

**THE OFFICIAL GAZETTE 10TH OCTOBER, 1998
LEGAL SUPPLEMENT – C**

BILL No. 6 OF 1998

Saturday 10th October, 1998

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

15th October, 1998

The following Bill will be introduced in the National Assembly is published for general information.

*F. A. Narain,
Clerk of the National Assembly.*



GUYANA

BILL No. 6 OF 1998

**GUYANA SHIPPING BILL 1997
ARRANGEMENT OF SECTIONS**

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FIRST SCHEDULE

SECOND SCHEDULE

**A BILL
Intituled**

AN ACT to provide for the regulation of ships, and the property therein and owners thereof, the behaviour of the master and mariners and their respective rights, duties, and liabilities as regards the carriage of passengers and goods by ships, collision between ships, salvage, rights, liabilities, claims, contracts, and matters arising in respect of ships and for matters connected therewith and incidental thereto.

A.D. 1998

Enacted by the Parliament of Guyana

PART 1

PRELIMINARY

- Short title and commencement 1. This Act may cited as the Guyana Shipping Act 1997, and shall come into operation on such date as the Minister may, by order, appoint and different dates may be appointed for different parts or provisions of this Act.
- Interpretation 2. In this Act -
 - (1) (a) "agent" means in relation to a ship, an agent of the owner, not being a managing owner, vested with a specific authority by the owner;
 - (b) "aircraft" means any ship or vessel designed for flying but capable of being manoeuvred on water and includes a

seaplane or any ship or vessel able to alight upon or
hover over water,

- (c) "apprentice" means a trainee officer and includes a cadet,
- (d) "bankruptcy" includes insolvency and any other process leading
to the liquidation of assets,
- (e) "cargo" includes livestock,
- (f) "cargo ship" means a ship which is not a passenger ship or a
fishing vessel,
- (g) "Caribbean Community" means the Community established
under the Treaty done at Chaguaramas on 14th July
1973;
- (h) "Caricom State" means a State member of the Caribbean
Community,
- (i) "consular officer" means a person discharging the duties of a
consular officer on behalf of the Government of Guyana,
and when used in relation to a country other than
Guyana, means the officer recognised by the
Government of Guyana as a consular officer of that
other country,
- (j) "crew" in relation to a ship includes seamen and apprentices.
- (k) "Director" means the Director of Maritime Affairs appointed
under section 4, and includes any person lawfully acting

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under the instructions of or on behalf of the Director;

(l) "duly qualified medical practitioner" means a person registered as a medical practitioner under the Medical Practitioner Act 1991;

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(m) "fishing vessel" means a vessel of whatever size and in whatever way propelled which is used or intended to be used for catching fish for gain;

(n) "foreign ship" means a ship which is not a Guyana ship;

(o) "international voyage" means a voyage from a port in one country to a port in another country;

(p) "Guyana" includes Guyana waters;

(q) "Guyana Government ship" means a ship which belongs to the Government of Guyana but does not include a ship which forms part of the Guyana Defence Force;

(r) "Guyana ship" means a ship which is -

(a) registered or licensed in Guyana under this Act;

or

(b) exempted under this Act from being registered or licensed.

(s) "Guyana waters" includes the internal waters and the territorial sea as defined in the Maritime Boundaries Act 1977;

No. 10 of 1977

(t) "licensed Guyana ship" means a ship that is licensed pursuant

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to section 49;

- (u) "local trade in Guyana waters" means the transport locally of passengers or goods or the carrying out of any other operation or activity locally, within Guyana waters, for profit or reward;
- (v) "machinery" includes propulsion systems, steering systems, pressurized containers and systems, 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.
- (w) "managing owner" in relation to a ship includes any person not being an agent in whom an owner of such ship has vested authority to manage and operate the ship.
- (x) "marine officer" means a person appointed as such under section 6 and includes any person lawfully acting under the instructions of or on behalf of the Director;
- (y) "master" includes every person lawfully having, for the time being, command or charge of any ship;
- (z) "merchant ship" means any ship other than a fishing vessel or a ship which forms part of the Defence Force of Guyana;
- (2) (a) "Minister" means the Minister responsible for shipping and

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water transportation.

- (b) "officer" in relation to ships' officers includes a master and a deck engineer, radio or medical officer;
- (c) "owner" in relation to a ship includes a demise or bareboat charterer and a managing owner;
- (d) "passenger" means any person carried on board a ship except -
 - i) the master, a member of the crew, or a person employed or engaged in any capacity on board the ship on the business of the ship and signed on the ship's articles of agreement as such person; or
 - ii) a child under one year of age; or
 - iii) a person carried on the ship under an obligation imposed upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the owner nor the charterer, if any, could prevent or forestall;
- (e) "passenger ship" means a ship which is constructed for, or which is habitually or on any particular occasion used for, carrying more than twelve passengers;

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- (f) "person qualified to own a Guyana ship" has the meaning assigned to it in section 11.
- (g) "pilot" in relation to any ship means any person not belonging to the ship who for the time being has the conduct thereof.
- (h) "pleasure craft" means a ship, however propelled, that is used exclusively for pleasure and does not carry passengers or cargo for hire or reward but does not include a vessel that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house, guest house or other establishment.
- (i) "port" means any place which is for the time being appointed to be a port under the Customs Act
- (j) "Port of Registry" in relation to any ship means the port where she is for the time being registered.
- (k) "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".
- (l) "public officer" has the meaning assigned to that expression in article 232 of the Constitution

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- (m) "receiver" means a receiver of wreck appointed or designated under section 342;
- (n) "Registrar" means the registrar of Guyana ships or the registrar of seamen, as the case may be, appointed under section 4;
- (o) "salvage" includes all expenses properly incurred by a salvor in the performance of salvage services.
- (p) "seafarer" includes a master, officer and any other category of crew;
- (q) "seaman" means every person employed or engaged in any capacity on board any ship, and includes apprentices except for the purposes of sections 188 to 213 inclusive, but does not include a master, pilot or a person temporarily employed on the ship while she is in port;
- (r) "ship" includes every description of vessel used in navigation and not propelled by oars;
- (s) "shipwrecked persons" means persons belonging to any ship referred to in section 344;
- (t) "surveyor of ships" means a person appointed as such under section 4;
- (u) "tackle" means, in relation to a vessel, the tackle.

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machinery, gear, apparatus, and appliances used on board a ship for the loading and unloading thereof;

(v) "vehicle" includes any vehicle of any description, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise;

(w) "vessel" includes every description of water craft used, or capable of being used, as a means of transportation on water;

(x) "wreck" includes -

- a) flotsam, jetsam, lagan, and derelict found in the waters or on the shores of Guyana;
- b) cargo, stores, tackle or equipment;
- c) the personal property of shipwrecked persons; and
- d) any wrecked aircraft or any part thereof and cargo thereof.

Application to Government ships.

3. (1) Subject to subsections (2) and (3), nothing in this Act shall apply to -

- (a) Guyana Government ships operated for non-commercial purposes;
- (b) ships or aircraft of the Guyana Defence Force.

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(2) The Minister may make regulations prescribing the manner and extent to which the provisions of this Act apply to Guyana Government ships operated for non-commercial purposes.

(3) The Minister may, by notification published in the Gazette, direct that, subject to such rules as may be made in that behalf, Guyana Government ships may be registered as Guyana ships under this Act and thereupon this Act, subject to any exceptions and modifications which may be made in the notification, shall apply either generally or with respect to any class of ships belonging to the Government registered in accordance with the rules as they apply to Guyana ships registered in the manner provided by this Act, and for the purpose of such application any reference to an owner shall be construed as a reference to the Director.

PART II

ADMINISTRATION OF THE ACT

Establishment of
Maritime
Administration
Department

4. (1) There shall be a Maritime Administration Department hereinafter referred to as the "Department", the function of which shall be to administer this Act and any other law

(2) For the purposes of carrying out functions of the Department the following public officers shall be appointed who shall be marine officers, namely -

- (a) Director of Maritime Affairs, who shall exercise general supervision over all matters relating to maritime affairs including inland waters;
- (b) Registrar of Ships;
- (c) Registrar of Seamen;
- (d) Surveyors; and
- (e) Receiver of Wreck

(3) The Director may delegate the exercise of any powers or the performance of any duties conferred or imposed on him by this Act or any other law to such person or persons as he may think fit

(4) Any act done by a person referred to in subsection (3) in exercise or performance of any power, right or duty conferred or imposed by his Act or any other law shall have the same effect as if

done by the Director.

Power of Minister
to give directions.

5. The Minister may from time to time give the Director such general directions, not inconsistent with the provisions of this Act or any regulations made thereunder, on the policy to be pursued in the administration of this Act, as he may consider necessary, and the Director and the Registrar shall forthwith take such steps as are necessary or expedient to give effect thereto.

Marine officers.

6. (1) There may be appointed, for the purposes of this Act, such number of marine officers for each port in Guyana as may be necessary.

(2) A marine officer shall exercise his powers and duties under the direction of the Director.

(3) There may be appointed a deputy or deputies to any marine officer, either generally for the purposes of this Act or for the purposes of particular provisions of this Act.

(4) Any act done by a deputy appointed under subsection (3) in the exercise or performance or purported exercise or performance of any power, right or duty conferred or imposed by this Act shall have the same effect as if done by a marine officer.

Surveyor's
powers and duties.

7. (1) Every surveyor of ships shall have the powers and shall perform the functions and duties prescribed by this Act and any regulations made thereunder.

(2) The functions of a surveyor of ships shall be performed under the directions of the Director and in accordance with any rules made by the Minister.

Registrar of
Ships and
Registrar of Seamen.

8. The Director may be appointed the Registrar of Ships and the Registrar of Seamen.

Minister may
delegate certain
powers and duties.

9. The Minister may, by notification in the Gazette, delegate to the Director or any other officer appointed under this Act and specified in such notification, the exercise of any powers or the performance of any duties conferred or imposed on him by or under this Act, other than the power to make orders and regulations, subject to such conditions and restrictions as may be specified in such notification.

PART III

RESTRICTION ON TRADING

Trade in Guyana
waters.

10. (1) Subject to any regulations made or exemptions granted Under this Act, any other written law, or any bilateral or multilateral treaty or agreement, no ship other than a Guyana ship may trade exclusively between ports of Guyana or within waters under Guyana's jurisdiction.

(2) Subject to this Act or any other written law, a ship holding a valid certificate of a foreign registry may trade between a port of Guyana and a foreign port.

(3) No person other than a person qualified to own a Guyana ship as provided by section 11 shall charter or otherwise engage a Guyana ship for trading locally within Guyana waters, except in accordance with such conditions as may be prescribed.

(4) Every Guyana ship trading in any waters and every ship trading in or from Guyana waters shall provide evidence of financial responsibility against risks of damage to third parties, in such manner as may be prescribed.

(5) The master, owner or agent of any ship who contravenes subsections (1), (2) and (4) and any person who contravenes subsection (3) shall be guilty of an offence and be liable to a fine not exceeding one hundred thousand dollars and the ship shall be liable to be detained.

PART IV

REGISTRATION AND LICENSING OF SHIPS

AND PROPRIETARY INTERESTS IN SHIPS

Registration of Guyana Ships

Qualifications to
own a Guyana ship.

11. (1) Subject to subsection (2) and section 3, a ship shall not be registered in Guyana under this Act unless she is wholly owned by persons qualified to own a Guyana ship, that is to say -

- (a) citizens of Guyana;
- (b) persons domiciled or ordinarily resident in Guyana;
- (c) citizens of Caricom States residing in a member country of the Caribbean Community, where the ship is customarily engaged in international voyages;
- (d) a body corporate established under the laws of Guyana and having its principal place of business in Guyana;
- (e) persons in bona fide joint venture relationships with any of the categories of persons described in paragraphs (a) and (c); or
- (f) such other persons as the **Minister** may by order determine;

(2) A ship acquired by bareboat charter by any of the categories of persons described in paragraphs (a), (b), (d) and (e) of subsection (1) may be registered in Guyana.

(3) For the purposes of this section a body corporate shall mean a body corporate the majority of shareholders of which are persons referred to in paragraphs (a), (b) and (c) of subsection (1).

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Obligation to register Guyana ships.

12. (1) Whenever a ship is owned wholly by persons qualified to own a registered Guyana ship, that ship shall be registered in the manner provided in this Part unless -

- (a) it is registered in some other country,
- (b) the ship is recognized by the law of a country other than Guyana as a ship of that country, and is by the law of that country exempted from registration;
- (c) the ship is, pursuant to subsection (2), exempted from registration under this Act;
- (d) the ship is required to be licensed and operates solely within Guyana waters, or
- (e) the ship is exempt from being licensed.

(2) The Minister may by Notice exempt generally or specifically from registration under this Act, a licensed Guyana ship or a class thereof or a ship or a class of ships that is required to be licensed when operating outside Guyana waters.

(3) Subject to section 3 every Guyana ship, and every Guyana Government ship shall be registered in one of the register books kept pursuant to section 21 and registration shall be effected in accordance with this Act.

(4) If the master of any ship which is owned wholly by persons qualified to own a registered Guyana ship or a licensed Guyana ship fails, on demand, to produce the certificate of registration or the license as the case may be, of the ship or such other evidence as satisfies the Minister that the ship complies with the requirements of subsection (1), that ship may be detained until that evidence is produced.

(5) Any ship which is wholly owned by persons qualified to own a Guyana ship, and which immediately before the commencement of this Part, is registered in Guyana in accordance with the Law of Merchant Shipping Act, is entitled to be registered under this Act, but subject to such conditions as may be prescribed.

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(6) A ship required to be registered or licensed under this Act shall not be recognised as a Guyana ship and is not entitled to the rights and privileges accorded to Guyana ships under this Act unless it is so registered or licensed.

(7) Where the Minister has reason to believe that there is some doubt as to the title of any ship registered under this Act, he may direct the Registrar of Ships to require that evidence be given to his satisfaction that the ship is entitled to be so registered; and where, within such time as may be prescribed by the Minister, not being less than thirty days, evidence to the satisfaction of the Registrar of Ships as to the title of the ship is not given, the ship shall be liable to be deregistered.

Regulations.

13. The Minister may make regulations for the purpose of giving full effect to the provisions of this Act dealing with the registration of ships, and in particular may provide for the manner in which Guyana Government ships may be registered under this Act.

Application for registration.

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

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

and the authority of the agent shall be testified in writing.

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

Declaration of ownership.

15. (1) A person shall not be registered as the owner of a Guyana ship or of a share therein until such person, or in the case of a body corporate the person authorized by section 92 (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 certificate of a surveyor of ships and containing the following particulars -

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- (a) his full name and address;
- (b) a statement of his citizenship, or in the case of a body corporate a statement of the constitution and business thereof as proof of its qualification to own a Guyana ship;
- (c) a statement of the time when and the place where the ship was built, or if the ship was built outside Guyana and the time and place of building is not known, a statement to that effect and in addition, in the case of a ship previously registered outside Guyana, a statement of the name by which she was so registered;
- (d) a statement of the name of the master and his citizenship;
- (e) a statement of the number of shares in the ship in respect of which such person or the body corporate, as the case may be, is entitled to be registered as owner, and
- (f) a declaration that to the best of his knowledge

and belief no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

(2) For the purposes of this section "beneficial interest" has the meaning assigned to it by section 88.

Evidence on first registration

16. (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 within the Caribbean Community a builder's certificate signed by the builder of the ship and containing a true account of the proper denomination and tonnage of the ship as estimated by him and of the time when, and the place where, she was built and of the name of the person, if any, on whose account the ship was built and, if there has been an sale, the bill of sale.

under which the ship or a share therein has become vested in the applicant for registration; and

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

(2) In the case of every ship built in Guyana, the builder shall, if requested to do so, deliver to the owner a signed certificate containing the particulars specified in paragraph (a) of subsection (1)

(3) If any builder fails to comply with subsection (1) or (2) or wilfully makes a false statement in a certificate given thereunder, he is guilty of an offence and is liable to a fine of fifty thousand dollars

Restrictions on registration and cancellation of registration.

17 Subject to section 9,

- (a) no vessel shall be entered in the Guyana registry unless it is deregistered from its previous registration and a certificate of deregistration is issued by the competent authority of the previous registration,
- (b) no vessel in respect of which there exists a mortgage registered in a previous registry shall be registered in the Guyana registry unless such mortgage is discharged,
- (c) the registration of a ship shall be cancelled if the ship -
 - (i) is found to be registered in a foreign registry,
 - (ii) is lost or destroyed, or
 - (iii) ceases to be owned in accordance with section 11

Rules for barefoot charter registration

18. Where a ship acquired under a bareboat charter is being registered in the Guyana registry pursuant to section 11(2), the following provisions shall apply -

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- (a) the names, addresses and other particulars of the shipowner and charterer shall be entered in the register;
- (b) a certified true copy of the bareboat charterparty shall be filed with the Registrar;
- (c) upon application for registration, the charterer shall disclose to the Registrar the details of any outstanding mortgages or other encumbrances registered against the ship in any ship registry and the Registrar shall enter such details in the register;
- (d) no mortgages or other encumbrances shall be registered in respect of that ship in the Guyana ship register.
- (e)
 - (i) unless the shipowner is a Guyanese citizen or a body corporate incorporated in Guyana, and except as provided in this Act or any other written law, no matters pertaining to the ownership of the ship or any proprietary interest connected therewith shall be subject to the Laws of Guyana,
 - (ii) all other matters pertaining to the ship shall be governed by this Act or any subsidiary legislation made thereunder during the period of her registration in the Guyana ship registry.
- (f) upon the termination of the bareboat charter party, the ship shall be struck off the Guyana register and a certificate of deregistration shall be issued to that effect;
- (g) if there is a change of ownership of the ship during the currency of the bareboat charterparty, the charterer shall inform the Registrar forthwith and details of the new ownership shall be entered in the register

Restriction on deregistration of ships.

19 The Registrar shall not permit the deregistration of a ship without the consent in writing of all registered holders of mortgages on the said ship registered under this Act

Port of Registry

20 (1) The port of Georgetown shall be the Port of Registry for the registration of ships

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(2) The Minister may by order declare any other port of Guyana as a Port of Registry.

Register books.

21. (1) The Registrar of ships shall keep such register books as may be deemed necessary including the following -

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

(2) Entries in those books 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 or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this 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 a ship or of any share or shares therein;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered; and
- (e) a body corporate may be registered as owner by its corporate name.

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

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- (a) the name of the ship and the previous name and registry, if any;
- (b) the details contained in the certificate of survey
- (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, what share in the ship is held by each,
- (e) the Port of Registry or home port and the official number or identity mark;
- (f) the international call sign of the ship, where one is assigned;
- (g) the name of the builders, and place and year of building of the ship,
- (h) the description of the main technical characteristics of the ship;
- (i) details with respect to any mortgages.

(4) The registrar shall not register any ship purchased or otherwise acquired from a foreign subject or corporation where any bill of sale or other document under or by virtue of which the ship became vested in the applicant for registration 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

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

(6) The registrar shall keep a record in the manner approved by the Minister of

- (a) the date of deletion or suspension of the previous registration of the ship;
- (b) the name, address and, as appropriate, the nationality of the bareboat charterer

Documents to be retained by the registrar

22 On the registration of a ship the Registrar shall retain in his possession

- (a) the surveyor's certificate;

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

Name of ship.

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

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

(3) The Registrar may, in accordance with any regulations made under this Act, refuse to register any ship by the name by which it is proposed to register that ship if it is already the name of a registered Guyana ship or a name so similar as is calculated or likely to deceive or to offend the public interest.

(4) If the Registrar refuses to register a ship by the name that is proposed or if the requirements of the regulations referred to in subsection (3) are not complied with, that ship shall not be registered under the name proposed, or until the regulations are complied with, as the case may be.

(5) If any person acts or suffers any other person under his control to act in contravention of this section or omits to do or suffers any other person under his control to omit to do, anything required by this section he shall be liable on conviction to a fine of thirty thousand dollars and the ship may be determined until this section is complied with.

Change of name
of ship.

24. (1) A change may not be made in the name of a Guyana Ship without the previous written consent of the Registrar.

(2) Application for a change of name shall be made on the prescribed form.

(3) The Registrar may not grant permission to change the name of a Guyana ship, unless he is satisfied that all registered holders of mortgages 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 a ship in the register shall be carried out in the manner set out in the regulations made under this Part.

**Identity marks
for fishing vessels.**

25. (1) On the registration of a fishing vessel the registrar shall allocate to it a combination and sequence of letters and numerals (hereinafter called the 'identity mark') which he shall cause to be entered in the register book.

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

(3) Every registered fishing vessel shall display the identity mark allocated to it under this section on each side of its bow and shall show its Port of Registry on the stern.

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

**Offences under
sections 24
and 25**

26. (1) A person is guilty of an offence who contravenes or permits any other person under his control to contravene section 24 or 25.

Call sign.

27. A merchant ship or a fishing vessel which is equipped either with a wireless radio transmitting station or with a radio-telephony 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 and assigned to the ship.

**Register book
for ships under
construction.**

28. A ship under construction may be entered in the register book for ships under construction from the date of the signing of the contract for construction until it is placed on another register after completion.

Tonnage Measurement

Survey.

29. (1) * Every ship before registration shall be surveyed

by a surveyor of ships and the tonnage of the ship ascertained in accordance with any regulations made under this Part

(2) The surveyor shall grant a Certificate of Survey specifying the ship's tonnage, the date and place of construction and such other particulars descriptive of the identity of the ship as may for the time being be required by the Registrar.

(3) The Certificate of Survey shall be delivered to the Registrar before registration and on the basis of such certificate, the Registrar shall then issue a tonnage certificate in the manner prescribed.

Minister to make tonnage regulations.

30. (1) The Minister may by regulations, hereinafter referred to as "the tonnage regulations" -

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

(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 to be loaded to the full depth to which it can otherwise be safely loaded;
- (b) for indicating on the ship by such mark as is specified, that such a lower tonnage has been assigned to it and, where it has been assigned

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to it as an alternative, the depth to which the ship can be loaded for the lower tonnage to be applicable, and

- (c) for the issue of documents certifying the registered tonnage of any ship or the tonnage that is to be taken for any purpose specified as the tonnage of a ship not registered in Guyana,

(3) In making the tonnage regulations the Minister shall have due regard to the International Convention on Tonnage Measurement of Ships 1969, including any amendments thereof.

Tonnage once ascertained to be tonnage of ship

31. (1) Where the tonnage of a ship has been ascertained in accordance with the tonnage regulations and such tonnage has been assigned to the ship, that tonnage shall be registered and henceforth be deemed to be the tonnage of that ship

(2) The tonnage of a ship as ascertained under subsection (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 those cases the ship shall be remeasured and her tonnage ascertained and registered according to the tonnage regulations.

Tonnage of foreign ship

32. (1) Where it appears to the Minister that a country has promulgated rules on tonnage that are substantially the same as those under the tonnage regulations made under this Part, the Minister may order that a ship of that country, without being remeasured in Guyana, be deemed to be of the tonnages denoted in her certificate of registration or other national certificates relating to tonnage in the same manner, to the same extent and for the same purposes as the tonnages denoted in the certificate of registration of a Guyana ship is deemed to be the tonnages of that ship.

(2) Any space shown by the certificate of

registration or other certificates relating to the tonnage of any foreign ship described in subsection (1) as deducted from tonnage on account of being occupied by seamen or apprentices and appropriated to their use, shall be deemed to have been certified under this Act and to comply with those provisions of this Act that apply to such a space in the case of Guyana ship, unless a surveyor inspects the ship and certifies to the Minister that the construction and the equipment of the ship in respect of that space do not meet the standard required of a Guyana ship under this Act, in which case the ship shall be remeasured and assigned a tonnage in accordance with this Act.

(3) Where it appears to the Minister that the tonnage of a foreign ship as measured by the rules as to tonnage of the country to which it belongs materially differs from that which would be its tonnage if measured under this Act, the Minister may order that any of the ships of that country be remeasured in accordance with this Act, for all or any of the purposes of this Act

Foreign and
other measurements

33 (1) Where a ship has been measured and registered as a foreign ship or has already been measured without being registered as a Guyana ship, a surveyor may, for the purposes of section 29 accept and use any figures of measurement contained in the latest register relating to that ship, or in the case of an unregistered ship, in the latest certificate of survey relating to that ship

(2) Before acting under subsection (1), the surveyor shall satisfy himself that there have been no changes of measurement since the making of the register or certificate that he proposes to use, and where any such changes have been made he shall remeasure the ship to the extent made necessary by the changes.

Alterations
between surveys

34 Where any alteration or reconstruction of a Guyana 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 him details thereof

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Appointment of surveyors.

35. (1) The Minister may appoint duly qualified persons within or outside Guyana as surveyors to survey and measure ships under and for the purposes of this Act.

