Application of the Safety Convention

255. The Safety Convention shall, unless exempted by this Act, apply to all Gambian Safety Convention ships and all other Safety Convention ships while they are in Gambian waters.

Regulations relating to safety of life at sea

256. (1) The Minister may make such regulations as he or she considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for safety at sea and for giving effect to the Safety Convention.

(2) In making such regulations, the Minister shall make provisions he or she considers appropriate for all or any of the following purposes -

(a) for securing the safety and security of Gambian ships and persons on them; and

(b) for giving effect on any provisions of an international agreement ratified by The Gambia so far as the agreement relates to the safety or security of other ships or persons on them.

(3) The regulations may make provision

with respect to any of the following matters-

- (a) the design, construction, maintenance, repair and marking of ships and their machinery and equipment;
- (b) the carrying out of any operation involving a ship;
- (c) the use of machinery and equipment on a ship and of anything on a ship which is not cargo, machinery or equipment;
- (d) arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
- (e) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas or dust;
- (f) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship; and
- (g) the removal by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property.

(4) A person who-

- (a) omits or neglects to comply with;
- (b) without reasonable cause, fails to comply with the provision of a regulation made under

this section,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Ships in port
through stress
of weather

257. Notwithstanding that any provision of this Part or of any regulations made hereunder is expressed to apply to ships that are not Gambian ships while they are within any port in The Gambia, such provision shall not apply to a ship that is within a port in the Gambia on account of any deviation from its intended voyage due to stress of weather or any other case of force majeure.

Appointment of
Surveyors

258. (1) The Board may upon the recommendation of the Director-General by notice in the Gazette from time to time, appoint at such places as he or she considers advisable, a person or organisation qualified and competent as a surveyor of ships for the purpose of surveying-

- (a) boilers and machinery of ships;
- (b) the equipment of ships, including ships tackle and apparel and appurtenances;
- (c) hulls and superstructures of ships;
- (d) life saving, fire fighting and other safety equipment of ships;
- (e) radio installations of ships; and
- (f) the stowage and manner of loading of ships cargoes and the storage of

dangerous goods in ships.

(2) A surveyor of ships shall be appointed in several capacities to perform different functions.

(3) The survey and inspections of ships, so far as regards the enforcement of the regulation made under this Part, shall be carried out by the officers of the Administration or by an organisation or society for the survey and classification of ships authorised by the Minister.

(4) The Minister may make regulations regarding-

- (a) the manner in which surveys of ships are to be made;
- (b) notice to be given to surveyors of ships when surveys are required; and
- (c) the amount and the payment of fees, traveling or other expenses incurred by surveyors of ships in the execution of their duties.

Surveyor's
power of
inspection

259. (1) A surveyor of a ship may at all reasonable times inspect any ship for the purpose of ensuring that it is in compliance with the Safety Convention, the Load Line Convention, Tonnage Measurement Convention, the Collisions Regulations and the relevant regulations made under this Act.

(2) Where a surveyor finds that the Conventions referred to in sub-section (1) or the regulations have not been complied with, he or she shall give written notice to the owner or master of the ship stating in what respect there is deficiency and what action in his or her opinion, is required to

rectify such deficiency.

(3) A notice under sub-section (2) shall be communicated in a manner directed by the Director-General to the customs officer at the port at which the ship may seek clearance and such clearance shall not be granted and the ship shall be detained.

(4) Where the surveyor considers –

(h) a ship unsafe; or

(i) a passenger ship unfit to carry passengers or its machinery or equipment defective in any way so as to expose persons on board to serious danger,

he or she shall detain that ship.

(5) A surveyor may also detain any ship in respect of which any provisions of this Act have not been complied with if in his or her opinion such detention is warranted in the circumstances.

(6) Where under this section, a surveyor visits any ship he or she may ask the owner or his or her agent, the master or the chief engineer, or any other person on board and in charge or appearing to be in charge of the ship any questions concerning the ship as he or she thinks fit and every such person shall answer every such question to the best of his or her knowledge fully and truthfully.

(7) A surveyor may reasonably require the owner or his or her agent, the master or chief engineer or any other person on board or in charge, or appearing to be in charge of the ship to activate or dismantle the machinery of the ship so that he or she may satisfy himself or herself as to its condition and every person to whom such

request is made shall comply with such requirement.

(8) A person who contravenes sub-section (6) and (7) commits an offence and is liable on summary conviction to a fine not exceeding five million Dalasis.

Surveyor's
report to the
Director-General

260. A surveyor who is satisfied on inspection of a ship shall forward a report to the Director-General which shall contain a statement showing-

- (a) that the hull and machinery are sufficient for service;
- (b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) that the equipment required under any regulations is on board and in good condition;
- (d) that the ship's officers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;
- (e) the class of voyage for which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;
- (f) that if the ship is a passenger ship the number of passengers which it may carry; and
- (g) the steam pressure that may be carried in the boilers.

Surveyor's
Record of
Inspections and
Certificates

261. A surveyor shall keep a record of inspections he or she makes, and certificates he or she issues in such form and with such particulars respecting them as the Director-General may direct, and shall furnish copies thereof and any other information pertaining to the duties of his or her office which the Director-General may require.

Survey of
passenger ships

262. A Gambian passenger ship shall be subject to the following surveys-

- (a) an initial survey before the ship is put in service;
- (b) renewal survey at intervals of not more than twelve months; and
- (c) additional surveys as required under this Act

Initial Survey of
passenger ships

263. (1) The survey before a passenger ship is put in service shall include a complete inspection of the ship's structure, machinery and equipment, including the outside of the ship's bottom and the inside and outside of the boilers.

(2) The initial survey shall be such as to ensure that the –

- (a) arrangements;
- (b) materials and scantlings of the structure;
- (c) boilers and other pressure vessels and their appurtenances;
- (d) main and auxiliary machinery;
- (e) electrical installations;
- (f) radio installations including those used in life-saving appliances;
- (g) fire protection, safety systems and appliances;

- (h) life saving appliances and arrangements;
- (i) ship borne navigational equipment;
- (j) nautical publications;
- (k) means of embarkation of pilots and other equipment;
- (l) fully comply with the requirements of the Safety Convention and with any regulations made under section 256.

(3) The initial survey shall also be such as to ensure that the workmanship of all parts of the ship and its equipment is in all respects satisfactory and that the ship is provided with lights, shapes, means of making sound signals and distress signals as required by the Safety Convention and the Collision Regulations.

Renewal survey
of passenger
ship

264. (1) The renewal survey shall include an inspection of the structure, boilers and other pressure vessels, machinery and equipment including the outside of the ship's bottom.

(2) The survey shall be such as to ensure that the ship as regards the –

- (a) structure;
- (b) materials and scantlings of the structure;
- (c) boilers and other pressure vessels and their appurtenances;
- (d) main and auxiliary machinery;
- (e) electrical installations;
- (f) radio installations including those used in life-saving appliances;
- (g) fire protection, safety systems and appliances;

- (h) life saving appliances and arrangements;
- (i) ship borne navigational equipment;
- (j) nautical publications;
- (k) means of embarkation of pilots and other equipment,

is in satisfactory condition and fit for the service for which they are intended and that they comply with the requirements of the Safety Convention and with any regulations made under section 256.

(3) The light, shapes, means of making sound signals and distress signals carried by the ship shall also be subject to survey

Additional surveys of passenger ships

265. (1) A survey, either general or partial, as the circumstances require, shall be made every time an accident occurs or a defect is discovered which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment or whenever important repairs, renewals or replacements are made.

(2) A survey under sub-section (1) shall be such as to ensure-

- (a) that the necessary repairs, renewals or replacements have been effectively made;
- (b) that the material and workmanship for such repairs, renewals or replacements are in all respects satisfactory; and
- (c) that the ship complies in all respects with the provisions of the Safety Convention and the Collision Regulations and any regulations made under this Part.

Passenger ship
Certificate

266. (1) Where the Director-General or such other person or organisation as he or she may authorise for the purpose, on receipt of the surveyor's report after initial or renewal surveys referred to in section 263 and 264 is satisfied that a Gambian passenger ship-

- (a) is in compliance with-
 - (i) the requirements of the Safety Convention as regards construction, lifesaving appliances, radio installation;
 - (ii) such of the rules relating to safety of life at sea as are applicable to the ship and to such international voyages as it is to be engaged in;
- (a) is properly equipped with lights, shapes and means of making signals required by the Collision Regulations,

he or she shall on the application of the owner and subject to section 268, issue or endorse the appropriate Safety Certificate hereinafter referred to as "Passenger Ship Safety Certificate" in respect of the ship.

(2) A Passenger Ship Safety Certificate shall be supplemented by a Record of equipment which shall be permanently attached to the Certificate.

(3) A Passenger Ship Safety Certificate may, together with any other Safety Certificates required under this Act, be contained in one document.

(4) The certificate and the record of equipment shall be drawn up in the form corresponding to the models prescribed by the Safety Convention.

Short Voyage
Certificate for
passenger
Ships

267. Where the voyages on which a ship is to be engaged are short international voyages and it complies only with such of the regulations as are applicable to these voyages, the Director-General or such other person or organisation as he or she may authorise shall issue a certificate, (hereinafter referred to as a 'Short Voyage Certificate') showing that the ship complies with the requirements of the Safety Convention applicable to such short international voyages.

Exemption and
Qualified
Certificate for
passenger
Ships

268. Where the Director-General or such other person or organisation as he or she may authorise for the purpose, on receipt of the surveyor's report in respect of any passenger ship, is satisfied-

- (a) that the ship is eligible for exemption, under this Ac, from the requirements of the regulations or of the Safety Convention applicable to the ship and to such international voyages on which it is to be engaged;
- (b) that it complies with the remainder of those requirements and that it is equipped with lights, shapes and means of making sound signals required by the Collision Regulations,

he or she shall, on application of the owner, issue in respect of the ship;

- (i) an Exemption Certificate stating from which of the requirements of the Safety Convention the ship is exempted, and the exemption is conditional on the ship plying on the voyages and complying with other conditions, if any, specified in the certificates; and
- (ii) a Certificate(hereinafter referred to as a "Qualified Safety Certificate" or a "Qualified Short Voyage

Certificate” as the case may be)
showing that the ship complies with
these requirements from which it is
not exempted.

Validity of
Passenger ship
short voyage
Certificate

269. The Director-General or such other person or organisation as he or she may authorise for the purpose, may permit a passenger ship in respect of which there is a Short Voyage Certificate or a Qualified Short Voyage Certificate to proceed to sea on an international voyage from a port not exceeding 1200 nautical miles between that port and the final port of destination and for the purposes of this section such certificate shall be enforced for the voyage which the ship is about to proceed notwithstanding that the voyage exceeds 600 nautical miles between these ports.

A Passenger
Ship Safety
Certificate to be
available on
board

270.(1)A passenger ship shall before plying or proceeding to sea from a port in The Gambia has on board a valid Passenger Ship Safety Certificate which shall show-

- (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 on each part of the ship, and any conditions and variations to which the number is subject.

(2) Where in the case of a foreign passenger ship, the Director-General or such other person or organisation as he or she may authorise for the purpose, is satisfied upon the production of a Passenger Ship Safety Certificate that the provisions of this Act have been substantially complied with, the ship shall be deemed to have satisfied the requirements of sub-section (1)

Penalty for
carrying excess
passengers

271. The owner or master of passenger ship which has on board a 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 Safety Certificate commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis for each passenger in excess of the number allowed.

Survey of life saving appliances and other equipment of cargo ships

272. The life-saving appliances and other equipment of a Gambian cargo ship of 500 gross tons and upwards shall be subject to the following surveys-

- (a) an initial survey before the ship is put in service;
- (b) a renewal survey at intervals not more than two years;
- (c) periodical survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Cargo Ship Safety Equipment Certificate, such survey to take the place of one of the annual survey specified in paragraph(d);
- (d) annual survey within three months before or after each anniversary date of the Cargo ship Safety Equipment Certificate; and
- (e) any such additional surveys as may be prescribed by the Administration under this Act .

Initial Survey of life saving appliances and other equipment of cargo ships

273. (1) The initial survey made before a cargo ship is put in service shall include a complete inspection of the fire safety systems and appliances, lifesaving appliances and arrangements except radio installations, ship borne navigational equipment, means for embarkation of pilots and other equipment.

(2) The initial survey shall be such as to ensure that fire control plans, nautical publications, lights, shapes, means of making sound signals and

distress signals comply with the requirements of the Safety Convention and the Collision Regulations and with any regulation made under this Act.

(3) The renewal and periodical survey shall be such as to ensure compliance with the requirements of the Safety Convention and the Collision Regulations and any regulations made under this Act.

(4) The annual survey shall be such as to ensure that the items of equipment referred to in subsection (1) have been maintained and that they remain satisfactory for the service for which the ship is intended.

(5) The periodical and annual survey referred to in section 272 shall be endorsed on the Cargo Ship Safety Equipment Certificate.

Additional
survey of life
Saving
appliances and
other equipment
of cargo ships

274. (1) A survey, either general or partial, as the circumstances require shall be made every time an accident occurs or a defect is discovered which affects the safety of the ship or the efficiency or completeness of its equipment or whenever important repairs, renewals or replacement are made.

(2) A survey under sub-section (1) shall be such as to ensure that-

- (a) the necessary repairs, renewals or replacements have been effectively made;
- (b) the material and workmanship for such repairs, renewals or replacement are in all respects satisfactory; and
- (c) the ship complies in all respects with the provisions of the Safety Convention and the Collision Regulations and regulations made under this Act.

Cargo ship
safety
equipment
certificate

275.(1) Where the Director-General or such person or organisation as he or she may authorise for this purpose is satisfied on receipt of the surveyor's report after an initial or renewal survey in respect of a Gambian cargo ship that the ship-

- (a) complies with the requirements of the Safety Convention as regards life saving appliances and with such regulations relating to safety of life at sea as are applicable to the ship in regard to such life saving appliances and to such voyages as it is to be engaged on; and
- (b) is properly equipped with the lights, shapes and means of making sound signals required by the Collision Regulations,

he or she shall, on application of the owner and subject to section 276, issue in respect of the ship, where it is not less than 500 gross tons and it is to be engaged on international voyages, a certificate in the form prescribed by the Safety Convention; and such certificate is in this Act referred to as 'Cargo Ship Safety Equipment Certificate.

(2) The Cargo Ship Safety Equipment Certificate shall be supplemented by a Record of Equipment for Cargo Ship Safety Equipment Certificate.

(3) This Record shall be permanently attached to the Cargo Ship Safety Equipment Certificate.

Cargo ship
safety equip-
ment exemption
and qualified
exemption
certificate

276. (1) Where the Director-General or such person or organisation as he or she may authorise for the purpose, on receipt of a surveyor's report in respect of a cargo ship, is satisfied that the ship is-

- (a) exempt by this Act or by the regulations from any of the requirements of such regulations or of the Safety Convention, applicable to the ship and to such voyages as it is to be engaged on;

- (b) complies with the remainder with lights, shapes and means of making sound signals required by the Collision Regulations,

he or she shall on application of the owner, issue in respect of the ship where it is not less than 500 gross tons and it is to be engaged on international voyages, an exemption certificate stating from which of the requirements of the Safety Convention the ship is exempted.

(2) The exemption is conditional on the ship plying on such voyages and being engaged only in the trade and complying with any other conditions and requirements of the Safety Convention from which it is not exempted and to the voyage on which it is to be engaged.

(3) A certificate issued under this section is in this Act referred to as 'Qualified Cargo Ship Safety Equipment Certificate'.

Survey of radio installations of cargo ships

277. The radio installations including those used in life saving appliances of Gambian cargo ships, which are carried in compliance with any regulations made under section 256, shall be subject to the following survey-

- (a) an initial survey before the ship is put in service;
- (b) a renewal survey at intervals not more than twelve months;
- (c) a periodical survey within three months before or after each anniversary date of Cargo Ship Safety Radio Certificate; and
- (d) additional surveys as required under this Act.

Initial survey of radio installations of cargo ships

278. The initial survey made before a cargo ship is put in service shall include a complete inspection of the radio installations, including those used in life-saving appliances to ensure that they comply

with the Safety Convention and any regulations made under section 256.

Renewal and periodical Surveys of radio installations of cargo ships

279. The renewal and periodical surveys shall include an inspection of the radio installations including those used in life saving appliances to ensure that they comply with the requirements of the Safety Convention and any regulations made under section 256.

Additional survey of radio installations of cargo ships

280. (1) A survey, either general or partial, as the circumstances require, shall be made every time an accident occurs to a cargo ship or a defect is discovered in the completeness of its life saving appliances or other equipment or whenever important repairs, renewals or replacements are made.

(2) The survey under sub-section (1) shall be such as to ensure that-

- (a) the necessary repairs, renewals or replacements have been effectively made;
- (b) the materials and workmanship for such repairs, renewals or replacements are in all respects satisfactory;
- (c) that the ship complies in all respects with the provisions of the Safety Convention and Collision Regulations and any other regulations made under this Act.

(3) The periodical surveys referred to in section 279 shall be endorsed on the Cargo Ship Safety Radio Certificate.

Issue of cargo ship safety radio certificate

281. Where the Administration or such person or organisation as it may authorise for the purpose is satisfied on receipt of the surveyor's report in respect of a cargo ship after initial or renewal survey, that the ship complies with-

- (a) the requirements of the Safety Convention as regards radio installations; and
- (b) such regulations relating to Safety of Life at Sea as are applicable to the ship in regards to such radio installations and to such international voyages as it is to be engaged on,

on application of the owner, he or she shall issue in respect of the ship a certificate in the form prescribed by the Safety Convention where the ship is of not less than 300 gross tonnage and is to be engaged on international voyage;

(2) The Certificate which in this Act is referred to as 'Cargo Ship Safety Radio Certificate' shall be in the form prescribed by the Safety Convention.

(3) The Cargo Ship Radio Certificate shall be supplemented by a Record of Equipment of Radio Facilities.

Cargo ship
safety radio
exemption and
qualified cargo
ship safety radio
certificate

282. Where the Administration or such person or organisation as it may authorise for the purpose, on receipt of the surveyor's report in respect of a cargo ship, is satisfied that the ship-

- (a) is eligible for exemption under this Act from the requirements of those of the regulations or of the Safety Convention applicable to the ship as regards radio installations and to such voyage as it is to be engaged on; and
- (b) complies with the remainder of those requirements and is properly equipped with lights, shapes, and means of making sound signals required by the Collision Regulations,

he or she shall, on the application of the owner, issue in respect of the ship where it is not less than 300 gross tonnage and is to be engaged on international voyages-

- (i) an exemption certificate stating from

which of the requirements of the Safety Convention the ship is exempted and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trade and complying with other conditions, specified in the certificate;

- (ii) a certificate showing that the ship complies with those requirements from which it is not exempt; and
- (iii) in any other case, a certificate showing that the ship complies with such of the requirements of the Safety Convention from which it is not exempted and the voyages on which it is to be engaged.

(2) A certificate issued under sub-section (1 (a) or (b) is in this Act referred to 'Qualified Cargo Ship Safety Radio Certificate.

Survey of structure, machinery and equipment of cargo ships

283. (1) The structure, machinery and equipment of Gambian cargo ship other than items in respect of which a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Radio Certificate are issued shall be subject to-

- (a) an initial survey including an inspection of the outside of the ship's bottom before the ship is put in service;
- (b) a renewal survey at intervals of not more than two years;
- (c) an intermediate survey within three months before or after the second anniversary date of within three months before or after the third anniversary date of the Cargo Ship Safety Construction Certificate;
- (d) annual survey within three months before or after each anniversary date of the Cargo Ship Safety Construction Cert-

ificate;

- (e) a minimum of two inspections of the outside of the ship's bottom during any five year period and the interval between any two such inspections shall not exceed three years; and
- (f) additional surveys as required under this Act

Initial survey of structure, machinery and equipment of cargo ships

284. (1) The initial survey before a cargo ship is put in service shall include a complete inspection of the structure, machinery and equipment.

(2) The initial survey shall be such as to ensure that the arrangements, materials scantlings and workmanship of the structure, boilers and other pressure vessels, their appurtenances, main and auxiliary machinery including steering gear and associated control systems, electrical installation and other equipment comply with the requirements of the Safety Convention and with any regulations made under section 256.

(3) An initial survey of a tanker shall in addition to the requirement of sub-section (1), include an inspection of pump rooms, cargo, bunker and ventilation piping systems and associated safety devices.

Renewal survey of structure, machinery and equipment of cargo ships

285. A renewal survey shall be such as to ensure that an inspection of the structure, machinery and equipment referred to in section 284 (1), (2) and (3) comply with the requirements of the Safety Convention and any regulations made under section 256.

The Intermediate survey of structure, machinery and equipment of cargo ships

286. (1) An intermediate survey shall be such as to ensure that the structure, boilers and other pressure vessels, machinery and equipment, the steering gear and the associated control system and electrical installation remain satisfactory for the service for which the ship is intended.

(2) An intermediate survey for a tanker shall in addition to the requirements of sub-section (1),

include an inspection of pump rooms, cargo, bunker and ventilation piping systems and associated safety devices and the testing of insulation resistance safety devices and the testing of insulation resistance of electrical installations in dangerous zones.

Annual survey of structure, machinery and equipment of cargo ships

287. (1) An annual survey shall include-

(a) a general inspection of the structure, machinery and equipment referred to in section 284 in order to ensure that they have been maintained to conform to the Safety Convention and to any regulations made under section 256 and that the ship in all respects will remain fit to proceed to sea without danger to the ship and the persons on board;

(b) an inspection of the outside of the ship's bottom and the survey of related items shall be undertaken to ensure that they comply with the Safety Convention and any regulations made under section 256.

(2) The intermediate and annual surveys and the inspections of the ship's bottom referred to in sections 283 (c) (d), (e) shall be endorsed on the Cargo Ship Construction Certificate.

Additional survey of the structure, machinery and equipment of cargo ships

288. (1) A survey, either general or partial as the circumstances require, shall be made every time an accident occurs or a defect which affects the safety of the ship or the efficiency or completeness of the structure, machinery and equipment and whenever important repairs, renewals or replacements are made.

(2) A survey under sub-section (1) shall be such as to ensure-

(a) that the necessary repairs, renewals or replacements have been effectively made;

(b) that the material and workmanship for such repairs, renewals or replacements are in all

respects satisfactory;

- (c) that the ship complies in all respects with the provisions of the Safety Convention and the Collision Regulations and any regulations made under this Act.

Cargo ship
construction and
survey regula-
tions

289. (1) The Minister may make regulations in this Act referred to as 'Cargo Ship Construction and Survey Regulations' prescribing requirement for structure, machinery and equipment of ships to which this section applies and requiring such Gambian ships to be surveyed to such an extent in such manner and at such intervals as may be prescribed.

(2) The Cargo Ship Construction and Survey Regulations shall include such requirements as appear to the Administration to implement, the provisions of the Safety Convention in relation to structure machinery and equipment of such ship.

(3) This section applies to-

(a) a Gambian ship of not less than 500 gross tons;

(b) a foreign ship while within Gambian waters and while not exempted under this Act; and

(c) a Gambian ship of such lower tonnage and of such description as the Minister may specify; but does not apply to a passenger ship, troop ship, pleasure craft, fishing vessel and ship not propelled by mechanical means.