(2) The Minister may, by regulations, nominate any person within or outside Guyana to be a classification society for the purposes of this Act and any classification society so appointed may appoint any person to survey and measure ships under and for the purposes of this Act, subject to such conditions as the Minister may impose.

Marking of ships.

36. (1) Every ship shall, before being registered in Guyana, be marked permanently and conspicuously in accordance with the regulations made under this Part.

(2) Where the Registrar is satisfied that a ship is insufficiently or inaccurately marked, he may suspend the certificate of registration of the ship or in the absence of such certificate he may detain the ship until the insufficiency or inaccuracy has been remedied to his satisfaction.

(3) The Minister may make regulations exempting any class of ship from all or any of the requirements of this section.

Certificate of Registration

Certificate of registration.

37. (1) The certificate of registration shall be in such form as may be prescribed.

(2) The certificate of registration shall include -

- (a) the name of the owner of the ship, his occupation and address, and if there are more owners than one the proportions in which they are interested in the ship;
- (b) the name of the master;
- (c) the date and place where the ship was built; and
- (d) the details given in the tonnage certificate.

Power to make regulations in relation to

38. The Minister may make regulations relating to -
(a) the grant of a new certificate of registration;
(b) the loss of a certificate of registration;

certificate of registration.

- (c) the keeping of a record of masters;
- (d) the endorsement of a change of ownership on a certificate of registration;
- (e) the delivery up of the certificate of registration of a ship that is lost or broken up or has ceased to be a Guyana ship.

Issue and custody of certificate of registration.

39. (1) The certificate of registration shall be kept on board the ship and shall be used only for the lawful navigation of the ship and shall not be subject to retention by reason of any title, lien, charge or other interest of any owner, mortgage holder or other person.

(2) No person who has in his possession, or under his control, the certificate of registration of a ship shall refuse or omit, without reasonable cause, to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar, ship surveyor, customs officer or other person entitled by law to require its delivery.

(3) Every person who contravenes subsection (2) is guilty of an offence and is liable to a fine of fifteen thousand dollars.

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

Improper use of certificate of registration

40. If the master or owner of a Guyana ship 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 he shall, in respect of each such use or attempt, be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding thirty thousand dollars and to a term of imprisonment not exceeding one year and the ship shall be liable to forfeiture.

Provisional certificate of registration.

41. (1) Where ^{an}owner of a ship intend to apply to have the ship registered as a Guyana 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 ~~the~~owner or master, on his application, which shall

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include a statutory declaration, a provisional certificate stating -

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

and shall forward a copy of the certificate at the first convenient opportunity to the Registrar

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

- (a) a declaration as to ownership,
- (b) a declaration as to seaworthiness, and
- (c) 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 the expiration of six months after its date of issue or until the arrival of the ship at a port in Guyana, whichever first happens, and on either or those events happening shall cease to have effect.

(4) The master of every ship in respect of which a provisional certificate is granted under this section shall, within ten days of the ship's first arrival thereafter at a port in Guyana, deliver the certificate to the Registrar; and where any master fails to comply with this subsection, he is guilty of an offence and is liable to a fine of thirty thousand dollars.

Temporary pass
in lieu of
certificate of
registration •

42. 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 Guyana to any port within or outside Guyana, the Minister may, in any case in which the ship belongs to a country whose law provides for the issue of temporary passes, 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 and the Registrar

when so directed shall grant the pass accordingly

Registration of Alterations and Registration Anew

Registration of alterations.

43. (1) When a Guyana 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 withⁿ thirty days after the completion of the alteration to the Registrar, and the notice shall be accompanied by a certificate of survey stating the particulars of the alteration

(2) Upon receipt of a notice of alteration of a Guyana ship under subsection (1), the Registrar shall either cause the alteration to be registered or direct that the ship be registered anew

(3) Where there is a failure to comply with the requirements of subsection (1) or with a direction under subsection (2), the Registrar may suspend the certificate of registration of the ship in respect of which the failure occurs

(4) If default is made in registering anew a ship that has been altered or in registering the alteration, the owner of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding six thousand dollars and, in addition to a fine of one thousand dollars for every day during which the offence continues after conviction.

Rules for registration of alterations

44. (1) For the purposes of the registration of an alteration in a Guyana ship, the ship's certificate of registration shall be produced to the Registrar within sixty days after the alteration, and he shall either -

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

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

Provisional
certificate where
ship registered
anew.

45. (1) Where a Guyana ship is outside of Guyana, and consequent upon notification as to be registered anew, a proper officer or other appropriate authority designated to act on behalf of the Government shall grant to the master on his application, either a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Where the proper officer or other appropriate authority grants a provisional certificate or provisionally endorses a certificate under this section, he shall add to the certificate or endorsement a statement that the same is made provisionally.

(3) The master of every 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 Guyana or within six months of the date of issue or endorsement of the certificate, whichever is the sooner, deliver that certificate to the Registrar and, if any master fails to comply with this subsection, he is guilty of an offence and is liable to a fine of thirty thousand dollars.

(4) Where any ship in respect of which a Provisional Certificate is granted or a Certificate is endorsed under this section first arrives thereafter at a port in Guyana application for registration of that ship anew shall be made to the Registrar and the other requirements requisite for registration shall be complied with; and, if, in respect of any such ship, there is failure to comply with this subsection, the owner of the ship is guilty of an offence and is liable to a fine of thirty thousand dollars and, in addition, to a further fine of one thousand dollars for every day during which the offence continues after conviction.

Registration
anew on change of
ownership.

46. Where the ownership of any Guyana 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.

47. (1) Where the 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 of the other pre-requisites to registration or such of them as the Registrar thinks material, he shall make such new registration and grant a Certificate accordingly.

(2) When a ship is registered anew her former registration 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 holders or mortgages or 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 any of those persons.

Restriction on re-registration of abandoned ships.

48. Where a ship has ceased to be registered as a Guyana Ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a Guyana ship, 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 to be seaworthy.

Licensing

Ships to be licensed.

49. (1) Subject to subsections (2) and (3), every ship under twenty-four metres in length shall be licensed under this Act.

(2) The following ships shall be exempt from being licensed under this section -

- (a) pleasure craft of less than five metres in length not equipped with propulsion machinery;
- (b) pleasure craft of less than three metres in length equipped with propulsion machinery of not more than five horse power;
- (c) ships registered under this Act.

(3) The Minister may in writing exempt, either generally or specifically, ships from compliance with subsection (1), subject to such conditions as he may stipulate.

Qualifications

50. (1) A ship shall not be licensed in Guyana unless it

for owning a
Licensed Guyana ship.

is owned wholly by persons referred to in section 11.

(2) No more than eight persons may be recorded as joint owners of a licensed Guyana ship.

(3) Within seven days, or such further time as may be allowed by the Minister, after a change of ownership of a Guyana ship, the owner shall in writing notify the Registrar of such change.

(4) Where the owner of a licensed Guyana ship fails to comply with subsection (3), the licence of the ship shall be deemed to have been cancelled.

(5) The Minister may in writing exempt any ship from the provisions of subsection (1).

Regulations for
licensing of ships.

51. The Minister may make regulations regarding the licensing of ships and licensed Guyana ships, and in particular for the following matters -

- (a) the manning of and the life-saving, safety and fire-fighting equipment to be carried on such ships;
- (b) the examination and certification of skippers, mechanics and deckhands;
- (c) surveys and inspections;
- (d) the appointment of surveyors;
- (e) the keeping of records;
- (f) fees;
- (g) discipline.

Transfers and Transmissions

Transfer of
ship or share.

52. (1) Every transfer of a ship or a share therein to a person qualified to own a Guyana ship shall be by a bill of sale.

- (2) The bill of sale shall -
 - (a) be in the prescribed form;
 - (b) contain such description of the ship as is contained in the certificate of survey; and

Declaration of transfer.

- c) be executed by the transferor in the presence of, and be attested by, two witnesses.

53. Where a registered ship or share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a body corporate, the person authorized by this Act to make declarations on behalf of the body corporate, has made and signed a declaration, in this Part referred to as a "declaration of transfer" referring to the ship and containing -

- (a) a statement of the qualification of the transferee to own a Guyana ship, or if the transferee is a body corporate, of the circumstances of its constitution and business as proof of its qualification to own a Guyana ship; and
- (b) a statement that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled to any legal or beneficial interest in the ship or any share therein.

Registration of transfer.

54. (1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the Registrar with the declaration of transfer, and the Registrar -

- (a) shall thereupon enter in the register book the name of the transferee as owner of the ship or the share therein;
- (b) shall endorse on the bill of sale the fact of such entry and the date and time at which the entry was made.

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

Transmission of property in ship on bankruptcy, death, etc.

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

- (a) that person shall authenticate the transmission

by making and signing a declaration (in this Part referred to as a "declaration of transmission") identifying the ship and containing the statements required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted;

- (b) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or in the case of death of a joint owner by proof of survivorship to the satisfaction of the Registrar; and
- (c) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being admissible in any court in Guyana as proof of the title of persons claiming under a bankruptcy.

(2) The Registrar shall, on receipt of the declaration of transmission, enter in the register book the name of the person entitled under the transmission as owner of the ship or share therein, as the case may be, and, where there is more than one such person, they shall, for the purposes of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale
on transmission
to an unqualified
person.

56. (1) Where the property in a registered ship or share therein is transmitted on death, bankruptcy, or otherwise to a person not qualified to own a Guyana ship, the High Court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale after deducting therefrom the expenses incurred on the sale, be paid to the person entitled under the transmission or otherwise as the Court may direct.

(2) The Court may require any evidence in support of the application as it thinks requisite, and may make the order subject to such terms and conditions as it thinks just, or may refuse to make the order, and generally may act as the justice

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of the case requires.

(3) Every such application for sale shall be made within four weeks after the occurrence of the event on which transmission took place, or within such further time, not exceeding in the whole one year from the date of the occurrence of the event, as the court may allow.

(4) If such an application is not made within the time aforesaid, or if the court refuses to make an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

Transfer of
ship or share by
order of court.

57. (1) Where the Court, whether under this Part or otherwise, orders the sale of any ship or any share therein, the order of the Court shall contain a declaration vesting in a person named by the Court the right to transfer that ship or share, and that person shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof.

(2) The Registrar shall comply with any direction made by the person so named by the court in respect of any such transfer to the same extent as if such person were the registered owner.

Power of court
to prohibit
transfer.

58. (1) The Court may if it thinks fit, without prejudice to the exercise of any other power of the court, on the application of any interested person, make an order prohibiting for a specified time the transfer of a ship or any share therein

(2) The Court may make an order under subsection (1) on any terms or conditions it thinks just, or may refuse to make the order or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.

(3) The Registrar without being made a party to the proceedings, shall on being served with the order of the court or an official copy thereof, obey the same.

Mortgages

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Mortgages of
ship or share.

59. (1) A Guyana ship, or a share therein, may be made a security for a loan or other valuable consideration, and the instrument creating such security, in this Part referred to as a "mortgage" shall be in the prescribed form.

(2) The Registrar shall record mortgages in the order in time in which they are produced to him for that purpose, and shall endorse and sign a memorandum on each mortgage indicating that it has been recorded by him and stating the date and time that it was recorded.

(3) A mortgage executed outside Guyana and produced before a proper officer duly authorized to receive the same may be recorded by the Registrar on the advice of such proper officer.

Obligation of
mortgagor to
disclose existing
liabilities.

60. (1) Before executing any mortgage the mortgagor shall disclose in writing to the mortgagee the existence of any maritime lien, prior mortgage, or other liability in respect of the ship to be mortgaged and of which the mortgagor is aware.

(2) If the mortgagor fails to comply with this section the mortgage debt shall, at the election of the mortgagee, become immediately due and payable, notwithstanding anything to the contrary in the mortgage.

Entry of
discharge of
mortgage.

61. (1) When a registered mortgage is discharged the Registrar shall, on production of the mortgage with a receipt for the mortgage money endorsed thereon and duly signed and attested make an entry in the register to the effect that the mortgage has been discharged.

(2) When the entry referred to in subsection (1) has been made, the estate, if it has passed to the mortgage holder, shall vest in the person in whom having regard to intervening acts and circumstances, if any, it would have vested if the mortgage had not been made.

Priority of
mortgages.

62. If there are several mortgages registered in respect of the same ship or a share therein, the mortgages shall, notwithstanding any express, implied or constructive notice, rank in priority, according to the date at which each mortgage is recorded in the register book, and not according to the date

of the mortgage.

Mortgagee
not treated as
owner.

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

Mortgagee to
have power of
disposal.

64. (1) Every registered mortgagee shall, subject to subsection (2), have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money

(2) If there are several persons registered as mortgagees of the same ship or share a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgage holder

(3) Every registered mortgagee shall be entitled to enforce his mortgage by an 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.

Mortgage not
affected by
bankruptcy.

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

Transfer of
mortgages.

66. (1) A registered mortgage of a ship or share may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form, and on production of such instrument, the Registrar shall record the transfer by entering in the register the name of the transferee as mortgagee of the ship or share and shall endorse and sign on the instrument of transfer a memorandum that the transfer has been recorded by him stating the date and time that the transfer was recorded

(2) The person to whom any registered mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

Transmission of interest in mortgage in certain circumstances.

67. (1) Where the interest of a mortgagee in a Guyana ship or any share therein is transmitted on the death or bankruptcy of the mortgagee, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.

(2) A declaration made under this section shall contain a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in the case of a corresponding transmission of the ownership of a Guyana ship or share therein.

(3) The Registrar on receipt of the declaration and production of the evidence referred to in subsection (2), shall enter the name of the person entitled under the transmission in the register as mortgagee of the ship or share therein.

Authority to sell or mortgage out of Guyana.

68. (1) Where a registered owner of a Guyana ship or a share therein, is desirous of disposing by way of sale or mortgage of that ship or share at any place out of Guyana, he may make application, by declaration 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 is to be exercised, together with -
 - (i) in the case of a sale, the minimum price at which a 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;
- (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 69(1), in the case of an application to dispose of a ship by way of sale, the Registrar shall enable any such applicant to dispose of the ship or share in the manner desired in accordance with subsection (4).

(4) On receiving an application made under this section, the Registrar shall enter in the register book 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 -

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

**General rules
for certificates
of sale.**

69. (1) A certificate of sale shall not be granted except for the sale of an entire ship; and such a certificate shall not be granted under this Part, except upon 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 any such certificate shall be exercised in conformity with the directions contained therein.

(3) An agreement for sale entered into in good faith in exercise of the power conferred by any such certificate 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 the completion of the sale.

(4) Whenever any such 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 sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given.

Procedures where
ship under
certificate of
sale granted in Guyana.

70. (1) Where a Guyana ship is sold, in exercise of a power conferred by a certificate of sale granted under this Part, to persons qualified to own a Guyana 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 the fact of that ship having been sold, and shall forthwith notify the Registrar;
- (b) the ship may be registered anew in the manner provided by this 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 those certificates having endorsed thereon an entry of the fact of the sale having taken place, shall thereupon enter the sale of the ship in the register book.

Registration in Guyana
where ship sold
under certificate of

71. (1) Where any ship registered in a foreign state is sold in exercise of a power conferred by a certificate of sale granted under the law of that country,

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sale granted in
a foreign state.

to persons qualified to own a Guyana ship, that ship may
be registered in Guyana in accordance with this section.

(2) Application for registration anew shall
be made to the Registrar and there shall be produced
to the Registrar the bill of sale by which the ship is
transferred, the certificate of sale and the certificate of
Registration of the ship.

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

(a) shall retain the certificates of sale and
Registration, and shall endorse on each
of those certificates an entry of the fact
of a sale having taken place; and shall
forward those certificates, so endorsed,
to the Registrar at the ship's former Port
of Registry; and

(b) shall enter in the register book such
particulars as are, by this Act required
to be entered therein in the case of the
first registration of a ship in Guyana, and
also a statement of any registered
mortgages or certificates of mortgage
enumerated on the certificate of sale.

(4) On such registration anew -

(a) the description of the ship contained in
her former certificate of registration may
be transferred to the new register book,
without her being resurveyed, and the
declaration to be made by the purchaser
shall be the same as would be required
to be made by an ordinary transferee,
and

(b) all persons appearing on the register to
be interested in that ship as owners or
mortgagees shall be deemed to have the
same rights, and their rights shall be
determined in the same manner, as if that

ship had been first registered in Guyana in the manner provided in this Act and as if any unsatisfied mortgages or existing certificates of mortgage had been entered in the register book at that port.

Rules as to
certificates
of mortgage.

72. The following rules shall be observed as to certificates of mortgage -

- (a) the power shall be exercised in conformity with the directions contained in the certificates;
- (b) every mortgage executed thereunder shall be registered by the endorsement of a 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 by whom the power was given dying at any time between the giving of the power and the execution of the mortgage;
- (d) whenever 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 executed in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given;
- (e) every mortgage which is so registered as aforesaid 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 book; and where there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied or constructive notice, be entitled one before the other

according to the date and time that each mortgage is registered on the certificate, and not according to the date of the mortgage;

- (f) subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers, and be subject to the same liabilities, as he would have had and been subject to, if his mortgage had been registered in the register book instead of on the certificate;
- (g) the discharge of any 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 book; and, on that endorsement being made the interest, if any, which passed to the mortgagee shall vest in the same person or persons in whom it would, having regard to the intervening acts and circumstances, if any, have vested if the mortgage had not been made;
- (h) on the delivery of any certificate of mortgage to the Registrar by whom it was granted, he shall, after recording in the register book, 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 book; and every certificate so cancelled shall be void.

Loss of
certificate of
sale or mortgage.

73. On proof at any time to the satisfaction of the Registrar that a certificate of sale or mortgage is lost or destroyed, or so damaged as to be useless, and that the powers thereby given have never been exercised, or, if they have been exercised, then, on proof of the several matters and things that have been done thereunder, the

Registrar may as circumstances require, either issue a new certificate or direct such entries to be made in the register book, or such other things to be done, as might have been made or done if the loss, destruction or damage had not taken place.

Revocation of certificate of sale or mortgage.

74. (1) The owner of a Guyana 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 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) Notice shall thereupon be given accordingly and be 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.

(4) A proper officer, on recording any 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.

Maritime Liens

Sources of maritime liens.

75. *Each of the following claims against the owner, demise charterer, manager or operator of the 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 the 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 the vessel, other than loss of or damage to cargo, containers and passengers' effects on the vessel.

Claims not recognised as maritime liens.

76. No maritime lien shall attach to a vessel to secure claims set out in paragraphs (d) and (e) of section 75 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 claimant pursuant to any law providing for strict liability and compulsory insurance or other means of securing the claims; or
- (b) the radio-active properties or a combination of radio-active properties with toxic, explosive or other hazardous properties of nuclear fuel or of radio-active products or waste.

Priority of maritime liens in general.

77. The maritime liens set out in section 75 shall take priority over mortgages registered under this Act or any preferential rights arising under the law of bankruptcy, and except as provided in section 79 and subsection (2)(b) of section 84, no claim shall take priority over them.

Order of
priority of
maritime liens.

78. The maritime liens set out in section 75 shall -

- (a) rank in the order in which they are listed therein, save that claims arising under paragraph(c) of section 75 shall take priority over all other maritime liens which have attached to the vessel prior to the time when the operations giving rise to such liens were performed;
- (b) in the case of claims arising under paragraphs(a), (b), (d) and (e) of section 75, rank *pari passu* as among themselves;
- (c) in the case of claims arising under paragraph(c) of section 75, rank in the inverse order of the time when the claims secured thereby accrued; and for this purpose the claims shall be deemed to have accrued on the date on which the salvage operation was terminated.

Rights of
ship-build-
ers and ship
repairers.

79. (1) Subject to subsection(2), where a lien or right of retention arises in respect of a ship in the possession of -

- (a) a ship-builder, in order to secure claims for the building of the vessel; or
- (b) a ship repairer, in order to secure claims for the repair of the vessel, including reconstruction of the vessel, effected during such possession,

such right shall be postponed to all maritime liens set out in section 75 but may take precedence over any registered mortgage or other preferential rights so long as the vessel is in the possession of the ship-builder or ship repairer, as the case may be.

(2) If at the time of a forced sale referred to in sections 84 and 85 the vessel is in the possession of a ship-builder or ship repairer, such ship-builder or ship repairer shall surrender possession of the vessel to the purchaser, but shall be entitled to obtain

satisfaction of his claim out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens referred to in section 75.

Other liens on vessels.

80. (1) Claims against the owner, demise charterer, manager or operator of the vessel, other than those referred to in section 75, may be secured by a lien or other right on the vessel, provided that such liens or rights shall—

(a) be subject to sections 81(2) and (3), 83 and 84(2) and (3);

(b) be extinguished—

(i) after a period of six months, from the time when the claim secured thereby arose, unless, prior to the expiry of such period, the vessel has been arrested or seized, such arrest or seizure leading to a forced sale; or

(ii) at the end of a period of 60 days following a sale to a bona-fide purchaser of the vessel, such period to commence on the date on which the sale is registered in accordance with the law of the state in which the vessel is registered following the sale;

whichever period expires first; and

(c) rank in priority behind the maritime liens set out in section 75 as well as behind registered mortgages.

Attachment of maritime liens and extinction by lapse of time.

81. (1) Subject to subsection (2), the maritime liens set out in section 75 shall, subject to section 84(1), remain attached to the vessel, notwithstanding any change of ownership or of registration.

(2) The maritime liens relating to a vessel set out in section 75 shall be extinguished after a period of one year from the time when the claims secured thereby arose unless, prior to the expiry of such period, the vessel has

been arrested and the arrest has led to a forced sale pursuant to the provisions of the rules of Court or any other law for the time being in force relating to the sale of property in admiralty proceedings.

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

- (a) with respect to the maritime lien set out in paragraph(a) of section 75 upon the claimant's discharge from the vessel;
- (b) with respect to the maritime liens set out in paragraphs (b) to (e) of section 75, when the claims secured thereby arise;

and shall not be subject to interruption or suspension except that time shall not run during the period the lien holder is legally prevented from arresting the vessel.

Assignment and subrogation.

82.(1) The assignment of or subrogation to a claim secured by a maritime lien shall result in the simultaneous assignment of or subrogation to such a maritime lien.

(2) Claimants holding maritime liens shall not be entitled to the compensation payable to the owner of the vessel under a contract of marine insurance.

Notice of forced sale to be given.

83.(1) Prior to the forced sale of a vessel, the executing officer shall give or cause to be given thirty days' written notice of the time and place of such sale to -

- (a) all holders of mortgages and other preferential rights registered under this Part which have not been issued to bearer;
- (b) the holders of such mortgages and rights as have been issued to bearer, whose claims have been notified to the officer;
- (c) the holders of maritime liens set out in section 75 whose claims have been notified to the officer;
- (d) the holders of liens or rights under sections 79 and 80;

- (e) the registered owner of the vessel; and
- (f) the Registrar of Ships.

(2) The notice referred in subsection(1) shall be in writing and may be given by registered mail, or by electronic or other appropriate means, which provide for confirmation of receipt of the notice to the persons specified in subsection(1), if known, and the notice shall also be published in the local news media and other appropriate publications.

Effects of forced sale and disposition of proceeds of sale.

84.(1) In the event of the forced sale of a vessel, all registered mortgages except those assumed by the purchaser with the consent of the mortgagees, and all liens and other encumbrances of whatsoever nature, shall cease to attach to the vessel, provided that at the time of the sale, the vessel is within Guyana.

(2) In the event of a forced sale of a vessel the proceeds of sale shall be distributed as follows -

- (a) any sum awarded by a Court as costs and expenses arising out of the arrest or seizure and subsequent sale of the vessel shall be paid out first; such costs and expenses to include the costs for the upkeep of the vessel and the crew as well as wages and other sums and costs referred to in paragraph(a) of section 75 incurred from the time of arrest or seizure;
- (b) where the forced sale is that of a stranded or sunken vessel following its removal by the Port Authority of Guyana in the interest of safe navigation or protection of the marine environment, the costs of such removal shall be paid out next;
- (c) the balance of the proceeds shall then be distributed among
 - (i) the holders of maritime liens under section 75;

- (ii) the holders of rights under sections 79 and 80;
- (iii) the holders of registered mortgages and other preferential rights, in accordance with the provisions of this Part, to the extent necessary to satisfy the respective claims;

- (d) upon satisfaction of all claimants referred to in paragraphs (a), (b) and (c), the residue of the proceeds shall be paid to the owner and it shall be freely transferable.

(3) The proceeds of a forced sale shall be made available promptly and shall be freely transferable.

Issue of certificates that the ship is free of encumbrances.

85. (1) When a ship registered in any country or a territory thereof, has been the subject of a forced sale in Guyana the executing officer shall, at the request of the purchaser, and on being satisfied that the provisions of this Part have been complied with, issue a certificate to the effect that the ship is sold free of all mortgages, liens and other encumbrances except those assumed by the purchaser, provided that the proceeds of such forced sale have been deposited with the authority competent to distribute such proceeds to the persons entitled thereto.