Issue and
Duration of
Cargo Ship
Safety
Construction
Certificate

290. (1) Where the Administration or such person or organisation as it may authorise for the purpose, is satisfied on receipt of a surveyor's report in respect of a Gambian cargo ship to which section 289 applies that the ship complies with the Cargo Ship Construction and Survey Regulations applicable to the ship and such voyage as it is to be

engaged on, it or he or she shall on application of the owner and subject to section 291, issue in respect of the ship where it is not less than 500 gross tons, and is to be engaged in international voyages, a certificate in the form prescribed by the Safety Convention in this Act called 'Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Construction Certificate shall remain in force for five years or such shorter period as may be specified for, without prejudice to the power of the Administration to cancel it.

Cargo Ship
Safety Con-
struction
Exemption and
Qualified
Safety Const-
ruction Certi-
ficate

291. Where the Administration or such person or organisation as it may authorise for the purpose on receipt of a survey report of a cargo ship is satisfied that the ship is eligible for exemption from any of the requirements of the regulations applicable to the ship to such voyages as it is to be engaged on and that it complies with the remainder of these requirements, it or he or she shall on the application of the owner, issue in respect of the ship-

(a) where it is not less than 500 gross tons and it is to be engaged on international voyages-

- (i) an exemption certificate stating from which of the requirements of the Safety Convention the ship is exempt and that the exemption is conditional on the ship plying only on the voyages and complying with other conditions specified in the certificate,
- (ii) a certificate showing that the ship complies with the requirement from which it is not exempt; and

(b) in any other case, a certificate showing that the ship complies with such of the requirement of the Cargo Ship Construction and Survey Regulations from which it is not exempt and to the voyages on which it is to be engaged, and any certificate issued under paragraph a (ii) or (b) is in this Act

referred to as “Qualified Cargo Ship Safety
Construction Certificate’

Duration and
validity of Cargo
Ship Safety
Certificate

292. (1) A Cargo Ship Safety Certificate shall remain in force for five years or such shorter period as may be specified in it, but without prejudice to the power of the Administration to cancel it.

(2) An exemption certificate issued under this section shall remain in force for the same period as the corresponding certificate.

(3) Where a certificate under this section is in force in respect of a cargo ship and the certificate was issued for a shorter period than is allowed under this section, the Administration or any person authorised by it for the purpose 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 certificate for a period not exceeding one year and not exceeding together with the period for which it has been previously extended under this sub-section, the longest period for which it could have been issued under this Act.

(4) Notwithstanding the requirements of sub-section (1), when a renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of the expiry of the existing certificate.

(5) When the renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

(6) When the renewal survey is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewals survey to a date not exceeding five years from the date of completion of the renewal survey.

(7) If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Administration or any person or organisation authorised by it may endorse the existing certificate and such certificate shall be accepted as valid for a further period which shall not exceed one month from the expiry date.

Duration and
validity of
Passenger Ship
Safety
Certificate

293. (1) A Passenger Ship Safety Certificate shall be in force for a period not exceeding twelve months, but the certificate shall not remain in force after notice is given by the Administration to the owner, the master or agent of the ship in respect of which it has been issued, that it has cancelled the Certificate.

(2) An Exemption Certificate shall be in force for the same period as the corresponding certificate.

(3) A certificate issued by the Administration under this Act, and any Passenger Ship Safety Certificate, whether or not combined in one document with any other Safety Certificate is admissible in evidence.

(4) Notwithstanding the provisions of sub-section (1), when a renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of the completion of the renewal survey to a date not exceeding twelve months from the date of expiry of the existing certificate.

(5) When a renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from a date of the completion of the renewal survey to a date not exceeding twelve months from the date of expiry of the existing certificate.

(6) When a renewal survey is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding twelve months from the date of

completion of the renewals survey.

Extension of duration and validity of certificates

294. (1) Where a Gambian ship is not in a port in which it is to be surveyed on the date of expiry of any certificates issued to that ship under this Act, the Administration or any such person as it may authorise for the purpose, may extend the validity of that certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of three months in the aggregate.

(2) An extension referred to in sub-section (1) shall be granted only for the purpose of enabling the ship to complete its voyage to the port in which it is to be surveyed and only in case where it appears proper and reasonable to grant the extension.

(3) A ship to which an extension is granted shall not on its arrival in the port in which it is to be surveyed be entitled by virtue of such extension to leave that port without having a new certificate.

Duration and validity Qualified Certificate

295. A qualified certificate shall not be deemed to be in force in respect of a ship unless there is 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.

Appeals against withholding of ship's certificate or detention

296. The owner or master of a ship in respect of which a certificate required to be carried on board is withheld or detained, as a result of the survey of the ship may appeal to the Minister.

Penalty for non-compliance with conditions of exemption certificate

297. Where an exemption certificate issued in respect of any Gambian ship specifies conditions under which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Availability of certificates on board ships

298. (1) All certificates or certified copies thereof issued under this Act shall be readily available on board for examination at all times.

(2) The master or owner of a ship who fails without reasonable cause to comply with sub-section (1) commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Surveyor to verify safety certificates and compliance with conditions of issue

299. A surveyor of a ship may board a ship for the purpose of verifying-

- (a) that there is in force in respect of a foreign Safety Convention ship valid certificates required under the Safety Convention;
- (b) that the conditions of structure, machinery and equipment of any such Safety Convention ship correspond substantially with the particulars showing such certificates; or
- (c) that any conditions subject to which a certificate, being the equivalent of an exemption certificate is issued, are complied with.

Production of Safety Convention Certificates

300. (1) The master of a foreign Safety Convention ship shall produce to the appropriate authorities from whom clearance for the ship is demanded in respect of an international voyage from a Gambian port, a valid Safety Convention Certificate issued by the Administration that would be required to be in force in respect of the ship if it was a Gambian ship, and clearance shall not be granted and the ship may be detained until those certificates are so produced.

(2) The production of a valid Safety Convention Certificate being the equivalent-

- (a) qualified certificate; and
- (b) an exemption certificate, other than a certificate stating that the ship is wholly exempt from the provisions of the Safety Convention,

shall not avail for the purpose of section 299 unless

there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

Miscellaneous
privileges –
holding Safety
Convention
Certificate

301. (1) Where a valid Safety Convention Certificate is produced in respect of a foreign Safety Convention ship, it shall be accepted and the ship shall be exempted from surveys or inspections under section 299, unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the certificate or that the ship and its equipment are not in compliance with the regulations made under this Act respecting the maintenance of conditions of ships and their equipment after survey.

(2) Where a certificate is not accepted due to the circumstances referred to in sub-section (1) or if a certificate has expired or ceased to be valid, the ship shall not be granted clearance and shall be detained until it can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances -

- (a) the local consul of the ship's flag state or, in his or her absence the nearest diplomatic representatives of the ship's flag state; and
- (b) nominated surveyors or recognized organization responsible for the issue of the certificates referred to in sub-section (1).

Ship not to
proceed to sea
without appro-
priate certifi-
cates

302. A Gambian registered ship shall not proceed to sea or attempt to proceed to sea unless there is in force in respect of the ship-

- (a) where it is a passenger ship, a Passenger Ship Safety Certificate or a Short Voyage Safety Certificate or a Qualified Short Voyage Certificate which is subject to the provisions of this section relating to Short Voyage Certificate is applicable to the voyage on which the ship is about to

proceed and to the trade in which it is for the time being engaged;

- (b) Cargo Ship Safety Construction Certificate or a Qualified Cargo Ship Safety Construction Certificate or an Exemption Cargo Ship Safety Construction Certificate;
- (c) Cargo Ship Safety Equipment Certificate or a Qualified Safety Equipment Certificate or an Exemption Cargo Ship Safety Equipment Certificate;
- (d) Cargo Ship Safety Radio Certificate or a Qualified Cargo Ship Safety Radio Certificate or an Exemption Safety Radio Certificate; and
- (e) a Gambian Safety Certificate issued pursuant to Regulations made under this Part.

Detention of ship for non production of certificate

303. The master of a Gambian ship shall produce to the appropriate authorities from whom clearance for the ship is demanded for an international voyage the certificates required by this Part to be in force when the ship proceeds to sea and a clearance shall not be granted and the ship may be detained, until the certificates are so produced.

Ship to carry stability information

304. (1) A Gambian registered ship, regardless of size shall carry on board such information about the ship's stability as may be prescribed.

(2) The information referred to in sub-section (1), a copy of which shall be sent to the Administration, shall be based on the determination of the ship's stability by means of an inclining determination of the stability of a sister ship.

(3) The owner or master of a ship which proceeds or attempts to proceed to sea without having on board the information as required by sub-section (1) and (2) commits an offence and is liable on conviction to a fine not exceeding one million

Dalasis.

Penalty for
forgery of sur-
vey report or
certificate

305. A person who -

- (a) knowingly and willfully makes or assists in making or procures to be made a false or fraudulent survey report under this Part; and
- (b) forges, or assists in forging, procures to be forged, fraudulently alters or assists in fraudulently altering any such report or certificate, or anything contained in it or any signature to any such report or certificate,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis

Maintenance of
condition of
ship, and notice
of accident,
defect or
alterations etc.

306. (1) The condition of a ship in respect of which Safety Convention Certificates issued under this Act is in force, including the equipment of such ship shall be maintained at all times after survey to comply in all respects with the provisions of the Safety Convention and of the Collision Regulations and any regulations made under this Part.

(2)Where-

- (a) an accident occurs to a ship;
- (b) a defect is discovered in a ship; or
- (c) an alteration is made to the structure, equipment, appliances, or machinery of a ship, which affects the safety of the ship or the efficiency, completeness or unsafe-ness of the ship,

the owner or master shall as soon as practicable, following such accident, discovery of defect or alteration give written notice to the Director-General describing full particulars of the accident, defect or alteration as the case may be.

Resurvey of a ship following alteration or damages

307. (1) Where the Administration has reason to believe that since the making of the last survey report in respect of a ship-

(a) an alteration has been made as is mentioned in section 306; and

(b) the structure, equipment, appliances or machinery of the ship have sustained any damage or are otherwise defective or insufficient,

the Administration may require the ship to be surveyed to such an extent as it thinks fit and if such requirement is not complied with may cancel any certificate issued in respect of the ship under this Act.

(2) For the purpose of this section and section 306 'alteration' in relation to anything includes the renewal or replacement or extension from its original design of any part of it.

Application of this Part to foreign ships

308. (1) The Administration may direct that this Part or any of the provisions thereof shall apply to a foreign ship or class of ships within Gambian waters.

(2) Notwithstanding anything in this Part, the Administration may relieve a foreign ship or the owner of a foreign ship from compliance with any of the provisions of this Part or regulations made thereunder relating to inspection, in any specific case of emergency where the Administration may deem it necessary or advisable in the public interest, to such extent and in such manner and upon such terms as it may consider proper in the circumstances.

(3) Notwithstanding sub-section (2), the Administration shall not relieve any ship or the owner thereof from compliance with any such provision in such manner as would permit any ship to proceed to sea or to make any voyage in an unseaworthy condition.

Survey of foreign ships and issue or endorsement of Safety Convention Certificate

309. (1) The Administration may at the request of a Government of a country to which the Safety Convention applies, cause a ship to be surveyed and if satisfied that the requirements of the Safety Convention are complied with, shall issue or authorise the issue of certificates to the ship, and where appropriate, endorse or authorise the endorsement of Certificates on the ship in accordance with the Safety Convention.

(2) A certificate issued under sub-section (1) shall contain a statement to the effect that it has been issued at the request of the Government of the country in which the ship is or will be registered and it shall have the same force and receive the same recognition as a certificate issued under this Part.

Survey of Gambian ships and issue or endorsement of Safety Convention Certificates by other Safety Convention Countries

310. (1) The Administration may request the Government of a country to which the Safety Convention applies to survey a Gambian ship and the Government if satisfied that the requirements of the Safety Convention are complied with, shall issue or authorise the issue of certificates to the ship and where appropriate, endorse or authorise the endorsement of certificates of the ship in accordance with the Safety Convention.

(2) A certificate issued in pursuance of a request made under sub-section (1) shall contain a statement that it has been so issued at the request of the Administration representing the Government of the Gambia and shall have effect for the purposes of this Act as if it has been issued by the Administration and not by the Government of that country.

Exceptions

311. Nothing in this Part or in any regulations made under this Part, unless it is expressly otherwise provided by this Part or such regulations, shall apply to-

(a) a ship of war or a troopship;

(b) a cargo ship of less than 500 gross tonnage;

(c) a ship not propelled by mechanical means;

(d) a wooden ship of primitive build;

(e) a pleasure yacht not engaged in trade; and

(f) fishing vessel.

Regulations for Safety requirements and issue of The Gambian Safety Certificate

312. The Minister may make regulations prescribing safety requirements and providing for the survey and issue of the Gambia Safety Certificate in respect of non Safety Convention sized ships registered in The Gambia.

PART XI – LOAD LINES

Interpretation

313. For the purpose of this Part-

“Convention country” means a country, the Government of which is a party to the Load Line Convention and has not denounced that Convention, or a territory of such country to which the Conventions extends;

“fishing vessel” means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;

“International voyage” means a sea voyage from a country to which the Load Line Convention applies to a port outside such country or conversely provided, however that in determining 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 cause of force majeure;

“Load Lines” means a line marked on a vessel indicating the depth to which the vessel may be safely loaded;

“Load Lines Convention” means the International Convention on Load Lines 1966 and any amendments thereto;

“Load Line Convention ship” means a ship that is-

- (a) of a kind to which the Load Line Convention applies; and
- (b) registered in a country the Government of which is a party to the Load Line Convention;

“Load Line Regulations” means the regulations made by the Minister to give effect to the Load Line Convention;

“Load Line Ship” means-

- (a) a Load Line Convention ship, which is an existing ship of not less than 150 gross tonnage or a new ship, twenty four metres or more in length which carries cargo or passengers on international voyages; or
- (b) a Gambian Load Line ship, other than Load Line Convention ship which carries cargo or passengers;

“new ship” means a ship whose keel is laid or which is at a similar stage of construction on or after-

- (a) in the case of a ship registered in or flying the flag of a country other than the Gambian which is a convention country, the date from which it is declared that the Government of the country has ratified or acceded to the Load Line Convention or that is a country to which the Convention applies; and
- (b) in the case of any other ship, the date of the coming into operation of this Act.

Application of
this Part

314. This Part shall not apply to-

- (a) ships of war or troopships;

(b) pleasure yachts not engaged in trade; and

(c) fishing vessels.

Countries to which the load line convention applies

315. The Administration may from time to time by notice in the Gazette, publish a list of countries that have ratified or acceded to or denounced the Load Line Convention.

Load line regulations

316. (1) The Minister shall make regulations in accordance with the following provisions of this Part (in this Part referred to as 'Load Line Regulations") and in making out those regulations, the Minister shall have regard in particular to the Load Line Convention as amended.

(2) The Load Line Regulations shall make provision-

(a) for surveying and inspection of ships to which this Part applies;

(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 regulations; and

(d) for determining, by reference to that mark and the freeboard for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description by the Regulations, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the regulations.

(3) The Load Line regulations shall include the following provisions -

- (a) provisions specifying such requirements in respect of the hulls, superstructures, fittings and appliances of the ship to which this Part applies as appear to the Minister to be relevant to the assignment of free-boards to such ships;
- (b) provisions whereby at the time when freeboards are assigned to a ship in accordance with the load line regulations, 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 Part to be taken to comply with the conditions of assignment or not and those provisions shall be set out separately in the Load Line regulations under the title of 'rules as to conditions of assignment'.

(4) The Load Line Regulations shall 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 any such ship, as may be determined in accordance with the regulations to be provided for the guidance of the master of the ship in such manner as may be so determined.

(5) The Load Line Regulations may prescribe Load Line requirements and provide for the issue of the Gambia Load Line Certificate in respect of non Load Line Convention ships.

Line Regulations, the appropriate certificate shall be issued to the owner of the ship on his or her application.

(2) For the purposes of this section, the appropriate certificate-

(a) in the case of an existing ship not less than 150 gross tonnage and in the case of a new ship of not less than twenty four meters in length which is engaged in international voyage, shall be called the "International Load Line Certificate (1966) as modified by the Protocol of 1988", relating thereto; and

(b) in the case of any other ship, shall be called the "Gambia Load Certificate".

(3) Any certificate required by sub-section (1) to be issued-

(a) shall be issued by the Administration or a person or organisation authorised in that behalf by the Administration; and

(b) shall be in such form and issued in such manner as may be prescribed by the Load Line Regulations;

Issue or endorsement of a Certificate at the request of the Administration

318. (1) The Administration may request the Government of a Convention country to survey a Gambian ship and if satisfied that the provisions of the Load Line Convention are complied with, issue or authorise the issue of an International Load Line Certificate to the ship and where appropriate endorse or authorise the endorsement of the certificate on the ship in accordance with the Load Line Convention.

(2) A certificate so issued or endorsed shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as a certificate issued under this Part.

Issue or Endorsement of Certificates at the request of other Government

319. (1) The Administration may at the request of the Government of a Convention country, survey a ship and if satisfied that the provisions of the Load Line Convention have been complied with, issue or authorise the issue of the International Load Line Certificate to the ship and where appropriate, endorse or authorise the endorsement of the certificate on the ship in accordance with the Load Line Convention.

(2) A certificate so issued or endorsed shall contain a statement to the effect that it has been issued or endorsed at the request of the Government of the state where the ship is registered or will be registered and such certificate shall have the same force and receive the same recognition as a certificate issued or endorsed under this Part.

Power to make exemption orders

320. (1) If in the opinion of the Administration, the conditions of international voyages-

- (a) between near neighbouring ports in The Gambia and in another Convention country; and
- (b) between near neighbouring ports in any two or more countries or territories outside The Gambia,

make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages and the Administration is satisfied that the Government of the other country or territory concurs in that opinion, the Minister may by order specifying those ports, direct that the ships plying on international voyages between those ports, or any class of such ships specified in the order shall be exempt from the provisions of this Part.

(2) The Administration may by order direct that a class of ships specified in the order shall be exempt from the provisions of this Part while not carrying cargo or (if the order so provides) shall be exempt from the provisions of this Part whether carrying cargo or not.

(3) Any order under this section may be subject to such conditions as the Administration 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

321. (1) In this section, any reference to exempting a ship is a reference to exempting the ship either –

(a) from all the provisions of this Part and the load line regulations; or

(b) from such of these provisions as are specified in the instrument conferring the exemption.

(2) On the application of the owner of a ship to which this Part applies which is a ship registered under this Act and is either an existing ship of not less than 150 gross tonnage or a new ship of not less than twenty four meters in length, the Administration may exempt the ship if in its opinion, the ship embodies features of a novel kind such that, if the ship had to comply with the requirements of this Part and the Load Line regulations the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

(3) On the application of the owner of a ship to which this Part applies, which is registered under this Act and is either-

(a) an existing ship of not less than 150 gross tonnage or an new ship of not less than twenty four meters in length; or

(b) a ship (not falling within the preceding paragraph) which does not ply on international voyages,

the Administration may exempt the ship.

(4) Without prejudice to sub-section (3), where a

ship to which this Part applies which is registered under this Act and is either an existing ship of less than 150 gross tonnage or a new ship of not less than twenty four meters in length does not normally ply on international voyages but is in exceptional circumstances required to undertake a single international voyage, the Administration on 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 section may be conferred subject to such conditions as the Administration thinks fit, and where any such exemption is conferred subject to conditions, the exemption shall not have effect unless those conditions are complied with.

Issue of
Exemption
Certificate

322. (1) Where the Administration exempts a ship under section 321, the Administration shall issue the appropriate certificate to the owner.

(2) For the purposes of this section, the appropriate certificate-

(a) where the exemption is conferred under sub-section (2) or sub-section (4) of section 321, shall be called an 'International Load Line Exemption Certificate'; and

(b) where the certificate is conferred under sub-section (3) of section 321, shall be called 'The Gambia Load Line Exemption Certificate'.

(3) Any certificate issued under this section shall be in such form, and issued in such manner as may be prescribed by the Load Line Regulations.

Duration,
endorsement
and cancellation
of Load Line
certificates

323. (1) The Load Line Regulations shall make provision for determining the period during which any certificate issued under section 317 is to remain in force, including-

- (a) provision enabling the period for which any such exemption or certificate as originally issued to be extended within such limits and in such circumstances as may be prescribed by the regulations, and
- (b) provision for terminating any such exemption, and for canceling 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) annual surveys of the ship in accordance with the Load Line regulations; and
- (b) any extension of the period for which the certificate was issued,

as may be prescribed by the regulations.

Effect of Load
Line Certificate

324. Where a certificate is issued under this Part and for the time being in force, is produced in respect of the ship to which the certificate relates-

- (a) the ship shall be deemed to have been surveyed in accordance with the Load Line regulations; and
- (b) if the lines are marked on the ship corresponding in number and description to the Deck Line and Load Lines as required by the Load Line regulations and the positions of the Deck Line and Load Lines as specified in the certificate, the ship shall be deemed to be marked as required by those regulations.

Ship not to
proceed to sea
without Load
Line Certificate

325. (1) Subject to any exemption conferred by or under this Part, no ship to which this Part applies being a ship registered the Gambia, shall proceed or attempt to proceed to sea unless the appropriate certificate is in force in respect of the ship.

(2) Before any such ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the officer of customs from whom clearance for 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 section, the master of the ship commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(4) In this section, the appropriate certificate means the certificate, which is the appropriate certificate for the purposes of section 318 of this Act.

Compliance with
Load Line
Regulations

326. (1) Subject to sub-section (2) and to any exemption conferred by or under this Part, no ship to which this Part applies, not being a ship registered in the Gambia, shall proceed or attempt to proceed to sea from a port in the Gambia unless-

- (a) the ship has been surveyed in accordance with the Load Line regulations;
- (b) the ship is marked with a Deck-Line and with Load Lines in accordance with those regulations;
- (c) the ship complies with the conditions of assignment; and
- (d) the information required by those regulations to be provided as mentioned in section 316 (4) of this Part is provided for the guidance of the master of the ship in the manner determined in

accordance with the regulations.

(2) Sub-section (1) does not apply to a ship in respect of which a valid convention certificate is produced.

(3) If a ship proceeds or attempts to proceed to sea in contravention of the preceding provisions of this section, the master or owner of the ship commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(4) A ship which is in contravention of this section attempts to proceed to sea without being surveyed and marked as mentioned in paragraph (a) and (b) of sub-section (1) may be detained until she has been so surveyed and marked.

Submersion of
load lines

327. (1) A Gambian Load Line Ship shall not at any time when it put to sea, during the voyage or on arrival, be so loaded as to submerge the appropriate load lines on both sides of the ship corresponding to the season of the year and the zone or area as indicated in the Load line Regulations.

(2) Where a ship is loaded in contravention of this section, the owner or master of the ship commits an offence and is liable on conviction to a fine not exceeding two million Dalasis and to such additional fine as specified in sub-section (3) as the court thinks fit to impose having regard to the extent which the earning capacity of the ship was or would have been increased by reason of the submersion.

(3) The additional fine imposed under sub-section (2) shall not exceed one million Dalasis for every centimeter or thereof by which the appropriate load line on each side of the ship was submerged.

(4) In any proceedings against an owner or master in respect of a contravention of this section, it shall be a valid defence that the contravention was due solely to deviation or delay caused by stress of weather or any cause of force majeure which neither the master, the owner, nor the charterer, if

any, could ;have prevented or forestalled.

(5) Without prejudice to any proceedings under this section, a ship which is loaded in contravention of this section may be detained until it ceases to be so loaded.