(2) Upon production of the certificate referred to in subsection (1), the Registrar of Ships shall delete from the register book all registered mortgages except those assumed by the purchaser, and -

- (a) if the purchaser is eligible to register the vessel in Guyana, may register the vessel in the name of such purchaser if the purchaser so desires; or
- (b) issue a certificate of de-registration for the purpose of new registration,

as the case may be.

Miscellaneous

Provision for
cases of
infancy
and
disability.

86. Where by reason of infancy, mental illness or defect or any other cause, any person interested in a ship or share therein is incapable of making any declaration or doing any act required or permitted by this Act to be made or done in connection with the registration of the ship, or any share therein, the legal guardian or representative of that person, or the committee, manager or other administrator of his estate, or if there is no such guardian, representative, committee, manager or administrator, any

person appointed by a court of competent jurisdiction on application made on behalf of the incapable person or of any other person interested, may make that declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do that act in the name and on behalf of the incapable person, and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted.

Notice of trusts not received.

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

Definition of beneficial interest.

88. In this Part the expression "beneficial interest" includes interests arising under contract, and other equitable interest and without prejudice to -

- (a) the provisions of this Act for preventing notice of trusts from being entered in the register book or received by the Registrar;
- (b) the powers of disposition and of giving receipts, conferred by this Act on registered owners and mortgagees;
- (c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Guyanese ships,

interests arising under contract or other equitable interests 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 owners.

89. Where any person has any beneficial interest otherwise than by way of mortgage in any ship or share in a ship registered in the name of some other person, the person having the beneficial interest in the ship and the registered owner of the ship shall be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein and proceedings may be substituted for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

Registration of managing owner, etc.

90. (1) The name and address of the managing owner for the time being of every ship registered in Guyana shall be entered in the register book.

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

(3) If default is made in complying with the provisions of this section the owner, or if there is more than one owner each owner shall be guilty of an offence and on conviction thereof shall be liable, in proportion to his interest in the ship, to a fine not exceeding / thousand dollars in respect of each time the ship leaves any port in Guyana.

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Power to dispense with declarations, etc.

91. When, under this Part, any person is required to make a declaration on behalf of himself or any body corporate, or any evidence is required to be produced to the Registrar, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, on the production of such other evidence and subject to such terms as he may think fit, dispense

with the declaration or evidence.

Mode of making
declarations.

92. (1) Declarations required to be made
under this Part shall be made before -

- (a) a Registrar;
- (b) a Magistrate or Justice of the
Peace; or
- (c) a proper officer.

(2) Declarations required to be made
under this Part may be made on behalf of a
body corporate -

- (a) by the secretary; or
- (b) any other officer of the body
corporate, authorized by that body
for the purpose.

Admissibility in
evidence of
register book
and certificate
of registration etc.

93. (1) Any person may, on payment of a fee of
one hundred dollars or such other fee as may be
prescribed and on application to the
Registrar at any reasonable time during the
hours of his official attendance, inspect any
register book.

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

- (a) any register book required to be
kept or maintained under this Part,
on its production from the custody
of the Registrar or other person
having the lawful custody thereof;
- (b) a certificate of registration issued
under this Act, purporting to be
signed by a Registrar or other
proper officer;
- (c) an endorsement on a certificate of
registration purporting to be signed by
a Registrar or other proper
officer;
- (d) every declaration made in pursuance
of this Part in respect of a
Guyanese ship.

Forgery of documents.

94. Any person who -

- (a) forges or fraudulently alters;
- (b) assists in forging or fraudulently altering; or
- (c) procures to be forged or fraudulently altered,

any of the following documents, namely, any register book, builder's certificate surveyor's certificate, certificate of registration declaration, bill of sale, instrument of mortgage or certificate of sale or mortgage under this Part, or any entry or endorsement required by this Part to be made in or on any such document shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years, and to a fine not exceeding fifty thousand dollars.

False declarations. 95. (1) Any person who, in any declaration made in the presence of or produced to a Registrar or proper officer under this Part, or in any document or other evidence produced to such Registrar or proper officer -

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

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years and to a fine not exceeding fifty thousand dollars.

(2) Without prejudice to the provisions of subsection (1) any person who wilfully makes a false declaration concerning the qualification of himself or of any other person or any body corporate to own a

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Guyana ship shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years, and to a fine not exceeding fifty thousand dollars.

(3) Any ship or share therein which is the subject of any false declaration referred to in subsection (2) shall be subject to forfeiture under this Act, to the extent of the interest therein of the person making the declaration, unless it is proved that the declaration was made without the authority of the person or body corporate on behalf of whom the declaration was made.

Procedure on forfeiture of ship.

96, Where any ship has, either wholly or as to any share therein, become subject to forfeiture under this Part the ship may be seized and detained in accordance with section 440 and brought for adjudication before the High Court and the court may thereupon order the ship and its equipment to be forfeited to the Government, and make such order in the case as to the court seems just, and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the court thinks fit.

PART V

NATIONAL CHARACTER AND FLAG

National character of ship to be declared on clearance.

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

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

Right to fly national colours of Guyana.

98. (1) A ship registered or licensed in accordance with this Act shall be entitled to fly the national colours of a Guyana ship.

(2) Nothing in this section shall be construed to prohibit Guyana ships which are exempt from registration or licensing under this Act from displaying in Guyana waters the national colours of a Guyana ship.

(3) The national flag of Guyana constitutes the national colours of a Guyana ship.

Display of national colours.

99. (1) A Guyana ship shall hoist the Guyana national colours -

- (a) on a signal being made to the ship to such effect by a ship in the service of the Government and carrying out the provisions of this Act;
- (b) on entering or leaving any Guyana or foreign port;
- (c) when passing a warship of any navy; and
- (d) while in a Guyana port, from sunrise to sunset.

(2) If default is made on board any such ship in complying with the provisions of subsection (1) the master of the ship shall be guilty of an offence and on conviction thereof be liable to a fine not exceeding ten thousand dollars.

(3) This section shall not apply to fishing vessels exclusively employed in fishing.

(4) Where there are hoisted on board any Guyana ship, any colours or pendant usually worn by ships of the Defence Force of Guyana, or the national colours of any other country, the master of the ship, or the owner thereof if he is on board the ship, and every other person hoisting the pendant or colours, is guilty of an offence and is liable to a fine of fifty thousand dollars and to seizure of the colours or pendant.

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Penalty for unduly assuming Guyana character.

100. (1) If a person uses the Guyana flag and assumes the Guyana national character on board a ship owned in whole or in part by any person not qualified to own a Guyana ship, for the purpose of making the ship appear to be a Guyana ship, the ship shall be subject to forfeiture under this Act unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(2) In any proceeding for enforcing any such forfeiture as is mentioned in subsection (1), the burden of proving the title to use the Guyana flag and assume the Guyana national character shall lie upon the person using and assuming the same.

National flag on foreign ship.

101. (1) A person who uses or permits any person to use the Guyana flag on board a foreign ship for the purpose of making that ship appear to be a Guyana ship is guilty of an offence and liable to a fine of twenty thousand dollars and to imprisonment for three years.

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

Penalty for concealing Guyana character or assuming foreign character.

102. (1) If the master or owner of a Guyana ship does anything or permits anything to be done or carries or permits to be carried any papers or documents with intent to conceal the Guyana character of the ship from any person entitled by the law of Guyana to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be subject to forfeiture under this Act.

(2) Where the master of such ship commits or is privy to the commission of the offence referred to in subsection (1) he shall, on conviction thereof, be liable to imprisonment for a term not exceeding two years and to a fine not exceeding fifty thousand dollars.

Penalty for acquiring ownership if unqualified.

103. If an unqualified person acquires as owner, otherwise than by such transmission as is herein before provided, any interest either legal or beneficial, in a ship using a Guyana flag and assuming a Guyana national character that interest shall be subject to forfeiture under this Act.

Liabilities of ship not recognised as a Guyana ship.

104. Where by this Act a ship which is owned wholly by persons qualified to own a registered ship is not recognised as a Guyana ship, that ship shall not be entitled to any benefits, privileges, advantages or protection usually enjoyed by Guyana ships or to use the national colours or assume the national character of Guyana; but, as to the payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board that ship, or by any persons belonging to it, the ship shall be dealt with in the same manner in all respects as if it were registered in Guyana and recognised as a Guyana ship.

PART VI

MANNING OF SHIPS AND CERTIFICATION OF SEAFARERS

Regulations regarding safe manning and qualifications of persons serving in Guyana ships.

105. (1) Every Guyana ship and every ship seeking Guyana registration shall be manned by a crew sufficient and efficient from the point of view of safety of life for the purpose of the intended voyage, and shall remain so manned during such voyage.

(2) The Minister may make such regulations as he considers necessary or expedient to provide for the manning requirements for Guyana ships and the

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qualifications of officers and seamen of such ships and for matters connected therewith, and without prejudice to the generality of such powers, may make regulations -

- (a) determining the categories of Guyana ships by reference to their tonnage capacity, the nature of their cargo and the trading areas or voyages in which they are engaged;
- (b) respecting the manning requirements in relation to such classes or descriptions of ships as may be prescribed, trading in such areas as may be prescribed, and in particular, requiring ships to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations;
- (c) prescribing conditions as to the nationality of a person for service on board any Guyana ship, or any ship engaged in local trade in Guyana waters;
- (d) 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;
- (e) requiring officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships to be holders of certificates of competency, proficiency, qualification, authorization or otherwise and to satisfy such other conditions as may be prescribed, including conditions as to nationality and providing for the grant, revocation, extension, validation, suspension, endorsement or variation and the form and recording of such certificates;

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- (f) relating to the holding and conduct of examinations for such certificates, the qualifications of candidates for such examinations and the qualifications of the examiners and the appointment, removal, reappointment and the remuneration of such examiners, the fees for such examinations, and all such matters as the Minister thinks necessary or expedient for the purpose of such examinations;
- (g) providing for the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for such certificates;
- (h) providing for the programmes of training and the curricula of study to be followed in the training of seafarers;
- (i) 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;
- (j) prescribing the manner in which enquiries may be instituted before a tribunal appointed under section 106, the procedure to be followed in the conduct of such proceedings and matters incidental to or consequential on such proceedings;
- (k) prescribing any other matter which may be, or is required by this Act to be prescribed.

Power to exempt.

106. The Minister may exempt any ship or class of ship from the requirements of any regulation made under section 105 and such exemption may be confined to a particular period or to one or more particular voyages.

Approval of
foreign
certificate.

107. (1) The Director may approve in writing a certificate of competency issued in accordance with any law in force in such country as may be prescribed, and any certificate so approved shall remain approved so long as it remains valid in that country.

(2) Where a person holding a certificate referred to in subsection (1) is desirous of serving on a Guyan^d ship as master, deck officer or engineer, the Minister may direct that -

- (a) where the person is a citizen of Guyana he be granted a certificate of equivalent grade under this Act;
- (b) where the person is not a citizen of Guyana he may be issued with a licence, authorising him to serve on a Guyan^d ship in the same capacity as if his certificate had been granted under this Act,

subject to such conditions as the Minister may impose.

(3) A licence issued under subsection (2) shall -

- (a) during the currency have the same force as a certificate of competency granted under this Act and may be cancelled or suspended for like reason;
- (b) be valid for a period of up to five years from the date of issue, and may be renewed upon such conditions as may be prescribed.

Tribunal.

108. The Minister may from time to time appoint a tribunal of three persons at least one of whom shall be a ship's senior officer, to enquire in accordance with such provisions as may be prescribed, into any question whether a seafarer -

- (a) is suffering from any habit or any mental or physical condition rendering him unfit to be a seafarer;

- (b) is guilty of dishonesty, incompetence or misconduct in the performance of his functions as a seafarer;
- (c) procured his certificate of competency as a result of any misleading, false or fraudulent misrepresentation,

and any tribunal appointed pursuant to this section shall, in respect of the matter enquired into, make such recommendations as it thinks fit to the Minister.

Court may recommend cancellation etc.) of certificate.

109. Where a court holding a formal investigation under this Act into a shipping casualty finds that loss of life or loss or abandonment of, or serious damage to, any ship has been caused by the wrongful act or default of a seafarer who holds a certificate issued or approved under this Act, the court may recommend to the Minister that such certificate be cancelled or suspended, or that the approval be withdrawn, as the case may be.

Cancellation, etc.) of certificate by Minister.

110. The Minister, acting on a recommendation made by a tribunal pursuant to section 108 or by a court pursuant to section 109 or by the Director, consequent on the conviction of a seafarer for an indictable offence or such other offence as may be prescribed -

- (a) may, by instrument in writing, cancel or suspend a certificate issued under section 105 and order that it be surrendered at such place and within such time as he directs; or
- (b) with respect to a certificate approved under section 107, may, by instrument in writing withdraw the approval either indefinitely or for such temporary period as he may specify in such instrument.

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Appeals against
cancellation etc.,
of certificate.

111. (1) Any person who is aggrieved by an order of the Minister under section 110, cancelling or suspending a certificate, or withdrawing an approval under this Act, may, subject to subsection (3), appeal to the High Court against such order within such time and in such manner as may be prescribed.

(2) The High 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 fit;
- (d) where the matter had been enquired into by a tribunal pursuant to section 108, allow the appeal and direct that the matter be re-heard by the same tribunal or by another tribunal appointed under that section;

(3) Where, pursuant to section 110, the Minister cancels or suspends a certificate or withdraws approval on the ground that the holder of such certificate has been convicted of an offence referred to in section 110, the decision of the Minister shall be final and conclusive and not subject to any right of appeal.

Offences.

112. (1) Any person -

- (a) who, serves as a seafarer on board a Guyana ship without being the holder of a valid certificate appropriate to the category in which he is engaged to serve; or
- (b) who, either on his own account or acting in the capacity of agent, engages any person as a seafarer without taking all necessary steps to ascertain whether such person is the holder of a valid certificate appropriate as aforesaid,

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commits an offence under this Act and is liable on summary conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years

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

(3) Any person who -

- (a) makes or procures or assists in making any false representation for the purpose of obtaining for himself, or for any other person any certificate or any certified copy thereof;
- (b) forges, assists in forging or procures the forging of such certificate or copy aforesaid;
- (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 such certificate or copy aforesaid that is forged, altered, cancelled, or suspended or to which he is not entitled;
- (e) fraudulently lends his certificate to, or allows it to be used by, any other person; or
- (f) makes or has in his possession any document so closely resembling such certificates as to be calculated to deceive,

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

(4) Any person -

- (a) who, not being the holder of a valid certificate; or
- (b) who, during a period when, pursuant to section 110, his certificate is suspended or approval thereof is withdrawn, as the case may be,

takes or uses any title, addition or description implying or calculated to lead persons to believe that he is entitled to serve as a seafarer on a Guyana ship commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment not exceeding one year-

(5) Any seafarer who, without reasonable cause, fails to comply with a direction of the Minister under section 110 to surrender his certificate commits an offence and is liable on summary conviction to a fine not exceeding twenty five thousand dollars.

Saving and transitional.

113. The provisions of this Act shall not affect the validity of any certificate issued pursuant to any other written law prior to the coming into force of this Act and the holder of such certificate shall, while the certificate remains valid, be regarded as a person holding a certificate under this Act.

PART VII

ENGAGEMENT AND WELFARE OF SEAMEN

Engagement of Seamen

Functions of Registrar of Seamen.

114. The functions of the Registrar of Seamen are -

- (a) to conduct all business connected with the engagement and discharge of all persons who serve on board Guyana ships and all seamen being citizens of Guyana who serve on foreign ships;
- (b) to afford facilities for engaging and discharging seamen by keeping registers of the names and conduct of -
 - (i) seamen who apply to him for engagement;
 - (ii) seamen shipped or discharged by him;
 - (iii) seamen who produce certificates of continuous discharge in proof of service in foreign or Guyana ships;
 - (iv) seamen who serve in Guyana ships.
- (c) to cause copies of the certificates referred to in paragraph (b)(iii) to be kept at his office;
- (d) to perform such other duties relating to seamen, apprentices and ships as are by this or any other enactment relating to shipping entrusted to him.

Crew agreement.

115. (1) Subject to subsection (2) the master of a Guyana ship shall enter into an agreement in accordance with this Act with every seaman whom he engages and carries to sea as one of his crew, and the master of any ship shall enter into such an agreement with every seaman whom he engages in Guyana or carries to sea from Guyana as one of his crew.

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(2) Subsection (1) shall not apply in any case where the ship concerned does not exceed twenty-four metres, and which is not engaged on an international voyage.

(3) The Minister may waive the requirements stipulated in subsection (1), or he may vary the contents of the approved form of the crew agreement in respect of any ship if he considers it expedient to do so.

(4) The Minister may make regulations for the engagement of seamen and matters pertaining to the engagement of seamen in respect of vessels under twenty-four metres and which are not engaged on an international voyage.

Contents of
crew agreements.

116. (1) A crew agreement shall be in the prescribed form and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs his name.

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

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

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- (e) the capacity in which each seaman is to serve;
- (f) the amount of wages which each seaman is to receive;
- (g) the prescribed scale of the provisions which are to be furnished to seamen;
- (h) the time that is to expire after arrival at the port of discharge before the seaman is discharged;
- (i) any regulations as to conduct on board and as to fines, and other lawful punishment for misconduct which have been made by the Minister which the parties agree to adopt;
- (j) a list of persons under the age of eighteen years and the dates of their births.

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

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

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

Regulations for disciplinary offences.

117. For the purpose of maintaining discipline on board Guyana ships, the Minister may make regulations for -

- (a) any 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 seamen committing disciplinary offences;
- (b) the procedure for the hearing of appeals against fines for disciplinary offences;

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- (c) the setting up of a disciplinary committee of persons employed in the ships and for the exercise by all or any of those members of the powers of the master in dealing with disciplinary offences;
- (d) the payment of fines for disciplinary offences.

Same offences.

118, Where any conduct is both a disciplinary offence and an offence against any of the provisions of this Act, then if 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 crew agreements.

119, The following provisions shall have effect with respect to a crew agreement made in the case of ships trading from and beyond the waters of Guyana -

- (a) the agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman;
- (b) the Registrar of Seamen shall cause the agreement to be read over and explained to each seaman or otherwise ascertain that each seaman understands the agreement before he signs it and shall attest each signature;
- (c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be forwarded to the owner and the other shall be retained by the master and shall contain a special place 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 seaman who duly signed the agreement and whose services are, 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, and an agreement as 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 the twelve month period of time next following the date of the making of the agreement or the first arrival of the ship at her port of destination after the termination of that period;
- (g) on every return to the port where the crew was engaged before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement he is guilty of an offence;
- (h) the duplicate crew agreement retained by the owner on the first engagement of the crew shall be kept by the owner for a period of seven years after the expiration of the agreement and shall be produced on demand made therefor by the Registrar of Seamen or other proper officer;
- (i) except as provided in section 135 a crew agreement shall not purport to deprive any court

of its jurisdiction to hear and determine disputes respecting the agreement.

Further provisions as to crew agreement.

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

(2) Every erasure, amendment or alteration in any crew agreement, except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, shall be 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 seaman may introduce evidence to prove the contents of any crew agreement or otherwise to support his case without producing or giving notice to produce the agreement or any copy thereof.

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

Stipulations not to be contrary to law of flag state.

121. In no case shall stipulations adopted by the parties be contrary to the laws of the flag state of the ship in matters relating to wages and conditions of employment of seamen and masters on board ships.

Seaman's certificate of discharge.

122. (1) Subject to section 177, the master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in an approved form specifying the period of his service and the time and place of discharge.

(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 seaman.

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

Character report.

123. (1) When a seaman is discharged from a Guyana ship, the master thereof shall make and sign a report in the prescribed form, in this section called a "character report", in which the master -

- (a) shall report on the conduct, character and qualifications of the seaman who is being discharged; or
- (b) may state that he declines to give any report on the conduct, character and qualifications of the seaman who is being discharged.

(2) The master before whom the discharge of a seaman is being made shall, subject to section 177 and if the seaman so desires, give the seaman a copy of the character report on him.

(3) A person is guilty of an offence who -

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

Discharge on change of ship registry.

124. Where a Guyana ship ceases to be registered as such, any seaman employed in the ship shall be discharged from the ship, unless he consents in writing to continue his employment in the ship and, in such a case the provisions of this Part relating to the payment of a seaman's wages and the power of the Registrar of Seamen or other proper officer to decide disputes about wages shall apply in relation to his wages as if the ship

had remained registered in Guyana.

Employment of children or persons under eighteen years of age.

125. (1) No person under the age of sixteen years shall be employed in any Guyana ship except -

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

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

(3) Every medical certificate under subsection (2) -

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

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

Changes in crew of certain ships.

126. (1) The master of every ship trading from and beyond Guyana waters shall, before leaving Guyana, sign and send to the Director a full and accurate statement, in the prescribed form of every change which takes

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place in his crew before finally leaving Guyana and that statement shall be admissible in evidence.

(2) Any master who without reasonable cause fails to comply with this section is guilty of an offence.

Change of master.

127. (1) Where, during the progress of a 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 in the command or charge of the ship, by some other person, he shall deliver to his successor the certificate of registration and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and if he fails without reasonable cause to do so, he is guilty of an offence.

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

Regulations for conditions of service.

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

- (a) the conditions of service of persons serving in Guyana ships and of Guyanese citizens serving in foreign ships;
- (b) matters connected therewith and, in particular, relating to -
 - (i) apprenticeship to sea service;
 - (ii) engagement by foreign ships of Guyana citizens;
 - (iii) the implementation of any international convention relating to the employment, welfare, security, certification or status of seafarers;
 - (iv) the avoidance of agreements made contrary to such regulations as may be prescribed;

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- (v) wages in general, and the rights related thereto of persons employed in Guyan^s ships, securing safe working conditions, health and welfare for seafarers and apprentices employed in ships;
- (vi) the accommodation to be provided for seafarers and apprentices on board ships, the locations and standards of accommodation and all questions relating to the accommodating of seafarers and apprentices on board; and
- (c) the employment of persons and the age of eighteen years.

(2) In making such regulations, the Minister shall have due regard to the following conventions of the International Labour Organization, namely -

- (a) Convention Concerning Minimum Standards in Merchant Ships (1976);
- (b) Convention Concerning Wages, Hours of Work on Board Ship and Manning (Revised 1958);
- (c) Convention Concerning the Medical Examination of Seafarers (1946);
- (d) Convention Concerning Crew Accommodation on Board Ship (Revised), 1959, and (Supplementary Provisions), 1970

and any other Conventions and Recommendations of the said Organization as may be relevant.

Use of English language.

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

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

Crew's knowledge of English.

130. (1) Where in the opinion of the Director the crew of a Guyana 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 Director shall inform the master of his opinion and the ship shall not proceed to sea, and may be detained.

(2) If a ship goes to sea or attempts to proceed to sea in contravention of this section both the owner and the master are guilty of offences.

Time and manner of payment of wages.

131. The master or owner of a Guyana ship trading from and beyond Guyana waters shall pay to each seaman belonging to that ship his wages, if demanded, within two days after the arrival of the ship at the port where the crew is to be discharged or upon the seaman's discharge, whichever first happens.

Account of wages.

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

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

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Deductions
from wages.

133. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of section 203 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.

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

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

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

Registrar's
decision as
to wages.

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

Registrar may require ship's documents.

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

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

Rate of exchange.

137. Where a seaman has agreed with the master of a Guyana ship for payment of his wages or any part thereof in a specific currency, any payment of or on account of his wages if made in any other currency than that stated in the agreement shall, notwithstanding anything in the agreement, be made at the rate of exchange for the amount stated in the agreement for the time being current at the place where the payment is made, and such rate of exchange shall be endorsed on the agreement by a proper officer at that place.

Registrar may settle wage disputes of up to fifteen thousand dollars.

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138. Where, before the Registrar of Seamen or a proper officer, a question as to wages is raised between the master or owner of a ship and a seaman, and the amount does not exceed £ thousand dollars, 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 may refuse to decide it.

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

139. In any proceedings by the master of a ship or person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages, the court, unless it appears to it that the delay in paying the sum was due to a mistake, to a reasonable dispute as to liability or to the act or default of the person claiming the amount or to 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.

140. (1) Subject to this section, a seaman may, by means of an allotment note issued in accordance with regulations, allot a part of the wages to which he will become entitled in the course of his employment in a Guyana ship.

(2) The Minister may make regulations -

- (a) relating to the limitations to which a seaman's right to make an allotment are subject;
- (b) prescribing the form of allotment notes;
- (c) relating to the right of a person named in an allotment note to sue in his own name.

Wages where service terminated.

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

(2) Where the service of a seaman terminates before the date contemplated in his agreement by reason of the loss or foundering of the ship on which he is employed, he shall be entitled to receive wages in

respect of each day on which he is in fact unemployed during a period of two months from the date of termination of the service at the rate to which he was entitled at that date, except so far as he obtains other suitable employment.

Protection of
seaman's rights
and remedies.

142. (1) Subject to subsection (3) a seaman's lien on a ship, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of the seaman's ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Any stipulation in any agreement inconsistent with subsection (1) or any other provision of this Act shall be void.

(3) Subsection (1) does not affect any term of an agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service which then relates to the remuneration to be paid to them for salvage services rendered by that ship.

Claims against
seaman's wages
for maintenance.

143. (1) Where, during a seaman's employment in a ship, expenses are incurred by a Public Officer for the benefit of any of his 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 officer by notice in writing require the persons employing the seaman -

- (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified, and
- (b) to give to the public officer notice in writing of the seaman's discharge from the ship,

and the persons employing the seaman shall comply with the notice, subject to subsection (2), and give notice in writing of its contents to the seaman.

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- (2) For the purposes of this section -
- (a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of sixteen years, for whom he is liable for the purposes of any law to maintain, or in respect of whom he is liable under such law to make contributions to a local authority, and
 - (b) expenses incurred for the benefit of any person include in addition to any payments made to him or on his behalf, expenses incurred for providing him with accommodation or care or for exercising supervision over him, but no expenses shall be specified in the regulations unless they are such that a magistrates court has power under any law to order the making of payments in respect thereof.

(3) No more than the following proportion of a seaman's net wages shall be retained under subsection (1) whether in pursuance of one or more notices that is to say -

- (a) one-half, if the notice or notices relate to one dependant only;
- (b) two-thirds, if the notice or notices relate to two or more dependants.

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

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(5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, 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 seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.

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

(8) The Minister may make regulations specifying -

- (a) the expenses in respect of which a notice may be served by a public officer under subsection (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 seaman's discharge from his ship;
- (d) the form of such a notice and the information to be contained therein;
- (e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section, and the amounts specified under this paragraph may include amounts allotted by allotment notes issued under section 140.

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Master's remedies
for remuneration
and disbursements.

144. (1) The master of a Guyan a ship, so far as circumstances permit, shall have the same rights, liens and remedies for the recovery of his wages as a seaman has for his wages under this Act or any other law.

(2) The master of a Guyan a 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, so far as circumstances permit, has the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

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

Wages not to
depend on
freight.

145. (1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served has 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; but in the event of wreck, or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claim for wages.

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

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Refusal to work.

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

Illness caused by own default.

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

(2) Subsection (1) does not affect the right of any seaman to any payment or other benefits to which he may be entitled under any law providing for compensation to injured or sick workers.

Costs of procuring conviction.

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

Improper discharge.

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

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

without fault and without his consent, he is entitled to receive from the master or owner, in addition to any wages he might have earned, due compensation for the damage

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caused to him by the discharge, not exceeding one month's wages; and he may recover that compensation as if it were wages duly earned.

Protection of wages.

150. (1) The following provisions apply to wages due or accruing to a seaman -

- (a) subject to section 143, and any law relating to maintenance wages are not subject to attachment by any court;
- (b) an assignment or sale of wages before they are due does not bind the person making it;
- (c) no power of attorney or authority for the receipt of wages is irrevocable; and
- (d) a payment of wages to a seaman is valid in law notwithstanding that the wages have been assigned, or encumbered.

(2) Nothing in subsection (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 contributions to a fund declared by regulations to be a fund to which this section applies;
- (b) in the payment of contributions in respect of the membership of a body declared by regulations to be a body to which this section applies.

Leave and holidays.

151. (1) Every person is entitled after twelve months of continuous service on a Guyana ship, 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 master and officers, not less than eighteen working days; and

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(b) in the case of other members of the crew, not less than twelve working days.

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

- (a) periods between consecutive crew agreements shall be included in the reckoning of continuous service referred to in subsection (1);
- (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 precede and follow 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) The following shall not be included in annual leave with pay -

- (a) interruptions of service due to sickness or injury; and
- (b) public holidays.

(4) In addition to the entitlement under subsection (1), every member of the crew of a Guyana ship is entitled to nine days annual leave with pay in lieu of public holidays; and if the length of continuous service is less than twelve months, then the annual leave with pay shall be pro-rated.

Seaman may
sue for wages.

152. (1) Subject to section 142, a seaman or a person duly authorized on his behalf, may, as soon as any wages due to him become payable, sue for them in a court having jurisdiction in the place at which his service has terminated or at which he has been discharged, or at which any master or owner or other person upon whom the claim is made, resides.

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

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

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

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

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

Jurisdiction of High Court in the recovery of wages.

153. The High Court has jurisdiction to hear and determine any action, suit or proceeding instituted by or on behalf of any seaman or apprentice for the recovery of wages, where -

- (a) the owner of the ship is bankrupt;
- (b) the ship is under arrest or is sold by the authority of the High Court; or
- (c) a magistrate's court refers the claim to the High Court.

Power to rescind contracts.

154. (1) Where proceedings are instituted in a court in relation to a dispute between an owner or master of a ship and a seaman, arising out of or incidental to their relationship as such, or is instituted for the purpose of this section, the court may, if, having regard to all the circumstances it thinks it just to do so, rescind any contract between the owner or master and the seaman, or any contract between the owner or master and seaman, 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 can exercise independently of this section.

Property of Deceased Seaman

Property of deceased seaman.

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

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

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

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

(4) The master, if he thinks fit, may cause any of the effects of a deceased seaman to be sold.

(5) The master of the ship shall without delay furnish the Registrar of Seamen with a statement of the property of the deceased seaman.

(6) The money, effects and balance of wages mentioned in subsections (1) to (3) and the proceeds of the sale mentioned in subsection (4) are in this Act referred to as the "property of the seaman".

Delivery of
deceased seaman's
property.

156. (1) Subject to subsection (2), the property of the seaman shall be delivered, by the master of a ship by the most practicable means, to the personal representative of the deceased; or, if there is no personal representative, to the Registrar of Seamen or to the proper officer as the case may be, for disposal -

- (a) in accordance with the law for 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 the property of the deceased.

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

(3) After complying with subsection (1), the master shall deliver a statement of account to the Registrar of Seamen respecting the property of the seaman.

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Forgery of documents.

157. A person is guilty of an offence, who for the purpose of obtaining, either for himself or for any other person, any property of the seaman -

- (a) forges or fraudulently alters any document purporting to show or assist in showing any right to that property;
- (b) makes use of any document 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; or
- (e) assists in procuring any false evidence or representation to be given or made knowing the same to be false.

Occupational Safety

Occupational safety regulations.

158. (1) The Minister may make regulations for securing, as far as is practicable, safe working conditions and safe means of access for masters and seamen employed in Guyana ships, and requiring the reporting of injuries sustained by them.

(2) Without prejudice to the generality of subsection (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 any material or process;
- (c) require the provision and use of any protective clothing or equipment;
- (d) limit the hours of employment of seamen in any specified operation or in any specified circumstances.

- (e) make provision for the discharge, by persons appointed from among the persons employed in a ship, of functions in connection with the arrangements to be made under regulations.

(3) In making regulations under this section, the Minister shall have due regard to the Convention Concerning the Prevention of Occupational Accidents to Seafarers (1970) of the International Labour Organization.

Provisions

Provisions
and water.

159. (1) The Minister may also make regulations requiring such provisions and water to be provided for seamen employed in Guyana 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 is guilty of an offence and is liable to a fine of one thousand dollars unless he proves that the failure to comply was not due to his neglect or default.

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

Complaints as
to provisions
and water.

160. (1) Where three or more members of the crew of a Guyana ship consider that the provisions or water provided for the use of the crew are, at any time, of bad quality or deficient in quantity, they may complain thereof to the Registrar of Seamen or the proper officer or an inspector, 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 of quantity, he shall communicate that fact in writing to the master of the ship, and if the master does not thereupon provide provisions or water, fit for human consumption he is guilty of an offence.

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

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

Allowance for short or bad provisions.

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

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

Weights and measures.

162. (1) The master of a Guyana ship in which provisions are supplied to the crew shall keep on board proper weights and measures for determining the quantities of the several provisions and articles

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distributed; 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 subsection (1), is guilty of an offence.

Health and Welfare

Medical fitness regulations.

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

(2) In making regulations under this section, the Minister shall have due regard to Convention Concerning the Medical Examination of Seafarers (1946), of the International Labour Organization.

Crew accommodation regulations.

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

(2) Without prejudice to the generality of subsection (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 seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
- (b) prescribe the equipment to be provided for the sleeping accommodation, mess rooms, sanitary accommodation and galleys in a ship;
- (c) regulate the spaces in the ship in which the crew accommodation or any part thereof may be located and the

standards to be observed in the construction, equipment and furnishing of any such accommodation;

- (d) provide for the protection of the crew against injury, condensation, heat, cold and noise on a ship;
- (e) prescribe the water, heating, lighting, ventilation and sanitary facilities to be 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 authorize 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 authorized by him 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 guilty of an offence and the ship, if in Guyana, may be detained.

(6) In this section "crew accommodation" includes sleeping accommodation, mess rooms, sanitary accommodation, store rooms and catering

replacement of any appliance, as cannot be postponed without impairing the efficiency of the master or seaman, the reasonable expenses thereof shall be borne by his employer.

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

Medical practitioners to be carried.

168. (1) Every Guyana ship trading from and beyond Guyana waters that proceeds from a port with not less than one hundred persons on board shall carry on board as part of her complement a duly qualified medical practitioner.

(2) The owner of a Guyana ship is guilty of an offence and liable to a fine of one thousand dollars in respect of each day of every voyage of the ship on which the ship is in contravention of subsection (1).

Welfare Board for seaman's welfare.

169. (1) The Minister may, by regulations constitute an advisory board to be called the National Seamen's Welfare Board for the purpose of advising him on the measures to be taken for promoting the welfare of seamen.

(2) Regulations made by the Minister pursuant to subsection (1) may contain such provisions as he may think fit for the proper functioning of the Board.

Facilities for making complaints.

170. (1) Where a seaman while on board a Guyana ship informs the master of the ship that he wishes to make a complaint to a magistrate, the proper officer or the Registrar of Seamen, against the master or any of the crew, the master shall, as soon as the service of the ship will permit, allow the complainant to go ashore, so that he can make his complaint -

(a) if the ship is then at a place where there is a magistrate, proper officer or the Registrar of Seamen, at that place; or

accommodation provided for the use of seamen, 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 Convention Concerning Crew Accommodation On Board Ship (Revised 1949) and (Supplementary Provisions, 1970) of the International Labour Organization.

Certificated
cook to be
carried.

165. (1) Every Guyana ship of one thousand gross tons or more trading from beyond the waters of Guyana shall carry a duly certificated ship's cook.

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

Medical stores
regulations.

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

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

(3) Where an inspector is of the opinion that the medicines medical stores, appliances and books on a Guyana ship are deficient in quantity or quality or are placed in improper receptacles, he shall give notice thereof in writing to the master, owner or agent of the ship, and the ship may be detained.

Expenses for
medical treatment
and burial.

167. (1) Where the master of, or a seaman belonging to a Guyana ship receives any surgical or medical treatment, or such dental or optical treatment, including the repair or

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(b) if the ship is not then at such a place, upon her arrival at such a place.

(2) A master of a ship who fails, without reasonable cause, to comply with this section, is guilty of an offence and liable to a fine of five thousand dollars.

Protection of Seamen from Imposition

Assignment and sale of salvage.

171. Subject to this Act, an assignment or sale of any salvage payable to a seaman that is made before the 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.

Seaman's debts.

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

Provisions as to Discipline

Endangering life or ship.

173. The master or any member of the crew of a Guyana ship who by wilful breach or by neglect of duty, or by reason of being under the influence of alcohol or drugs -

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

is guilty of an offence and is liable to a fine of ten thousand dollars and to imprisonment for twelve months,

General offences 174. (1) Where a seaman or apprentice against discipline. engaged on a Guyana ship -

- (a) leaves the ship without leave after its arrival at a port and before it is placed in security, he is liable to forfeit out of his wages a sum not exceeding one week's pay;
- (b) wilfully disobeys any lawful command, he is liable to imprisonment for one month, and to forfeit out of his wages a sum not exceeding two days' pay;
- (c) continually disobeys any lawful command, or continually and wilfully neglects his duty, he is guilty of an offence and is liable to imprisonment for three months, and to forfeit for every twenty-four hours continued disobedience or neglect either a sum not exceeding two days' pay or any expenses properly incurred in hiring a substitute;
- (d) assaults the master or any mate or officer of the ship, he is guilty of an offence and is liable to imprisonment for one year;
- (e) combines with any of the crews to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he is guilty of an offence and is liable to imprisonment for one year;
- (f) wilfully damages his ship, or dishonestly misappropriates or converts to his own use, or commits criminal breach of trust in respect of, or wilfully damages, any of its stores or cargo, he is guilty of an offence and is liable to imprisonment for one year and to forfeiture out of his wages a sum equal to the loss thereby sustained;

- (g) commits an act of smuggling, whereby loss or damage is occasioned to the master or owner of the ship, is guilty of 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 wages may be retained in satisfaction or on account of that liability without prejudice to any further remedy;
- (h) aids or procures a person to stow away on his ship, and that person is afterwards convicted of the offence, he is guilty of an offence and is liable to imprisonment for three months, and to pay to the master or owner of the ship a sum sufficient to reimburse the expenses occasioned to that master or owner in respect of the stow-away, and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

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

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

Conviction not to affect other remedies.

175. Where a seaman lawfully engaged or an apprentice belonging to a Guyan ship -

- (a) deserts from his ship, he is guilty of the offence of desertion and is liable to imprisonment for three months, and in addition he is liable to forfeit all or any part

of the effects he leaves on board and the wages which he has then earned and, where the master or owner of the ship has engaged a substitute in his place at a higher rate of wages than the rate at which wages had been stipulated to be paid to him, to satisfy that excess;

- (b) neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship, or is absent without leave at any time within the period of twenty-four hours immediately before the ship sails for a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or his duty, and the act or omission does not constitute or is not treated by the master as constituting the offence of desertion, he is guilty of the offence of absence without leave and is liable to imprisonment for two months, and in addition is liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute.

Improper
negotiation of
advance note.

176. (1) Where a seaman belonging to a Guyana ship being lawfully engaged has received under his agreement an advance note, and after negotiating his advance note wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he is guilty of an offence and is liable to a fine of five thousand dollars and to imprisonment for two months.

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

Certificate of discharge may be withheld.

177. Where it is shown to the satisfaction of the Registrar of Seamen that a seaman lawfully engaged in and belonging to a Guyana ship has wilfully or through misconduct failed to join his ship, the Registrar may direct that the seaman's certificate of discharge shall be withheld for such period as he may think fit, and while the seaman's certificate of discharge is so withheld, any 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 certificates of discharge or certified extracts of any particulars of service or character.

False statement as to last ship.

178. Where a seaman on or before being engaged wilfully and fraudulently makes a false statement of his own name, he is guilty of an offence and is liable to a fine of five thousand dollars and to imprisonment for two months.

Deserters from foreign ships.

179. (1) Where it appears to the Minister that due facilities will be given by the government of a foreign country for apprehending and recovering a seaman who deserts in that country from a Guyana ship, the Minister may, by order, declare that this section shall apply in the case of such foreign country subject to any limitations, conditions and qualifications contained in the order.

(2) Where a seaman or apprentice deserts in Guyana 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 agent to be so conveyed.

Proof of desertion when wages are to be forfeited.

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

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

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

Application of forfeiture.

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

(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.

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

Deduction of fine from wages.

183. A fine imposed on a seaman for any act of misconduct for which his agreement imposes the fine, 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 of Seamen 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 Registrar, and if the master or owner of the ship fails without reasonable cause so to pay the fine he is guilty of an offence;
- (b) an act of misconduct for which a fine is imposed and paid by or deducted from the wages of the seaman shall not be otherwise punished under this Act.

Persuading seaman to desert, and harbouring deserter.

184. Where a person by any means whatever persuades a seaman or an apprentice to neglect or refuse to join or proceed to sea in his ship, or to desert his ship, or otherwise to absent himself from his duty, he is guilty of an offence, and is liable to a fine of ten thousand dollars.

Penalty on stowaways.

185. (1) Where a person secretes himself and goes to sea in a ship without the consent of either the owner, master, or a mate or of the person in charge of the ship or of any other person entitled to give that consent, he is guilty of an offence and is liable to a fine of five thousand dollars and to imprisonment

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for three months.

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

Trade disputes involving seamen.

186. (1) Notwithstanding anything in any agreement, a seaman employed in a Guyana ship may terminate his 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 intention to do so, and shall not be compelled unless the notice is withdrawn to go to sea in the forty-eight hours following the giving of such a notice; but such a notice shall be of no effect unless at the time it is given the ship is in Guyana and securely moored in a safe berth.

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

of non-employment or the terms of employment

Offences to be entered in official log book.

187. Where on or in respect of a Guyana ship -

- (a) an offence is committed under section 174 or 175; or
- (b) an act of misconduct is committed for which the agreement of the person committing it provides for a fine, and it is intended to enforce the fine -

- (i) an entry of the offence or act shall be made in the official log book and signed by the master and also by an officer or one of the crew;

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

Relief and Repatriation

Repatriation of seaman.

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

(2) The owner, master or agent of the ship shall make such arrangements as are necessary to defray all expenses incurred for the return of a seaman pursuant to subsection (1).

(3) 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 arrival at his proper return port; and
- (b) to ensure that the seaman does not become a charge upon the state.

(4) Subsection (1) applies whether an agreement terminates -

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

Seaman to bear expense of repatriation in certain cases.

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

- (a) desertion;
- (b) imprisonment; or
- (c) inability to proceed to his ship because of an illness or infirmity that was wilfully concealed at the time of his engagement,

is not entitled to be returned at the expense of the master or owner under section 188.

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

(3) An owner, master or agent may be reimbursed for any expenses incurred pursuant to subsection (2) out of any wages owing to the seaman at the time he left the ship or out of the proceeds from the sale of any of his effects left on board the ship.

(4) Notwithstanding subsection (1) or (3), the owner, master or agent shall ensure that the seaman does not become a charge upon the state.

Duty of Registrar.

190. (1) Where a seaman is to be left behind or discharged from his ship at a port other than his port of engagement, the Registrar of Seamen or proper officer may demand from the owner, master or agent, a guarantee for the proper discharge of any obligations imposed by section 188 or 189.

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

Effect of workman's compensation.

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

- (a) removes any right of the seaman to receive medical treatment under section 188, to the extent that he receives that medical aid; and
- (b) removes any right of the seaman to receive maintenance under section 188, to the extent and for so long as he receives the periodical payments.

Application to foreign vessels.

192. Sections 188 to 191 inclusive apply in respect of a foreign vessel that engages a seaman or apprentice in Guyana; 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 agent and who was so acting at the time the seaman or apprentice was engaged.

Wages and effects of seaman left behind.

193. (1) Where a seaman belonging to a Guyana 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 the effects left on board by the seaman and an account of wages due to him at the time when he was left behind.

(2) On the termination of the voyage during which the seaman was left behind, the master shall furnish to the Registrar of Seamen or proper officer, within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, a delivery account and a retention account.

(3) The master shall, if required by the Registrar of Seamen 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 of Seamen or proper officer, if he will receive them, the effects of a seaman as shown in a delivery account and, subject to any reimbursement allowed under subsection (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 or amount so delivered.

(5) The master of a ship is entitled to retain out of the wages any sums shown in a retention account that appear to the Registrar of Seamen or proper officer to be owing or payable to the master of the ship and for that purpose the 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 the effects.

(6) Before allowing any sum to be retained or to be raised and paid, the Registrar of Seamen or 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 of Seamen or 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 Minister may direct.

(8) In this section -

- (a) "delivery account" means an account of the effects and wages of a seaman left behind or owing at the time a seaman leaves or is discharged from the ship; and
- (b) "retention account" means an account of any expenses caused to the master or owner of a ship by the absence of a seaman from the ship due to his desertion, neglect to join his ship, or conduct constituting an offence under section 174 or 175, including, in the case of a seaman 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 the seaman to a proper return port.

Liability of master. 194.

The master of a Guyana 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 other than his proper return port, if the master proves to the Registrar of Seamen or proper officer that the loss or damage occurred without the neglect or consent after the seaman left his ship.

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Liability of Government.

195. (1) The Government is not liable with respect to anything done under section 193 except that, if after the wages or effects of a seaman have been dealt with under section 193 any legal proceedings are instituted by the seaman against the owner, master or agent of the ship, or by the master or owner of the ship against the seaman, in

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

(2) The Minister is entitled to appear and be heard in any proceedings referred to in subsection (1).

(3) The Minister may, if and so far as he thinks fit, meet any claim by a seaman against the owner, master or agent of the ship in respect of any wages or effects dealt with under section 193 although legal proceedings are not actually taken in respect thereof, if the Minister 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, and any expense incurred by the Minister under this subsection is recoverable by the state as a civil debt.

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

Payment to
Government.

196. (1) Any sums remitted under section 193 or arising from the sale of effects under that section, and not disposed of in accordance with that section, shall be retained by the state.

(2) The master of a ship who, without reasonable cause, contravenes section 193 is guilty of an offence without prejudice to any other liability to which the ship might be subject.

Non-application
of section 193.

197. Section 193 does not apply in the case of an absent seaman where -

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

Sale of seaman's effects.

198. (1) The effects of a seaman described in section 193 may be sold by the Registrar of Seamen or proper officer in such manner as he thinks fit when they are delivered to him unless the Minister directs to the contrary.

(2) Where the effects are not sold pursuant to subsection (1), they may be sold by the Minister as and when he thinks fit unless they are delivered to the seaman.

(3) For the purposes of section 193 "effects" includes the proceeds of any sale of the effects of a seaman.

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Maintenance and return of seaman involuntarily terminating service.

199. (1) Where during the currency of his agreement the service of a seaman belonging to a Guyana ship terminates otherwise than by the consent of the seaman, the master of the ship shall, in addition to -

- (a) giving the seaman a certificate of discharge required by this Act; and
- (b) paying to the seaman the wages to which he is entitled,

make adequate provision in accordance with this Act for maintenance and return of the seaman to a proper return port; and the master shall record the details of these provisions in the official log book.

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

- (a) if defrayed by the seaman, are recoverable as wages due to him; and
- (b) if defrayed by the Registrar of Seamen or proper officer or any other person, are a charge upon the ship to which the seaman 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) if the ship has been lost, from the person who was the owner of the ship at the time of the loss;
- (c) if 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 of Seamen or proper officer or other persons defraying the expenses, or, if the expenses, have been defrayed out of public moneys, as a debt due to the state.

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Discharge on
change of
ownership.

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

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

Certificate when
seaman left
behind.

201. (1) The master of a Guyana ship shall not leave a seaman behind at any foreign port or place except when the seaman is discharged in accordance with this Act, unless the master has had the certificate of the Registrar of Seamen or proper officer endorsed on the crew agreement certifying the cause of the seaman being left behind;

and, the cause is unfitness or inability to proceed to sea, desertion, disappearance or otherwise.

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

Offences.

202. (1) Where the master of the ship fails to comply with section 199, 200, or 201 he is, without limiting his liability under any other provision of this Act, guilty of an offence and is liable to a fine of ten thousand dollars.

(2) In a prosecution for an offence under section 201 the onus of proving that the certificate was obtained or could not be obtained without reasonable delay to the ship

or was unreasonably withheld is upon the master of the ship.

Account of wages of seaman left behind.

203. (1) Where the master of a Guyana ship leaves a seaman behind at any foreign port or place on the ground of his unfitness or inability to proceed to sea, the master shall deliver to the person signing the certificate required by section 201 a full and true account of the wages due to the seaman; and, if that person is the proper officer, the master shall deliver the account in duplicate.

(2) A master who fails without reasonable cause to deliver the account required under subsection (1) is guilty of an offence and is liable to a fine of thirty thousand dollars.

Payment of seaman's wages to proper officer.

204. (1) The master shall pay to the proper officer the wages due to a seaman left behind on the ground of his 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, if satisfied with the account, shall furnish a receipt for the payment.

(3) A payment under this section shall be made, whenever practicable, in cash, and where not so practicable, by bankdraft.

(4) A master who fails without reasonable cause to pay wages as provided by this section, is guilty of an offence and is liable to a fine of thirty thousand dollars.

Application of wages of seaman left behind.

205. Where the wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea are paid to and accepted by the Registrar of Seamen or proper officer, that officer shall deal with them in the following manner -

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

Relief of distressed seaman.

206. (1) Where a seaman -

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

the Registrar of Seamen or proper officer may provide relief to that seaman in accordance with this Act.