Alteration or
defacement of
load line marks

328. (1) The owner or master of a Load Line Ship who fails without reasonable cause to keep the ship marked in accordance with this Part commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

(2) A person who conceals, removes, alters, defaces or obliterates or permits any person under his or her control to conceal, remove, alter, deface or obliterate any mark placed on the ship in accordance with this Part except with the authority of a person entitled under the Load Line Regulations to authorise the alteration of the mark commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Inspection of
foreign ships
regarding load
lines

329. (1) A surveyor of ships may board a ship to which this Part applies, being a ship not registered in The Gambia, while the ship is within a port in The Gambia and may demand the production of any Load Line Certificate for the time being in force in respect of that ship.

(2) Where a valid Load Line Certificate is produced to the surveyor, his or her powers of inspecting the ship in respect of load lines shall be limited to seeing that-

(a) the ship is not loaded beyond the limits allowed by the certificate;

(b) the marking of the load line on the ship corresponds with those specified in the certificate;

(c) no material alternations have taken place in the hull or superstructure of the ship which affect the marking of the load line; and

(d) the fitting 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.

(3) Where a valid Load Line Certificate is not produced to the surveyor under sub-section (1) he or she shall have the same power of inspecting the ship as provided in section 330 as if the ship were a Gambian ship.

Inspection of
Gambian load
line ship

330. A ship surveyor may inspect a Gambian ship for the purpose of ensuring that the provisions of this Part have been complied with.

Notice to be
given of altera-
tions affecting
position of ship's
load lines

331. (1) The owner or master of a ship in respect of which a Load Line Certificate issued under this Part is in force shall as soon as practicable, after any structural alteration which affects the Load Line marks is made in the hull or superstructure of the ship, give notice in writing to the Administration containing full particulars of the alteration.

(2) An owner or master of a ship who fails to give notice as required by sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(3) The Administration may exercise, with respect to a ship referred to in sub-section (1), its power specified in sub-section (4) where it has reason to believe that-

(a) material alterations have taken place in the hull or superstructure of the ship which affect the Load Line marks; or

(b) fittings and appliances for the protection of openings, guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective a condition as

they were when the certificate was issued.

(4) In a case to which sub-section (3) applies, the Administration may-

- (a) cancel the Load Line Certificate; and
- (b) require the owner to have the ship surveyed again to such an extent as the Administration thinks fit, and if that requirement is not complied with, may cancel the Load Line Certificate.

(5) Where a Load Line Certificate has expired or is cancelled, the Administration may require the owner or master of the ship to which the certificate relates to deliver up the certificate as it directs and the ship may be detained.

(6) An owner or master of a ship who fails without reasonable cause to comply with a requirement under sub-section (5) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Submersion of
Load Lines of
foreign ships

332. (1) The provisions of section 327 shall apply to a foreign ship while it is in Gambian waters in the same way as they apply to Gambian ships subject to the following-

(a) no Load Line Convention ship shall be detained and no proceedings shall be taken against the ship by virtue of that section except after an inspection by a surveyor as provided for in this Part; and

(b) the expression "appropriate load line" means-

(i) in the case where a valid Load Line Convention Certificate in respect of the ship is produced on such an inspection as aforesaid, the load line appearing by the certificate to indicate the maximum depth to which

the ship is for the time being permitted under the Load Line Convention to be loaded; or

- (ii) in the case where a valid Load Line Convention Certificate is not so produced, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being permitted in accordance with the Load Line Regulations to be loaded.

Deck Cargo
Regulations

333. (1) The Minister may make regulations 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 this Part applies.

(2) Where the Load Line Regulations provide for assigning special freeboards to ships which are to have effect when carrying only timber deck cargo, then without prejudice to the generality of sub-section (1), the Deck Cargo Regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard had effect.

(3) In prescribing any such special requirements as are mentioned in sub-section (2) the Minister shall have regard in particular to the provisions of Chapter IV of the Load Line Convention and any amendments thereto for the time being in force.

(4) Where any provisions of the Deck Cargo Regulations are contravened-

(a) in the case of a Gambia ship; and

(b) in the case of any other ship while the ship is within a port in The Gambia,

the master of the ship, subject to sub-section (5), commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(5) Where a person is charged with an offence under sub-section (4), it shall be a valid defence if proven to the satisfaction of the court that the contravention was due solely to deviation or delay caused by stress of weather or any other cause of force majeure 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, a person authorised in that behalf by the Administration may inspect a ship to which this Part applies which is carrying cargo in an uncovered space on its deck, and for the purpose of any such inspection that person shall have all the powers of a surveyor under this Act.

Posting up of
load line certificate and entry
of load line
details in ship's
log book

334. (1) Where a Load Line Certificate has been issued under this Part in respect of a Gambian ship-

(a) the owner of the ship shall forthwith upon receipt of the certificate, cause it to be displayed in some conspicuous place on board the ship, and the certificate shall be kept so displayed and shall be legible so 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, shall enter therein the particulars as to the marking of the deck line and load line specified in the certificate.

(2) Before a Gambian ship proceeds to sea, the master shall-

(a) enter in the official log book the draught and freeboard relating to the depth to which the ship is for the time being loaded, the density of the water in which the ship is for the time being loaded, the density of the water in which the ship is floating and all other particulars relating thereto in the form as set out in the official log book; and

(b) cause a notice in the prescribed form to be displayed in some conspicuous place on board the ship and the notice shall remain displayed and shall be legible while the ship is at sea.

(3) The master or owner of a Gambian ship who fails to comply with the provisions of this sections commits an offence and is liable on conviction to a fine not exceeding one million Dalasis

Contravention of load line regulations and detention of ship

335. (1) While it is found upon inspection referred to in section 329 that a ship is loaded in contravention of section 327, the ship may be detained and proceedings may be taken against the master or owner thereof under section 327.

(2) Where the load lines are not marked as specified in the certificates, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(3) Where on inspection, a ship is found to have been materially altered that it is manifestly unfit to proceed to sea without danger to human life, the ship shall be detained, but where the ship has been so detained, the Administration shall order the ship to be released as soon as it is satisfied that the ship is fit to proceed to sea without danger to human life.

PART XII – CARRIAGE OF BULK CARGOES

Bulk cargo Regulations

336. The Minister may make regulations relating to-

(a) the safe carriage and stowage of bulk cargoes having due regard to Chapter VI Part B of the International Convention for the Safety of Life at Sea 1974 as amended and The International Mari-time Solid Bulk Cargoes (IMSBC) adopted by International Maritime Organisation (IMO); and

(b) safe carriage and stowage of grain in compliance with Chapter VI Part C of the

International Convention for the Safety of Life at Sea 1974, as amended and the International Code for the Safe Carriage of Grain in Bulk (International Grain Code) adopted by the Maritime Safety Committee of the Organisation by resolution MSC.23 (59) as may be amended by the Organisation from time to time.

Precautions
regarding grain
cargoes

337. (1) Where grain is loaded on board a ship or is loaded in a port in The Gambia on a ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting.

(2) Where precautions referred to in sub-section (1) are not taken, the owner or the master or any agent of the owner who was charged with the loading or with the sending of the ship so laden with grain commits an offence and the ship shall be deemed for the purpose of this Act to be unsafe by reason of improper loading.

(3) Where a ship loaded with grain outside The Gambia without necessary and reasonable precautions having been taken to prevent the grain from shifting enters port in The Gambia so laden, the owner or master commits an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

(4) An offence is not committed under sub-section (2) where the ship would not have entered a port, but for stress of weather or any other cause of force majeure that neither the master, the owner nor the charterer if any, could have prevented or forestalled.

(5) A person authorised by the Administration to ensure the observance of the provisions of this section may inspect the grain and the mode in which it is stowed and shall have the powers of a surveyor of ships under this Act.

Precautions
regarding grain
cargo

338. (1) Where grain is loaded on board a ship or is loaded in a port in The Gambia on a ship, all necessary and reasonable precautions shall be

taken to prevent the grain from shifting.

(2) Where precautions referred to in sub-section (1) are not taken, the owner, master or agent of the owner who was charged with the loading or with the sending of the ship so laden with grain commits an offence and the ship shall be deemed for the purpose of this Act to be unsafe by reason of improper loading.

(3) Where a ship loaded with a grain outside The Gambia without necessary and reasonable precautions having been taken to prevent the grain from shifting enters a port in The Gambia so laden, the owner or master commits an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

(4) An offence is not committed under sub-section (2) where the ship would not have entered a port, but for stress of weather or any other cause of force majeure that neither the master, the owner nor the charterer if any, could have prevented or forestalled.

(5) A person authorised by the Administration to ensure the observance of the provisions of this section may inspect the grain and the mode in which it is stowed and shall have the powers of a surveyor of ships under this Act.

PART XIII – DANGEROUS GOODS

Regulations as
to dangerous
goods

339. (1) The Minister may make regulations to specify which goods, articles or materials to be carried in a ship are dangerous goods in accordance with Part A Chapter VII of the International Convention for Safety of Life at Sea 1974, as amended and such regulations shall have regard to the International Maritime Dangerous Goods Code (IMDG Code) adopted by the Maritime Safety Committee of the Organisation by resolution MSC.122 (75), as may be amended by the Organisation from time to time.

(2) Without restricting the generality of sub-section (1) the Minister may by regulations prescribe-

- (a) the method of packing and stowing dangerous goods;
- (b) the quantity of dangerous goods which may be carried in any ship;
- (c) the place or places within a ship in which they may be carried;
- (d) the marking that is to be placed on any package or container in which dangerous goods may be placed for shipment; and
- (e) the precautions that shall be taken with respect to the carriage of dangerous goods and the powers of inspection to determine compliance with the provisions of the regulations.

Carriage and marking of dangerous goods

340. (1) A person shall not send or carry in a Gambian ship, except in accordance with regulations made pursuant to section 339, any dangerous goods.

(2) This section shall not apply to the ship's distress signals or to the carriage of military stores under conditions authorised by the Administration.

(3) A person other than the owner or master shall not send or carry in a Gambian ship any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing same in accordance with such regulations as the Minister may make and without first giving written notices of the nature of such goods and of the name and address of the sender thereof to the master or owner of the ship.

(4) This section shall apply to foreign ships while loading at any place in The Gambia as they apply to Gambian ships

Offences under
this Part

341. (1) A person who contravenes this Part commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

(2) A ship in respect of which an offence is committed under sub-section (1) is deemed for the purposes of this Act to be unsafe by reason of improper loading.

Rejection and
disposal of
dangerous
goods by ship

342. (1) The master or owner of a ship may refuse to take on board a package or parcel that he or she suspects might contain dangerous goods and may require the package to be opened to ascertain its nature.

(2) When dangerous goods or goods that in the opinion of the master or owner of the ship, are dangerous have been sent on board a ship without the marking or the written notice described in section 340 (2), the master or owner of the ship may cause the goods, together with any package or container thereof to be thrown over board and neither the master, nor the owner of the ship is subject to civil or criminal liability in any court in respect of such action.

Forfeiture of
dangerous
goods

343. (1) Where dangerous goods have been sent by or carried in a ship in a manner that would constitute an offence under this Part, a competent court may order the goods and any packaging or container thereof, to be forfeited to the state.

(2) A competent court may exercise the power conferred by sub-section (1) notwithstanding-

(a) that the owner of the goods concerned has not committed an offence in respect of the goods, or is not before the court or has had no notice of the proceedings;

(b) that there is no evidence to show to whom the goods belong, but the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are

forfeited.

PART XIV – UNSAFE SHIPS

Interpretation of
this Part

344. In this Part “unsafe ship” means a ship that is by reason of the defective condition of its hull, equipment or machinery, or by reason of under manning, overloading, and any other matter relevant to the safety of the ship unfit to proceed to sea without danger to human life and marine environment having regard to the nature of the services for which it is intended.

Sending unsafe
ship to sea

345. (1) A person, who sends or attempts to send an unsafe ship (whether a Gambian or foreign ship) to sea from a port in The Gambia, commits an offence unless he or she proves that sending the unsafe ship to sea was in the circumstances reasonable and justifiable.

(2) A master of any ship who knowingly takes an unsafe ship to sea from a port in The Gambia commits an offence, unless he or she proves that the taking of the unsafe ship to sea was in the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted except with the consent of the Minister.

(4) A person who commits an offence under this section shall on conviction be liable to imprisonment for a term not exceeding two years or to a fine not exceeding four million Dalasis or to both.

Owner’s
obligation to
crew regarding
unsafe ships

346. (1) In every contract of service between the owner of a ship and the master or seafarer thereof, or in any instrument of apprenticeship whereby a person is bound to serve on board a ship there shall be implied, notwithstanding any agreement to the contrary, an obligation that the owner of the ship, the master and every agent charged with the loading or preparing the ship for sea or sending of the ship to sea shall use all reasonable means to ensure the safeness of the ship at the time when the voyage commences and to keep the ship in a safe condition during the

voyage.

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

Detention of unsafe ship

347. (1) Where, whether on a complaint or a representation made to him or her, the Director General or a surveyor has reason to believe that a ship at a port in The Gambia is an unsafe ship, he or she shall if the complaint or representation is made in sufficient time before the sailing of the ship, ascertain whether or not the ship ought to be detained.

(2) Where the Director-General or surveyor is satisfied that the ship is an unsafe ship he or she may-

(a) in the case of a Gambian ship, cause its Safety Certificates to be suspended until he or she is satisfied that the ship is fit to proceed to sea; and

(b) in the case of any other ship, cause the ship to be detained.

(3) Where the ship is detained pursuant to sub-section (2), the Director-General may adopt any measures or means he or she thinks suitable or necessary to prevent the ship from sailing while it is an unsafe ship.

Method of detention of unsafe ships

348. (1) Where the Director-General has reason to believe (whether on a complaint or otherwise) that a ship in a port in The Gambia is an unsafe ship, he or she shall order the ship to be provisionally detained for the purpose of being surveyed.

(2) Where a ship has been provisionally detained under sub-section (1), a written statement of the grounds of the detention of such ship shall forthwith be served on the master of the ship and-

(a) in the case of a foreign ship, a copy of the statement shall forthwith be served on the local consular officer or the nearest diplomatic mission of the flag state; and

(b) the Director General may, if he or she thinks fit, appoint some competent person or persons to survey the ship and report thereon to him or her.

(3) The Director-General on receiving a report on a ship referred to in sub-section (2) may order that the ship -

(a) be released where in his or her opinion the ship is unsafe; or

(b) be detained either absolutely or until compliance with such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship as he or she thinks necessary for the protection of human life and may vary or add to any such order.

(4) The Director-General may at any time if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any condition.

Supplementary provisions relating to detention and compensation

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

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

(3) Where it appears that there was no reasonable or probable cause by reason of the condition of a ship or the act or default of the owner for the provisional detention of a ship as an unsafe ship,

the Administration shall be liable to pay to the owner of the ship-

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

Powers of surveyors regarding detention

350. (1) A surveyor shall have the same powers as the Director-General has under section 348 to order the provisional detention of a ship for the purpose of survey or for ascertaining the sufficiency of her crew and of appointing a person or persons to survey the ship and where he or she considers that a ship so detained by him or her is not unsafe, he or she may order the release of that ship.

(2) A surveyor detaining a ship under subsection (1) shall forthwith report to the Director-General any order made by him or her for the detention or release of a ship.

Power to require complainant to give security for costs

351. (1) Where a complaint is made to the Director-General or a surveyor that a ship is unsafe, the complainant may be required to give security to the satisfaction of the Director-General or surveyor as the case may be.

(2) The security referred to in sub-section (1) shall not be required when the complaint relating to the ship-

- (a) is made by one fourth, being not less than three of the seafarers belonging to the ship; and
- (b) is not in the opinion of the Director-General or surveyor as the case may be, frivolous or vexatious and in such a case the Director-General or surveyor if the complaint is made in sufficient time before the sailing of the ship, shall take proper steps to ascertain whether the ship ought to be

detained.

Survey of ship
alleged by
seafarer to be
unsafe

352. (1) Where in proceedings against a seafarer of a ship for offence of desertion or absence without leave, it is alleged by one fourth (including the Chief Officer and Chief Engineer) or if their number exceeds twenty, by not less than five of the seafarers belonging to the ship-

- (a) that the ship is by reason of unsafeness, overloading, improper loading, defective equipment, or any other reason, not in a fit condition to proceed to sea; and
- (b) that the crew accommodation in the ship is insufficient or does not comply with the requirements imposed by the regulations made under section 171,

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

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

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

Appointment of
Surveyors

353. For the purposes of section 352, the Court shall require a surveyor or where a surveyor cannot be obtained without unreasonable expense or delay or is not in the opinion of the court competent to deal with the special circumstances of the case, then an impartial surveyor appointed by the court having no interest in the ship, her freight or cargo, to survey the ship which is the subject of allegation under section 352 and to answer any question concerning such ship which the court thinks fit to ask .

(2) A surveyor appointed under sub-section (1) to survey a ship shall survey the ship, make a written report to the Court, and include in his or her written report an answer to every question put to him or her by the court.

(3) On receiving a report under sub-section (2), the Court shall-

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

(4) A person carrying out a survey of a ship under this section shall have for the purposes thereof all the powers of a surveyor.

Costs of survey 354. (1) The costs if any, of the survey of a ship made under section 353 shall be determined by the Administration according to a prescribed scale of fees.

(2) Where it is proved that the ship surveyed under section 353 is in a fit condition to proceed to sea or that the accommodation therein is sufficient, or complies with such requirements as may be prescribed, as the case may be, the costs of survey shall be borne by the person whose demand or in consequence of whose allegation the survey was undertaken, and such costs may be deducted by the master or owner of the ship from the wages due or to become due to that person and shall be paid to the Administration.

PART XV – WRECK

Interpretation 355. In this Part, unless the contrary intention appears-

“Receiver“ means Receiver of Wreck appointed under section 356;

Cap. 68.01 “tidal water“ means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tide, but does not include a declared port within the meaning of the Ports Act;

“vessel“ includes any ship or craft or any structure capable of navigation;

“wreck“ includes-

(a) jetsam, flotsam, lagan and derelict found on or near the cost or in any tidal waters; and

(b) any articles or goods of any kind, cast ashore within the ebb and flow of the tide, that belonged to or came from a vessel wrecked, stranded or in distress or a portion of hull, machinery or equipment of any such vessel.

Appointment of Receiver 356. The Minister may by notice in the Gazette appoint a person to be the Receiver of wreck.

Delegation by Receiver 357. Subject to this Part, the Receiver may by instrument delegate to a person, all or some of his or her powers and functions under this Part.

Indemnity of the Receiver 358. The Receiver or his or her delegate is not liable for any damage or loss suffered as a result of-

(a) an act done; or

(b) a failure to do anything required to be done by him or her in carrying out his or her duties for the purpose of this Part.

Duty of Receiver where ship is in distress 359. (1) Where a vessel is wrecked, stranded or in distress in Gambian waters, on the shores of The Gambia or in any tidal water, the Receiver upon being made acquainted with the circumstances shall-

(a) immediately go to the place where the vessel is wrecked, stranded or in distress;

(b) upon arrival there, take command of the persons present; and

(c) assign such duties and give such directions to each person present as he or she thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel and of the cargo or apparel of the vessel.

(2) A person who without reasonable excuse willfully disobeys the direction of the Receiver, commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

(3) Nothing in this section shall be construed so as to authorise the Receiver to interfere in any matter arising between the master and crew of the vessel concerning the management of the vessel unless requested to do so by the master.

Powers of Receiver in case of ship in distress

360. (1) The Receiver may, with a view to preserving the shipwrecked persons or a vessel and her cargo or apparel-

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

(2) The cost of any requisition under this Part shall be a charge in the vessel including cargo and any property on board and any wreck from the vessel and shall in default of payment be recoverable in the same manner as the amount of salvage is determined and recovered under this Part.

(3) A person who refuses without any reasonable excuse, to comply with any requisition or command under sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Power to pass over adjoining lands

361.(1) When a vessel is wrecked, stranded or in distress, a person may for the purpose of rendering assistance to the vessel, its cargo or apparel, or saving the life of any person-

(a) pass or repass with or without vehicles, machinery or equipment over any adjoining lands unless there is some public road equally convenient; and

(b) deposit on those lands any cargo or other articles recovered from the vessel without being impeded or hindered or being subject to liability for trespass by the owner or occupier but such person may not cause any more damage to the adjoining lands

than is reasonably necessary for the purpose of rendering that assistance.

(2) Any damage sustained by the owner or occupier of the land in consequence of the exercise of the rights conferred by sub-section (1) shall be a charge on the vessel, cargo or articles in respect of or by which damage is occasioned and the amount payable in respect of the damage shall, in the case of dispute, be recoverable in the same manner as the amount of salvage is determined and recovered under this Part.

(3) An owner or occupier of land who-

(a) impedes or hinders any person in the exercise of the rights conferred upon him or her by this section whether by locking his or her gates or otherwise;

(b) impedes or hinders the deposit of any cargo or other articles recovered from the vessel as aforesaid, on the land;

(c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Duties of finder
etc. of wreck

361A. (1) Where a person finds or takes possession of any wreck in The Gambia waters or finds or takes any possession of any wreck outside The Gambia waters and brings it within those waters he or she shall-

(a) if he or she is the owner of it, give notice to the Receiver stating that he or she has found or taken possession thereof and describing the marks by

which it may be recognized;

(b) if he or she is not the owner, give notice to the Receiver that he or she has found or taken notice of it and either hold it to the Receiver's order or deliver it to the Receiver.

(2) Where a person fails without reasonable excuse to comply with sub-section (1), he or she commits an offence and is liable on conviction to a fine not exceeding ten thousand Dalasis and if he or she is the owner of the wreck he or she shall also-

(a) forfeit any claim to salvage; and

(b) be liable to pay twice the value of the wreck-

(i) if it is claimed, to the owner of it, or

(ii) if it is unclaimed, to the person entitled to the wreck.

(3) A sum payable under sub-section (2)(b) to the owner of the wreck or to the person entitled to the wreck may be recovered as a civil debt.

Power of Receiver to use force to suppress plunder and disorder

362. (1) Whenever a vessel is wrecked, stranded or in distress in Gambian waters or on the shores of The Gambia and a person plunders, creates disorder or obstructs the preservation of the ship or of the ship wrecked persons or the cargo or apparel of the ship, the Receiver may cause such person to be apprehended.

(2) The Receiver may use such force as may be reasonable for the suppression of any plundering, disorder or obstruction referred to in sub-section (1) and may order any person to assist him or her in doing so.

(3) Where a person loses his or her life or limb or sustains injury by reason of his or her resisting the Receiver or any person acting under the orders of

the Receiver in the execution of the duties entrusted to the Receiver under this Part, neither the Receiver nor the person acting under his or her orders shall be liable to any punishment or pay damages by reason of the person losing his or her life or sustaining any injury.

Examination on oath in respect of ships in distress

363. (1) Where a vessel is or has been in distress in Gambian waters, a Receiver or in his or her absence a Justice of Peace, as soon as it is convenient, shall examine on oath (which he or she is hereby empowered to administer) any person belonging to the ship or any other person who may be able to give any account of the cargo or stores as to the following matters-

- (a) the name and description of the vessel;
- (b) the name of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports from and to which the vessel was bound;
- (e) the occasion of the distress of the vessel;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the vessel or to the cargo on board the vessel as the person holding the examination thinks necessary,

(2) The person holding the examination under subsection (1) in relation to a ship shall make a record in writing and send a copy to the Director-General

(3) The Director-General shall if he or she thinks fit, cause a copy of the record to be placed in a conspicuous place in the office of the Administration in the area in which the ship was in distress.