(2) Relief is provided to the seaman when provision is made -

- (a) for the return of the seaman at the expense of the Government to a proper return port and also for his necessary clothing and maintenance until his departure for

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- such a port;
- (b) in the case of death, for funeral expenses; and
- (c) in addition, in the case of a shipwrecked seaman, for the repayment of any expenses incurred in his conveyance to port after his shipwreck and his maintenance while being so conveyed.

(3) A seaman for whom relief is provided under subsection (1)(a) is included within the expression "distressed seaman" in this Act.

Repayment of relief and return expenses.

207. (1) Where any expenses are incurred by a consular officer on behalf of the Government under section 206 or are incurred by the government of a foreign country and are to be repaid to such foreign country by the Government the Minister 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 monies paid by the Minister under subsection (1) together with the wages, if any, due to a distressed seaman, is a charge upon the ship to which the seaman belonged, and is a debt due to the Government—

- (a) from the owner, master or agent of the ship at the time of the loss;
- (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 a foreign ship, from the person, who engaged the seaman for service in the ship.

(3) A debt under this section, in addition to any fines and consular fees incurred, may be recovered by the Minister on behalf of the Government by ordinary process of law in the manner in

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which wages are recoverable by the seaman.

(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 is prima facie proof that the expenses were incurred or repaid under this Act by or on behalf of the Government of Guyana.

Forcing ashore.

208. A person is guilty of an offence who, being the master or crew of a Guyana ship, wrongfully forces a seaman ashore and leaves him behind, or otherwise causes a seaman to be wrongfully left behind at any place.

Proper return port.

209. For the purposes of this Part, a proper return port is either -

- (a) the port at which a seaman was shipped or engaged;
- (b) a port in the country to which he belonged; or
- (c) in the case of a discharged seaman, some other port agreed to by the seaman at the time of his discharge.

Manner of return.

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

(2) Provision may be made for the return of a seaman either by -

- (a) providing him with suitable employment on board a ship that is proceeding to a proper return port and that is in need of seamen to make up its complement; or
- (b) providing the seaman with a passage in any ship or aircraft or in other public transport and by providing for his maintenance during the journey.

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

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

Return of
seaman to proper
return port.

211. (1) When any question arises as to what return port a seaman is to be sent, or as to the route by which he should be sent, the question shall be decided by the Registrar of Seamen or proper officer.

(2) In deciding the question of a seaman's return port, the Registrar of Seamen or proper officer shall have regard both -

- (a) to the convenience of the seaman and to the expense involved; and
- (b) to the fact that a ship is in need of seamen 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 expense of returning the seaman to his proper return port.

Minister may
provide
temporary relief.

212. (1) The Minister may, whenever he deems it necessary, spend money on the temporary relief in such manner as he thinks advisable, of a shipwrecked, destitute or otherwise distressed seaman -

- (a) not otherwise entitled to relief under this Act or under the laws of the country to which his ship belongs;

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(b) who is a citizen of Guyana employed on a foreign vessel and discharged or left behind in a foreign country.

(2) Any expenses incurred for a shipwrecked, destitute or otherwise distressed seaman under this section, shall be repaid to the Minister by the owner, master or agent of the vessel to which the distressed seamen belonged and may be recovered by the Minister on behalf of the country in the same manner as expenses incurred outside Guyana for distressed seamen of Guyana ships are recoverable.

Unauthorised
presence on
board ship.

213. Where a ship registered in Guyana or any other country is in a port in Guyana and a person who is neither a public officer nor authorized by law to do so -

- (a) goes on board the ship without the consent of the master thereof or of any other person authorized to give consent; or
- (b) remains on board the ship after being requested to leave by the master, a marine officer, a police officer or an officer of customs,

such person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand dollars.

PART VIII

SHIP'S LOG BOOKS

Official log
book.

214. (1) An official log book in prescribed form shall be kept in every Guyana ship of not less than two hundred gross tons, and every Guyana ship trading from and beyond the waters of Guyana.

(2) The Minister may make regulations prescribing -

- (a) the form of official log books;

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- (b) the particulars to be entered in official log books;
- (c) the persons by whom such entries are to be made, signed or witnessed; and
- (d) the procedure to be followed in the making of such entries and in their amendment or cancellation.

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

(4) Any entry required to be made in an official log book -

- (a) shall be made as soon as possible after the occurrence to which it relates;
- (b) if 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) if it is made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, it shall not be made more than twenty-four hours after that arrival.

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

(6) Every entry made in an official log book in the manner provided by this Act is admissible in evidence to prove the facts stated therein.

Entries in
official
log book.

215. The master of a ship for which an official log book is kept shall, subject to any regulations made under section 214, enter or cause to be entered in the official log book particulars of -

- (a) every conviction by a court of a member of his crew and the punishment imposed;
- (b) every offence committed by a member of his crew for which it is intended to prosecute or to make a forfeiture or to impose a fine, together with the statement concerning the furnishing of a copy, or reading over, of the entry and concerning the reply, if any, made to the charge, as required by this Act;
- (c) every offence for which punishment is imposed on board, and the punishment imposed;
- (d) the conduct, character and qualifications of each member of his crew or a statement that he declines to give an opinion on these particulars;
- (e) every case of illness or injury happening to a member of the crew, with the nature thereof and the medical treatment given, if any;
- (f) every refusal of a member of the crew to take antiscorbutics or medicines;
- (g) every birth and death whenever occurring;
- (h) every marriage taking place on board, with the names and ages of the parties;
- (i) the name of every seaman who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (j) the wages due to any seaman who dies during the voyage, and the gross amount of all deductions to be made from those wages;
- (k) the sale of the effects of any seaman who dies during the voyage, with a statement of each article sold and the sum received for it;
- (l) every collision with any other ship and the circumstances in which it occurred;

- (m) the date and the time of the display in the ship of a notice containing particulars of the ship's draught and freeboard; and
- (n) any matter directed by this Act to be entered.

Delivery of
official log
book to Director.

216. (1) The master or owner of every Guyana ship which is required to carry an official log book under section 214 shall, subject to subsection (2), deliver or transmit such log book or books for the period covering the previous crew agreement to the Director within seven days of the discharge of the crew and the closing of such crew agreement.

(2) Where the crew of a Guyana ship referred to in subsection (1) is engaged under a running agreement as referred to in section 119 the master or owner shall deliver or transmit the official log book to the Director 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 is guilty of an offence.

Delivery of
official log
book where owner-
ship is
transferred or
ship is lost.

217. (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 then in a Guyana port within one month, or if she is elsewhere, within six months after such cessation, deliver or transmit to the Director the official log book and the agreement with the crew duly made out to the time of the cessation.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Director the official log book duly made out to the time of the loss or abandonment.

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(3) The owner or master of a ship who fails, without reasonable cause, to comply with this section is guilty of an offence.

Offence in respect of official log book.

218. (1) If an official log book is not kept in the manner required by this Act or if any entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master of the ship is guilty of an offence and, except as otherwise expressly provided in this Act in respect thereof, is liable to a fine of thirty thousand dollars.

(2) Any person who makes, procures to be made, or assists in making an entry in an official log book in respect of any occurrence happening before the arrival of the ship at its final port of discharge of the crew, more than twenty-four hours after that arrival, is guilty of an offence and is liable to a fine of fifteen thousand dollars

(3) Any person who wilfully destroys, mutilates or renders illegible an entry in an official log book, or wilfully makes, procures to be made or assists in making a false or fraudulent entry in, or omission from, an official log book is guilty of an offence.

Ordinary ship's log.

219. (1) All Guyana ships shall carry on board an ordinary ship's log within 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 and engine room log where appropriate.

(3) Where a ship is not required by this Act to carry an official log book, or 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.

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Returns of
crew lists.

220. (1) Every master of a Guyana ship of not less than two hundred gross tons shall make out and sign a list of the crew of the ship in the prescribed form containing the following particulars -

- (a) the number and date of the ship's register and its net tonnage;
- (b) the length and general nature of the voyage or employment;
- (c) the names, ages and places of birth of all the crew, their ratings on board, their last ships or other employment and the dates and places of their last ships or other employment and the dates and places of their joining the ship;
- (d) the names of any of the crew who have ceased to belong to the ship, with the times, places, causes and circumstances thereof;
- (e) the names of any members of the crew who have been maimed or hurt, with the time, place, cause and circumstances thereof;
- (f) the wages due at the time of death of any of the crew who have died;
- (g) particulars of the property belonging to any of the crew who have died, with a statement of the manner in which the property has been dealt with, and the money for which any part of it has been sold; and
- (h) details of any marriage that has taken place on board, with the date thereof and the names and ages of the parties.

(2) The list of the crew -

- (a) in the case of ships trading exclusively within the waters of Guyana or between Caricom ports shall be delivered or transmitted by the master or owner to the Director not later than twenty-one days after the 30th day of June and the 31st day of December in each year; and

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(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 of the ship who shall retain the list for a period of seven years after receipt and who shall produce the same on demand made therefor by the Director or other proper officer—

- (i) within forty-eight hours after the arrival of the ship at its final port of destination in Guyana; or
- (ii) upon the discharge of the crew, whichever first happens.

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

(4) For the avoidance of doubt, "crew" in this section includes the master and apprentices.

Returns of
births and
deaths in
Guyana ships.

221. (1) The master of a Guyana ship, upon the ship's arrival at a port or at such other time and place as the Director may, with respect to any ships or class of ships direct, shall deliver to the Director or proper officer, in the prescribed form, a return of the facts relating to births and deaths which the master is required by section 215 to record.

(2) In respect of any death recorded pursuant to subsection (1) the master shall notify such death to such person, as the deceased may have named as his next-of-kin.

(3) When the return is made elsewhere than Guyana the proper officer shall send a certified copy of the return to the Director.

Returns of births and deaths of Guyana citizens in foreign ships.

222. The master of any ship not registered in Guyana, which calls at a port shall, upon arrival at such port make a return of births and deaths of citizens of Guyana occurring in any such ship to the Director.

Returns to be sent to Registrar of Births and Deaths - penalties of Master.

223. (1) The Director shall cause information contained in any return referred to in section 221 or 222 to be sent to the Registrar of Births and Deaths.

(2) The master of any ship who fails to comply with any requirement of section 221 or 222 is guilty of an offence and upon summary conviction is liable to a fine of ten thousand dollars.

PART IX

PREVENTION OF COLLISIONS AND NAVIGATIONAL SAFETY

Collision Regulations.

224. The Minister may make regulations, hereinafter referred to as "collision regulations" -

- (a) for the prevention of collisions at sea;
- (b) respecting the lights to be carried and exhibited;
- (c) respecting the steering and sailing rules to be observed by ships,

and in making such regulations shall have regard to any international convention or treaty for the time being in force for the prevention of collisions at sea.

Guyana ships to observe collision regulations.

225. (1) All owners and masters of Guyana ships shall obey the collision regulations and shall not carry or exhibit any other lights or use any other fog signals than such as are prescribed by those regulations.

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(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding thirty thousand dollars.

(3) Subsections (1) and (2) shall apply to the owners and pilots of seaplanes on the surface of water as they apply to the owners and masters of ships.

Foreign ships
in Guyana's
waters.

226. The collision regulations shall be observed by all ships and seaplanes of foreign registry within Guyana's waters, and in any case before a court in Guyana concerning a breach of the collision regulations arising within Guyana's waters, foreign ships and seaplanes shall be treated as if they were ships and seaplanes registered in Guyana.

Collision
liability.

227. (1) Liability for collision damage including damage to vessels, their cargoes, the effects or other property of the crew, passengers or other persons on board, or to third parties shall be based on the degree of fault of each ship involved in a collision.

(2) Where it is not possible to determine the degree of fault of each vessel, or if it appears that the faults are equal, liability shall be apportioned equally.

(3) There shall be no presumption of fault against a ship for a contravention of the collision regulations without proof of fault or negligence.

(4) If the collision is accidental or caused by force majeure, or if the cause is left in doubt, the damages shall be borne by those who have suffered them, notwithstanding that the vessels, or any one of them, may have been at anchor, or was otherwise made fast, at the time of the casualty.

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(5) If the collision is caused by the fault of one of the vessels liability to make good the damages shall attach to the one which has committed the fault.

(6) In respect of damages caused by death or personal injuries, the vessels in fault shall be jointly and severally liable to third parties, without prejudice, however, to the right of the vessel which has paid a larger part than that which, in accordance with the provisions of subsections (1) and (2), she ought ultimately to bear and to obtain a contribution from the other vessel or vessels at fault.

(7) Collision liability shall attach in accordance with this section in cases where the collision may be caused by the fault of a pilot whether or not the pilot is required by law.

(8) The right of action for the recovery of damages resulting from a collision is not conditional upon the entering of a protest or the fulfillment of any other special formality.

(9) Where no collision has actually taken place, liability for damage caused to the vessels involved in the incident, or to goods or persons on board the vessels resulting from the execution or non-execution of a manoeuvre or a contravention of the collision regulations shall be determined in accordance with this section.

Inspection to enforce compliance with collision regulations.

228. A surveyor of ships or any other marine officer may inspect a ship of any nationality in a port of Guyana to determine whether the ship is properly provided with lights and shapes and the means of making sound signals as required by the collision regulations; and if the surveyor or other marine officer finds that the ship is not so provided, he shall specify in writing the action required to rectify the deficiency and shall detain the ship until such deficiency is rectified to his satisfaction.

Duty to render assistance following collision.

229. (1) After a collision between ships, the master of each ship shall, if and so far as he can do so without damage to his own ship, crew and passengers, if any -

- (a) make his best efforts to give to the other ship, the master, crew and passengers, if any, thereof 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 has ascertained that such ship has no need for further assistance;
- (c) give the master of the other ship the name and port of registry of his ship, and the names of the ports from which his ship sailed and to which his ship is bound.

(2) If the master of a ship fails, without reasonable cause, to comply with any provision of subsection (1), he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years, and to a fine not exceeding twenty-five thousand dollars,

Obligation to notify hazards of navigation.

230. (1) The master of any Guyana 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 disposal and in accordance with the regulations to all ships in the vicinity or to such authorities ashore as may be prescribed.

(2) Every person in charge of a radio station in Guyana or on board any Guyana 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 made under subsection (1) shall transmit the message in the prescribed manner.

(3) For the purposes of this section, a "tropical storm" means a hurricane, typhoon, cyclone or other storm of a similar nature, and a master of a ship shall be deemed to have encountered a tropical storm if he has reason to believe that there is such a storm in the vicinity.

(4) A transmission of messages in pursuance of this section shall be without charge.

Master to proceed moderately in danger area.

231. (1) The master of a Guyan~~a~~ ship, when ice is reported on or near his course, shall at night either proceed at a safe speed adapted to the prevailing circumstances or change his course so as to keep amply clear of the ice reported and of the area of danger.

(2) The master of a ship who fails to comply with this section, is guilty of an offence and is liable to a fine of fifteen thousand dollars.

Obligation to assist ships in distress.

232. (1) The master of a Guyan~~a~~ 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 speed to the assistance of the persons in distress, informing them if possible that he is doing so, and if -

- (a) he is unable to do so; or
- (b) in the special circumstances of the case he considers it unreasonable or unnecessary to proceed to their assistance,

he 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 learns that one or more ships, other than his own, have been requisitioned under section 233 and are complying with the requisition.

(3) If a master fails to comply with the provisions of this section he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding twenty-five thousand dollars.

Right to requisition ships when in distress.

233. (1) The master of a ship in distress, after consultation, so far as may be possible, with the masters of the ships which answer his call for assistance, has the right to requisition one or more of those ships as he considers best able to render assistance, and it shall be the duty of the master or masters of the ships requisitioned to comply with the requisition by going with all speed to the assistance of persons in distress.

(2) The master of a ship shall be released from the obligation imposed by subsection (1) of section 232 and, if his ship has been requisitioned, from the obligation imposed by subsection (1), if he 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.

234. (1) The master of a ship shall, so far as he can do so without serious danger to his own ship, render assistance to every person, including an enemy, who is found at sea in danger of being lost.

(2) If the master of a ship fails to comply with the provisions of subsection (1), he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years, to a fine not exceeding ten thousand dollars.

Salvage rights not affected.

235. Compliance by a master with any of the provisions of this Part shall not affect his right or that of any other person to salvage.

Regulations for signals of distress.

236. (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) Where a master of a ship uses or displays or causes or permits any person under his authority to use or display -

- (a) any signal except in circumstances and for the purposes prescribed, and
- (b) any signal that is liable to be mistaken for any prescribed signal,

he is guilty of an offence and, in addition to any penalty imposed upon him on conviction, he is liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress or urgency; and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

(3) Where the master who contravenes subsection (2) is an officer certificated or licensed under this Act, he shall be subject to an enquiry into his conduct as provided in section 108.

Reports of accidents to ships.

237. (1) When a ship -

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person; or
- (b) has sustained any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery,

the owner or master thereof shall, within twenty-four hours after the happening of the accident or causing of the damage or as soon as possible thereafter, transmit to a marine officer, if the ship is in a port, or otherwise to the Director, a report of the accident or damage.

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

- (a) the name of the ship, the port which the ship belongs, the official number, if any, of the ship and the place where the ship is located;
- (b) the circumstances in which the accident or damage occurred; and
- (c) the probable cause of the accident or damage.

(3) If the managing owner, or in the event of there being no managing owner or no such owner resident in Guyana, 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 any such damage as is mentioned in subsection (1), he shall satisfy himself that the accident or damage has been reported to the Director by the master; and, where any such managing owner or agent has reason to believe that the accident or damage has not been so reported, he shall as soon as possible, send to the Director notice in writing stating the name of the ship, its official number, and its Port of Registry or the port to which it belongs, and stating to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the location of the ship.

(4) The master or managing owner or agent who fails, without reasonable cause to comply with this section is guilty of an offence and is liable to a fine of ten thousand dollars.

(5) This section applies to all Guyana ships and to all foreign ships carrying passengers between places in Guyana.

Apprehended loss of ship.

238. (1) If the managing owner or agent of any Guyana ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been wholly lost, he shall cause a reasonable

search to be made for the ship and shall, as soon as conveniently may be, send to the Director a notice in writing signed by him and 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) Any managing owner or agent of a ship who fails without reasonable cause, to comply with this section within a reasonable period from the time when he has reason to believe such ship to have been lost, shall be guilty of an offence and on conviction thereof shall be liable to a fine of twenty-five thousand dollars.

Record of boat
drill or fire
drill to be
kept in official
log book.

239. (1) The master of every Guyana ship shall enter a statement in the official log book of every occasion on which life boat and fire drill is practised on board, and on which the appliances and equipment required 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 in the case of a passenger ship, lifeboat drill or fire drill was not practised in any week; in the case of any other ship, lifeboat drill or fire drill was not practised in any two weeks; in the case of any ship, the said appliances and equipment were not examined in any such period as prescribed, the master shall state the reasons thereof in the official log book.

Notices to
mariners and
navigational
warnings.

240. (1) The Director shall take appropriate steps to inform the seafaring community and the public of any developing or existing situation which may adversely affect maritime safety.

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(2) Such information may take the form of Notice to Mariners and navigational warnings may be issued and communicated by any means as the circumstances may warrant.

(3) The Director may require the assistance of any person in the communication of such information.

Aids to Navigation

Interpretation.

241. In this Part, "aids to navigation" and "aids" mean, all lighthouses, buoys, beacons, radio aids, or any other light, signal or mark established to aid marine navigation and include all buildings, moorings and other works associated therewith.

Establishment and management of aids.

242. (1) There shall be established in Guyana such aids to navigation as may be necessary to facilitate the safe navigation of ships within the waters of Guyana.

(2) No aid shall be established without the prior authorization of the Director and unless it conforms to such specifications as may be stipulated.

(3) No aid shall be discontinued or have its lighting characteristics or any other distinguishing feature altered, without the prior authorization of the Director.

(4) The Director shall exercise general supervision over all aids, and in particular, shall be responsible for overseeing the establishment and maintenance of all aids; ensure that all aids are established in compliance with the stipulated conditions and specifications and are maintained in working order; and bring to the attention of the public information on changes to or deficiencies in any aid to navigation.

Nautical publications.

243. (1) The Minister may cause the publication and updating of aids to navigation and declare any other publications to be approved nautical publications.

(2) In any legal proceedings, the production of an approved nautical publication authenticated by the Minister shall be prima facie evidence of the matters appearing therein.

Prosecution of offences relating to aids.

244. A person who -

- (a) contravenes section 242;
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid;
- (c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a 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 an aid;
- (e) trespasses on or without lawful excuse, is found in or on an aid, or any land upon which an aid is situated,

is guilty of an offence and, in addition to the expenses of making good any damage so occasioned, is liable to a fine of fifty thousand dollars.

Detention of ships.

245. Where a ship damages, destroys or fouls an aid, the ship may be detained until the cost of repairing or replacing the aid or rendering the aid effective again is paid.

Fire and lights detrimental to navigation.

246. (1) When a fire or light is burned or exhibited in such a place or manner as to mislead persons navigating in Guyana waters, the Director 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 subsection (1) fails to comply with the notice within the time stated therein, such person shall be guilty of an offence and liable to a fine not exceeding twenty-five thousand dollars.

(3) The Director may cause to be extinguished any fire or light in respect of which notice is given under this section where the person to whom the notice has been given fails to comply within the time specified therein.

(4) For the purpose of extinguishing false or unauthorized lights, a marine officer may enter the place where the fire or light is situated and forthwith extinguish the same without causing unnecessary damage, and recover the expense thereby incurred.

Characteristics of aids.

247. The Director may prescribe the system of lighting and other characteristics, marks and features of navigational aids and in doing so shall have due regard to the International Association of Lighthouse Authorities Harmonized Buoyage "System B", or any other international system of buoyage which may replace it.

PART X

SAFETY OF LIFE AT SEA

Interpretation.

248. In this Part -

"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;

"short international voyage" means an international voyage -

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- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety, and
- (b) which does not exceed 600 nautical miles in length between the last port of call in the country where the voyage begins and the final destination,

no account being taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could reasonably have prevented or forestalled;

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974 and its Protocol of 1978, together with such amendments thereof or replacements therefor as the Minister may, by Order declare to be in effect in respect of Guyana;

"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 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 organization, duly authorized by the Minister to act as surveyor for the purpose of surveying ships and issuing Safety Convention certificates.

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List of Safety Convention countries.

249. The Minister may by notification published in the Gazette provide a list of countries, including territories thereof, that have ratified, acceded to or denounced the Safety Convention.

Application of Safety Convention.

250. The Safety Convention shall, unless exempted by this Act, apply to all Guyana ships and all other ships while they are in Guyana waters.

Regulations relating to safety at sea.

251. (1) The Minister may make such regulations as he 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) Every omission or neglect to comply with, and every act done without reasonable cause and contrary to the provision of, any regulation made under this section shall be an offence and in respect of any such offence the offender shall, subject to the provisions of this Act and such regulations, or convention be liable to a fine not exceeding fifty thousand dollars.

Ships in port through stress of weather, etc.

252. Notwithstanding that any provision of this Part or of any regulations made hereunder is expressed to apply to ships that are not Guyana ships while they are without any port in Guyana, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

Appointment of surveyors.

253. (1) The Minister may, from time to time appoint at such places as he deems advisable, persons as surveyors of ships competent to inspect -

(a) the boilers and machinery of ships;

- (b) the equipment of ships, including ships' tackle, apparel and appurtenances;
- (c) the hulls and superstructures of ships;
- (d) the life-saving, fire-fighting and other safety equipment of ships;
- (e) the radio-telegraphy and radio-telephony installations of ships;
- (f) the stowage and manner of loading of ships' cargoes and the stowage of dangerous goods in ships.

(2) A surveyor of ships may be appointed in several capacities to perform different functions.

(3) The survey and inspections of ships, so far as regards the enforcement of the regulations made under this Part, shall be carried out by the surveyors or, subject to such conditions as the Minister may impose, by any corporation or society for the survey and classification of ships authorized by the Minister.

Surveyor's powers of inspection.

254. (1) A surveyor of ships 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, the Collision Regulations and the relevant regulations made under this Act.

(2) Where the surveyor finds that the said convention or the regulations have not been complied with, he shall give written notice to the owner or master of the ship stating in what respect there is deficiency and what action in his opinion, is required to rectify such deficiency.

(3) Every notice so given shall be communicated in a manner directed by the Minister to the Customs Officer of any port at which the ship may seek a clearance and such clearance shall not be granted and the ship shall be detained.

(4) Where the surveyor considers such ship unsafe, or, where a passenger ship is unfit to carry passengers, or the machinery or equipment is defective in any way so as to expose persons on board to serious danger, he

shall detain that ship, and a surveyor may also detain any ship in respect of which any of the provisions of this Act have not been complied with, if in his opinion such detention is warranted in the circumstances.