(4) The person holding an examination under subsection (1) shall for the purpose, have all the powers of a surveyor.

Interfering with
wrecked vessel
or wreck

364. (1) A person shall not without leave of the master, board or endeavour to board any vessel which is wrecked, stranded, or in distress, unless that person is, or acts by command of the Receiver or person lawfully acting as such.

(2) A person who acts in contravention of subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis

(3) A person who-

- (a) impedes or hinders, or endeavours in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress or any part of the cargo or apparel thereof, or any wreck;
- (b) conceals any wreck or defaces or obliterates any marks thereon;
- (c) wrongfully carries away or removes any part of a vessel stranded or in danger of being stranded or otherwise in distress or any part of the cargo or apparel thereof, or any wreck,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis

Notice of wreck
to be given to
Receiver

365. (1) Where a person (including the owners of a wreck)-

- (a) finds or takes possession of a wreck within the jurisdiction of The Gambia; or
- (b) finds or takes possession of a wreck outside The Gambia and brings such wreck or causes such wreck to be brought into The Gambia;

he or she shall notify the Receiver accordingly.

(2) A person who fails or refuses without reasonable cause, proof of which is on him or her, to give notice required under sub-section (1) commits an offence and is liable on conviction to a fine not exceeding three million Dalasis.

Receiver may
take possession
of wreck

366. (1) The Receiver may take possession of a wreck within the jurisdiction of The Gambia or by written notice require a person to deliver up to him or her any wreck.

(2) A person who fails or refuses without reasonable cause, proof of which is on him or her, to comply with a notice under sub-section (1) commits an offence and is liable on conviction to a fine not exceeding three million Dalasis.

Notice of wreck
to be given by
Receiver

367. Where the Receiver takes possession of a wreck, he or she shall within forty eight hours give notice of the wreck by publishing in such manner as he or she may consider appropriate, a description of the wreck and any marks by which it is distinguished.

Delivery of
wreck to owner

368. (1) The owner of a wreck in the possession of the Receiver, upon establishing his or her claim thereto to the satisfaction of the Receiver within six months from the time when the wreck came into the possession of the Receiver, shall on paying the salvage fees and other expenses due, if any, be entitled to have the wreck delivered to him or her.

(2) Where a wreck or other articles belonging to or forming part of a foreign vessel which has been wrecked in Gambian waters or on the shores of The Gambia or belonging to and forming part of the cargo thereof, is found on or near the shores of The Gambia, the Consular officer of the country to which the vessel belongs or, in the case of cargo, the Consular officer of the country of which the owners of such cargo are citizens shall, in the absence of the owner and of the master or other agent of the owner, be considered to be the agent of the owner, so far as relates to the custody and disposal of the wreck or such other article.

Immediate sale
of a wreck

369. (1) A Receiver may at any time sell any wreck in his or her custody, if in his or her opinion it -

- (a) is under the value of one million Dalasis;
- (b) is so damaged or of such perishable nature that it cannot without advantage be kept; or
- (c) is not of sufficient value to pay for storage; or
- (d) has not been removed within a time specified by the Receiver.

(2) The proceeds of any sale made under subsection (1) shall after defraying the expenses, be held by the Receiver for the same purposes, and be subject to the same claim, rights and liabilities as if the wreck had remained unsold.

Right to
unclaimed
wreck

370. The Government of The Gambia is entitled to all unclaimed wrecks found within any part of The Gambia except in any place where the Government has granted to any person the right to the wreck.

Disposal of unclaimed wreck

371. Where no person establishes a claim to any wreck which has been-

(a) found in The Gambia or found or taken possession of outside The Gambia and brought into The Gambia;

(b) in the possession of the Receiver for six months,

the Receiver shall sell or dispose of such wreck and shall pay the proceeds (if any) into the funds of the Administration after deducting therefrom expenses of the sale and such amount of salvage payable to salvors as the Director-General in each case may determine.

Delivery of unclaimed wreck by receiver not to prejudice title

372. Upon the delivery of any wreck or payment of proceeds of sale of any wreck by the Receiver pursuant to this Part, the Receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question, which may be raised by third parties concerning the right or title or the wreck.

Breaking up and removal of wrecks

373. (1) A person, being the owner of a vessel or of a wrecked, submerged, sunken or stranded vessel or being an agent or servant of such owner who wishes to break up such vessel prior to its removal from The Gambia, shall before commencing the salvage or breaking up operations, obtain the written permission of the Receiver.

(2) On receiving an application for permission to break up a vessel under this section, the Receiver may grant such permission and may in granting such permission-

(a) stipulate such conditions as he or she considers necessary to minimise the risks or effects of any pollution;

(b) require security in such reasonable amount as he or she may consider necessary to ensure the safe and

effective removal of such vessel or any portion thereof.

(3) A person, who without the prior written permission of the Receiver, does or causes to be done any salvage or breaking up operations on a vessel or a wrecked, submerged, sunken or stranded vessel lying within The Gambia commits an offence and is liable on conviction to a fine not exceeding three million Dalasis or imprisonment for a term not exceeding one year or both.

Extent to power of removal of wreck

374. The provisions of this Part relating to the removal of wrecks shall apply to every article or thing being or forming part of tackle, cargo, stores or ballast of a vessel.

Dispute as to title to wreck

375. Where a dispute arises as to the title of any wreck, it may be determined as if it were a dispute as to salvage.

Removal of wrecked vessel etc.

376. A person who, without the prior written approval of the Receiver removes from the jurisdiction of the country-

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

commits an offence and is liable on conviction to a fine not exceeding three million Dalasis or imprisonment for a term not exceeding two years or both.

Prohibition on approaching dangerous wrecks

377.(1) Where the Director-General is satisfied with respect to a vessel lying wrecked in Gambian waters that-

- (a) because of anything contained in it, the vessel is in a condition which makes it a potential danger to life or property; and

(b) on that account, it ought to be protected from unauthorised interference,

he or she may by order designate an area around the vessel as a prohibited area.

(2) An order under this section shall identify the vessel and the place where it is lying and-

- (a) the prohibited area shall be within such distance of the vessel as is specified by the order, excluding any area above high water-mark of ordinary spring tides; and
- (b) the distance specified for the purpose of paragraph (a) above shall be whatever the Director-General thinks appropriate to ensure that unauthorised persons are kept away from the vessel.
- (c) a person commits an offence if without authority in writing granted by the Director-General he or she enters such prohibited area, whether on surface or under water.

Summary
procedure for
concealment of
wreck

378. Where the Receiver suspects or receives information that a wreck is-

- (a) secreted;
- (b) in the possession of a person who is not the owner thereof; or
- (c) otherwise improperly dealt with,

he or she may apply to a Magistrate for a search warrant and that Magistrate shall have power to grant such a warrant and the Receiver by virtue thereof, may enter any house or other place, wherever situated, and search for, seize, and detain any such wreck found.

379. (1) Where any vessel is sunk, stranded, wrecked or abandoned in a port or harbour under the control of the Gambia Ports Authority in such manner as in the opinion of the Administration is likely to be an obstruction or danger to navigation or to life boats engaged in life boat service in that port, the Administration shall direct the Ports Authority-

- (a) to take possession of and raise, remove or destroy the whole or any part of the vessel;
- (a) light or buoy the vessel or part of such vessel until the raising, removal or destruction;
- (c) subject to sub-section (2) and (3), sell in such manner as it thinks fit, the vessel or the part so raised or removed and also any other property recovered in the exercise of its powers under this section and out of the proceeds of the sale, reimburse itself for the expenses incurred and hold the surplus, if any, in trust for the persons entitled to it; except that such surplus shall be paid to the Authority unless such person establishes a claim within one year of the sale.

(2) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, a sale shall not be made under this section until at least seven clear days notice of the intended sale has been given either by advertisement in a newspaper of national circulation or in such other manner as such Authority thinks fit.

(3) Before any property is sold under this section, the owner shall be entitled to have the property delivered to him or her or payment to the Authority referred to in sub-section (1) at its market value.

(4) The value of the property shall be ascertained by agreement between the Authority and the owner

or failing such agreement, by some person to be named for the purpose by the Director-General

(5) Any sum received by the Authority under sub-section (1) or in respect of any property under sub-section (3) shall for the purposes of sub-section (1), be considered to be proceeds of the sale of such property.

(6) Where the proceeds of sale of any property sold under this section are less than the cost incurred by the Authority referred to in sub-section (1), the Authority may recover such difference from the owner of the vessel concerned by civil action.

(7) In the event that the wreck has no value, the Authority may, acting under this section claim the expenses of removal from the owner of the wreck.

Wrecked goods
subject to duties

380. (1) Wrecked goods brought into The Gambia shall be subject to the same duties as those to which such goods would be subject if they were imported into The Gambia.

(2) Where any question arises as to the origin of any goods referred to in sub-section (1), they shall be considered to be the produce of such country as the Commissioner of Customs and Excise may on investigation determine.

(3) The Commissioner of Customs and Excise shall permit-

(a) all goods, wares or merchandise saved from any vessel stranded or wrecked on her southbound voyage to be forwarded to the port of her original destination; and

(b) all goods, wares or merchandise saved from any ship stranded or wrecked on her northbound voyage to be returned to the port at which they were shipped but the Commissioner of Customs and Excise shall take security for the due protection of those goods.

Fees payable to Receiver

381. Where the Receiver has-

- (a) attended at a site of a stranded vessel or wreck;
- (b) taken possession of a wreck under this Part;
- (c) acted in pursuance of his or her powers under this Part in relation to a vessel wrecked, stranded or in distress,

the prescribed fees shall be payable to the Receiver.

Recovery of fees and cost

382.(1) Where the Receiver -

- (a) is entitled to fees payable under section 381;
- (b) has incurred costs and expenses in acting pursuance of his powers under this Part, and these costs and expenses are not recovered;

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

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

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

Regulations under this Part

383. The Minister may make regulations providing for -

- (a) the manner in which notice of wreck found or taken possession of shall be

given to the Receiver;

- (b) the manner in which the Receiver shall give notice that he or she has taken possession of a wreck;
- (c) the manner in which the Receiver may sell, deal with or otherwise dispose of any wreck in his or her possession;
- (d) the fees and expenses, and their payment for services rendered by the Receiver;
- (e) the report of derelict vessel or floating wreckage or sunken wreck;
- (f) claims to wreck or other property in the custody of the Receiver;
- (g) declarations to be made by the claimant when Receiver has any doubt as to his title;
- (h) form of Record Book;
- (i) particulars of wreck; and
- (i) Savor's warrant.

PART XVI - SALVAGE

Interpretation 384. For the purpose of sections 385 to 417-

“Court” means a court of competent jurisdiction;

“damage to the environment” means substantial physical damage to human health or marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar incidents;

“maritime casualty” means a collision of vessels,

stranding or other incident of navigation or other occurrence on board a vessel or external to it, resulting in material damage or imminent threat of material damage to a vessel or cargo;

“payment” means any reward, remuneration or compensation due under the provisions referred to in this Part;

“salvor” means a person rendering salvage services;

“salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever;

“property” means any property not permanently and intentionally attached to the shoreline and includes freight at risk;

“Salvage Convention” means the International Convention on Salvage, 1989; and

“Vessel” means any ship or craft, or any structure capable of navigation.

Exclusion of
platforms and
drilling units

385. Sections 387 to 417 shall not apply to fixed or floating platform or to a mobile offshore drilling unit when such platform or unit is on location engaged in the exploration, exploitation or production of sea bed mineral resources.

Exclusion of
foreign state
owned vessels

386. (1) Sections 387 to 417 shall not apply to warships or other non-commercial vessels owned or operated by a foreign state and entitled at the time of salvage operations to sovereign immunity under generally recognised principles of international law unless that state has decided to apply the convention to such ships or vessels.

(2) For the purposes of any proceeding under this Act, a certificate signed by the Secretary General of the International Maritime Organization, setting out a state’s decision to apply the convention to ships and vessels referred to in sub-section (1) and the

terms and conditions of such application shall be *prima-facie* evidence of the facts stated therein.

Salvage of life

387. (1) Where services are rendered-

- (a) wholly or in part within the jurisdiction of the country in saving life from any vessel or aircraft,
- (b) outside the jurisdiction of the country, in saving life from any Gambian vessel;

the owner of the vessel, aircraft, cargo, machinery or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this Part;

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel shall have priority over all other claims for salvage.

(3) Salvage shall not be due from the person whose life has been saved.

Salvage of property

388. (1) Where services are rendered-

- (a) wholly or in part within the jurisdiction of the country in saving life from any vessel or aircraft;
- (b) outside the jurisdiction of the country, in saving life from any Gambian vessel;

the owner of the vessel, aircraft, cargo, machinery or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this part.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel shall have priority over all other claims for salvage.

(3) Salvage shall not be due from the person whose

life has been saved.

Services
excluded from
salvage remuneration

389. Nothing in this Part shall entitle a person to salvage remuneration-

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

Conditions for
salvage remuneration

390. (1) Except as otherwise provided in section 400, no remuneration shall be due under this Act if the salvage operations had no useful result

(2) A salvor shall be entitled to remuneration under this Part notwithstanding that the vessel performing the salvage operation and the vessel, cargo or other property salvaged belong to the same owner.

Salvage
contracts

391. (1) Sections 387 to 417 shall apply to any salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Gambian vessel shall have the

authority to conclude contracts for salvage operations on behalf of the owner of the vessel, and the master and the owner of a Gambian vessel shall have the authority to conclude contracts on behalf of the owner of the property on board the vessel.

(3) Nothing in this section shall affect the application of section 393 or the duties to prevent or minimize damage to the environment provided in sections 394 (b) and 395 (b)

Annulment or
modification of
contracts

392. A contract relating to a salvage operation or any terms thereof may be annulled or modified by a competent court, where it appears to the court that-

- (a) the contract had been entered into under undue influence or influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

Duties of Salvor

393. A salvor owes a duty to the owner of the vessel or other property in danger to-

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

she proves that such a request was unreasonable.

Duties of owner
and master

394. The owner and master of the vessel or the owner of other property in danger owes a duty to the salvor-

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

Powers of the
Minister

395. (1) The Minister may-

- (a) give directions in relation to any salvage operation; and
- (b) take measures in accordance with generally recognised principles of international law to protect the environment or related interest from pollution or the threat of pollution following a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences to the environment.

(2) The Minister shall, in giving directions and taking measures under sub-section (1), take into account the need for co-operation between salvors, other interested parties and the Administration in order to ensure the efficient or successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

(3) A public servant or other person acting under the directions of the Minister as referred to in this section shall be under a duty to exercise due care in preventing or minimising damage to the environment.

(4) A public authority or a officer thereof who is reasonably within the vicinity of a vessel or person in distress or danger of being lost at sea shall render assistance to save the vessel and life by co-operating in-

- (a) procurement and provision of facilities to salvors;
- (b) admittance to port of vessels in distress;
- (c) insuring the efficient and successful performance of the salvage operation for the purpose of salving life and property; and
- (d) preventing or minimizing damage to the environment.

Criteria for fixing the reward

396. A reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are listed-

- (a) the salved value of the vessels and other property;
- (b) the skill and effort of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success obtained by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and effort of the salvor in salving the vessel, other property and life;

- (f) the time used and the expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipments intended for salvage operations; and
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

Responsibility for payment of reward

397. (1) Payment of a reward fixed in accordance with section 396 shall be made by all of the owners of the vessel and other property in proportion to their respective salvaged values.

(2) For expediency, the ship owner shall pay the reward on behalf of all interest referred to in sub-section (1) subject to his retaining the right to be reimbursed by these other interests.

(3) The shipowner who makes the payment under sub-section (2) may require the other interests to provide security not exceeding the values of their respective salvaged interests until he or she has been fully reimbursed.

Quantum of reward

398. The reward excluding any interest and recoverable legal costs that may be payable thereon shall not exceed the salvaged value of the vessel and other property salvaged.

Special compensation

399. (1) A salvor who has carried out salvage operations in a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under section 398 which is equivalent to the special compensation assessable under section (2) shall be entitled to special

compensation from the owner of that vessel equivalent to his expenses as defined in sub-section (3).

(2) Where in the circumstances set out in sub-section (1), the salvor by his salvage operations has prevented or minimised damage to the environment, a special compensation payable by the owner to the salvor under sub-section (1) may be increased up to the maximum of thirty percent of the expenses incurred by the salvor, and the court or person determining the award may where it or he or she considers it fair and just, increase such special compensation further, bearing in mind the criteria set out in section 398, but in no event shall the total increase be more than one hundred percent of the expenses incurred by the salvor.

(3) For the purposes of sub-sections (1) and (2) "salvor's expenses" means out of pocket expenses reasonably incurred by the salvor in the salvage operations and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in section 397 (h), (i) and (j).

(4) The total special compensation assessable under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 397.

(5) Where the salvor, in carrying out the salvage operation, has acted negligently and has thereby failed to prevent or minimise damage to the environment, he or she may be deprived of the whole or a part of any special compensation payable under this section.

(6) Nothing in this section shall affect any right of recourse available to the owner of the vessel.

Services rendered under existing contracts

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

Apportionment
between salvors

401. (1) The apportionment of a reward fixed by section 397 between salvors shall be made on the basis of the criteria listed in that section.

(2) The apportionment between the owner, master and other persons in the service of each salvaging vessel shall be determined by the law of the state in which the vessel is registered.

(3) Where the salvage referred to in sub-section (1) has not been carried out from a vessel, apportionment shall be determined by the law governing the contract between the salvor and his or her servant and in the absence of formal contract, the court or person(s) determining the apportionment and disbursements shall apply general principles of law and equity according to the merits of the case in order to reach a just and equitable decision.

Salvor's
misconduct

402. A salvor may be deprived of the whole or part of the payment due to him or her under this Part to the extent that the salvage operation has become necessary or more difficult because of fault or neglect on his or her part or if the salvor has been guilty of fraud or other misconduct.

Maritime Lien

403. Nothing in this Part shall affect the salvor's maritime lien under this Act provided however that the salvor may not enforce his or her maritime lien when reasonable security for his or her claim including interests and costs, has been duly tendered or provided.

Duty to provide
security

404. (1) A person liable for a payment under this Part shall upon the request of the salvor give security to the satisfaction of the salvor of the claim, including interest and costs of the salvor.

(2) Without prejudice to sub-section (1), the owner of the salvaged vessel shall take all reasonable steps to ensure that the owners of the cargo provide security to the satisfaction of such owner of the vessel or of the salvor of the claims against them including interest and cost, before the cargo is

released.

(3) The salvaged vessel and property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operation, until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or property.

(4) In the event of any dispute between the salvor and a person liable for a payment under this Act or between the owner of the vessel and the owner of the cargo referred to in sub-section (2), relating to the security to be provided under this section, the court having jurisdiction over the salvor's claim may, upon the application of any such party in that behalf decide the amount and the terms of such security.

Interim payment 405. (1) The court or person adjudicating the claim of the salvor may, upon the application of the salvor make an interim order for the payment to the salvor of such amount as the court may consider fair and just, and on such terms including terms as to security where appropriate, as may be fair and just, in the circumstances of the case.

(2) In the event of any interim payment under sub-section (1), the security provided under section 403 shall be reduced accordingly.

State owned cargoes 406. Non commercial cargoes owned by a state and entitled at the time of salvage operations to sovereign immunity under general principles of international law, shall not be subject to seizure, arrest or detention by any legal process or to any in *rem* proceedings, without the express consent of the state owner of such cargo.

Determination of salvage disputes 407. (1) Disputes as to the amounts of reward, whether of life or property and whether rendered within or outside The Gambia arising between the salvor and the owners of vessel, cargo, apparel or wreck shall if not settled by agreement, arbitration or otherwise, be determined by a court of

competent jurisdiction.

(2) A dispute relating to reward may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

(3) A court or arbitrators to whom a dispute as to reward is referred to for determination may for the purpose of determining any such dispute, call to their assistance as an assessor, any person knowledgeable in marine affairs and there shall be paid as part of the costs of the proceedings of every such assessor in respect of his services such sum as may be prescribed.

Humanitarian cargoes

408. A humanitarian cargo donated by a state shall not be subject to seizure, arrest or detention, where such state had agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

Valuation of property salvaged

409. (1) Where a dispute relating to salvage operation arises, the Receiver may on application of either party, appoint a valuer to value the property, and where such a valuation is made, shall give copies of the valuation to both parties.

(2) A copy of a valuation made under this subsection (1) purporting to be signed by the valuer as certified true copy shall be admissible in evidence in any subsequent proceedings.

(3) Such fees as prescribed shall be paid in respect of a valuation made under this section by the person applying for such valuation.

Detention of property liable to reward by Receiver

410. (1) Where a reward is due to a person under this Act, the Receiver shall-

(a) where the reward is due in respect to services rendered in assisting a vessel, or in saving life therefrom or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel thereof;

- (b) where the reward is due in respect of saving of a wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Except as provided in this Act, the Receiver shall detain the vessel and cargo or apparel or the wreck until payment is made for salvage or process is issued for the arrest or detention by a court

(3) Where a vessel, cargo or apparel is detained under sub-section (2) the Receiver shall-

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

(4) The Receiver may release any detained property where the security is given to his or her satisfaction or to the satisfaction of a Judge of the High Court.

Sale by
Receiver of
detained
property

411. (1) Where a dispute as to salvage operation has been referred to the court, the Receiver shall deal with any property detained under section 410 as the courts orders.

(2) Where subject to sub-section (1), in the case of property detained under section 410, the amount of salvage due to a salvor is not disputed and the amount is not paid within twenty days of the date agreed for payment, the Receiver may sell the detained property.

(3) The proceeds of the sale under sub-section (2) of any vessel, cargo, apparel or wreck shall, after deduction of the costs of the sale, be applied by the Receiver in the payment of the cost of salvage operation, and the balance of the proceeds shall be paid to -

- (a) the owners of the property;
- (b) other person entitled thereto; or
- (c) in the absence of any such owners or person to the funds of the Administration.

Apportionment of reward by a court of competent jurisdiction

412. (1) Where two or more persons claim payment in respect of salvage operation, the court may on the application of the claimant, cause the amount of reward to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint a person to carry that apportionment into effect.

(2) Where a dispute arises under sub-section (1) between the owner, master or any other person in the service of a foreign vessel, the court or any person appointed by it to carry that apportionment into effect shall have regard to the laws of the country to which the vessel belonged at the time the salvage services were rendered.

Salvor's right to interest

413. A salvor shall be entitled to be paid interest on any payment due to him or her under this Part and the amount of such interest shall be at the discretion of the court or person adjudicating the case.

Application to Government

414. (1) Where civil salvage services are rendered by or on behalf of the Government or with the aid of Government property, the Government shall (subject to any regulations made under this section) be entitled to claim salvage in respect of these services to the same extent, and shall have the same rights and remedies, as any other salvor.

(2) Subject to the provision of any law relating to proceedings against the Government and of any regulations made under this section, the provisions of this Part (except and to such extent as may be prescribed) shall apply in relation to saving life therefrom or in saving any cargo or equipment belonging to the Government, in the same manner as if the ship or cargo or equipment belonged to a private person.

(3) Nothing in this Part shall prejudice the right of a salvor carrying out salvage under section 395 or this section to avail himself or herself of the rights and remedies provided in this Part including remuneration where the salvage operation is voluntary and exceptionally beyond his or her normal official duties.