(5) Where, under this section, a surveyor visits any ship he may ask the owner or his agent, the master or chief engineer, or any other person on board and in charge or appearing to be in charge, of the ship any questions concerning the ship as he thinks fit and every such person shall fully and truthfully answer every such question.

(6) A surveyor may reasonably require of the owner or his agent the master or chief engineer or any other person on board or in charge, or appearing to be in charge of the ship that the machinery of the ship be activated or dismantled so that he may satisfy himself as to its condition and every person of whom such a request is made capable of so doing, shall comply with the requirement.

(7) A person who contravenes subsection (5) or (6) is guilty of an offence and is liable to a fine of ~~ten~~ thousand dollars.

Surveyor's report to Director.

255. A surveyor, when satisfied on inspection that he can with propriety do so, shall forward a report to the Director which shall contain a statement showing -

- (a) that the hull and machinery are sufficient for the 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) if the ship is a passenger ship the number of passengers which it may carry; and
- (g) the steam pressure that may be carried on the boilers.

Surveyors record of inspections and certificates.

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

Surveys of passenger ships.

257. Every Guyana passenger ship shall be subjected to the surveys specified namely -

- (a) a survey before the ship is put into service;
- (b) a periodic survey at intervals of not more than twelve months;
- (c) additional surveys as required under this Act.

Initial survey of passenger ship.

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

(2) The survey shall be such as to ensure that the general arrangement, material and scantling of the hull, boilers and other pressure vessels, the main auxiliary machinery, electrical installations, radio installations, radio installations in motor-life boats, portable radio apparatus for survival craft, life-saving appliances, fire detecting and extinguishing appliances, pilot ladders, and other equipment fully comply with the requirements of the Safety Convention and with any regulations made under section 251.

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(3) The survey shall also be such as to ensure that the workmanship of all parts of the hull, machinery and equipment is satisfactory, and that the ship is provided with such lights and sound signals and distress signals as are required by the Safety Convention and the Collision Regulations.

Periodic surveys
of passenger ships.

259. (1) The periodic survey shall be such as to ensure that the hull, boiler and other pressure vessels, the main and auxiliary machinery, electrical installations, radio installations, radio installations in motor life boats, portable radio apparatus for survival craft, life-saving appliances, fire detecting and extinguishing appliances, pilot ladders, and other equipment are in a satisfactory condition and fit for the service for which they are intended and that they comply with the requirements of the Safety Convention and any regulations made under section 251.

(2) The lights and sound signals and the distress signals carried by the ship shall also be subject to the survey.

Additional surveys
of passenger ships.

260. (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 replacement are made.

(2) The surveys shall be such as to ensure that the necessary repairs, renewals or replacements have been effectively made, that the material and workmanship of such repairs, renewals or replacements are in all respect satisfactory and that the ship complies in all respect with the provisions of the Safety Convention and the Collision Regulations and any regulations made under this Act.

**Passenger ship
Certificate.**

261. (1) Where the Minister or such other person as he may authorize for the purpose, on receipt of the surveyor's report referred to in section 255 is satisfied that a Guyana ship is in compliance with -

- (a) the requirements of the Safety Convention as regards construction, life-saving appliances, radio and direction finders; and
- (b) 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 on, and that it is properly provided with the lights, shapes and means of making signals required by the Collision Regulations,

he shall on the application of the owner, issue the appropriate Safety Certificate, hereinafter referred to as "a Passenger Ship Safety Certificate" and an Inspection Certificate, in respect of that ship.

(2) A passenger ship Safety Certificate may together with any other Safety Certificate required under this Act be contained in one document.

**Short Voyage
Certificates for
passenger ships.**

262. 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 those voyages, the Director 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
Certificates for
passenger ships.**

263. Where the Minister or such other person as he may authorize for the purposes, on receipt of the surveyor's report in respect of any passenger ship as aforesaid is satisfied -

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- (a) that the ship is eligible for exemption, under this Act, from any of 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 properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations,

he shall, on the 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 exempt, and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trades and complying with the 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 those requirements from which it is not exempt.

Validity of
passenger ship
Short Voyage
Certificates.

264. The Minister or such other person as he may authorize for the purpose, may permit any passenger ship in respect of which there is in force a Short Voyage Certificate, or a Qualified Short Voyage Certificate, to proceed to sea on an international voyage from a port not exceeding twelve hundred nautical miles between that port and the final port of destination, and for the purposes of this section, such Certificate shall be endorsed for the voyage on which the ship is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between those ports.

Passenger Ship
Safety Certificate
to be carried on
board.

265. (1) Every passenger ship shall, before plying or proceeding to sea from any port in Guyana have 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 in 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 Minister or such other person as he may authorize 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 subsection (1).

Penalty for
carrying excess
passengers.

266. Where a passenger ship 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, the owner or master of the ship shall, without prejudice to any other remedy or penalty under this Act, be liable to a fine of ten thousand dollars for every excess passenger.

Safety equipment
survey on cargo
ships.

267. (1) The life-saving appliances and fire-fighting appliances of Guyana cargo ships shall be subject to survey before the ship is put into service and thereafter at intervals of not more than two years.

(2) The fire control plans in Guyana ships and the pilot ladders, lights and sound signals and distress signals in new and existing Guyana cargo ships shall be included in the surveys for the purpose of ensuring that they comply fully with the

requirements of the Safety Convention and, where applicable, the Collision Regulations.

Cargo Ship Safety
Equipment
Certificate.

268. Where the Minister or such person as he may authorize for the purpose is satisfied, on receipt of the surveyor's report in respect of a Guyana cargo ship, that the ship complies with the requirements of the Safety Convention as regards life-saving appliances and with such of the 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, that it is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations, he shall, on the application of the owner, issue in respect of the ship -

- (a) where it is not less than five hundred gross tons and is to be engaged on international voyages, a certificate in the form prescribed by the Safety Convention;
- (b) in any other case, a certificate showing that it complies with the said requirements,

and any such certificate is in this Act referred to as a Safety Equipment Certificate .

Cargo ship
exemption and
Qualified Safety
Equipment
Certificate.

269. Where the Minister or such person as he may authorize for the purpose, on receipt of the surveyor's report in respect of a cargo ship, is satisfied that the ship is exempt by this Act or 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, and that, the ship complies with the remainder of those requirements and is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations, he shall, on the application of the owner, issue in respect of the ship -

- (a) where it is not less than five hundred tons 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 exempt and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trade and complying with any other conditions, specified in the certificate, and
 - (ii) a certificate showing that the ship complies with those requirements from which it is not exempt;
- (b) 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 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 a Qualified Safety Equipment Certificate .

Cargo ship radar and radio installations surveys.

270. The radio and radar installations of Guyana cargo ships and any radio-telegraph installations in a motor-life boat or portable radio apparatus for survival craft which is carried in compliance with any regulations made under section 251, shall be subject to survey before the ship is put into service and thereafter at intervals of not more than twelve months.

Issue of cargo ship Radio Certificate.

271. Where the Minister or such person as he may authorize for the purpose is satisfied on receipt of the surveyor's report in respect of a cargo ship that the ship complies with the requirements of the Safety Convention as

complying with the other conditions, specified in the certificate, and

(ii) a certificate showing that the ship complies with those requirements from which it is not exempt;

(b) 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 exempt and the voyages on which it is to be engaged,

and any certificate issued under paragraph (a) (ii) or paragraph (b) is in this Act referred to as a Qualified Radio Certificate .

Radio Exemption Certificate.

273. Where any Guyana ship is wholly exempted by the Minister or such other person authorized by him for the purpose from the requirements of the regulations relating to the Safety Convention as regards radio-telegraphy, radio-telephony and direction finders there shall be issued upon application by the owner, an exemption certificate, hereinafter referred to as a Radio Exemption Certificate specifying the voyages and trades for and conditions on which, the ship is so exempt.

Cargo ship safety construction surveys.

274. (1) Subject to subsections (2) and (3) the hull, machinery and equipment other than items in respect of which Cargo Ship Safety Equipment Certificates, or Cargo Ship Radio Certificates are issued a Guyana cargo ship shall be surveyed before being put into service and thereafter in such a manner and at such intervals as may be prescribed under this Part.

(2) 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,

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regards radio-telegraphy, radio-telephony, and direction finders and with such of the regulations relating to safety of life at sea as are applicable to the ship in regard to such radio-telegraphy, radio-telephony and direction finders and to such international voyages, as it is to be engaged on, he shall, on the application of the owner, issue in respect of the ship—

- (a) a certificate in the form prescribed by the Convention where the ship is of not less than three hundred gross tons and is to be engaged on international voyages;
- (b) a certificate showing that it complies with the said requirements,

and any such certificate is in this Act referred to as a Radio Certificate .

Cargo ship
Exemption and
Qualified Radio
Certificate.

272. Where the Minister or such person as he may authorize for the purpose, on receipt of the surveyor's report in respect of a cargo ship, is satisfied that the ship is eligible for exemption under this Act, from any of the requirements of those of the regulations or of the Safety Convention applicable to the ship as regards radio-telegraphy, radio-telephony and direction finders and to such voyages as it is to be engaged on, and that the ship complies with the remainder of those requirements and is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations, he shall, on the application of the owner, issue in respect of the ship—

- (a) where it is not less than five hundred gross tons 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 exempt and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trade and

renewals or replacements are made

(3) The survey shall be such as to ensure that the necessary repairs, renewals or replacements have been effectively made, that the material and workmanship of such repairs, renewals or replacements are in all respects satisfactory and that the ship complies in all respect with the provisions of the Safety Convention and of the Collision Regulations and any regulations made under this Act.

Regulations for cargo ship safety construction requirements and surveys.

275. (1) The Minister may make regulations in this Act referred to as Cargo Ship Construction and Survey Regulations prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any Guyana ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.

(2) The said regulations shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of such ship.

(3) This section applies to —

- (a) Guyana ships of not less than five hundred gross tons;
- (b) Guyana ships of such lower tonnage and of such description as the Minister may specify; and
- (c) foreign ships while they are within Guyana waters and while they are not exempted under this Act,

but does not apply to passenger ships, troopships, pleasure craft, fishing vessels and ships not propelled by mechanical means.

Issue of Ship
Safety Construction
Certificate,

276. (1) Where the Minister or such person as he may authorize for the purpose is satisfied on receipt of the surveyor's report in respect of a Guyan^U cargo ship to which section 275 applies, that the ship complies with the Cargo Ship Construction and Survey Regulations applicable to the ship and to such voyage as it is to be engaged on, he shall, on the application of the owner, issue in respect of the ship -

/Safety

- (a) a certificate in the form prescribed by the Convention where it is not less than five hundred gross tons and is to be engaged on international voyages; and
- (b) in any other case a certificate showing that it complies with the said regulations,

and any such certificate is in this Act referred to as a Cargo Ship Safety Construction Certificate .

Cargo ship
Exemption and
Qualified Safety
Construction
Certificate.

277. Where the Minister or such person as he may authorize for the purpose, on receipt of the surveyor's report in respect of a cargo ship, is satisfied that the ship is eligible for exemption under this Act from any of the requirements of those of the regulations applicable to the ship and to such voyages as it is to be engaged on, and that it complies with the remainder of those requirements, he shall, on the application of the owner, issue in respect of the ship—

- (a) where it is of not less than five hundred gross tons 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 exempt and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trades and complying with the other conditions specified in the certificate, and

- (ii) a certificate showing that the ship complies with those requirements from which it is not exempt;
- (b) in any other case, a certificate showing that the ship complies with such of the requirements 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 a Qualified Cargo Ship Safety Construction Certificate .

Validity period
of Cargo Ship
Safety Construction
Certificate.

278. (1) A certificate issued under section 276 and a certificate issued under section 277, other than an exemption 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 Minister to cancel it, and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

(2) Without prejudice to the power of extension conferred under this Act, where a certificate under this section is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under this section, the Minister or any person authorized by him for the purpose may, if satisfied, on receipt of declarations of survey in respect of the ship that is proper to do so, grant an extension of the certificate for a period not exceeding one year and not exceeding, together with the period for which it has been previously extended under this subsection, the longest period for which it could have been issued under this Act.

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Appeals against withholding of ship's certificates or detention.

279. Where following the survey of a ship, the owner feels aggrieved by the withholding of any certificate required to be carried on board the ship under this Act, or by his ship being detained in accordance with section 254, he may appeal to the Court of Survey constituted under section 422.

Periods of validity of certificates.

280. (1) A Passenger Ship Safety Certificate, a Radio Certificate or an exemption certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders shall be in force for one year and a Safety Equipment Certificate, shall be in force for two years from the date of its issue or for such shorter period as may be specified in the certificate; save that no such certificate shall remain in force after notice is given by the Minister to the owner, master or agent of the ship, in respect of which it has been issued that the Minister has cancelled the certificate.

(2) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio telephony and direction finders, shall be in force for the same period as the corresponding qualified certificate.

(3) Any certificate issued by the Minister under this Act, and any Passenger Ship Safety Certificate, whether or not combined in one document with any other safety certificate, shall be admissible in evidence.

Extension of period of validity of certificates.

281. (1) Where a Guyanese ship is not in a port of Guyana on the date of expiry of any certificate issued to that ship under this Act, the Minister or any such person as he may authorize 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

- (a) that there is in force in respect of a foreign Safety Convention ship, a valid Safety Convention Certificate;
- (b) that the condition of the hull, equipment and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate;
- (c) that the number, grades and qualifications of radio officers or operators on board correspond with those shown in that certificate; except where the certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy and radio-telephony; or
- (d) that any conditions subject to which such a certificate, being the equivalent of an exemption certificate, is issued, are complied with.

Production of
Safety Convention
Certificate.

286. (1) The master of every foreign Safety Convention ship, shall produce to the appropriate authorities from whom a clearance for the ship is demanded in respect of an international voyage from a Guyana port, valid Safety Convention Certificates that are the equivalent of the Safety Convention Certificates issued by the Minister that would be required to be in force in respect of the ship if it was a Guyana ship, and a 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 of -

- (a) a qualified certificate; or
- (b) an exemption certificate, other than a certificate stating that the ship is wholly exempt from the provisions of the Safety Convention,

maximum of three months in the aggregate.

(2) The extension referred to in subsection (1) shall be granted only for the purpose of enabling the ship to proceed to a Guyana port or a port where it is to be surveyed for the purpose of renewal of such certificate, and then only where it appears proper and reasonable to grant the extension.

Validity of qualified certificates.

282. 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 certificates; 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.

Penalty for non-compliance with conditions of Exemption Certificates.

283. Where an exemption certificate, issued in respect of any Guyana ship specifies conditions on which the certificate is issued and any of those conditions is not complied with, the owner or the master of the ship is guilty of an offence and is liable to a fine of ten thousand dollars.

Posting up of certificates on board ship.

284. (1) All certificates or certified copies thereof issued under this Act, except exemption certificates or certified copies thereof, shall be posted in a prominent and accessible place in the ship for the information of all persons on board; and the certificates or copies thereof shall be kept so posted while they are in force and the ship is in use.

(2) The owner or master of a ship who fails without reasonable cause to comply with the section is guilty of an offence and is liable to a fine of five thousand dollars.

Survey to verify Safety Certificates and compliance with conditions of

285. A surveyor of ships or any other marine officer may board any ship for the purpose of verifying -

shall not avail for the purpose of section 287 unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

Inspection of ships holding Safety Convention Certificates.

287. (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 exempt from surveys or inspection under section 285, 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 regulations made under this Act respecting the maintenance of conditions of ships and their equipment after survey.

(2) Where a certificate is not acceptable due to the circumstances referred to in subsection (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, namely--

- (a) the local Consul of the ship's flag state or, in his absence, the nearest diplomatic representative of the ship's flag state;
- (b) nominated surveyors or recognized organizations responsible for the issue of the certificates referred to in subsection (1).

(3) Where any ship referred to in subsection (2) is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered as a direct result of such undue detention or delay.

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Ship not to proceed to sea without appropriate certificate.

288. (1) No Guyana ship shall proceed to sea on an international voyage from a port in Guyana 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 Safety Certificate which, subject to the provisions of this section relating to Short Voyage Certificates, 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) where it is not a passenger ship--
 - (i) a cargo Ship Safety Construction Certificate or a Qualified Cargo Ship Safety Construction Certificate;
 - (ii) a Safety Equipment Certificate or a Qualified Safety Equipment Certificate; or
 - (iii) a Radio Certificate, or a Qualified Radio Certificate, or an Exemption Radio Certificate.

(2) Notwithstanding subsection (1), a Guyana ship that is not a passenger ship may proceed to sea if there is in force in respect of that ship, such certificates as would be required if it were a passenger ship, namely, the certificates referred to in paragraph (a) of subsection (1).

Detention of ship for non-production of certificates.

289. The master of every Guyana ship shall produce to the appropriate authorities from whom a clearance for the ship is demanded for an international voyage the certificates required by this Part to be in force when the

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ship proceeds to sea and a clearance shall not be granted, and the ship may be detained, until the certificates are so produced.

Ships to carry stability information.

290. (1) Every Guyana passenger ship, regardless of size and every Guyana cargo ship having a length of twenty-four metres and upwards shall carry on board such information about the ship's stability as may be prescribed.

(2) The information, a copy of which shall be sent to the Minister, shall be based on the determination of the ship's stability by means of an inclining test of the ship but the Minister may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner or master is guilty of an offence and is liable to a fine of ten thousand dollars.

Penalty for forgery of survey report or certificate. 291. Any person who -

- (a) knowingly and wilfully makes or assists in making or procures to be made a false or fraudulent survey report under this Part; or
- (b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering any such report or certificate, or anything contained in or any signature to any such report or certificate,

is guilty of an offence.

Notice of accident, defect or alterations affecting the efficiency or seaworthiness of the ship. 292. (1) The condition of any ship in respect of which a Safety Convention Certificate issued under this Act is in force, including the equipment of such ship, shall be maintained at all times to comply in all respects with the provisions of the

Safety Convention and of the Collision Regulations and any regulations made under this Act.

(2) Whenever an accident occurs to a ship or a defect is discovered, or any alteration is made to the ship's hull, equipment, appliance or machinery which affects the safety of the ship or the efficiency, completeness or seaworthiness thereof, the owner or master shall, as soon as practicable following such accident, discovery of defect, or alteration, give written notice to the Director describing full particulars of the accident, defect or alteration, as the case may be.

(3) Where notice is not given as required by this section, the owner or master of the ship is guilty of an offence and is liable to a fine of ten thousand dollars.

Re-survey of a ship following alterations or damages.

293. (1) Where the Director has reason to believe that since the making of the last survey report in respect of any ship—

- (a) any alteration has been made as is mentioned in section 292;
- (b) the hull, equipment, appliance or machinery of the ship has sustained any damage or is otherwise defective or insufficient;

the Director may require the ship to be again surveyed to such extent as he thinks fit, and if such requirement is not complied with, may cancel any certificate issued in respect of the ship under this Act.

(2) For the purpose of this section "alteration" in relation to anything includes the renewal or replacement of any part of it.

Application of this Part to foreign ships.

294. (1) The Minister may direct that this Part or any of the provisions thereof shall apply to any foreign ship or class of ship while within Guyana waters.

(2) Notwithstanding anything in this Part, the Minister may relieve any foreign ship or the owner of any such 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 Minister may deem it necessary or advisable in the public interest, to such extent and in such manner and upon such terms as he may consider proper in the circumstances; but the Minister shall not relieve any ship or the owner thereof from compliance with any such provision to 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 of Safety Convention Certificates.

295. (1) The Minister may, at the request of the Government of a country to which the Safety Convention applies, cause a ship to be surveyed, and if satisfied that the requirements of the said Convention are complied with, shall issue certificates to the ship in accordance with the Safety Convention.

(2) Any certificate so issued 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 Guyana ships by other Convention countries.

296. The Minister may request the Government of a country to which the Safety Convention applies or any organization authorized to act in that behalf by the Minister to issue in respect of a Guyana ship any certificate the issue of which is required under this Act; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister and not by the Government of that country.

Exceptions.

297. Nothing in this Part or in any regulations made thereunder, unless it is expressly otherwise provided by such regulations, shall apply to—

- (a) ships of war and troop ships;
- (b) cargo ships of less than five hundred tons gross tonnage;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of primitive build;
- (e) pleasure yachts not engaged in trade;
- (f) fishing vessels.

Regulations for safety requirements and issue of local certificates.

298. The Minister may make regulations prescribing safety requirements and providing for the survey and issue of local safety certificates in respect of any ship or class of ship to which the Safety Convention does not apply.

PART XI

LOAD LINES

Interpretation.

299. For the purposes of this Part—

"Convention Country" means a country, the Government of which is a party to the Load Line Convention and which has not denounced that Convention, or a territory of such country to which the Convention extends and remains extended;

"existing ship" means a ship which is not a new ship;

"fishing vessel" means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

"International voyage" means a voyage between—

- (a) in a case of a ship registered in or flying the flag of a country other than Guyana which is a Convention country, the date from which it is declared that the Government of that country has ratified or acceded to the Load Line Convention, or that it is a country to which that Convention applies;
- (b) in the case of any other ship, the date of the coming into force of this Act.

Exceptions.

300. This Part shall not apply to —

- (a) ships of war;
- (b) pleasure craft not engaged in trade;
- (c) fishing vessels.

Countries to which Load Line Convention applies.

301 The Minister may from time to time by Notice publish a list of countries that have ratified, acceded to or denounced the Load Line Convention.

Load Line Regulations.

302. The Minister may make such regulations hereinafter referred to as the "Load Line Regulations" as appear to him to be necessary for the purpose of giving effect to the Load Line Convention, and without prejudice to the generality of the foregoing, such Regulations may also prescribe Load Line requirements and provide for the issue of local Load Line Certificates in respect of ships to which the Load Line Convention does not apply.

Certificates issued under the Load Line Convention.

303. (1) An International Load Line Certificate may be issued to every ship which has been surveyed and marked in accordance with the Load Line Convention.

(2) An International Load Line Exemption Certificate may be issued to any ship to which an exemption has been granted in accordance with the Load Line Convention.

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- (a) a port or place in Guyana and a port or place outside Guyana; or
- (b) a port in a Convention Country other than Guyana and a port in any other country or territory thereof (whether or not a Convention Country) which is outside Guyana,

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 other circumstances that neither the master nor the charterer, if any, of the ship could have prevented or forestalled;

"Load Line Convention" means the International Convention on Load Lines 1966 and any amendments thereto which the Minister may, by order declare to be in effect for Guyana;

"Load Line convention ship" means an international Load Line ship belonging to a country to which the Load Line Convention applies;

"Load Line Regulations" means the regulations made by the Minister to give effect to the Load Line Convention;

"Load Line ship" means —

- (a) an international Load Line ship, that is to say, an existing ship of not less than one hundred and fifty gross tons or a new ship of twenty-four metres or more in length which carries cargo or passengers on international voyages; and
- (b) a local Load Line ship, that is to say, a ship, other than an international Load Line 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 —

International
and Local Load
Line Certificates.

304. (1) Where a Guyana ship has been surveyed and marked in accordance with the Load Line Regulations, the appropriate certificate shall be issued to the owner of the ship, on his application.

(2) For the purpose of this section the appropriate certificate —

- (a) in the case of an existing ship of not less than one hundred and fifty gross tons, and in the case of a new ship of twenty-four metres or more in length is to be called an International Load Line Certificate (1966) ; and
- (b) in the case of any other ship, is to be called a Guyana Local Load Line Certificate .

Certificates
issued by other
governments.

305. (1) The Minister may request the Government of a country which is a party to the Load Line Convention to issue an International Load Line Certificate in respect of a Guyana ship and a certificate so issued and containing a statement that it was so issued shall have effect for the purposes of this Part as if it had been issued by the Minister.

(2) Where a valid Load Line Certificate issued in pursuance of subsection (1) is produced in respect of a ship, that ship shall, for the purposes of this Part, be deemed to have been surveyed under the Load Line Regulations, and if the deck line and Load Line correspond with the marks specified in the certificate, the ship shall be deemed to be marked as required by this Part.

Certificates
issued at the
request of other
governments.

306. The Minister may, at the request of the government of a country to which the Load Line Convention applies, issue an International Load/Certificate in respect of a ship of that country, if he is satisfied that, as in the case of a Guyana Ship, he can properly issue the certificate; and where a certificate is issued at such a request, it

shall contain a statement to the effect that it has been so issued.

Regulations as to the validity of foreign certificates.

307. (1) With a view to determining the validity in Guyana of certificates purporting to have been issued in accordance with the Load Line Convention in respect of foreign ships, the Minister may make such regulations as appear to him to be necessary.

(2) For the purposes of the provisions of this Part relating to foreign ships the expression "a valid Load Line Certificate" means a certificate complying with such of those regulations made under subsection (1) as are applicable in the circumstances.

Power to make exemption orders.