(4) The Minister may make regulations providing for the application or modification of the provisions of this Part to ships referred in sub-section (1) and in relation to services referred to in sub-section (2).

Postal article not subject to salvage

415. A claim for salvage shall not lie against the state in respect of a postal article or the contents of a postal article.

Limitations of actions

416. (1) No action shall be instituted in respect of any salvage operation unless judicial or arbitral proceedings therein are commenced within two years after the date of termination of the salvage operations.

(2) The person against whom the claim is made may at any time during the period of two years referred to in sub-section (1), extend such period by a declaration to the claimant and may in the like manner further extend such period.

(3) An action for indemnity by a person liable under this Part may be instituted within two years after the date of termination of the salvage operations but the court may extend the limitation period to such an extent and on such conditions as it considers fit.

Publication of judicial and arbitral Awards

417. Subject to the concerns of the parties to a salvage action, a judicial or arbitral award resulting from it may be published in the Gazette.

PART XVII – CARRIAGE OF PASSENGERS AND THEIR LUGGAGE ON BOARD SHIPS

Regulations respecting

418. (1) The Minister may make regulations

carriage of
Passengers and
their Luggage
on Board Ships

prescribing-

- (a) accommodation facilities and provisions on board a ship which carries passengers from a port in The Gambia;
- (b) the preparation and furnishing of particulars as to all passengers to or from a port in The Gambia;
- (c) the number of passengers which a ship may carry from a port in The Gambia, whether or not the ship is a passenger ship;
- (d) the terms and conditions upon which a ship may carry passengers between a port in The Gambia to a port or place outside The Gambia;
- (e) carriage of medical staff and the provision of hospital accommodation;
- (f) sanitary facilities;
- (g) sale of alcohol;
- (h) passenger lists;
- (i) cargo that may be carried and the method of stowing cargo;
- (j) maintenance of good order in respect of passengers;
- (k) the prevention of willful damage and injury to the machinery or equipment of a ship by a passenger;
- (l) the prevention of any obstruction to any seafarer in the execution of his or her duty;

- (m) the prevention of the molesting of or interference with any person on board the ship; and
- (n) the manner of notification of the carriage of deck passengers.

(2) In making regulations pursuant to sub-section (1), the Minister shall have due regard to the International Convention on the Carriage of Passengers and their Luggage on Board Ships 1974 and any amendments thereof for the time being in force.

PART XVIII – LIMITATION AND DIVISION OF LIABILITY

Interpretation of this Part

419. (1) For the purposes of this Part-

“court” means a court of competent jurisdiction;

“salvage services” means services rendered in direct connection with salvage operations;

“salvor” means person services rendering salvage services;

“salvage operation” includes the operations referred to in section 421 (1)(d), (e) and (f)

“ship” includes every description of lighter, barge or like vessel however propelled and any structure launched and intended for use in navigation of a ship or as part of a ship other than air cushion vehicle and floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea bed or subsoil thereof;

“shipowner” includes charterer, manager or operator of a ship; and

“unit of account” means the Special Drawing Rights as defined in section (2) of Article (1) of the Articles of Agreement of the International Monetary Fund.

(2) The Minister responsible for Finance may from

time to time by notice published in the Gazette, specify the amounts which, for the purpose of this Part are to be taken as the equivalent to any specified number of unit of account.

Persons entitled
to limit liability

420. (1) A shipowner or salvor may limit his or her liability in accordance with this Part.

(2) An insurer of liability for claims subject to limitation under this Part shall be entitled to the benefit of limitation to the same extent as the assured.

(3) A person for whose act, neglect or default the shipowner or salvor is responsible may limit his or her liability under this Part.

Claims subject
to limitation

421. (1) Subject to sections 422 and 423, the following claims shall be subject to limitation of liability regardless of the basis of liability-

(a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to harbour works, basins and waterways and aids to navigation occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or luggage;

(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned including anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship; and destruction or the rendering harmless of the cargo of the ship; and

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his ability in accordance with this Part, and further loss caused by such measures.

(2) The claims referred to in sub-section (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise.

(3) The claims referred to in sub-section (1) (d), (e) and (f) shall not be subject to limitation to the extent that this relates to remuneration under a contract with the person liable.

Liability
against ships
and invoking

422. For the purposes of this Part, the liability of a shipowner shall include liability in an action against his or her ship, and the act of invoking limitation shall not constitute an admission of liability.

Claims
exempted from
limitation of
liability

423. Limitation of liability under this Part shall not apply to the following claims-

- (a) claims for salvage, including if applicable, any claim for special compensation under article 14 of the International Convention on Salvage, 1989, or contribution in general average;
- (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Pollution Damage 1969, or of any Protocol thereto which is in force;
- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by officers of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims if under

the law governing the contract of service between the shipowner or salvor and such servants, the shipowner or salvor is not entitled to limit his or her liability to an amount greater than that provided for in section 426.

Conduct
barring
limitation

424. A person liable under this Part shall not be entitled to limit his or her liability if it is proved that the loss resulted from his or her personal act or omission, was committed with intent to cause such loss or recklessly with the knowledge that such loss would probably result.

Counterclaims

425. Where a person entitled to limitation of liability under this Part has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

Limits of
liability
calculation

426. The limits of liability for the claims other than those provided for in section 432 arising on any distinct occasion, shall be calculated as follows-

(a) in respect of claims for loss of life or personal injury-

(i) for a ship with a tonnage not exceeding 2,000 tons, 2 million Units of Account,

(ii) for a ship with a tonnage in excess of 2,000 tons, the following amounts in addition to that mentioned in sub-paragraph (i)-

(aa) for each ton from 2,001 to 30,000 tons, 800 Units of Account,

(ab) for each ton from 30,001 to 70,000 tons, 600 Units of Account,

(ac) for each ton in excess of 70,000 tons, 400 Units of Account;

(b) in respect of any other claims-

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2000 tons,

(ii) for a ship with a tonnage exceeding 2000 tons, the following amount in addition to that mentioned in subparagraph (i)-

(aa) for each ton from 2,001 to 30,000 tons, 400 Units of Account;

(ab) for each ton from 3,001 to 70,000 tons, 300 Units of Account; and

(ac) for each ton in excess of 70,000 tons, 200 Units of Account.

Priorities

427. (1) Where the amount calculated in accordance with section 426 (a) is sufficient to pay claims mentioned therein in full, the amount calculated in accordance with section 426(b) shall be available for payment of the unpaid balance of claims under 426(a) and such unpaid balance shall rank ratably with claims mentioned under section 426(b).

(2) Without prejudice to the right of claims for loss of life or personal injury referred to in section 426 (a), claims in respect of harbour works, basins, waterways and aids to navigation shall have priority over claims referred to in paragraph (b) of section 426.

(3) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he or she is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

Measurement
of ship's
tonnage

428. For the purpose of this Part, a ship's tonnage shall be its gross tonnage as defined in the Tonnage Regulations and shall be measured in accordance with the said Regulations.

Limitation of
liability of Port
Authorities,
Owners of
Docks

429. (1) The owners of a dock, canal, harbour or port authority who may be liable for any loss or damage caused to a vessel or to any goods, merchandise or other things whatsoever on board a vessel shall not be liable to pay damages beyond an aggregate amount equivalent to 70 Units of Account for each ton of the tonnage of the largest Gambian ship that at the time of such loss or damage occurring, is or within a period of five years previous thereto, has been within the area over which such dock or canal owner or port or harbour authority performs any duty or exercise any power.

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

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

(4) For the purpose of this section, the expression "owner of a dock or canal" includes a person or authority having the control and management of any dock or canal and a ship repairer using the same, as the case may be.

(5) Nothing in this shall impose liability in respect of loss or damage on such owners or authority in any case where no such liability would have existed if this Act had not been enacted.

Limits for
passenger
claims

430. (1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers, which the ship is authorised to carry according to the ship's certificate.

(2) For the purpose of this section, "claims for loss of life or personal injury to passengers of a ship" means any such claims sought by or on behalf of a person carried in that ship-

- (a) under a contract of passenger carriage; or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for carriage of goods.

Conversion of unit account to Gambian currency

431. The amounts referred to in sections 426 and 430 shall be converted into Dalasis according to the Central Bank official exchange rate on the date a limitation fund is constituted, or security or guarantee referred to in section 433 shall have been deposited.

Aggregation of claims

432. (1) The limits of liability determined in accordance with section 427 shall apply to the aggregate of all claims which arise on any distinct occasion -

(a) against the shipowner and a person for whose act, neglect or default he or she may be responsible;

(b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and a person for whose act, neglect or default he or they are responsible;

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship or in respect of which, the salvage services are rendered and a person for whose act, neglect or default he or they are responsible;

(2) The limits of liability determined in accordance with section 426 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the ship owner in respect of the ship referred to in section 430 and a person for whose act, neglect or default he or she may be responsible.

Provision of security and release of ship

433. (1) A person alleged to be liable and seeking to limit his or her liability under this Part shall deposit into Court an amount at least equivalent to the limit provided for in sections 426 and 430 or as appropriate in the form of a security or a guarantee together with interest

thereon from the date of the occurrence giving rise to the liability until the date such security or guarantee is deposited.

(2) The amount so constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(3) A security or guarantee deposited by one of the persons mentioned in section 432(1)(a),(b), and (c) or (2), or of his or her insurer shall be deemed to have been deposited by the persons mentioned in section 432(1)(a),(b) or (c) or (2).

Distribution of
the Fund

434. (1) Subject to sections 426, 427 and 430, the proceeds of any security or guarantee deposited with the Court shall be distributed among claimants in proportion to their established claims.

(2) The Court may stay proceedings pending in any other Court in relation to the same subject matter and may proceed in such manner and subject to such regulations as to the exclusion of any claimants who do not come within a certain time as to payment of costs as the Court thinks just.

(3) No lien or other right in respect of any ship or property shall affect the proportions in which any amount is distributed amongst several claimants.

(4) All sums paid for on account of any loss or damage in respect whereof, the liability of the owners is limited under the provisions of this Part 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 their use.

(5) Where before the proceeds of the security or guarantee are distributed the person liable or his or her insurer has settled the claim, such

person, up to the amount he or she has paid, acquires by subrogation the rights which the person so compensated would have enjoyed under this Part.

(6) In making a distribution in accordance with this section, the Court may if it thinks fit, postpone the distribution of such part of the amount to be distributed as it considers appropriate, having regard to any claims subrogated or otherwise that may be established later.

Bar to other actions

435. (1) Where a security or guarantee has been deposited with the Court in accordance with section 433, a person having made a claim against such security or guarantee shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the security or guarantee has been deposited.

(2) Where a ship or other property is seized or arrested in connection with a claim which appears to the Court to be founded on liability to which limitation is applicable under this Part, and in respect of which a security or guarantee is deposited, the Court shall order the release of the ship or the property if the security or guarantee has been deposited in The Gambia-

- (a) at the port where the occurrence took place or if it took place out of the port, at the first port of call thereafter;
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo.

(3) Where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of

the court to adjudicate on the claim.

(4) Sub-sections (1) and (2) shall apply only where the claimant brings a claim before the Court and the amount in the form of security or guarantee deposited with the Court is actually available and freely transferable in respect of that claim.

Rules as to
division of loss

436. (1) Subject to sub-sections (2) and (3), where due to the fault of two or more vessels, damage or loss is caused to one or more of these vessels, their cargo, freight or to any property on board, the liability to make good the damage or the loss shall be in proportion to the degree in which each vessel was at fault.

(2) Where, having regard to the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) Nothing in this section shall-

(a) operate so as to render a vessel liable for any loss or damage to which its fault has not contributed, and affect the liability of a person under a contract of carriage or any other contract;

(b) be construed as imposing liability upon a person from which he or she is exempted by a contract or by a provision of law, or as affecting the right of any person to limit his or her liability in the manner provided by law.

Damages for
personal injury

437. (1) Owing to the fault of that vessel or of any other vessel or vessels, the liability of the owner of the vessel shall be joint and several.

(2) Nothing in this section shall -

(a) be construed as depriving a person of a right of defence on which independently of this section, he or she might have relied on in an action brought against

him or her by the person injured, or a person or persons entitled to sue in respect of such loss of life; or

- (b) affect the right of any person to limit his or her liability in cases to which this section relates in the manner provided by law.

Definition of freight

438. In section 436-

- (a) "freight" includes passage money and hire; and
- (b) references to damages or loss caused by the fault of a ship shall be considered as including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

Right of contribution

439. (1) Where the loss of life or personal injury is suffered by a person onboard a vessel owing to the fault of that vessel or of any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which it was at fault, such owner may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which these vessels were respectively at fault.

(2) 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 instance as damages by the person entitled to sue therefore.

(3) In addition to any other remedy provided by law, the person entitled to any contribution under sub-section (1) shall for the purpose of recovering the contribution, subject to the provisions of this Act, have the same rights

and powers as the persons entitled to sue for damages in the first instance.

Limitation of action

440.(1) Subject to the provisions of this section, no action shall be maintained to enforce any claim or lien against a ship or her owners in respect of any damage or loss of life or personal injury suffered by a person onboard that other ship, caused by the fault of the former ship, whether such other ship is wholly or partly in fault, unless proceedings are commenced within two years from the date when the damage or loss or injury was caused.

(2) An action shall not be maintained under this Act to enforce any contribution in respect of an overpaid proportion of any damages for the loss of life or personal injury unless proceedings therein are commenced within one year from the date of payment.

(3) A court of competent jurisdiction may in accordance with the rules of Court extend any such period to such extent and on such conditions as it thinks fit and shall, if satisfied that during the period there has not been a reasonable opportunity of arresting the defendant ship within the jurisdiction of the court or within the territorial seas of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

PART XIX – AIDS TO NAVIGATION

Interpretation of this Part

441. In this Part, unless a contrary intention appears-

“aids to navigation” and “aids” means all lighthouses, buoys, beacons, radio aids or any other light, signal or mark established to aid marine navigation and includes all buildings, moorings and other marks associated therewith;

“owner” in relation to “aids to navigation” and “aids” includes any person in possession or control of the aids to navigation and aids; and

“Port Authority” means Gambia Ports Authority.

Application to this Part

442. This Part applies to aids to navigation and aids, notwithstanding any other law in force in The Gambia.

Establishment of aids to navigation

443. (1) There shall be established in The Gambia by the Administration, such aids to navigation as are necessary to facilitate the safe navigation of ships within the waters of The Gambia

(2) Privately owned aids to navigation shall be established and maintained in accordance with the provisions of this Act.

Director General's permission to establish aids to navigation

444. An aid to navigation shall not be established-

(a) without the prior consent of the Director General or any other person authorised by him or her for the purpose; and

(b) unless it conforms to such specification as may be stipulated.

Changes to aids to navigation

445. An aid to navigation shall not be discontinued or have its lighting characteristics or any other distinguished feature altered without the prior written consent of the Director-General or any other person authorised by him or her for the purpose.

Functions of the administration

446. (1) The Administration shall exercise general supervision over all aids to navigation and in particular shall-

(a) be responsible for overseeing the establishment of all aids to

navigation;

(b) be responsible for the maintenance of all aids to navigation established outside a declared port;

(c) ensure that all other aids to navigation are established in compliance with the stipulated conditions and specifications;

(d) bring to the attention of the public, information on changes to or deficiencies in any aid to navigation; and

(e) ensure that private aids to navigation are maintained in proper working order.

(2) Subject to sub-section (1), the Administration may by instrument, delegate the maintenance of any aids to navigation established outside a declared port to a person or an authority.

(3) The Ports Authority shall be responsible for the maintenance of all aids to navigation established within a declared port.

(4) Notwithstanding sub-section (2) and (3), the Administration shall ensure that all aids to navigation are maintained in proper working order.

Control of
private aids to
navigation

447. (1) A person who, without the written approval of the Director General adds to, alters or removes, varies the character or mode of operating an aid to navigation that is his or her property or under his or her control, commits an offence and is liable to a fine not exceeding one million Dalasis.

(2) The Director General may by written notice, order the owner of aid, or the owner of or

person having under his or her control any light, device or thing being a light, device or thing that is not an aid to-

- (a) remove it;
- (b) alter its character or mode of operation;
- (c) desist from using or from interfering with it; or
- (d) use it only at such times and in such manner as the Director General directs.

(3) In making an order under sub-section (2), the Director General shall have due regard for the safety and convenience of marine navigation.

(4) Where a person fails without reasonable cause to comply with an order made under sub-section (2) or for any reason a notice under sub-section (2) cannot be served, the Director General may-

- (a) take possession or control of the aids to navigation or of the light, device or thing;
- (b) do, at the expense of the person, anything which the person was required to do under sub-section (2), or which in the opinion of the Director General must be done for the safety of marine navigation.

(5) A person, who fails, without reasonable cause, to comply with the order made under sub-section (2) commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

navigation

and declare other publications to be approved nautical publications.

(2) In any legal proceedings, the production of an approved nautical publication authenticated by the Director General shall be *prima facie* evidence of matters appearing therein.

Prosecution of offences

449. (1) A person who-
- (a) contravenes section 447;
 - (b) wilfully or negligently damages, destroys, or allows a ship to foul an aid;
 - (c) wilfully or negligently does anything that cause the view of an aid to be obstructed in such manner as to lessen its efficiency;
 - (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid;
 - (e) trespasses on or without lawful excuse is found in or on-
 - (i) an aid, or
 - (ii) any land upon which aid is situated;
 - (f) fails to notify the Director General as soon as practicable after an aid is damaged, destroyed or fouled,

commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

(2) In addition to any penalty imposed on a person convicted of an offence under subsection (1), the person shall be required to pay the cost of making good any damage occasioned by the commission of the offence.

Detention of ship in certain circumstances

450. Where a ship damages, destroys or fouls an aid, the ship may be detained until the cost of the replacing the aid or rendering the aid effective again, is paid.

Requirement to pay aids to navigation dues

451. The owner, master or agent of a ship that-

(a) enters or leaves a place or port in The Gambia; or

(b) is engaged in offshore operations;

shall pay such navigational aids dues in respect of the ship as may be prescribed in the regulations for aids to navigation.

Penalty for failure to pay aids to navigation dues

452. (1) Where without reasonable cause, the owner, agent or master of a ship fails to pay navigational aid dues as are prescribed in the regulations on navigational aids, the owner, agent or master of the ship each commit an offence, and on conviction shall be liable to a fine not exceeding the equivalent of five times the amount of the aids to navigation dues outstanding.

(2) In addition to any fine imposed under subsection (1), where the dues outstanding are not paid, the ship may be detained until the outstanding dues and the fine have been paid.

Fire and light detrimental to navigation

453. (1) Where fire or light is burned or exhibited in such a place or manner that in the opinion of the Director General, it is calculated or likely to mislead persons navigating ships in Gambian waters or in the waters of a harbour or a port or the approaches thereto, the Director General may by written notice, require the person placing or using the fire or light to

screen, alter, extinguish or remove it within a reasonable time specified in the notice.

(2) Where a person to whom notice is given under sub-section (1) –

- (a) fails to comply with the notice within the time specified; or
- (b) after complying, replaces the fire or light by another fire or light in respect of which the Director General would be entitled to give notice under this section,

he or she commits an offence and is liable on conviction to a fine not exceeding one million Dalais and to a further fine not exceeding one thousand Dalasis for each day or part of day the offence is continued.

Power of the Director General on failure to extinguish false or unauthorized lights etc.

454. For the purpose of extinguishing false or unauthorised lights, the Director General or his or her representative-

- (a) may enter the place where the fire or light is;
- (b) forthwith extinguish same without causing unnecessary damage; and
- (c) recover the expense thereby incurred from the person responsible for the false or unauthorised light.

Removal of obstructions other than wrecks

455. (1) The Director General may cause to be removed anything other than a vessel which is causing or is likely to become an obstruction or impediment to navigation in or of the use of a harbour or port or the approaches to it.

(2) If anything removed under sub-section (1) is so marked as to be readily identifiable as the property of any person, the Director General shall subject to sub-section (3) within one month of the property coming into his or her custody, give notice to that person that possession must be retaken at a place named

in the notice.

(3) Where possession is not retaken within forty days of the service of the notice, the property shall at the end of the period, vest in the Director General.

(4) If anything removed under sub-section (1) is-

- (a) not so marked as to be readily identifiable as the property of any person; or
- (b) so marked but the place of business of the owner is not known to the Director General or is outside The Gambia,

and within three months of it coming into the custody of the Director General, no claim for possession of the things is made by any person who proves to the reasonable satisfaction of the Director General that it belongs to him or her, the property shall thereupon vest in the Administration.

(5) The Director General may dispose of anything referred to in sub-section (3) which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience at such time and in such manner as he or she thinks fit, notwithstanding that it has not been vested in the Administration and if it is sold the proceeds shall be applied in payment of expenses incurred by the Director General under this section in relation to the thing.

(6) Any balance not claimed within three months from the time when the thing came into the custody of the Director-General by a person who proves to the reasonable satisfaction of the Director-General that he or she was the owner at the time, shall at the

expiration of the period vest in the Administration.

(7) If anything removed under this section-

(a) is sold by the Director General and the proceeds of sale are insufficient to reimburse him or her for the amount of the expenses incurred by him or her in the exercise of his or her powers of removal; or

(b) is unsaleable,

he or she may recover as a debt in any court of competent jurisdiction the difference or the whole of the expenses as the case may be, from the person who was the owner at the time the thing removed came into the custody of the Director General or who was the owner at the time of its abandonment or loss.

(8) The Director General shall not under the powers conferred by this section, cause to be removed anything placed or constructed by any person or authority by virtue of the provisions of this Act or any other law.

Regulations on
aids to
navigation

456. (1) The Minister may make regulations prescribing-

- (a) the system of lighting and other characteristics, marks and features of aids to navigation;
- (b) the rates and scales whether on a voyage or on a periodical basis, of the aids to navigation dues payable in respect of ships;
- (c) the manner in which aids to navigation dues shall be paid;
- (d) the times at which aids to navigation dues shall be paid;
- (e) the refund of aids to navigation dues;
- (f) the exemption of particular ships or particular classes of ships from the requirements in relation to payment of aids to navigation dues;
- (g) determination by the Minister that a particular vessel or particular classes of fishing vessel are exempted from the requirements relating to payments of aids to navigation dues;
- (h) the penalties for any contravention of such regulations; and
- (i) the returns to be made and the information to be supplied to the Director General by the owner of an aid.

(2) In making the regulations with respect to sub-section (1) (a), the Minister shall have due regard to the International Association of Lighthouse Authorities Single Buoyage System "A" or any other international system of buoyage

which may replace it.

PART XX – PILOTAGE

Interpretation	<p>457. In this part, unless a contrary intention appears-</p> <p>“exempt ship” in relation to a particular pilotage area means a ship that in respect of that area, is prescribed as an exempt ship by the regulations made under this Part;</p> <p>“pilotage board” means a body of persons or an institution constituted or established as a pilotage board by notice published in the Gazette; and</p> <p>“ship” in relation to a particular pilotage area, means a ship other than an exempt ship.</p>
Application of this Part	<p>458. This Part applies notwithstanding any other law in The Gambia.</p>
Pilotage Area	<p>458. The Minister may by notice published in the Gazette, establish a Pilotage Area in a port, place or the approaches to a port.</p>
Pilotage Board	<p>459. (1) There shall be a Pilotage Board for The Gambia.</p> <p>(2) The Minister may by notice published in the Gazette appoint a Pilotage Board for The Gambia.</p>
Compulsory Pilotage Area	<p>460. The pilotage board may by notice published in the Gazette-</p> <ul style="list-style-type: none">(a) determine that in a pilotage area or in any part of a pilotage area, pilotage shall be compulsory; and(b) define the limits of a pilotage area and where pilotage is compulsory in a part of such area, designate the part of the area in which pilotage is compulsory.

Ships to take licensed pilots on board

461. (1) Before a ship enters a compulsory pilotage area, the master of the ship shall-

- (a) present the ship at the appropriate boarding ground;
- (b) receive on board a licensed pilot of the area and such other persons and equipment as the pilotage board may direct;
- (c) receive such assistance as the licensed pilot of the area may direct; and
- (d) give the ship in pilotage charge of the licensed pilot of the area.

(2) Where there is contravention of this section, the owner and the master of the ship in respect of which the contravention occurs each commit an offence and shall on conviction be liable to a fine not exceeding two million Dalasis.

Ships to have licensed pilots on board

462. Where a ship plies in, moves in, (other than by warping) or leaves a compulsory pilotage area without having a licensed pilot of the area onboard, the owner and the master of the ship each commit an offence and shall on conviction be liable to a fine not exceeding two million Dalasis.

Special circumstances where pilots are required

463. (1) Where a pilotage board is of the opinion that there would otherwise be some special risk or danger within a particular pilotage area, the pilotage authority shall require the master of a ship, including an exempt ship, to take on board the ship a pilot acceptable to the pilotage board.

(2) In forming an opinion under sub-section (1) a pilotage board shall have regard to-

- (a) conditions of the ship and its equipment;

- (b) the nature and condition of any cargo carried on the ship;
- (c) the existence of any nuclear power source on the ship; and
- (d) the circumstances of, and the condition within a particular pilotage area

(3) Where the master of the a ship refuses or fails without reasonable cause to comply with the requirement made under sub-section (1), the owner and master of the ship each commit an offence and shall be liable on conviction to a fine not exceeding one million Dalasis.

Pilotage licences and pilotage exemption certificates

464. (1) The Administration may in the prescribed manner-

- (a) issue a pilotage licence to a person for a pilotage area or a pilotage exemption certificate to a person;
- (b) renew a pilotage licence or a pilot exemption certificate;
- (c) suspend or revoke a pilotage exemption certificate;

(2) The issue and renewal of pilotage licence or a pilotage exemption certificate under this section shall be subject to such conditions (if any) as the Administration thinks fit and endorses on the licence or certificate.

(3) A pilotage licence or pilotage exemption certificate issued or renewed under this section is valid only within the pilotage area in respect of which it is issued.

Suspension of pilotage licence

465. (1) Where in the opinion of the Administration, a licensed pilot-

(a) is unfit to discharge his or her duties due to incompetence, misconduct affecting his or her capability as a pilot; or

(b) has been negligent in the discharge of his or her duties,

the Administration shall cause an inquiry to be held.

(2) Where the Administration causes an inquiry to be held under sub-section (1), it may as it thinks fit, suspend the pilotage licence of the licensed pilot in relation to whom the inquiry is to be held pending the outcome of the inquiry.

(3) Where a pilotage licence is suspended under this section, the Administration shall direct the licensed pilot to deliver up his or her pilotage licence to it.

(4) A person who refuses, or fails without reasonable cause, to comply with a direction under sub-section (3) commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Inquiry into
incompetence

466. (1) Where the Administration has caused an inquiry to be held under section 465, the person holding the enquiry may for the purpose of the enquiry-

- (a) go onboard a ship;
- (b) enter on a wharf or installation within the pilotage area;
- (c) require a person to answer questions relating to the subject of the enquiry; and
- (d) require the production to him or her of a document or certificate that in his or her opinion, is relevant to the enquiry.

(2) The person holding the enquiry shall submit his or her report on the enquiry to the Administration.

(3) Where after receiving the report under subsection (3), the Administration is satisfied as to any of the matters referred to in section 467 (1) (a) or (b), the Administration shall for such period as it thinks fit, suspend or revoke the pilotage licence of the licensed pilot in respect of whom the inquiry was held.

(4) Where under this section, a pilotage licence is suspended for a period exceeding six months or revoked, the holder of the licence may within thirty days after the of the suspension or cancellation appeal to the Court and the Court shall make such orders as the justice of the case demands.

(5) The person holding the inquiry may be assisted by one or more assessors nominated by the person holding the inquiry.

Production of
pilotage
licence

467. (1) Where the licensed pilot goes onboard a ship for the purpose of acting as a pilot of the ship, the master of the ship may require the licensed pilot to produce his or her pilotage licence for inspection.

(2) A licensed pilot who refuses or fails without reasonable cause to comply with a requirement made under sub-section (1) commits an offence and is liable on conviction, to a fine not exceeding one million Dalasis.

Unqualified
persons not to
act as licensed
or exempt
pilots

468. A person who is not a licensed pilot or an exempt pilot and who-

- (a) holds himself or herself out to be a licensed pilot or an exempt pilot as the case may be;
- (b) pilots a ship in respect of which a licensed pilot is required to be on board,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Misconduct by
a licensed pilot

469. (1) This section applies where a licensed pilot-

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

(2) Where the act or omission referred to in sub-section (1)-

- (a) is deliberate;

- (b) amounts to a willful breach or neglect of duty; or
- (c) occurs when the licensed pilot is under the influence of alcohol or a drug,

the licensed pilot commits an offence and is liable on conviction to a fine not exceeding one million Dalasis

Defence if drug taken for medical purposes

470. It is a defence to a charge of an offence under section 469 where the licensed pilot charged proves that at the time of the alleged act or failure to act, he or she was under the influence of a drug taken by him or her for medical purposes and that -

- (a) he or she took the drug on medical advice and complied with any direction given as part of that advice; or
- (b) he or she had no reason to believe that the drug might have the influence it did.

Licensed pilot not civilly liable

471. A licensed pilot is not personally liable in any proceedings for any damage done by him or her for any loss suffered as a result of any act done by him or her, or of any failure to do anything required to be done by him or her while acting as a licensed pilot.

Presence of licensed pilot does not diminish responsibility of master

472. (1) Subject to the authority of the master of a ship, the duty of a licensed pilot is to pilot the ship.

(2) The master of a ship is not relieved of his or her responsibility for the conduct and navigation by reason of the ship being in pilotage charge of a licensed pilot,.

Owner and master liable for damage

473. The owner and the master of a ship are jointly and severally liable for any loss or

damage caused by the ship, or as a result of any fault in the navigation of the ship, notwithstanding that a licensed pilot was on board the ship at a time the loss or damage was caused and the ship was being navigated in an area and in circumstances in which pilotage is compulsory.

Pilotage Board
not liable for
loss or
damage

474. The Pilotage Board shall not be liable in any civil proceeding for-

- (a) any damage by; or
- (b) any loss suffered as a result of any act done by;
- (c) any failure to do anything required to be done by,

a licensed pilot licensed by it while the licensed pilot is acting as a pilot of a ship.

Pilotage
services

475. The pilotage board-

- (a) shall, where pilotage is compulsory; and
- (b) may, where pilotage is not compulsory;

provide pilotage services.

Pilotage dues
and charges
for pilotage
services

476. (1) Pilotage dues and charges for pilotage services in respect of a ship shall be payable by the owner or master or agent of the ship to the pilotage board.

(2) The pilotage board may by notice published in the Gazette, fix the scale of dues and charges for pilotage services payable under sub-section (1).

(3) In fixing a scale of dues and charges for pilotage services under sub-section (2), a pilotage board shall have particular regard to-

- (a) the circumstances; and
- (b) the cost of providing pilotage services,

within the pilotage area in respect of the scale to be fixed.

Fees for pilotage licences and pilotage certificates

477. Fees payable in respect of the issue and renewal of pilotage licences and pilotage exemption certificates shall be as prescribed in the regulations made under this Part.

Delegation of functions

478. The pilotage board may delegate any or such of its functions under this Part to a person or an Institution.

Pilotage regulations

479. The Minister may make regulations for and in relation to all or any of the following purposes –

- (a) ships or classes of ships that are exempted from compulsory pilotage;
- (b) measures necessary to facilitate the boarding of ships by pilot;
- (c) the determination by the Minister of boarding ground;
- (d) the manner of application for the issue or renewal of pilotage licences or pilotage exemption certificates;
- (e) the manner of suspension or revocation of pilotage exemption certificate;
- (f) the determination by the Administration of the qualifications required to be held by, and the standard required to be attained by applicants for the issue or renewal of pilotage licenses or pilotage exemption certificates;

- (g) maintenance of efficiency of licensed pilots and of holders of pilotage exemption certificates;
- (h) the manner of payment of pilotage dues and charges for pilotage services;
- (i) the licensing of pilots by the Administration in respect of vessels and tankers calling at the country's oil platforms and offshore terminals, if any;
- (j) the determination by the Administration of fees payable to it in respect of the issue or renewal of pilotage licences or pilotage exemption licences; and
- (k) prescribing pilot flags and pilot signals to be displayed when a ship requests a pilot or has a pilot on board.

PART XXI – MARINE CASUALTIES, ENQUIRIES
AND INVESTIGATIONS

Reporting of
casualties and
accidents

481. (1) In this Part-

“material damage in relation to a marine casualty” means damage that-

(a) significantly affects the structural integrity, performance or operational characteristics of marine infrastructure or a ship; and

(b) requires major repair or replacement of a major component or components or destruction of the marine infrastructure or a ship.

“severe damage to the environment” means damage to the environment which, as evaluated by the state(s) affected or the flag State, as appropriate, produces a major deleterious effect upon the environment;

“ship” means a ship that is-

(a) registered under this Act;

(b) not registered under this Act but whose next port of call is a port or place in The Gambia; or

(c) an offshore ship.

“substantially interested state” means a state-

(a) which is the flag State of a ship involved in a marine casualty or marine incident;

(b) which is the coastal State involved in a marine casualty or marine incident;

(c) whose environment was severely or significantly damaged by a marine

casualty (including the environment of its waters and territories recognized under the international law);

- (d) where the consequences of a marine casualty or marine incident caused, or threatened, serious harm to that State or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction;
- (e) where, as a result of a marine casualty, nationals of that State lost their lives or received serious injuries;
- (f) that has important information at its disposal that the marine safety investigating State(s) consider useful to the investigation; or
- (h) that for some other reason establishes an interest that is considered significant by the marine safety investigating State(s).

“very serious injury” means an injury which is sustained by a person, resulting in incapacitation for more than seventy two hours, commencing within seven days from the date when the injury was suffered.

“very serious marine casualty” means a marine casualty involving the total loss of the ship or a death or severe damage to the environment.

(2) The mandatory standards of the Casualty Investigation Code of the International Maritime Organisation which appears in this Act as Schedule VI as amended from time to time by the Organisation shall, unless inconsistent with the provisions of this Part have the force of law in The Gambia.

(3) Where a ship-

- (a) causes or is involved in an accident;
- (b) sustains damage which renders, or is likely to render the ship unsafe;
- (c) has been in the position of great peril from-
 - (i) the act of some other ship,
 - (ii) danger of wreck or collision,
 - (iii) fouls, or does damage to a pipe line, a submarine cable, an aid to navigation;
- (d) is involved in an accident in which the sea is polluted by oil or by any other noxious substance either by the ship or by other ship;
- (e) having left a port in The Gambia puts back to that port,

the master of the ship shall as soon as practicable report the occurrence to the Administration and if so requested by the Administration, provide the Administration with a written report.

(4) The master of a ship who fails, without reasonable cause, to comply with sub-section (2) commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

Investigation of
shipping
casualties

482. (1) Where any of the following marine casualties occur within the territory of The Gambia, the territorial sea, exclusive economic zone or the high seas-

- (a) the death of, or serious injury to a person;
- (b) the loss of a person from a ship;
- (c) the loss, presumed loss or abandonment of a ship;
- (d) material damage to a ship;
- (e) the stranding or disabling of a ship, or the involvement of a ship in a collision;
- (f) material damage to marine infrastructure external to a ship, that could seriously endanger the safety of the ship, another ship or an individual;
- (g) severe damage to the environment, or the potential for severe damage to the environment, brought about by the damage of a ship or ships,

the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by him or her.

(2) Whether or not a preliminary inquiry into the casualty has been held under sub-section (1), the Minister may cause a marine inquiry to be held not later than a month after the casualty Preliminary inquiry.

Formal marine
enquiries

484. (1) The Minister may for the purposes of holding the marine inquiry under section 482, nominate a person with a legal background appearing to him or her to be suitably qualified to hold the marine inquiry.

(2) The person nominated under the sub-section (1) to hold the marine inquiry shall hold the same with the assistance of one or more assessors of nautical, engineering or other special skill or knowledge to be appointed as the occasion demands, by the Minister.

(3) Where the marine inquiry involves or appears likely to involve any question as to the cancellation or suspension of a certificate of an officer, the person nominated under sub-section (1) shall hold the investigation with the assistance of not less than two assessors having experience in marine such as master or chief officer of foreign going ship or such suitable officers depending on the circumstances of the casualty.

(4) A marine inquiry shall be conducted in accordance with any regulations made under section 491.

(5) For the purpose of marine inquiry, the person holding the inquiry and the assessors assisting him or her may-

- (a) go on board a ship;
- (b) interview a master and crew and any other person involved;
- (c) require a person to answer question relating to the subject of investigation;
- (d) acquire evidential material for the purpose of the investigation;

(6) The person holding a marine inquiry after hearing the case shall make a full report to the Minister together with such other report or extracts from the evidence and such observations as the person thinks fit and each shall either sign the report or state in writing to the Minister his or her dissent therefrom and the

reasons for the dissent.

(7) The person holding the Marine Inquiry may make such an order as he or she thinks fit, respecting the costs of the investigation or any part thereof, and any such order shall be enforced by the person holding the marine inquiry as if it were an order for costs made by a magistrate.

(8) The Minister may in any case that he or she thinks fit to do, pay any or all of the costs of a marine inquiry.

(9) For the purpose of this section, the person holding a marine inquiry shall have the powers of a court of summary jurisdiction when acting as a court in exercise of its ordinary jurisdiction and all the powers of a surveyor under this Act.

(10) A marine inquiry into a shipping casualty shall be conducted in such manner that if a charge is made against any person, that person shall have the opportunity of making a defence.

Power of a
Marine Inquiry
as to certificate

485. Subject to section 486, a marine inquiry shall recommend to the Minister-

- (a) to cancel or suspend the certificate of an officer;
- (b) to censure the officer if the marine inquiry finds that-
 - (i) the loss or abandonment of, or serious damage to any ship, or loss of life has been caused by the wrongful act or default of the officer,
 - (ii) the officer is unfit to discharge his or her duties by reason of incompetence, misconduct or for any other reason, or has been

seriously negligent in the discharge of his or her duties or has failed to comply with section 240,

provided, at least, one of the assessors concurs with the finding of the Marine Inquiry.

Cancellation of certificate

486. (1) The Minister shall in line with the recommendation of the marine inquiry under section 484, forthwith cancel, suspend or censure the officer against whom such a recommendation has been made by the marine inquiry, on receipt of a full report of the case with the evidence.

(2) A certificate shall not be cancelled or suspended by the Minister under this section unless the statement of the case on which the marine inquiry has been ordered, has been furnished before the commencement of the marine inquiry to the holder of the certificate.

(3) Where a cancellation or suspension is ordered by the Minister, the officer concerned shall immediately deliver the certificate to the Minister for cancellation or suspension as the case may be.

(4) An officer, who fails to comply with subsection (3) commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

(5) Where any case before a marine inquiry involves the question as to the cancellation or suspension of a certificate, the marine inquiry shall, at the conclusion of the case or as soon afterwards as possible, state in open the decision to which it has come with respect to the cancellation or suspension of the certificate.

Limitations of powers as to certificate

487. A marine inquiry held pursuant to this Part shall recommend to the Minister the cancellation or suspension of a certificate of competency or service so far only as regards a certificate, which has been issued by the Administration whether or not the holder thereof is a citizen.

Certificate issued by a foreign state

488. Where the certificate of competency affected by the report for a marine inquiry was issued by a foreign state, the Minister shall forward a copy of the inquiry to the appropriate authority for action as appropriate, in line with the recommendations of the inquiry.

Rehearing of Marine Inquiry

489. (1) The Minister may, in any case where under this Part a marine inquiry into a shipping casualty has been held, order the case to be reheard whether generally or as to any part thereof-

- (a) where new and important evidence which could not be produced at the inquiry has been discovered;
- (b) where, for any other reason, there is in his or her opinion, a ground for suspecting that there has been a miscarriage of justice.

(2) The Minister may order the case to be reheard by the marine inquiry by whom the case was heard in the first instance or by a different marine inquiry as the Minister may appropriately determine.

Appeals

490. (1) Subject to sub-section (2), where under this Part-

- (a) the certificate of an officer is cancelled or suspended;
- (b) an officer is censured;

- (c) the costs or part of the costs of an inquiry are awarded by a marine inquiry against any person;
- (d) a marine inquiry has found that the casualty has been caused or contributed to by the wrongful act of any person,

the officer in the case of paragraph (a) or (b), and in the case of paragraph (c) or (d) any person who has appeared at the hearing and is affected by the decision of the marine inquiry, may appeal to the Court and the Court may make such order as the justice of the case requires.

(2) Where a re-hearing has been ordered under section 489, no appeal may be made until the decision of the rehearing has been given.

Regulations for
marine enquiry

491. (1) The Minister may make regulations for prescribing the provisions relating to marine inquiries and to the rehearing of an appeal from any marine inquiry under this part.

(2) Without prejudice to the generality of subsection (1), the regulations may provide for-

- (a) the selection as assessors for nomination by the Minister;
- (b) qualifications of assessors;
- (c) the circumstances in which assessors shall assist a marine inquiry;
- (d) the manner in which any fact may be proved;
- (e) the persons who may be allowed to appear;
- (f) notices to be given to persons

affected;

- (g) the place for holding marine inquiries;
- (h) submission of the final version of report to the Organisation in respect of very serious marine casualty; and
- (i) the publication of the marine inquiry report.

PART XXII - LEGAL PROCEEDINGS

Sub-Part I- JURISDICTION

Jurisdiction in
case of offence

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

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

Jurisdiction in
case of
offences on
board ship

493. Notwithstanding anything contained in the Criminal Code or in any other enactment, where a citizen is charged with having committed an offence -

- (a) onboard a Gambian ship on the high seas;
- (b) in any foreign port, river or harbour;
- (c) onboard any foreign ship to which he or she does not belong; or
- (d) not being a citizen is charged with having committed an offence on board

any Gambian ship on the high seas and that person is found within The Gambia,

a court, that would have had cognizance of the offence if it had been committed within the limits of its ordinary jurisdiction shall have jurisdiction to try the offence as if it had been so committed.

Offences at
foreign ports

494. An offence against property or person committed in or at any place either ashore or afloat in a foreign port by a master or seafarer who at the time when the offence is committed is or within three months previously, has been employed in any Gambian ship shall be -

- (a) deemed to be offence of the same nature;
- (b) liable to the same punishment; and
- (c) inquired into, heard, tried, determined and adjudged in the same manner and by the same courts and in the same places,

as if these offences had been committed within The Gambia.

Application of fine

495. (1) Where a court imposes a fine under this Act for which no specific application is provided, the court may if it thinks fit, direct the whole or any part of the fine to be applied-

- (a) in compensating any person for any wrong or damage which he or she has sustained by the act or default in respect of which the fine is imposed; or
- (b) in or towards payment of the costs and expenses of the proceedings.

(2) Subject to any direction under sub-section (1) or any specific application provided under this Act, every fine referred to in sub-section (1) shall be paid to the Consolidated Fund.

Conviction under other law

496. (1) Nothing in this Act shall be deemed to prevent the prosecution, conviction or punishment of a person according to any other enactment for the time being in force in The Gambia, so, however, that no other person shall be punished more than once for the same offence.

Jurisdiction in collision and other cases

497. (1) A court in The Gambia shall not entertain an action in *personam* to enforce a claim to which this section applies unless-

- (a) the defendant has his or her habitual residence or place of business in The Gambia;
- (b) the cause of action arose within the waters of The Gambia; and
- (c) an action arising out of the same incident or series of incidents is proceeding in the court, or has been heard and determined in the court.

(2) A court in the Gambia shall not entertain an action in *personam* to enforce a claim to which this section applies until proceedings previously brought by the plaintiff in any court outside The Gambia against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.

(3) Sub-sections (1) and (2) shall apply to a counterclaim not being a counterclaim in proceedings arising out of the same incident or series of incidents as they apply to actions in *personam* and a reference to the plaintiff is a reference to the plaintiff or the counterclaim and a reference to the defendant to the counterclaim.

(4) Sub-sections (1) and (2) shall not apply to any action or counterclaim where the defendant submits or has agreed to submit to the jurisdiction of the court.

(5) Subject to sub-section (3), where a court has jurisdiction for the purposes of this Act, the jurisdiction shall extend to entertain an action in *personam* to enforce a claim to which this section applies whenever any of the conditions specified in sub-section (1) is satisfied and the rules of court relating to the service of process outside jurisdiction shall make such provision as may appear to the Rules of Court Committee to be appropriate having regard to the provisions of this sub-section.

(6) Nothing in this section shall-

- (a) prevent an action or counterclaim which is brought under this section from being transferred to some other court of competent jurisdiction;
- (b) affect proceedings in respect of any course of action arising before the coming into operation of this

section.

(7) The claims to which this section apply are claims for damage, loss of life or personal injury arising out of a collision between ships or out of the carrying out of non-compliance with the Collision Regulations.

(8) For the avoidance of doubt, it is hereby declared that this section shall apply in relation to the jurisdiction of any court not being admiralty jurisdiction as well as in relation to its admiralty jurisdiction, if any.

Action in rem

498. (1) In any case in which an action may be brought against a ship (other than an action arising from claims to the possession or ownership of any share therein, or charge on a ship or share therein) where the person who would be liable on the claim in any action *in personam* was, when the cause of action arose, the owner or charterer of, or in possession or in control of the ship, the admiralty jurisdiction of the High Court may (whether the claim gives rise to a maritime lien on the ship or not) be invoked by an action in rem against-

(a) that ship, if at the time when the action is brought, is beneficially owned as respects all shares therein by that person;

(b) any other ship, which at the time when the action is brought, is beneficially owned as aforesaid.

(2) In determining whether a person would be liable on a claim in an action in personam, it shall be assumed that he or she has his or her habitual residence or a place of business within The Gambia.

Sub-Part II - DETENTION AND DISTRESS FOR
DAMAGE CAUSED

Power to
detained
foreign ship

499. (1) Where-

- (a) any damage has been caused to property belonging to the Government in any part of the world, a citizen or a body corporate resident in The Gambia;
- (b) a claim is made for damages by or on behalf of a citizen in respect of personal injuries including fatal injuries against the owners of a foreign ship, and at any time thereafter that ship or any other ship wholly and beneficially owned by the same owner is found in The Gambia,

the Court may, upon being satisfied that the damage or injury was probably caused by the misconduct or want of skill of the master or crew of the ship, issue an order directed to detain the ship until such time as the owner, master or agent thereof has made satisfaction in respect of the damage or injury or has given security to be approved by the court to abide by in the event of any action, suit or other legal proceedings that may be instituted in respect of the damage or injury and pay all costs and damages that may be awarded thereon.