308. (1) Where in the opinion of the Minister the sheltered nature and conditions of international voyages between ports in Guyana and ports in neighbour countries make it unreasonable or impracticable to apply the provisions of this Act to ships plying on such a voyage, and the Minister is satisfied that the Governments of the other countries concur in that opinion, the Minister may, by order, specifying those ports, direct that ships plying on such voyages be exempt from the provisions of this Part.

(2) The Minister may, by order, direct that vessels under twenty-four metres in length engaged solely in the coasting trade, or any class of such ships specified in the order be exempt from the provisions of this Part.

(3) Any order under this section may be made subject to such conditions as the Minister thinks fit, and where any such order is made subject to conditions, the exemption granted by the order shall not have effect in relation to a ship unless the ship complies with those conditions.

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Further powers to exempt ships of novel design.

309. (1) On the application of the owner of a Guyana ship to which this Part applies and the ship is either an existing ship of not less than one hundred and fifty gross tons or a new ship of not less than twenty-four metres in length, the Minister may exempt the ship if in his opinion the ship embodies features of a novel kind of ^{that} a nature, if the ship had to comply with all the requirements of this Part, the development of those features and their incorporation in the ship might be seriously impeded.

(2) On the application of the owner of a Guyana ship to which this Part applies, and which is ^{neither,}

- (a) an existing ship of less than one hundred and fifty gross tons or a new ship of less than twenty-four metres in length; or
- (b) a ship, not falling within paragraph (a), which does not ply on international voyages,

the Minister may exempt the ship.

(3) Without prejudice to subsection (2), where a Guyana ship to which this Part applies is either an existing ship of not less than one hundred and fifty gross tons or a new ship of not less than twenty-four metres in length, does not normally ply on international voyages but is in exceptional circumstances, required to undertake a single international voyage, the Minister, on the application of the owner of the ship, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(4) Any exemption granted under this section may be granted subject to such conditions as the Minister thinks fit; and any such exemption shall not have effect unless those conditions are complied with.

Extent of exemption.

310. In this Part, any reference to exempting a ship is an exemption—

- (a) from all the provisions of this Part and of the Load Line Regulations; or
- (b) from such of those provisions as are specified in the instrument granting the exemption.

Issue of Exemption Certificates.

311. (1) Where the Minister exempts a ship under section 308 or 309 the Director shall issue the appropriate certificate to the owner of the ship.

(2) For the purposes of this section, the appropriate certificate—

- (a) where the exemption is granted under subsection (1) or (3) of section 309 is to be called an International Load Line Exemption Certificate; and
- (b) where the exemption is granted under subsection (2) of that section is to be called a Guyana Local Load Line Exemption Certificate.

(3) Any certificate issued under this section shall be issued in such manner, as may be prescribed by the Load Line Regulations.

Duration and extension of exemption.

312. (1) The Load Line Regulations shall make provision for determining the period of which any exemption granted under section 308 or 309 or any certificate issued under section 303 is to remain in force including—

- (a) provision enabling the period for which any such exemption or certificate is originally granted or issued to be extended within such limits and in such circumstances as may be prescribed by the Regulations; and

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- (b) provision for terminating any such exemption and for cancelling any such certificate in such circumstances as may be prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to —

- (a) periodical inspections of the ship in accordance with the Load Line 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 Certificates.

313. Where a valid Load Line Certificate issued under this Part 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) where lines are marked on the ship according in number and description to the deck line and load lines as required by the Load Line Regulations, and the positions of those lines so marked correspond to 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.

Duration, renewal and cancellation of Load Line Certificate.

314. (1) Every Load Line Certificate issued by or under the authority of the Minister shall, unless it is renewed in accordance with the provisions of subsection (2), expire at the end of such period as specified therein but not exceeding five years from the date of its issue.

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(2) Any such load line certificate may, after a survey that is not less effective than the survey, required by the Load Line Regulations before the issue of the certificate, be renewed from time to time by the Director or by any person authorized by him to issue a load line certificate for such period not exceeding five years on any occasion as the Director or other authorized person renewing the certificate thinks fit.

(3) The owner of every ship in respect of which any such certificate remains in force, shall cause the ship to be surveyed in the prescribed manner at least once in every period of twelve months after the issue of the certificate should remain in force, having regard to subsection (2), and if the ship is not so surveyed, the Minister shall cancel the certificate, but may, if he thinks fit extend the said period by a maximum of three months.

Ships not to proceed to sea without Load Line Certificate.

315. (1) Subject to any exemption granted by or under this Part, no Guyana ship being an international load line ship shall proceed to sea on an international voyage unless there is in force in respect of such ship an International Load Line Certificate.

(2) No Guyana ship, being a local load line ship, shall proceed to sea unless there is in force in respect of such ship a Local Load Line Certificate.

(3) The master of every Guyana load line ship shall produce to the customs officer from whom a clearance for the ship is demanded the certificate that is required by this section to be in force when the ship proceeds to sea; and a clearance shall not be granted and the ship shall be detained until that certificate is produced.

Deck cargo regulations.

316. (1) The Minister may make regulations, in this section 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 load line ship.

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(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 subsection (1), the Deck Cargo Regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any such special requirements as are mentioned in subsection (2), the Minister shall have regard in particular to the provisions of Chapter IV of Annex 1 to the Load Line Convention.

(4) Where any provisions of the Deck Cargo Regulations are contravened—

- (a) in the case of a Guyana ship; or
- (b) in the case of any other ship while the ship is within any port in Guyana,

the master of the ship is, subject to subsection (5), guilty of an offence and is liable to a fine of ten thousand dollars.

(5) Where a person is charged with an offence under subsection (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, any person authorized in that behalf by the Director may inspect any ship to which this Part applies which is carrying cargo in any uncovered space on its deck; and for the purpose of any such inspection any such person shall have all the powers of a surveyor under this Act.

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Inspection of
Guyana load
line ships.

317. A surveyor of ships or other marine officer may inspect any Guyana -load line ship for the purpose of ensuring that the provisions of this Part have been complied with.

Notice to be
given of
alterations
affecting position
of ship 's Load
Line.

318. (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 superstructures of the ship, give notice in writing to the Director containing full particulars of the alteration.

(2) Where notice of any alteration is not given as required by subsection (1), the owner and the master are guilty of an offence and each is liable to a fine of ten thousand dollars.

(3) The Director may exercise with respect to any such ship his powers specified in subsection (4) where he 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 crews' quarters have not been maintained on the ship in as effective a condition as they were when the certificate was issued.

(4) In any such case the Director may -

- (a) cancel the Load Line Certificate; or

- (b) require the owner to have the ship surveyed again to such an extent as the Director thinks fit; and, if that requirement is not complied with, he may cancel the Load Line Certificate.

(5) Where a load line certificate has expired or has been cancelled, the Director may require the owner or master of the ship to which the certificate relates to deliver up the certificate and the ship may be detained and if the owner or master fails without reasonable cause to comply with such requirement he is guilty of an offence and liable to a fine of ~~fifteen~~ fifteen thousand dollars.

Submersion of load lines.

319. (1) No ship shall be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being permitted under the Load Line Regulations to be loaded.

(2) Where any ship is loaded in contravention of this section, the owner or master of the ship is guilty of an offence and is liable to a fine of ~~one~~ ^{one} hundred thousand dollars and to such additional fine, as specified in subsection (3), as the court thinks fit to impose having regard to the extent to which the earning capacity of the ship was, or would have been increased by reason of the submersion.

(3) The said additional fine shall not exceed fifty thousand dollars for every centimetre or part thereof by which the appropriate load line on each side of the ship was submerged if the ship had been in salt water and without any list.

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(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, any 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.

320. (1) The owner or master of a Guyana load line ship who fails without reasonable cause to keep the ship marked in accordance with this Part is guilty of an offence and is liable to a fine of ten thousand dollars.

(2) Any person who conceals, removes, alters, defaces or obliterates or permits any person under his 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 authorize the alteration of the mark is guilty of an offence and is liable to a fine of fifty thousand dollars.

Ships not to proceed to sea unless complying with Load Line Regulations.

321. (1) No Guyana load line ship shall proceed to sea unless—

- (a) the ship has been surveyed in accordance with the Load Line Regulations either by a surveyor of ships or by any organization authorized to act in that behalf by the Minister or at his request by the Government of any Convention Country;
- (b) the ship complies with the conditions for the assignment of load lines prescribed in the Load Line Regulations;

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- (c) the ship is marked on each side with a mark hereinafter referred to as deck-line indicating the position of the uppermost deck and with marks hereinafter referred to as load lines, indicating the several maximum depths to which the ship is permitted to load in various circumstances prescribed by the Load Line Regulations and
- (d) the deck-line and load lines are of the descriptions and in the positions required by the Load Line Regulations.

(2) Where the ship proceeds or attempts to proceed to sea in contravention of this section, the master or owner thereof is liable to a fine of ~~one~~ ^{one} hundred thousand dollars and the ship may be detained until it has been so surveyed and marked.

Production of
Load Line
Certificates
of Guyana ships.

322. The master of every load line convention ship shall, upon request produce a valid Load Line Certificate to the Customs Officer from whom a clearance for the ship a port in Guyana is demanded and a clearance shall not be granted and the ship may be detained until the certificate is produced.

Production of Load
Line Certificates
of foreign ships.

323. Unless a valid Load Line Certificate is produced in respect of a foreign ship, the provisions of section 313 shall apply to that ship proceeding or attempting to proceed to sea from a port in Guyana as they apply to a Guyana ship.

Submersion of
Load Lines of
foreign ships.

324. Section 319 shall apply to foreign ships while they are in Guyana waters as they apply to Guyana ships, subject to the following—

- (a) no load line convention ship shall be detained, and no proceeding shall be taken against the owner or master thereof, by virtue of that section, except after an inspection by a surveyor as provided for in

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- this Part;
- (b) the expression "the 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;
 - (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.

Posting up of Load Line Certificate and entry of Load Line details in ship's log book.

325. (1) Where a Load Line Certificate has been issued under this Part in respect of a Guyana load line ship--

- (a) the owner of the ship shall forthwith upon receipt of the certificate, cause it to be framed and displayed in some conspicuous place on board the ship, and the certificate shall be kept so framed and 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 any official log book, shall enter therein the particulars as to the marking of the deck-line and load line specified in the certificate.

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(2) Before any Guyanese load line ship proceeds to sea, the master thereof 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 floating and all other particulars relating thereto in the form as set out in the official log book;
- (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 any Guyanese load line ship who fails to comply with the provisions of this section is guilty of an offence and is liable to a fine of five thousand dollars.

Inspection of
ships regarding
Load Lines.

326. (1) A surveyor of ships or other marine officer may board any ship when such ship is within Guyanese waters 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 powers of inspecting the ship with respect to load lines shall be limited to ensuring—

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that the markings of the load line on the ship correspond with those specified in the certificate;
- (c) that no material alterations have taken place in the hull or superstructure of the ship which affect the markings of the load lines;

- (d) that the fittings and appliances for the protection of openings, guard rails, 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 when the certificate was issued.

(3) Where a valid Load Line Certificate is not produced to the surveyor, he shall have the same power of inspecting the ship as provided for in section 317 as if the ship were a Guyana load line ship.

Contravention of
Load Line
Regulations and
detention of ship.

327. (1) Where it is found upon an inspection referred to in section 326 that a ship is loaded in contravention of section 319, the ship may be detained and proceedings may be taken, against the master or owner thereof under section 319.

(2) Where the load lines on the ship are not marked as specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(3) Where on an inspection a ship is found to have been so materially altered in respect of the matters referred to in section 326(2)(c) or (d) 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 Director shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

PART XII

CARRIAGE OF BULK CARGOES AND DANGEROUS GOODS

Bulk Cargoes

Bulk cargo regulations.

328. The Minister may make regulations relating to -

- (a) the safe carriage and stowage of bulk cargoes having due regard to the Code of Safety Practice for Bulk Cargoes issued by the International Maritime Organization and amendments thereto or replacement thereof;
- (b) the safe carriage and stowage of grain in compliance with the International Convention for the Safety of Life at Sea, 1974 and amendments thereto or replacements thereof.

Precautions regarding grain cargoes.

329. (1) Where grain is loaded on board any Guyana ship, or is loaded at any port in Guyana on any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and, if such precautions are not taken, the owner or the master or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

(2) Where any ship, loaded with grain outside Guyana without necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port in Guyana so laden, the owner or master is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

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(3) No offence is committed under subsection (2) where the ship would not have entered any such port but for stress of weather or any other cause of force majeure, which neither the master, the owner nor the charterer if any, could have prevented or forestalled.

(4) Any person authorized by the Director 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 all the powers of a surveyor of ships under this Act.

Offences.

330. Any person who contravenes this Part is guilty of an offence and is liable to a fine of fifty thousand dollars.

Dangerous Goods

Regulations
as to dangerous
goods.

331. (1) The Minister may by regulations establish which goods, articles or materials to be carried in a ship are dangerous goods in accordance with the International Convention for the Safety of Life at Sea, 1974 relating to the carriage of dangerous goods and to amendments thereto or replacements thereof, and such regulations shall have regard to the International Maritime Dangerous Goods (IMDG) Code of the International Maritime Organization.

(2) Without restricting the generality of the foregoing, the Minister may by regulations prescribe—

- (a) the method of packing and stowing such goods;
- (b) the quantity of such 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 goods may be placed for shipment;

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- (e) the precautions that shall be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the provisions of the regulations.

Carriage and marking of dangerous goods.

332. (1) No person shall send by or carry in a Guyana ship, except in accordance with regulations made pursuant to section 331, any dangerous goods, save that this section shall not apply to ships' distress signals nor to the carriage of military stores under conditions authorized by the Minister.

(2) No person except the owner or master shall send by or carry in a Guyana ship any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the same in accordance with such regulations as the Minister may make and without first giving written notice of the nature of such goods and of the name and address of the sender thereof to the master or owner of the ship.

(3) This section shall apply to all foreign ships while loading at any place in Guyana as, they apply to Guyana ships.

Offences.

333. A person who contravenes this Part is guilty of an offence and is liable to a fine of fifty thousand dollars and the ship shall be deemed, for the purposes of this Act, to be unsafe by reason of improper loading.

Rejection and disposal of dangerous goods by ship.

334. (1) The master or owner of any ship may refuse to take on board any package or parcel that he suspects might contain any dangerous goods; and may require the package to be opened to ascertain its nature.

(2) When any dangerous goods, or any goods that, in the opinion of the master or owner of the ship, are dangerous goods, have been sent on board any ship without the

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marking or the written notice described in section 332, the master or owner of the ship may cause the goods, together with any package or container thereof, to be thrown overboard; 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.

335. (1) Where any dangerous goods have been sent by or carried in any ship in a manner that would constitute an offence under this Part, a court having admiralty jurisdiction may order the goods, and any packaging or container thereof, to be forfeited.

(2) A court may exercise the powers conferred by subsection (1) notwithstanding -

- (a) that the owner of the goods concerned has not committed any offence in respect of the goods, or is not before the court, or has had no notice of the proceedings; and
- (c) 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 XIII

SEAWORTHINESS OF SHIPS

Unseaworthy ship.

336. In this Part "unseaworthy ship" means a ship that is by reason of the defective condition of its hull, equipment and machinery, or by reason of undermanning, overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which the ship is intended.

Sending ship to sea in unseaworthy state.

337. (1) Any person who sends or attempts to send any Guyana or foreign ship to sea from any port in Guyana in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves either

- (a) that he used all reasonable means to ensure that the ship was sent to sea in a seaworthy state; or
- (b) that sending the ship to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.

(2) Any master of a ship, Guyana or foreign, who knowingly takes such ship to sea from any port in Guyana in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of an offence, unless he proves that taking the ship to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.

Owner's obligation to crew regarding seaworthiness.

338. (1) In every contract of service express or implied, between the owner of a ship and the master or any seaman thereof, or in any instrument of apprenticeship whereby any person is bound to serve on board ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship and the master and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship at the time when the voyage commences and to keep the ship in a seaworthy 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 unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

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Detention of
unseaworthy ship.

339. (1) Where, whether on a complaint or representation made to him or otherwise, the Director or a surveyor has reason to believe that any Guyana ship, or any foreign ship at a port in Guyana, is an unseaworthy ship, he 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 or surveyor is satisfied that the ship is an unseaworthy ship, he may—

- (a) in the case of any ship, cause the ship to be detained; and
- (b) in the case of a Guyana ship, cause its Safety Certificates to be suspended, until he is satisfied that the ship is fit to proceed to sea.

(3) Where the ship is detained pursuant to subsection (2), the Director may adopt any measure or means he thinks suitable, or necessary to prevent the ship from sailing while it is an unseaworthy ship.

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

(5) Where a ship has been dealt with under this section, the ship may be inspected or surveyed by a surveyor or other marine officer to investigate any defect or deficiency believed to exist.

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

(7) The surveyor or any other marine officer acting under this section, shall as soon as practicable after action is completed in connection therewith, forward a full

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report thereof to the Director together with copies of any report made upon inspection or survey.

(8) Any complaint in respect of the seaworthiness of a ship shall be in writing, stating the name and address of the complainant, and shall be given to the owner or master of the ship if action is taken under this section.

Liability for costs and damages.

340. (1) If it appears that there was no reasonable and probable cause, by reason of the condition of a ship or the act or default of the owner thereof, for the detention under this Part of a ship as an unseaworthy ship, the Government shall be liable to pay to the owner of the ship -

- (a) his costs of and incidental to the detention and survey of the ship, and
- (b) compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is detained under this Act, and the ship was at the time of such detention unseaworthy, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable in the same manner as salvage.

Power to require complainant to give security for costs.

341. (1) Where a complaint is made to the Director, a marine officer or a surveyor, that a Guyanese ship is unseaworthy, such officer may require the complainant to give security to the satisfaction of such officer, for any costs and compensation which he may become liable to pay as mentioned in subsection (3).

(2) The security referred to in subsection (1) shall not be required where the complaint relating to a ship -

- (a) is made by one-fourth, being not less than three of the seamen

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- belonging to the ship, and
(b) is not in the opinion of the Director, marine officer or surveyor, as the case may be, frivolous or vexatious,

but in such case the Director, marine officer or surveyor, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint under subsection (1), and the circumstances are such that the Government is liable under section 340 to pay to the owner of the ship any cost or compensation, the complainant shall be liable to pay to the Government all such cost and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

PART XIV

WRECK AND SALVAGE

Wreck

Appointment and powers of receiver of wreck.

342. (1) The Minister shall appoint a receiver of wrecks for Guyana who shall exercise general direction and supervision over all matters relating to wreck and salvage.

(2) Where the receiver is absent, there may be designated by the Minister any person to act as a receiver of wreck in any specified area and to perform the duties of a receiver under this Part.

Fees of receiver.

343. (1) There shall be paid to the receiver the expenses properly incurred by him in the performance of his duties and such fees in respect of such other matters as may be prescribed, and the receiver shall not be entitled to any other remuneration.

(2) The receiver shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to

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in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him and may, if the property in respect of which any such expenses and fees are due is not under arrest in any court, seize or detain the property until his expenses and fees are paid, or until security is given therefor to his satisfaction.

(3) Whenever any dispute arises as to the amount payable to the receiver in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final.

(4) All fees received by the receiver in respect of any services performed by him as such receiver, shall be accounted for to the Government, and shall be applied in defraying any expense duly incurred in carrying this Act into effect and, subject to such application, shall be paid into the Consolidated Fund.

Duty of receiver where ship is in distress.

344. (1) Where any vessel is wrecked, stranded or in distress in Guyana waters or on the shores of Guyana, the receiver shall, upon being made acquainted with the circumstances, forthwith go to such place, and upon his arrival there take command of all persons present, and assign such duties and give such directions, to each person present as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel, and of its cargo and apparel.

(2) The receiver shall not interfere in any matter arising between the master and crew of the vessel concerning the management of the vessel, unless he is requested to do so by the master.

Power of receiver in case of ship in distress.

345. (1) The receiver may, with a view to preserving shipwrecked persons or a vessel, its cargo or apparel —

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

(2) Any person who refuses, without reasonable excuse, to comply with any requisition or demand made under subsection (1) or wilfully impedes or obstructs the receiver or any person acting under his orders in the execution of his duties shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand dollars.

Power of receiver to use force to suppress plunder and disorder.

346. (1) Whenever any vessel is wrecked, stranded or in distress in Guyana waters or on the shores of Guyana, and any person plunders, creates disorder or obstructs the preservation of the ship or of the shipwrecked persons or of the cargo or apparel of the ship, the receiver may cause such person to be apprehended and kept in custody until he can be taken before a magistrate to be dealt with according to the law.

(2) The receiver may use such force as may be necessary for the suppression of any plundering, disorder or obstruction referred to in subsection (1), and may order any person to assist him in so doing.

(3) If any person loses his life or limb or sustains injury by reason of his resisting the receiver or any person acting under the orders of the receiver in the execution of the duties entrusted to the receiver by this Part, neither the receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person losing his life or limb or sustaining any injury.

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Power to pass
over adjoining
lands.

347. (1) When a vessel is wrecked, stranded or in distress, any person may for the purpose of rendering assistance to the vessel, its cargo or apparel, or of saving the life of any person —

- (a) pass and 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 any land in consequence of the exercise of the rights conferred by subsection (1) shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined, and shall, in default of payment, be recoverable, in the same manner as salvage is determined and recovered under this Part.

(3) Any owner or occupier of any land who —

- (a) impedes or hinders any person in the exercise of the rights conferred upon him by this section, whether by locking his gates or refusing upon request to open such gates, or otherwise;
- (b) impedes or hinders the deposit of any cargo or other articles recovered from a vessel as aforesaid, on the land; or

- (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,

shall be guilty of an offence and upon conviction be liable to a fine not exceeding ten thousand dollars.

Duties of person
who finds wreck.

348. (1) Where any person finds or takes possession of any wreck within Guyana, or where any wreck found or taken possession of outside Guyana is brought within Guyana, the person finding such wreck and taking possession thereof shall -

- (a) if he is the owner thereof, give notice to the receiver, stating that he has found or taken possession of such wreck and describing the marks by which the wreck may be recognized; or
- (b) if he is not the owner thereof, as soon as possible deliver the wreck to the receiver.

(2) The Minister may dispense with a delivery required under subsection (1) in the case of any wreck upon such condition as he thinks fit.

(3) Any person who fails, without reasonable cause, to comply with provisions of subsection (1) relating to any wreck shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand dollars, and in addition shall, if he is not the owner thereof -

- (a) forfeit any claim to salvage in respect thereof;
- (b) be liable to pay to the owner of the wreck if it is claimed, or if it is unclaimed to the person entitled thereto, double the value

of the wreck, to be recovered in the same way as a fine of like amount under this Act.

Penalty for taking wreck at the time of casualty.

349. (1) Where a vessel is wrecked, or in distress in Guyana waters or on the shores of Guyana, any cargo or other articles belonging to or separated from the vessel which are washed ashore or otherwise lost or taken from the vessel shall be delivered to the receiver.

(2) Any person whether or not the owner of any cargo or article referred to in the preceding subsection, who conceals or keeps possession of any such cargo or article or refuses to deliver any such cargo or article to the receiver or any person authorized by the receiver to demand such cargo or article, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty thousand dollars.

(3) The receiver or any person authorized by him to demand the delivery to him of any cargo or article referred to in subsection (1) may take such cargo or article by force from any person refusing to deliver it to him.

Notice of wreck to be given by receiver.

350. Where the receiver takes possession of any wreck, he shall within forty-eight hours—

- (a) cause to be posted at the nearest police station, and otherwise published in such manner as he may deem fit, a description of the wreck and of any marks by which it is distinguished; and
- (b) if in his opinion the value of the wreck exceeds ten thousand dollars, send a copy of such description to the Director.

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Delivery of wreck to owner.

351. (1) The owner of any wreck in the possession of the receiver upon establishing his 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, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any wreck or other articles belonging to or forming part of a foreign vessel which has been wrecked in Guyana waters or on the shores of Guyana, or belonging to and forming part of the cargo thereof, is found on or near the shores of Guyana or is brought into any port in Guyana, 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 deemed 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 wreck by receiver in certain cases.

352. (1) The receiver may at any time sell any wreck in his custody, if in his opinion -

- (a) it is under the value of fifty thousand dollars;
- (b) it is so damaged or of so perishable a nature that it cannot with advantage be kept;
- (c) it is not of sufficient value to pay for storage; or
- (d) it 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 thereof, be held by the receiver for the same purposes, and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

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Wrecked goods
subject to duties.

353. (1) All wreck, being foreign goods brought or coming into Guyana, shall be subject to the same duties as those to which such goods would be subject if they were imported into Guyana.

(2) If any question arises as to the origin of any goods referred to in subsection (1), they shall be deemed to be the produce of such country as the Comptroller of Customs may on investigation determine.