(2) An officer to whom an order under subsection (1) is directed shall detain the ship accordingly.

(3) Where before an application can be made under this section, it appears that the ship in respect of which the application is to be made will have departed from The Gambia, the ship may be detained for such a time as will allow the application to be made and the result thereof to be communicated to the officer

detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention.

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

Enforcing
detention
ship of

500. (1) Where under this Act a ship is to be detained, a proper officer of customs or any officer of the Administration designated by the Director General for the purpose may detain the ship.

(2) Where a ship after detention or after service on the master of a notice of an order for detention, proceeds to sea before it is released by a competent authority, the master and owner of the ship each commit an offence and any person who sends the ship to sea is a party or privy to the master's offence and they shall each be liable on conviction to a fine not exceeding two million Dalasis.

(3) Where a ship proceeding to sea in the circumstances specified in sub-section (2) takes to sea when it has onboard an officer of customs or other officer appointed under this or other law in the execution of his or her duty, the owner and master of the ship each commit an offence and each shall be liable on conviction to a fine not exceeding two million Dalasis.

(4) In addition to a fine under sub-section (3), a person convicted of an offence under this section is liable to pay-

- (a) the expenses of, and incidental to, the officer being taken to sea;

- (b) a sum not exceeding five hundred thousand Dalasis for every day until the officer returns or until such time as would enable him or her, after leaving the ship to return to the port from which he or she was taken, and the expenses ordered to be paid may be recovered in like manner as the fine.

(5) An officer detaining a ship may if he or she thinks it necessary to do so, place a police guard on a ship detained under this Act.

(6) A police guard placed on board a ship under sub-section (5) shall take such steps as are necessary to prevent the ship from leaving port.

(7) A person, who opposes or in any way obstructs an officer detaining a ship, or a police guard or surveyor commits an offence and shall on summary conviction be liable to a fine not exceeding one million Dalasis.

(8) An officer detaining a ship under this Act shall notify the proper officer of customs that such ship is liable to be detained.

(9) Where under any provision of this Act, a ship is to be detained, the proper officer of customs may detain the ship and refuse to clear that ship outwards.

(10) For the purpose of this section, the expression "proper officer of customs" means an officer able to grant clearance to a ship.

Notice to
consular officer
on detention of
foreign ship

501. (1) Whenever-

- (a) a foreign ship is detained under this Act;

- (b) any proceedings are taken under this Act against the master or owner of such a ship,

notice shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is detained for the time being.

(2) The notice to be served under sub-section (1) shall specify the grounds on which the ship has been detained or on which the proceedings have been taken.

Distress on ship

502. Where -

- (a) any Court makes an order directing payment to be made of any seafarer's wages, fines or other sums of money; and
- (b) the party so directed to pay same is the master or owner of a ship and the same is not paid at the time and in the manner prescribed in the order,

the Court may in addition to any other powers they may have for the purpose for compelling payment, direct the amount remaining unpaid to be levied in distress and the sale of the ship, her tackle, furniture and apparel.

Inquiries into death of crew members and others

503. (1) Subject to sub-section (5) where-

- (a) a person dies on a Gambian ship;
- (b) the master or a seafarer employed on a Gambian ship dies in a country outside The Gambia;

an enquiry into the cause of death shall be held by an officer of the Administration designated by the Director General for such purpose.

(2) The officer holding an enquiry under subsection (1) shall for the purposes of this enquiry, have all the powers of a surveyor under this Act.

(3) Where in the course of the enquiry it appears to the officer holding the inquiry that death has been caused onboard the ship by violence or other improper means, he or she shall-

- (a) report to the Director General;
and
- (b) where the emergency of the case so requires, take immediate steps to bring any offender to justice.

(4) The officer holding the inquiry under subsection (1) shall make a report of his or her findings to the Director General and the Director General shall on request, make a copy of the report available to the next of kin of the deceased person or to any other person who appears to the Director General to be interested.

(5) An inquiry shall not be held under subsection (1) in a case where an inquest or inquiry is to be held or made under any law for the time being in force relating to inquest or criminal procedure

Ship may be seized and sold if penalty not paid

504. (1) In every case in which a conviction has been secured against the owner of a ship for the contravention of any of the provisions of this Act and a fine has been imposed, the ship-

(a) shall if the fine is not paid forthwith, be liable to be seized; and

(b) may after such reasonable notice as the Director General determines, be sold by a person authorised for the purpose in writing by the Director General.

(2) The person authorised to sell under sub-section (1) may by a bill of sale, give to the purchaser a valid title to the ship free of any mortgage or other claim thereon which at the time of the sale may be in existence.

(3) Any surplus money remaining from the proceeds of sale of a ship under sub-section (1) after paying the amount of the fine and the costs of conviction, together with the costs of seizure and sale, shall be paid over to the owner of the ship or the mortgagee as the case may be.

Conveyance of offenders and witnesses to The Gambia

505. (1) Whenever a complaint is made to a consular officer that –

(a) an offence against property or person has been committed at any place either ashore or afloat out of The Gambia by a seafarer who, at the time when the offence was committed or within three months before that time was employed on a Gambian ship; or

(b) an offence on the high seas has been committed by a seafarer belonging to a ship so registered,

the consular officer may inquire into the case upon oath and may if the case so requires, take any steps in his or her power for the purpose of placing the offender under the

necessary restraint and send him or her as soon as practicable in safe custody to The Gambia.

(2) A consular officer may –

(a) order the master of a ship registered in and bound for The Gambia to receive and afford a passage and subsistence during the voyage to any such offender and to the witnesses, not exceeding in numbers those for whom suitable accommodation is available; and

(b) endorse upon the agreement with the crew of the ship, such particulars with respect to any offenders or witnesses sent in the ship as the Director General requires.

(3) A master of a ship in whose charge an offender has been so committed shall on the ship's arrival in The Gambia, hand the offender over into the custody of a police officer and that officer shall take the offender before a Magistrate who shall deal with the matter as in case of offences committed upon the high seas.

(4) A master of a Gambian ship who, when required by a consular officer to receive and afford a passage and subsistence to an officer or witness-

- (a) does not receive and afford a passage and subsistence to him or her;
- (b) does not deliver an offender committed to his or her charge into the custody of a police officer as directed,

commits an offence and is liable on summary conviction to a fine not exceeding one million Dalasis.

(5) The expense of imprisoning an offender to whom sub-section (1) applies and of conveying him or her and the witnesses to The Gambia in any manner other than on the ship to which they respectively belong shall, where not paid as part of the costs of the prosecution, be paid out of Government funds

Sub-Part III - PROSECUTION AND COMPOUNDING OF OFFENDERS

Liability of ship owners

506. (1) Where a person is beneficially interested in (otherwise than by way of mortgage) in a ship or share in a ship, the person so interested as well as the registered owner shall be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or a share therein.

(2) Proceedings may be taken for the enforcement of any penalties referred to in sub-section (1) against both or either of the parties referred to in that sub-section with or without joining either of them.

Offences by bodies of persons servants and agents

507. (1) Where a body corporate, firm, society or other body of persons is charged with an offence under this Act, every person who at the time of the alleged offence was a director, manager, secretary or other similar officer, or a partner of the body corporate, firm, society or body of persons or was purporting to act in such capacity, shall be liable to the penalties provided for such offences, as if he or she committed the offence unless he or she proves-

- (a) that the offence was committed without his or her knowledge and that such ignorance was not caused by his or her wilful default or neglect;

- (b) that having regard to the nature of his or her functions and to all the circumstances, he or she exercised all due diligence to prevent the commission of the offence.

(2) Where a person is liable under this Act to a penalty due to an act, omission, neglect or default, he or she shall be liable to the same penalty for every such act, omission, neglect or default of any clerk, officer or agent in his or her employment or of the clerk of or officer of such agent provided that such an act, omission, neglect or default was committed-

- (a) in the course of his or her employment;
- (b) by such agent when acting on behalf of such person;
- (c) in the course of the employment in such circumstances that, had such act, omission, neglect or default been committed by the agent, his or her principal would have been liable under this section.

Fines

508. (1) A fine incurred or imposed under this Act may, except as otherwise provided by this Act, be recovered before a Magistrate on summary conviction.

(2) Except as otherwise provided, the expression in this Act that a person shall be liable to a fine shall be held to imply that that person committed an offence under this Act and in the absence of any express provision relating to imprisonment in the case of non-payment of any fine imposed, the offender may, upon default of payment of such fine imposed be imprisoned for the term not exceeding six months unless such fine is sooner paid.

(3) A person who commits an offence under this Act or does anything or omits to do anything in contravention of the provisions of this Act, for which no penalty is provided elsewhere than in this section is liable to a fine not exceeding one million Dalasis.

(4) Where an offence against this Act is a continuing one and no penalty is provided in respect of the continuance thereof elsewhere than in this section, a person who commits that offence shall in addition to any other liability, be liable to a fine not exceeding five hundred thousand Dalasis for every day or part of a day during which the offence continues.

Prosecution of offences

509. Subject to the provision of this Act, an offence committed or fine recovered under a rule or regulation made in pursuance of this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act.

Compounding of offences

510. (1) The Minister may compound any offence under this Act which is prescribed to be an offence compoundable by the Minister, on payment by the person suspected of having committed such offence of a sum not exceeding one million Dalasis.

(2) On payment of any sum of money under sub-section (1)-

(a) the person suspected of having committed the offence in respect of which the payment has been made shall, if in custody, be discharged;

(b) a ship detained in respect of such offence shall be released; and

no further proceedings shall be taken against such person or ship in respect of such offence.

Depositions
received when
witness cannot
be produced

511. Whenever in the course of any legal proceedings instituted in The Gambia, the testimony of a witness is required in relation to the subject matter of that proceeding and upon due proof that the witness cannot be found in The Gambia, any deposition that the witness may have previously made on oath in relation to the same subject matter before any Judge or Magistrate in a Commonwealth country or any consular officer elsewhere, shall be admissible in evidence.

(2) A deposition made in The Gambia shall not be admissible in any proceeding instituted in The Gambia and if the proceeding is criminal, they shall not be admissible unless they were made in the presence of the person accused.

(3) A deposition so made shall be authenticated by the signature of the Judge, magistrate or consular officer before whom it is made; and the Judge, Magistrate or consular officer shall certify if the fact is so, that the accused was present at the taking thereof.

(4) It shall not be necessary in any case, to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceeding a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in the manner thereby certified.

(5) Nothing in this section shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other enactment.

Proof of
attestation not
required

512. Where a document is required by this Act to be executed in the presence of or to be attested by a witness, that document may be proved by the evidence of a person who is able to bear witness to the requisite facts without calling the attesting witness.

Proceedings
on forfeiture of
ship

513. (1) Where a ship has become liable to forfeiture under this Act, the Director General may cause the ship to be seized, detained and brought for adjudication before the High Court.

(2) The High Court may, where a ship has been brought before it for adjudication under sub-section (1) on such terms and conditions as it thinks just, order that the ship be forfeited to the state.

Proof of
documents

514. (1) All certificates or other documents (including endorsements of certificates or other documents) to which this section applies are admissible in evidence in the manner provided by section 515.

(2) This section applies to-

- (a) certificates or other documents issued, granted, given or made under this Act or purported to be issued, granted, given or made under this Act, and signed by a person required or authorised by this Act to issue, grant, give or make any such certificate or document;
- (b) an endorsement made or purported to be made under this Act and signed or purported to be signed by a person required or authorised by this Act to make any such endorsement; and
- (c) a certificate given or made by the Registrar of Shipping and Seafarers asserting the negative of any circumstance, fact or thing.

Admissibility of
documents in
evidence

515. (1) Where a certificate or other document is by this Act declared to be admissible in evidence, it shall-

- (a) on its production from proper custody, be admissible in evidence in any court or before any person having by

law or consent of parties authority to receive evidence; and

- (b) subject to all just exceptions, be conclusive evidence of the matters stated therein in pursuance of this Act or by any officer in pursuance of his or her duties as such officer.

(2) A copy of a certificate or other document referred to in sub-section (1) or an extract from such certificate or document is admissible in evidence if –

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be signed and certified as a true copy or extract by an officer or person to whom custody of the certificate or other document is entrusted.

(3) A person who is by this Act required or authorised to issue, grant or make any certificate or other document, shall furnish a certified true copy of the certificate or document to a person applying at a reasonable time for such certified copy or certified extract.

(4) A person having by law or consent of parties, authority to receive evidence shall have the same powers as a court to impound a document to which this section applies which has a false or counterfeit seal, stamp or signature affixed thereto.

Service of Documents

516. (1) Where for the purpose of this Act, a document is to be served on a person, it may be served in any case by delivering a copy personally to the person to be served, or by leaving the same at his or her last place of abode.

(2) Where the document is to be served on the master of a ship where there is one, or on a person belonging to a ship, it may be served by leaving same for him or her onboard the ship with the person being or appearing to be in charge of the ship.

(3) Where the document is to be served on the master of the ship where there is no master, and the ship is in The Gambia, it may be served by leaving same on the managing owner or an agent of the owner residing in The Gambia or where no such agent is known or can be found, by affixing a copy thereof in some conspicuous place on the ship.

(4) Any document authorised or required to be served on any person may-

(a) in the case of a body corporate be served on the Secretary of that body;

(b) in the case of partnership, be served on a partner or person having the control or management of the partnership.

All officers etc. be public servants

517. Every officer appointed under this Act, every officer appointed under the Gambia Maritime Administration Act and every person appointed or authorised under this Act when acting in pursuance of such purpose shall be a public officer.

Protection of public officers

518. A suit shall not be maintained against any public officer within the meaning of this Act for or in respect of anything done by him or her in good faith or omitted to be done in good faith in the exercise or performance or in the

purported exercise or performance of any power, authority or duty conferred or imposed on him or her under this Act.

Notices etc to be in writing

519. Where by or under this Act, a notice, authority, order, direction or other communication is required or authorised to be given or made by the Director General to any person (not being an officer appointed under this Act) the same shall be made or given in writing.

Averment

520. (1) In this section, "officer" includes a proper officer and a surveyor.

(2) Subject to sub-section (4), in any prosecution under this Act, the averment of an officer shall be prima facie evidence of the matters averred.

(3) Any evidence in support or rebuttal of a matter averred under sub-section (2) shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

(4) An averment shall not be made as to the intent of a person in a case where an offence is punishable by imprisonment.

PART XXIII - MARITIME SECURITY

Interpretation of this Part

521. In this Part-

"piracy" includes any of the following acts-

(a) any illegal act of violence or detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft and directed-

(i) on the high seas, against another ship or aircraft, or against persons or property

on board such ship or aircraft, or

- (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;
- (b) any voluntary act of participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in sub paragraph (a) or (b);

“pirate ship or aircraft” means a ship or aircraft under the dominant control of persons who –

- (a) intend to use such ship or aircraft for piracy;
- (b) have used such ship or aircraft for piracy, so long as it remains under the control of those persons; and

“private ships” and “ private aircraft” means a ship or aircraft that is not owned by the Government or held by a person on behalf of, or for the benefit of the Government.

Piracy by a warship

522. Piracy as defined in section 521 committed by a warship or Government ship or Government aircraft whose crew has mutinied and taken control of the ship or aircraft shall be assimilated to piracy committed by a private ship or aircraft.

Application of this Part to aircrafts

523. This Part applies to an aircraft only when it is on the high seas which include those parts of the sea that are not included in the exclusive economic zone, the territorial sea or in the internal waters of a State or in the archipelagic waters of an archipelagic State.

Hijacking and
destruction of
ships

524. (1) Subject to sub-section (5), a person who unlawfully, by use of force or by threat of any kind, seizes a ship or exercise control of it commits an offence of hijacking a ship.

(2) Subject to sub-section (5), a person commits an offence if he or she unlawfully or intentionally-

- (a) destroys a ship or a port facility;
- (b) damages a ship or its cargo so as to endanger or to be likely to endanger the safe navigation of the ship;
- (c) commits on board a ship, an act of violence which is likely to endanger the safe navigation of the ship; or
- (d) places or causes to be placed on a ship or port facility any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo, as to endanger its safe navigation.

(3) Nothing in paragraph (d) of sub-section (2) shall be construed as limiting the circumstances in which the commission of any act -

- (a) may constitute an offence under paragraph (a), (b) or (c) of sub-section (2); or
- (c) may constitute attempting or conspiring to commit, or aiding, abetting, counseling, procuring or inciting, or being art and part in, the commission of such an offence.

(4) Subject to sub-section (5), sub-sections (1) and (2), apply-

- (a) whether the ship referred to in those

sub-sections is in The Gambia or elsewhere;

(b) whether any such act as is mentioned in those sub-sections is committed in The Gambia or elsewhere; and

(c) whatever the nationality of the person committing the act.

(5) Sub-sections (1) and (2) do not apply in relation to any warship or any other ship used as a naval auxiliary or in customs or police service or any act committed in relation to such a warship or such other ship unless-

(a) the person seizing or exercising control of the ship under sub-section (1), or committing the act under the sub-section (2) as the case may, is a Gambian citizen;

(b) the act is committed in The Gambia; or

(c) the ship is used in the Customs service of The Gambia or in the service of Police Force in The Gambia.

(4) A person who commits an offence under this section is liable on conviction to imprisonment for life.

(7) In this section –

“act of violence” means,

(a) any act done in The Gambia which constitutes the offence of murder, attempted murder, manslaughter, or assault; or

(b) any act done outside The Gambia which, if done in The

Gambia would constitute such an offence as is mentioned in paragraph (a); and

“unlawfully” means-

- (a) in relation to the commission of an act in The Gambia an act, the commission of which (apart from this Part) would constitute an offence under the law of The Gambia; and
- (b) in relation to the commission of an act outside The Gambia, an act the commission of which would (apart from this Part) have been an offence under the law of The Gambia if it had been committed in The Gambia.

Offences endangering safe navigation of ships, threats and ancillary offences

525. (1) Subject to sub-section (8), it is an offence for any person to unlawfully or intentionally-

- (a) destroy or damage any property to which this sub-section applies; or
- (b) seriously interfere with the operation of any such property, where the destruction, damage or interference is likely to endanger the safe navigation of any ship.

(2) Sub-section (1) applies to any property used for the provision of maritime navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board a ship or elsewhere.

(3) Subject to sub-section (8), it is an offence for any person to intentionally communicate that which he or she knows to be false in a material way, particularly where the communication of the information endangers

the safe navigation of any ship.

(4) It is a defence for a person charged with an offence under sub-section (3) to prove that, when he or she communicated the information, he or she was lawfully employed to perform duties which consisted of or included the communication of information and that he or she communicated the information in good faith in the performance of those duties.

(5) A person commits an offence if-

- (a) in order to compel any other person to do or abstain from doing any act, he or she threatens that he or she or some other person will do in relation to any ship an act which is an offence by virtue of section (525) (2) (a), (b) or (c); and
- (b) the making of that threat is likely to endanger the safe navigation of the ship.

(6) Subject to sub-section (8), a person commits an offence if -

- (a) in order to compel any other person to do or refrain from doing any act, he or she threatens that he or she or some other person will commit an act which is an offence by virtue of sub-section (1); and
- (b) the making of that threat is likely to endanger the safe navigation of any ship.

(7) Except as provided by sub-section (8), sub-sections (1), (3), (5) and (6) apply whether any such act as is mentioned in those sub-sections is committed in The Gambia or elsewhere and whatever the nationality of the person committing the act.

(8) For the purposes of sub-sections (1), (3) and (6) (b), any danger or likelihood of danger to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service is to be disregarded unless -

(a) the person committing the act is a Gambian citizen; or

(b) the act is committed in The Gambia.

Master's power
of delivery

526. (1) This section shall have effect for the purposes of any proceedings before the Court.

(2) Where the master of a ship, wherever that ship may be, and whatever the State (if any) in which it may be registered, has reasonable grounds to believe that any person on board the ship has -

(a) committed any offence under section 524 or 525;

(b) attempted to commit such an offence;
or

(c) aided, abetted, counselled, procured or incited, or been the commission of such an offence, in relation to any ship other than a warship or other ship used as a naval auxiliary or in customs or police service,

he or she may deliver that person to an appropriate officer in The Gambia or any other Convention country.

(3) Where the master of a ship intends to deliver any person in The Gambia or other Convention country in accordance with sub-section (2), he or she shall notify an appropriate officer in that country-

(a) of his or her intention to deliver

that person to an appropriate officer in that country; and

- (b) of his or her reasons for intending to do so.

(4) Notification under sub-section (3) shall be given –

- (a) before the ship in question has entered the territorial sea of the country concerned; or
- (b) if in the circumstances, it is not reasonably practicable to comply with paragraph (a), as soon as reasonably practicable after the ship has entered that territorial sea.

(5) Where the master of a ship delivers any person to an appropriate officer in any country under sub-section (2), he or she shall–

- (a) make to an appropriate officer in that country, such oral or written statements relating to the alleged offence as that officer may reasonably require; and
- (b) deliver to an appropriate officer in that country, such other, evidence relating to the alleged offence as in the master's possession.

(6) The master of a ship who without reasonable excuse fails to comply with sub-section (3) or (5) commits an offence and is liable on conviction to a fine not exceeding fifteen million Dalasis.

(7) It is a defence for a master of a ship charged with an offence under sub-section (6) for failing to comply with sub-section (3) to show that he or she believed on reasonable

grounds that the giving of the notification required by sub-section (3) above would endanger the safety of the ship and except where the country concerned is The Gambia, that either -

- (a) he or she notified some other competent authority in the country concerned within the time required by sub-section (4); or
- (b) he or she believed on reasonable grounds that the giving of notification to any competent authority in that country would endanger the safety of the ship.

(8) In this section—

“appropriate officer” means

- (a) in relation to The Gambia, a police officer or immigration officer; and
- (b) in relation to any other Convention country, an officer having functions corresponding to the functions, in The Gambia, either of a police officer or of an immigration officer; and

“Convention country” means, a country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation is for the time being in force;

(9) The Minister may by order certify that any country specified in the Order is for the time being a Convention country and any such Order for the time being in force shall be conclusive evidence that the country in question is for the time being a Convention country or where a country being a Party to the Convention has been issued a certificate from the Secretary General of the International Maritime Organisation shall be conclusive

evidence that the country is for the time being a Convention country.

Minister to make Regulations in matters pertaining to maritime security

527. (1) The Minister shall make regulations pertaining to maritime security.

(2) In making the regulations, the Minister may adopt the provisions of the International Ships and Port Security (ISPS Code) and XI-2 of the Safety Convention.

PART XXIV - MISCELLANEOUS

Definition of authorised officer

528. In this Part, “authorised officer” means-

- (a) a Minister;
- (b) the Director –General;
- (c) a Surveyor of ships; or
- (d) any person appointed by the Minister or Director-General either generally or in any particular case to exercise powers under this Act.

Powers of authorised officers to board ships

529. (1) An authorised officer, either alone or with any other person, may go on board any ship in The Gambia whenever-

- (a) he or she suspects that an offence under this Act has been, is about to be committed in a ship;
- (b) he or she considers it necessary for him or her to do so in discharge of a duty imposed on him or her by this Act or any other enactment

(2) Where a ship is registered in The Gambia, the powers conferred by this section on an authorised officer may also be exercised outside The Gambia by a proper officer in addition to an authorised officer.

(3) A master or owner of a ship who without reasonable excuse refuses to allow any officer to board such ship in the exercise of the powers conferred by sub-section (1) or (2) commits an offence and is liable on conviction to a fine not exceeding one million dalasis.

Power to
require
production of
documents

530. (1) Whenever an authorised officer has reason to suspect that the provisions of this Act or any law for the time being in force relating to shipping or seafarers is not being complied with, that officer may –

- (a) require the owner, master or any of the crew of a Gambian ship to produce any official log books or other documents relating to the crew or any member thereof in their respective possession or control;
- (b) require any master to produce a list all persons on board his ship and take copies of the official log books or documents, or any part thereof;
- (c) summon the master to appear and give any explanation concerning the ship or her crew or the official log books or documents produced or required to be produced.

(2) A person who, or being duly required by an authorised officer under this section-

- (a) fails without reasonable cause to produce to that officer any official log book or document, as he or she is required to produce under this section;
- (b) refuses to allow same to be inspected or copied;
- (c) impedes any muster of the crew required under this section;

- (d) refuses or neglect to give any explanation which he is required under this section to give;
- (e) knowingly misleads or deceives any authorised officer under this section to demand any such explanation,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

Inspection of
ships

531. (1) For the purpose of ensuring that the provisions of this Act and any regulations made thereunder are duly complied with, an authorised officer may at all reasonable times inspect any ship and its equipment or any part thereof, any articles on board the ship, and any document carried in the ship in pursuance of this Act or any international convention relating to shipping to which the Gambia is a party.

(2) If the ship is registered in The Gambia, the powers conferred by this section may also be exercised outside The Gambia by proper officer in addition to an authorised officer.

(3) A person exercising powers under this section-

- (a) shall not unnecessarily detain or delay a ship;

(b) may if he or she considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(4) A person who-

(a) obstructs an authorised officer in the exercise of his or her powers under this section;

(b) fails without reasonable cause to comply with any requirements made under sub-section (2);

(c) refuses or fails to give an authorised officer reasonable facilities for the exercise of his powers under this section,

commits an offence and is liable on conviction to a fine not exceeding three million Dalasis.

Report by
surveyor to
Director-
General

532. The Director General may, as and when he or she thinks fit, require a surveyor to report to him or her on-

(a) the nature and causes of any accident or damage which a ship has sustained or caused or is alleged to have sustained or caused;

(b) whether the provisions of this Act or any regulations made thereunder have been complied with;

(c) whether the hull and machinery of any ship are sufficient and in good condition

Powers of
Surveyor

533. (1) A surveyor of ships in execution of his or her duties may-

(a) go onboard a ship and inspect the same or any part thereof or any of

the machinery, boats, equipment or articles on board thereof, or any of the certificates of any officer to which the provisions of this Act apply;

- (b) investigate and report to the Director General, upon the nature and causes of any accident or damage which a ship has sustained or caused or is alleged to have sustained or caused;
- (c) require the attendance of all such persons as he or she thinks fit to call before him or her and examine on oath for the purpose of his or her report and may require answers or returns to any inquiries he or she thinks fit to make.

(2) A witness summoned under sub-section (1) (b) shall be allowed such expenses as would be allowed to a witness attending on a *subpoena* to give evidence before a court of competent jurisdiction.

Returns of Surveyors

534. (1) Surveyors shall make such returns to the Director-General or any such officers authorised by him or her as the latter requires, with respect to-

- (a) surveys and inspection of ships;
- (b) machinery, equipment and cargo of ships including the loading of ships carried out under this Act;
- (c) any other details of such ships as may be prescribed.

(2) An owner, engineer and a master of a ship surveyed by a surveyor shall on demand, give to the surveyor such information and assistance within his or her powers as the surveyor may require for the purpose of making any

return under sub-section (1).

(3) An owner, engineer or master of a ship who, after a demand by a surveyor, fails without reasonable cause to give information or assistance pursuant to sub-section (2) commits an offence and is liable on conviction to fine not exceeding one million Dalasis.

Illegal receipt
of fee

535. A person who demands or receives directly or indirectly any fee, remuneration or gratuity whatsoever in respect of any duties performed by him or her under this Act otherwise than by the direction of the Minister commits an offence and is liable on conviction on indictment to a term of imprisonment not exceeding two years.

Obstruction of
Surveyor

536. (1) A person shall not willfully impede or obstruct a surveyor in the execution of his or her duties under this Act whether on board a ship or elsewhere.

(2) A person, who willfully impedes a surveyor of ships or any person having the powers of a surveyor of ships in the execution of his duty whether on board a ship or elsewhere commits an offence and is liable on conviction to a to fine not exceeding one million Dalasis.

Powers of the
Minister to
prescribe
forms

537. (1) Subject to any special provisions in this Act, the Minister may prepare and sanction forms of any book, instrument or paper required under this Act, other than Part VI and may from time to time make such alterations in these forms as he or she thinks fit.

(2) The Minister shall cause every form to be sealed with the seal of the Administration and before finally issuing any form cause public notice thereof to be given in such manner as

he or she thinks requisite to prevent inconvenience.

(3) The Minister may cause every form to be supplied to all custom houses and shipping offices in The Gambia at such charges as he or she may fix.

(4) Every book, instrument or paper required under this Act shall be made in the form, if any, approved by the Minister and unless so made, shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(5) Every book, instrument or paper, if made in the form purporting to be the proper form if sealed in accordance with this section, shall be deemed to be in the form required by this Act unless the contrary is proved.

Offences in respect of use of forms

538. A person who –

- (a) without reasonable cause uses a form not purporting to be a form approved by the Minister in the case where a form approved by the Minister is, under this Act required to be used;
- (b) prints, sells or uses any document purporting to be a form approved by the Minister under this Act knowing the same not to be the form approved by the Minister,

commits an offence and is liable on conviction to a fine not exceeding one million Dalasis.

General Power to make regulations

539. Without prejudice to any other power to make regulations conferred by his Act, the Minister may make regulations generally for carrying this Act into effect, and may by such regulations provide for-

- (a) anything which is to be or may be prescribed under this Act;

- (b) the fees to be charged for any service rendered or acts performed under this Act;
- (c) offences under this Act which may be compounded and the officers by whom such offences may be compounded;
- (d) the admissibility in evidence of documents and forms used under this Act; and
- (e) the control of ships, the regulation of maritime traffic and the administration of maritime search and rescue in The Gambia.

Delegation by the Minister 540. Subject to this Act, the Minister may delegate to a person all or any of his or her powers and functions under this Act.

State owned ships not subject to certain proceedings 541. This Act does not authorise-

- (a) proceedings *in rem* in respect of any claim against the state; or
- (b) the arrest, detention or sale of any Government ship, any vessel belonging to the Armed Forces or any cargo or other property belonging to the state.

Fees and Fines etc. 542. (1) There shall be paid in respect of-

- (a) any certificate issued by the Administration under this Act;
- (b) any survey or inspection of a ship under this Act;
- (c) any service provided for engaging and discharging seafarers, inspection of registers, examination of seafarers, verifying sea service; or

(d) providing copies of documents,

such fees as may be prescribed by regulations.

(2) All fees and other sums payable under this Act shall be paid to the Administration.

Application of
Conventions in
The Gambia

543. (1) The Director General shall, from time to time by notice published in the Gazette-

- (a) the International Maritime Conventions including amendments thereto and replacements thereof;
- (b) other international instruments which apply to The Gambia, the reservations, if any, entered thereon by The Gambia; and
- (c) those International Maritime Conventions including amendments thereto and replacements thereof and other instruments which cease to apply to The Gambia.

(2) The Director General shall keep in his or her office a copy of -

(a) all the instruments referred to in this sub-section (1) that have application in The Gambia; and

(b) all regulations and notices made pursuant to this Act.

(3) Copies shall be made available for inspection or upon payment of a prescribed fee, for taking of copies thereof by members of the public, seafarers or persons concerned with or having interest in shipping.

PART XXV - REPEALS AND SAVINGS

Repeal and savings 544. (1) The Acts listed in Schedule 1 to this Act are hereby repealed.

(2) Any instrument which was issued or granted under the Acts repealed by subsection (1) or which ceases to have effect by virtue of this Act, shall without prejudice to any power to amend such instrument and subject to such modification as may be necessary to bring it into conformity with this Act -

(a) continue in force until superseded, revoked or otherwise terminated;

(b) be deemed to have been issued or granted under this Act and regulations made thereunder shall apply to or in relation to such instrument accordingly,

provided that no such instrument which is expressed to continue in force after the expiration of that period unless it is renewed or extended in accordance with the provisions of this Act or any regulations made or continued in force thereunder.

(3) In this section "instrument" means any certificate, validation, exemption, notice, other authority, any instruction or other requirement as the circumstances may require.

Modification of Existing Laws
Cap. 68.01 545. The Ports Act and any other enactment in existence on the coming into operation of this Act shall apply with such modifications as are necessary to give effect to the provisions of this Act.

Review of Fines by the Minister 546. The Minister may from time to time, by notice published in the Gazette, review the fines set down in the sections which appear in Schedule VII to this Act.

SCHEDULE I (section 544)

- (I) Carriage of Deck Passengers Act (Cap 67:02);
- (II) Docks Act (Cap 68:02);
- (III) Shipping Casualty Act (Cap 68:03);
- (IV) Unseaworthy ships (Detention) Act (Cap 68:04);
- (V) Merchant Shipping (International Labour Convention) Act (Cap 68:05);
- (VI) Registration of Shipping Act (Cap 68:06); and
- (VII) Part VIII of the Ports Act (Cap 68:01)

SCHEDULE II (Section 222)

Maritime Labour Certificate

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as "the Convention")
under the authority of the Government of:

.....
(full designation of the State whose flag the ship entitled to fly)

by
(full designation and address of the competent authority or recognized organization duly authorized under the provisions of the Convention)

PARTICULARS OF THE SHIP

Name of ship.....
Distinctive number or letters.....
Port of registry
Date of registry
Gross tonnage¹
IMO number
Type of ship

Name and address of the shipowner²

.....

.....

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969) see Article (1) (c) of the Convention.

² Shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities of the shipowner. See Article II (I) (j) of the Convention.

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance,
2. That the seafarer' working and living conditions specified in Appendix A5-1of the convention were found to correspond to the above mentioned country's national requirements implementing the convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until Subject to inspections in accordance with Standards A5.1.3 and A5 1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued

at.....onis attached.

Completion date of the inspection on which this Certificate is

Place

Date
(Seal or stamp of the authority as appropriate)

Additional inspection:

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority as appropriate)

SCHEDULE III (section 222)

Maritime Labour Convention 2006

Declaration of Maritime Labour Compliance – Part I

(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of
(insert name of competent Authority as defined in Article II, paragraph (a), of the Convention)

With respect to the provision of the Maritime Labour Convention 2006, the following referenced ship:

Name of ship	IMO number	Gross Tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

- a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;

- b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- c) the details of any substantial equivalencies under Article V, paragraph 3 and 4, and provided <under the corresponding national requirement list below> <in the section provided for this purpose below> (strike out the statement which is not applicable);
- d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)
2. Medical certification (Regulation 1.2)
3. Qualification of seafarers (Regulation 1.3)
4. Seafarers' employment agreements (Regulation 2.1)
5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
6. Hours of work or rest (Regulation 2.3)
7. Manning levels for the ship (Regulation 2.7)
8. Accommodation (Regulation 3.1)
9. On-Board recreational facilities (Regulation 3.1)
10. Food and catering (Regulation 3.2)

- 11. Health and safety and accident prevention (Regulation 4.3)
- 12. On-board medical care (Regulation 4.1)
- 13. On-board complaint procedures (Regulation 5.1.5)
- 14. Payment of wages (Regulation 2.2)

Name:

Title:

Signature:

Place:.....

Date:

(Seal or stamp of the authority,
as appropriate)

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as proceed under Article VI, paragraphs 3 and 4 except where stated above, are noted (insert description if applicable):

.....
.....
.....

No equivalency has been granted

Name:

Title:

Signature:

Place:.....

Date:

(Seal or stamp of the authority,
as appropriate)

Exemption

(Note: Strike out the statement which is not applicable)

The following exemption granted by the competent authority
as provided in Title 3 of the Convention are noted:

.....
.....
.....

No exemption has been granted

Name:

Title:

Signature:

Place:.....

Date:

(Seal or stamp of the authority,
as appropriate)

SCHEDULE IV (Section 222(15))

Interim Maritime Labour Certificate

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006 (referred to below as “the
Convention”) under the authority of the Government of:

.....
(full designation of the State whose flag the ship entitled to fly)

by

(full designation and address of the competent authority or recognized
organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship.....

Distinctive number or letters.....

Port of registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of the shipowner²

.....

.....

This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the Convention, that-

- (a) This ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-1 to the Convention, taking into account verification of items under (b), (c) and (d) below;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the Conventions;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a Declaration of Maritime Labour Compliance.

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969) see Article (1)(c) of the Convention.

² Shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties

and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities of the shipowner, See Article II(l)(j) of the Convention.

This Certificate is valid until..... subject to inspections in accordance with Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under (a) above was issued at on

Signature of the duly authorized official issuing the interim certificate

.....
(Seal or stamp of issuing authority, as appropriate)

SCHEDULE V (section 222)

List of matters that must be inspected and approved by the Administration before certifying that a ship is in accordance with Section 222 sub-section (8) of this Act:

- I. Minimum age
- II. Medical certification
- III. Qualifications of seafarers
- IV. Seafarers' employment agreements
- V. Use of any licensed or certified or regulated private recruitment and placement service
- VI. Hours of work or rest
- VII. Manning levels for the ship
- VIII. Accommodation
- IX. On-board recreational facilities
- X. Food and catering
- XI. Health and safety and accident prevention
- XII. On-board medical care
- XIII. On-board complaint Procedures
- XIV. Payment of wages

SCHEDULE VI (section 481)

MANDATORY STANDARDS

Chapter 4

Marine safety investigation Authority

4.1 The Government of each State shall provide the Organization with detailed contact information of the Marine safety investigation Authority(ies) carrying out marine safety investigations within their State.

Chapter 5

Notification

5.1 When a marine casualty occurs on the high seas or in an exclusive economic zone, the flag State of a ship, or ships, involved, shall notify other substantially interested States as soon as is reasonably practicable.

5.2 When a marine casualty occurs within the territory, including the territorial sea, of a coastal State, the flag State, and the coastal State, shall notify each other and between them notify other substantially interested States as soon as is reasonably practicable.

5.3 Notification shall not be delayed due to the lack of complete information.

5.4 Format and content: The notification shall contain as much of the following information as is readily available-

- (1) the name of the ship and its flag State;
- (2) the IMO ship identification number;
- (3) the nature of the marine casualty;
- (4) the location of the marine casualty;
- (5) time and date of the marine casualty;

(6) the number of any seriously injured or killed persons;

(7) consequences of the marine casualty to individuals, property and the environments; and

(8) the identification of any other ship involved.

Chapter 6

Requirement to investigate very serious marine casualties

6.1 A marine safety investigation shall be conducted into every very serious marine casualty.

6.2 Subject to any agreement in accordance with chapter 7, the flag State of a ship involved in a very serious marine casualty is responsible for ensuring that a marine safety investigation is conducted and completed in accordance with this Code.

Chapter 7

Flag State's agreement with another substantially interested State to conduct a marine safety investigation

7.1 Without limiting the rights of States to conduct their own separate marine safety investigation, where a marine casualty occurs within the territory, including territorial sea, of a State, the flag State(s) involved in the marine casualty and the coastal State shall consult to seek agreement on which State or States will be the marine safety investigating State(s) in accordance with a requirement, or a recommendation acted upon, to investigate under this Code.

7.2 Without limiting the rights of States to conduct their own separate marine safety investigation, if a marine casualty occurs on the high seas or in the exclusive economic zone or a State shall consult to seek agreement on which State or States will be the marine safety investigating State(s) in accordance with a requirement, or a recommendation acted upon, to investigate under this Code.

- 7.3** For a marine casualty referred to in paragraph 7.1 or 7.2, agreement may be reached by the relevant States with another substantially interested State for that State to be the marine safety investigating State(s).
- 7.4** Prior to reaching an agreement is not reached, in accordance with paragraph 7.1, 7.2 or 7.3, then the existing obligations and rights of States under this Code, and under other international laws, to conduct a marine safety investigation, remain with the respective parties to conduct their own investigation.
- 7.5** By fully participating in a marine safety investigation conducted by another substantially interested State, the flag State shall be considered to fulfil its obligations under this Code, SOLAS regulation 1/21 and article 94, section 7 of the United Nations Convention on the Law of the Sea.

Chapter 8

Powers of an investigation

- 8.1** All States shall ensure that their national laws provide investigator(s) carrying out a marine safety investigation with the ability to board a ship, interview the master and crew and any other person involved, and acquire evidential material for the purposes of a marine safety investigation.

Chapter 9

Parallel investigations

- 9.1** Where the marine safety investigating State(s) is conducting a marine safety investigation under this Code, nothing prejudices the right of another substantially interested State to conduct its own separate marine safety investigation.
- 9.2** While recognizing that the marine safety investigating State(s) shall be able to fulfil obligations under this Code, the marine safety investigating State(s) and any other substantially interested State conducting a marine safety investigation shall seek to co-ordinate the timing of their investigations, to avoid conflicting demands

upon witnesses and access to evidence, where possible.

Chapter 10
Co-operation

10.1 All substantially interested States shall co-operate with the marine safety investigating State(s) to the extent practicable. The marine safety investigating State(s) shall provide for the participation of the substantially interested States to the extent practicable.*

Chapter 11
Investigation not to be subject to external direction

11.1 Marine safety investigating State(s) shall ensure that investigator(s) carrying out a marine safety investigation are impartial and objective. The marine safety investigation shall be able to report on the results of a marine safety investigation without direction or interference from any persons or organizations that may be affected by its outcome.

* The reference to “extent practicable” may be taken to mean, as an example, that cooperation or participation is limited because national laws make it impracticable to fully co-operate or participate.

Chapter 12
Obtaining evidence from seafarers

12.1 Where a marine safety investigation requires a seafarer to provide evidence to it, the evidence shall be taken at the earliest practical opportunity. The seafarer shall be allowed to return to his/her ship, or be repatriated at the earliest opportunity. The seafarer’s human rights shall, at all times, be upheld.

12.2 All seafarers from whom evidence is sought shall be informed of the nature and basis of the marine safety investigation. Further, a seafarer from whom evidence is sought shall be informed, and allowed access to legal advice, regarding:

- (1) Any potential risk that he/she may incriminate himself/herself in any proceedings

subsequent to the marine safety investigation;

- (2) Any right not to self-incriminate or to remain silent;
- (3) Any protections affordable to the seafarer to prevent the evidence being used against him/her if he/she provides the evidence to the marine safety investigation.

Chapter 13

Draft marine safety investigation reports

- 13.1** Subject to paragraphs 13.2 and 13.3, where it is requested, the marine safety investigating State(s) shall send a copy of a draft report a substantially interest State to allow the substantially interested State to comment on the draft report.
- 13.2** The marine safety investigating State(s) is only bound to comply with paragraph 13.1 where the substantially interest State receiving the report guarantees not to circulate, nor cause to circulate, publish or give access to the draft report, or any part thereof, without the express consent of the marine safety investigating State(s) or unless such reports or documents have already published by the marine safety investigating State(s).
- 13.3** The marine safety investigating State(s) is not bound to comply with paragraph 13.1 if:
- (1) The marine safety investigating State(s) requests the substantially interested State receiving the report to affirm that evidence included in the draft report will not be admitted in civil or criminal proceedings against a person who gave the evidence; and
 - (2) The substantially interested State refuses to provide such an affirmation.
- 13.4** The marine safety investigating State(s) shall invite the substantially interested States to submit their comments on the draft report within 30 days or some

other mutually agreed period. The marine safety investigating State shall consider the comments before preparing the final report and where the acceptance or rejection of the comments will have a direct impact on the interests of the State that submitted them, the marine safety investigating State(s) shall notify the substantially interested State of the manner in which the comments were addressed. If the marine safety investigating State(s) receives no comments after 30 days or the mutually agreed period has expired, then it may proceed to finalize the report.

- 13.5** The marine safety investigating State(s) shall seek to fully verify the accuracy and completeness of the draft report by the most practical means.

Chapter 14

Marine safety investigation reports

14.1 The marine safety investigating State(s) shall submit the final version of a marine safety report to the Organization for every marine safety investigation conducted into a very serious marine casualty.

14.2 Where a marine safety investigation is conducted into a marine casualty or marine incident, other than a very serious marine casualty, and a marine safety investigation report is produced which contains information which may prevent or lessen the seriousness of marine casualties or marine incidents in the future, the final version shall be submitted to the Organization.

14.3 The marine safety investigation report referred in paragraphs 14.1 and 14.2 shall utilize all the information obtained during a marine safety investigation, taking into account its scope, required to ensure that all the relevant safety issues are included and understood so that safety action can be taken as necessary.

14.4 The final marine safety investigation report shall be made available to the public and the shipping industry by the marine safety investigating State(s), or the marine safety investigating State(s) shall undertake to assist the public and the shipping industry with details, necessary to access the report, where it is published by another State or the Organization.

SCHEDULE VII (section 546)


Fines

Clause/ Section	Clause/ Section	Clause/ Section	Clause/ Section	Clause/ Section
4 (4)	121(3)	215	306	448 (5)
19(3)	121(4)	220	327 (3)	450 (1) (F)
24(5)	121 (5)	221	328 (2)	453 (1)
27	125 (5)	226 (3)	329 (1)	454 (2)
39(2)	134 (3)	227 (3)	332 (2) (6)	463
44(3)	140 (2)	228 (2)	335 (3)	464 (3)
45(1)	141 (4)	236 (2)	339	466 (4)
48(4)	167 (3)	240 (2)	342 (1)	468 (2)
50(4)	170 (2)	243	346 (4)	469 (b)
50(6)	176 (2)	244 (3)	360 (2)	470 (2)
95(3)	177 (2)	249 (4)	361 (3)	487 (4)
102	180 (1)	250 (2)	362 (3) (C)	501 (2)
103(b)	182 (1)	253 (4)	362 (A) (2)	501 (3)
109(2)	190 (2)	257 (4)	365 (2)	506 (4)
109(3)	191	260 (7)	365 (2)	509 (3) (4)
111(1)	192 (1)	272	365 3 (C)	530 (3)
112(1)(e)	209 (1)	298	374(3)	531 (2) (e)

Merchant Shipping Act, 2013

102	180 (1)	250 (2)	362 (3) (C)	501 (2)
103(b)	182 (1)	253 (4)	362 (A) (2)	501 (3)
109(2)	190 (2)	257 (4)	365 (2)	506 (4)
109(3)	191	260 (7)	365 (2)	509 (3) (4)
111(1)	192 (1)	272	365 3 (C)	530 (3)
112(1)(e))	209 (1)	298	374(3)	531 (2) (e)
121(1)	210 (2)	299	377 (1)	532 (3) (c)
121(3)	211 (4)	305 (3)	448 (1) (C)	535 (3)

PASSED in the National Assembly this *Seventeenth* day of April,
In the year of Our Lord Two Thousand and Thirteen.

FOR: 
D. C. M. Kebbeh

Clerk of the National Assembly

THIS PRINTED IMPRESSION has been carefully compared by me with the
Bill which has passed in the National Assembly, and found by me to be a true
and Correct copy of the said Bill

FOR: 
D. C. M. Kebbeh

Clerk of the National Assembly