(3) The Comptroller of Customs shall permit -

- (a) all goods, wares or merchandise saved from any ship stranded or wrecked on her homeward 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 outward voyage to be returned to the port at which they were shipped, but the Comptroller of Customs shall take security for the due protection of the Consolidated Fund in respect of those goods.

Right to unclaimed
wreck.

354. (1) The Government of Guyana is entitled to all unclaimed wreck found within any part of Guyana or found or taken possession of outside Guyana and brought within Guyana, except in any place where the Government has granted to any person the right to any such wreck.

(2) Where no owner establishes a claim to any wreck which -

- (a) has been found in Guyana or found or taken possession of outside Guyana and brought into Guyana; and

- (b) has been in the possession of the receiver of wrecks for six months,

the receiver shall sell such wreck and pay to the Government the proceeds thereof after deducting therefrom the expenses of the sale, the fees payable to him and such amount of salvage payable to salvors as the Minister in each case may determine.

Delivery of unclaimed wreck by receiver not to prejudice title.

355. Upon delivery of any wreck or payment of the proceeds of sale of any wreck by the receiver of wreck 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 to the wreck.

Removal of wreck by port, harbour or other authority.

356. Where any vessel is sunk, stranded, wrecked or abandoned in any port or harbour, or in any approaches thereto, in such manner as in the opinion of the Director, to be likely to be an obstruction or danger to navigation or to life boats engaged in life boat service in that harbour or port or in any approach thereto, the Department may —

- (a) take possession of, and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy the vessel or part of such vessel until the raising, removal or destruction thereof;
- (c) subject to subsections (2) and (3), sell in such manner as it thinks fit the vessel or the part thereof 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 thereto:

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Provided, however, that such surplus shall be paid into the Consolidated Fund unless such persons establish a claim thereto 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 in the Gazette or by advertisement in a local newspaper.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have such property delivered to him on payment to the Department of the fair market value thereof; and such value shall be ascertained by agreement between the Director and such owner or, failing such agreement, by some person to be named for the purpose by the Director.

(4) If the proceeds of sale of any property sold under this section are less than the costs incurred by the Department the Department may recover such difference from the owner of the vessel concerned by civil action.

Breaking and
removal of wrecks.

357. (1) If any person, being the owner of any vessel or any wrecked, submerged, sunken or stranded vessel or being the agent or servant of such owner, wishes to break up such vessel prior to the removal thereof from Guyana, such person shall before commencing salvage or breaking up operations, obtain the written permission of the receiver.

(2) On receiving any application for permission to break up any vessel under this section, the receiver may grant such permission and may, in granting such permission -

(a) stipulate such conditions as he considers necessary to minimise the risks, or effects of any pollution; and

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- (b) require security in such reasonable amount as he may consider necessary to ensure the safe and effective removal of such vessel or any portion thereof.

(3) Any person who, without the previous written permission of the receiver, does or causes to be done any salvage or breaking up operations on any vessel or any wrecked, submerged, sunken or stranded vessel lying within Guyana, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty thousand dollars, and to imprisonment for a term not exceeding one year.

Extent of power of removal of wreck.

358. The provisions of this Part relating to the removal of wrecks shall apply to every article or thing being or forming part of the tackle, cargo, stores or ballast of a vessel.

Taking wreck to a foreign port.

359. Any person who takes into any foreign port and sells there any vessel, whether stranded, derelict or otherwise in distress, found in Guyana, or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found in Guyana, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty thousand dollars and to imprisonment of a term not exceeding three years.

Unauthorized boarding of wreck.

360. (1) A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress, unless he acts under the authority of the receiver or a person lawfully acting as such.

(2) Any person who contravenes subsection (1) may be removed by the master of the vessel, if necessary by force, and shall also be guilty of an offence and on conviction thereof shall be liable to a fine

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not exceeding five thousand dollars.

(3) Where a person refuses to allow any person duly authorized by the receiver to board any wreck, he is guilty of an offence and is liable to a fine of five thousand dollars.

Interfering with wreck, etc.

361. (1) A person shall not -

- (a) impede or hinder or endeavour 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) conceal any wreck or deface or obliterate any marks thereon; or
- (c) wrongfully carry away or remove 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.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and on conviction there- / shall be liable to a fine not exceeding ten thousand dollars.

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Summary procedure for concealment of wreck.

362. Where the receiver suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to a Magistrate for a search warrant under this section.

Salvage

Interpretation.

363. For the purpose of sections 364 to 397- 'damage to the environment' means a substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major 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 this Part;

"salvor" means any 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;

"salvage services" means services rendered in direct connection with salvage operations;

"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.

Non-application to 364. Sections 363 to 397 shall not apply to platforms and drilling units. fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Non-application to 365. (1) Sections 363 to 397 shall not apply to foreign state-owned vessel. 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 recognized principles of international law unless that State has decided to apply the Convention to such ships or vessels.

Salvage

(2) For the purposes of any proceedings 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 subsection (1) and the terms and conditions of such application, shall be prima facie evidence of the facts stated therein.

Life Salvage.

366. (1) Where services are rendered -

- (a) wholly or in part in Guyana waters in saving life from any vessel or aircraft; or
- (b) outside Guyana waters, in saving life from any Guyana vessel,

the owner of the vessel, aircraft, cargo or apparel 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) Under no circumstances shall salvage be due from a person whose life has been saved.

Salvage of cargo.

367. (1) Where any vessel or aircraft is wrecked, stranded or in distress in Guyana waters or on the shores of Guyana and services are rendered -

- (a) by any person assisting the vessel or aircraft or saving the cargo or apparel of the vessel or any part thereof;
- (b) by any person other than the receiver in saving any wreck,

the owner of the vessel, aircraft, cargo, apparel or wreck shall pay to the salvor, a reasonable amount of salvage, to be determined in the manner set out in this Part.

(2) A salvor of human life, who has participated in services rendered in the event of a maritime casualty giving rise to salvage shall be entitled to an appropriate share of the remuneration awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

Services excluded from salvage remuneration.

368. Nothing in this Part shall entitle any 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 aircraft or by 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 or aircraft which she is towing or the cargo thereof, except where such services are of an exceptional character such as are outside the scope of the contract of towage;
- (c) if he has caused the distress giving rise to the salvage, either intentionally or through negligence;
- (d) if and to such extent as it appears that he has concealed or unlawfully disposed of any property salvaged.

Conditions for salvage remuneration.

369. (1) Except as otherwise provided in section 378 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, or aircraft performing the salvage operation and the vessel, aircraft, cargo or other property salvaged belong to the same owner.

Salvage contracts. 370. (1) Sections 363 to 397 shall apply to any salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Guyanese 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 Guyanese vessel shall have the authority to conclude contracts on behalf of the owner of property on board the vessel.

(3) Nothing in this section shall affect the application of Section 371 or the duties to prevent or minimize damage to the environment provided in paragraph (b) of section 372 and paragraph (b) of section 373.

Annulment or modification of contracts. 371. Any contract relating to salvage 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 the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is too large or too small for the services actually rendered.

Duties of Salvor. 372. The salvor shall owe a duty to the owner of the vessel or other property in danger to—

- (a) carry out the salvage operation with due care;
- (b) exercise due care to prevent or minimize 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 of other property in danger provided that the amount of his reward shall not be prejudiced where he proves that such a request was unreasonable.

Duties of owner and master.

373. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—

- (a) to co-operate fully with him during the course of the salvage operations;
- (b) in performing the duty specified in paragraph (a) to exercise due care to prevent or minimize 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 Director.

374. (1) The Director may—

- (a) give directions in relation to any salvage operation; and
- (b) take measures in accordance with generally recognized principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.

(2) The Director shall, in giving directions and taking measures under subsection (1) take into account the need for co-operation between salvors, other interested parties and the Department in

order to ensure the efficient and 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) Any public officer or other person acting under directions of the Director as referred to in this section shall be under a duty to exercise due care in preventing or minimizing damage to the environment.

(4) Any public authority or an 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) the procurement and provision of facilities to salvors;
- (b) the admittance to the port of vessels in distress;
- (c) ensuring the efficient and successful performance of the salvage operation for the purpose of salvaging life or property; and
- (d) preventing or minimizing damage to the environment.

Criteria for fixing salvage reward.

375. Salvage 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 vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
- (c) the measure of success achieved by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and the expenses and

Recission of
Salvage agreement

388. Every agreement relating to salvage entered into urgently and under threat of danger may, at the request of either party thereto, be annulled or modified by the High Court where the Court considers that the terms and conditions of such agreement are not reasonable.

Appeal in cases of
salvage dispute.

389. Where a dispute relating to salvage has been determined by a Court or other tribunal, any party aggrieved by the decision may appeal therefrom, in like manner as in the case of any other judgement.

Valuation of
property salvaged.

390. (1) Where any dispute relating to salvage arises, the Director may, on the 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) Any copy of a valuation made under subsection (1) purporting to be signed by the valuer and certified as a true copy shall be admissible in evidence in any subsequent proceedings.

(3) Such fee as the Director may direct, shall be paid in respect of any valuation made under this section by the person applying for such valuation.

Detention of
property liable to
salvage by receiver.

391. (1) Where salvage is due to any person under this Act, the receiver shall -

- (a) where the salvage is due in respect of services rendered in assisting any vessel or aircraft or in saving life therefrom or in saving the cargo or apparel thereof, detain the vessel, aircraft, cargo or apparel; and
- (b) where the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Except as hereinafter provided, the receiver shall detain the vessel or aircraft and the 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) The receiver may release any vessel, aircraft, cargo, apparel or wreck detained under this section, where security is given to his satisfaction, or to the satisfaction of a Judge of the High Court where the claim for salvage exceeds fifty thousand dollars, and any question is raised as to the sufficiency of the security.

(4) Any security given for salvage in pursuance of this section to an amount exceeding fifty thousand dollars may be enforced by a competent court in the same manner as if bail had been granted in that court.

Sale of detained property.

392. (1) The receiver may sell any vessel, aircraft, cargo, apparel or wreck detained by him under section 391, when the person liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following circumstances

- (a) where the amount is not disputed and payment of the amount due is not made within twenty days after it has become due;
- (b) where the amount is disputed but no appeal lies from the decision of the court to which the dispute was referred, and payment is not made within twenty days after the decision of the court;
- (c) where the amount is disputed and an appeal lies from the decision of the court to which the dispute is referred, and within thirty days after the decision of the court no payment of the sum is made or proceedings are not commenced for the purpose of appeal or of obtaining leave to appeal.

(2) The proceeds of sale of any vessel, aircraft, cargo, apparel or wreck shall, after deduction of the costs of the sale, be applied by the receiver in payment of the costs of salvage and the balance of the proceeds shall be paid to the owners of the property, or any other person entitled thereto or in the absence of any such owners or person, to the Consolidated Fund.

Apportionment of small amounts of salvage.

393. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Guyana has been finally determined either by a Magistrate in the manner provided by this Part or by agreement, and does not exceed fifty thousand dollars, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to the receiver for permission to pay such amount to the receiver.

(2) The receiver may, where he considers appropriate, receive the amount referred to in subsection (1) and shall grant to the person paying the amount a certificate stating the amount paid and the services in respect of which it is paid.

(3) A certificate granted under subsection (2) in respect of any amount shall be a full discharge and indemnity to the person by whom the amount is paid and to his vessel, aircraft, cargo, apparel and effects, against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(4) The receiver shall, promptly distribute any amount received by him under this section among the persons entitled thereto in such shares and proportions as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(5) A distribution of any amount, made by the receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any

portion of the amount distributed.

Apportionment of salvage by High Court.

394. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Guyana has been finally ascertained and exceeds fifty thousand dollars, and whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Guyana has been finally ascertained whatever that amount may be, then, if any delay or dispute arises as to the apportionment thereof, the High Court—

- (a) may cause such amount 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 any person to carry that apportionment into effect;
- (b) may compel any person in whose hands or under whose control the amount may be to distribute such amount or to bring it into Court to be dealt with as the Court directs; and

for the purposes aforesaid issue such process as it thinks fit.

Salvor's right to interest.

395. A salvor shall be entitled to be paid interest on any payment due to him under this Part, and the amount of such interest shall be at the discretion of the Court or person adjudicating the case.

Application to the Government.

396. (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 those services to the same extent, and shall have the same rights and remedies as any other salvor.

(2) Subject to the provisions of any law for the time being in force 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 salvage services rendered in assisting any ship or aircraft of the Government, or in saving life therefrom, or in saving any cargo or equipment belonging to the Government, in the same manner as if the ship or aircraft or cargo or equipment belonged to a private person.

(3) No claim shall, by virtue of this section, lie against the Government in respect of anything done or suffered in relation to any postal article.

(4) The Minister may make regulations providing for the application or modification of the provisions of this Part to ships and aircraft referred to in subsection (1), and in relation to the services referred to in subsection (2).

Time limit for salvage proceedings.

397. (1) No action shall be instituted in respect of any salvage services unless proceedings therein are commenced within two years after the date when the salvage services were rendered; but the court may extend any such period to such extent and on such conditions as it considers fit.

(2) 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 extent and on such conditions as it considers fit.

PART XV

PASSENGER SHIPS

Power of the Minister to make regulations respecting passengers ships.

398. (1) The Minister may make regulations -

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

(2) In making regulations pursuant to subsection (1), the Minister shall have due regard to the International Convention on the Carriage of Passengers and their luggage on Board Ships, 1974.

(3) The Minister may waive or vary the regulations referred to in subsection (1) in respect of their application to licensed Guyana passenger ships operating solely within Guyana waters.

Offences in connection with passenger ships.

399. (1) Any person on board or attempting to board a passenger ship in Guyana is guilty of an offence who -

- (a) on account of being drunk and disorderly is, either refused admission to a passenger ship or where he is already on board, is requested by the owner or any person in his employ to leave the ship, and after having the amount of any fare paid by him returned or tendered to him, nevertheless persists in attempting to enter the ship, or where he is already on board, does not leave the ship;
- (b) after warning by the master or other officer of the ship, molests or continues to molest any passenger;

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- (c) on account of the ship being full, is either refused admission to a passenger ship, or where he is already on board, is requested by the owner or any person in his employ to leave the ship, and after having the amount of any fare paid by him returned or tendered to him, nevertheless persists in attempting to enter the ship, or where he is already on board, does not leave the ship;
- (d) travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;
- (e) having paid his fare for a certain distance, knowingly and wilfully proceeds in the ship beyond that distance without first paying the additional fare for the additional distance, intending to avoid payment thereof;
- (f) on arriving in a ship at a point to which he has paid his fare, knowingly refuses or neglects to leave the ship;
- (g) fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipts showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship; or
- (h) wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship, or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

(2) A person who is guilty of an offence under this section is liable to a fine of ten thousand dollars and to imprisonment for three months.

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PART XVI
LIMITATION AND DIVISION OF
LIABILITY

Interpretation.

400. For the purposes of this Part -

"ship" includes every description of lighter, barge or like vessel; however propelled and any structure launched and intended for use in navigation as a ship or as a part of a ship; and

"shipowner" includes charterer, manager or operator of a ship;

"salvage services" means services rendered in direct connection with salvage operations;

"salvor" means any person rendering salvage services;

"salvage operation" includes the operations referred to in section 402(1)(d), (e) and (f);

"unit of account" means the special drawing right as defined in the Articles of Agreement of the International Monetary Fund, being the First Schedule to the International Financial Organisations Act.

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Persons entitled to limit liability. 401. (1) Shipowners and salvors may limit their liabilities 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 liability under this Part.

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Claims subject to
limitation.

402. (1) Subject to sections 403 and 404, 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 their 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;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Part, and further loss caused by such measures.

(2) The claims referred to in subsection (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, so however that, the claims

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referred to in paragraphs (d), (e) and (f) of subsection (1) shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

Liability against ships and invoking limitation not an admission of liability.

403. For the purposes of this Part, the liability of a shipowner shall include liability in an action against his ship, and the act of invoking limitation shall not constitute an admission of liability.

Claims excepted from limitation.

404. Limitation of liability under this Part shall not apply to the following claims --

- (a) claims for salvage or contribution in general average;
- (b) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is under such contract only permitted to limit his liability to an amount greater than that provided for in section 407;
- (c) claims in respect of air-cushioned vehicles and floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the sub-soil thereof.

Conduct barring limitation.

405. A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

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Counter-claims.

406. 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.

407. The limits of liability for claims other than those provided for in section 408, arising on any distinct occasion, shall be calculated as follows —

(a) in respect of claims for loss of life or personal injury —

- (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons;
- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in subparagraph (i) —

- (A) for each ton from 501 to 3,000 tons, 500 Units of Account;
- (B) for each ton from 3,001 tons, 333 Units of Account;
- (C) for each ton from 3,002 to 70,000 tons, 250 Units of Account; and
- (D) for each ton in excess of 70,000 tons, 167 Units of Account;

(b) in respect of any other claims —

- (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons;
- (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in subparagraph (i) —

- (A) for each ton from 501 to 30,000 tons, 167 Units of Account;
- (B) for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
- (C) for each ton in excess of 70,000 tons, 83 Units of Account.

Priorities.

408. (1) Where the amount calculated in accordance with paragraph (a) of section 407 is sufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph (b) of section 407 shall be available for payment of the unpaid balance of claims under paragraph (a) of section 407 and such unpaid balance shall rank rateably with claims mentioned under paragraph (b) of section 407.

(2) Without prejudice to the right of claim for loss of life or personal injury referred to in paragraph (a) of section 407, claims referred to in section 410 shall have priority over the claims referred to in paragraph (b) of section 407.

(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 is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

Measurement of ship's tonnage.

409. For the purposes of this Part, a ship's tonnage shall be her gross tonnage as defined in the Tonnage Regulations, and shall be measured in accordance with the said Regulations.

Limitation of liability of port authorities and owners of docks.

410. (1) Where the owners of a dock or canal or any harbour or port authority may be liable for any loss or damage caused to any vessel or vessels or to any goods, merchandise or other things whatsoever on

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board any vessel or vessels, such owners shall not be liable to damage beyond any aggregate amount equivalent to 70 units of account for each ton of the tonnage of the largest Guyanese 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 exercises 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 duty or exercises any power by reason only that it has been built or fitted out within such area or that it has taken shelter within or passed through such area on a voyage between two places both situated outside that area or that it has loaded or unloaded cargo or passengers within that area.

(3) The limitation of liability under this section shall relate to the whole of any loss or 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 purposes of this section, the expression "owner of a dock or canal" includes any person or authority having the control and management of any dock or canal and any ship repairer using the same, as the case may be.

(5) Nothing in this section shall impose any liability in respect of any loss or damage on any such owners or authority in any case where no such liability would have existed if this Act had not been enacted.

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Limit for
passenger claims.

411. (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 46,666 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate, but not exceeding 25 million Units of Account.

(2) For the purpose of this section "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship—

- (a) under a contract of passenger carriage;
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods;

Conversion of
unit of account to
Guyana funds.

412. The amounts referred to in sections 407 and 411 shall be converted into Guyana dollars according to the value of the Guyana dollar on the date the security or guarantee referred to in section 414 shall have been deposited.

Aggregation of
claims.

413. (1) The limits of liability determined in accordance with section 407 shall apply to the aggregate of all claims which arises on any distinct occasion—

- (a) against the shipowner and any person for whose act, neglect or default he may be responsible; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(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 any Guyanese load line ship who fails to comply with the provisions of this section is guilty of an offence and is liable to a fine of ten thousand dollars.

326. (1) A surveyor of ships or other marine officer may board any ship when such ship is within Guyanese waters 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 powers of inspecting the ship with respect to load lines shall be limited to ensuring—

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that the markings of the load line on the ship correspond with those specified in the certificate;
- (c) that no material alterations have taken place in the hull or superstructure of the ship which affect the markings of the load lines; ..

Inspection of
ships regarding
Load Lines.

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- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

(2) The limits of liability determined in accordance with section 411 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the shipowner in respect of the ship referred to in section 411 and any person for whose act, neglect or default he may be responsible.

Provision of security and release of ship.

414. (1) Any person alleged to be liable and seeking to limit his liability under this Part shall deposit into the High Court an amount at least equivalent to the limit provided for in section 407 or section 411 as appropriate, in the form of a security or 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, and the amounts so constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(2) A security or guarantee deposited by one of the persons mentioned in paragraphs (a), (b) or (c) of subsection (1) of section 413, or subsection (2) of the said section, or his insurer, shall be deemed to have been deposited by all persons mentioned in paragraphs (a), (b) or (c) of subsection (1) of section 413 or subsection (2) of the said section, respectively.

Distribution of the funds.

415. (1) Subject to sections 407, 408 and 411, the proceeds of any security or guarantee deposited with the Court shall be distributed among the claimants in proportion to their established claims.

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(2) The Court may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to the exclusion of any claimants who do not come in within a certain time and 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 or on account of any loss or damage in respect whereof the liability of 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 the use thereof.

(5) If, before the proceeds of the security or guarantee are distributed, the person liable, or his insurer, has settled the claim, such person shall, up to the amount he has paid acquire by subrogation the rights which the person so compensated would have enjoyed under this Part.

(6) In making any 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 deems appropriate having regard to any claims subrogated or otherwise that may be established later.

Bar to other actions.

416. (1) Where a security or guarantee has been deposited with the Court in accordance with section 414, any 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

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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 property if the security or guarantee has been deposited in Guyana or -

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (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,

but 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.

(3) Subsections (1) and (2) shall apply only if the claimant brings a claim before the Court and the security or guarantee deposited with the Court is actually available and freely transferable in respect of that claim.

Rule as to
division of loss.

417. Where, by the fault of two or more vessels, damage or loss is caused to one or more of them, or to their cargo or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree to which each vessel was at fault:

Provided that -

- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- (b) nothing in this section shall -
 - (i) operate so as to render any vessel liable for any loss or damage to which

- (ii) her fault has not contributed; affect the liability of any person under a contract of carriage, or any other contract; or
- (iii) be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

Damages for personal injury.

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

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

Definition of "freight".

419. In sections 419 to 421 "freight" includes passage money and hire; and references to damage 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.

420. (1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds

the proportion in which she was at fault, such owners may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively at fault; but no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from liability, or which could not, for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

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

Limitation of actions.

421. (1) Subject to this section, no action shall be maintainable to enforce any claim or lien against a ship or her owners in respect of any damage or loss to another ship, her cargo or freight, or any property on board, or in respect of any damages of loss of life or personal injury suffered by any person on board that other ship, caused by the fault of the former ship, whether such other ship be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injury unless proceedings therein are commenced within one year from the date of payment.

(2) Any 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 waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

PART XVII

COURT OF SURVEY

Constitution of
Court of Survey.

422. (1) A Court of Survey for a port shall consist of a Judge of the High Court nominated for the matter by the Chief Justice sitting with two assessors.

(2) The assessors shall be persons of nautical, engineering or other special skill and experience, one of whom shall be appointed by the Minister, or in the case of a foreign ship by the consular officer at or near the port; and the other shall be appointed by the Judge of the Court.

Power and
procedure of
Court of Survey.

423. (1) The Court of Survey shall have power and the duty to entertain such matters as are referred to it under section 279.

(2) The following provisions shall have effect in relation to the proceedings of a Court of Survey concerning any ship -

- (a) the case shall be heard in open Court;
- (b) the Judge, each assessor, and any person appointed by the Judge may survey the ship and may go on board the ship and inspect the ship and every part thereof and the machinery, equipment and cargo, and may require the unloading and removal of any cargo, ballast or tackle, and shall for such purpose have all the powers of a surveyor under this Act.

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- (c) the Court may order the ship to be surveyed and may appoint any competent person or persons to survey the ship and report thereon to the Court;
- (d) the Judge shall have the same power as the Director has, to order the ship to be released or detained; and
- (e) the owner or the master of the ship, and any person appointed by the owner or master, may attend at any inspection or survey made under this section.

(2) The Court may make such order with respect to the costs of any inquiry or investigation under this Act as it may think fit, and such costs shall be recoverable in the same manner as a civil debt.

(3) Any person who wilfully impedes the Judge of the Court of Survey or any assessor or other person who acts in the execution of any survey under this section, or any person who fails to comply with any requisition made by such Judge, assessor or other person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand dollars.

Report of the
Court of Survey.

424. The Judge of a Court of Survey shall send to the Minister such report as is directed by rules made under section 425, and each assessor shall sign such report, or if he refuses to sign such report he shall state the reasons therefor.

Rules of
procedure.

425. Rules of Court may be made in the manner provided by the law relating to the Courts and their procedure to carry into effect the provisions of this Act relating to Court of Survey and, without prejudice to the generality of such powers, such rules may be made with respect to the summoning of and procedure before the Court, the form and sending of reports to the Minister, the requiring, on an appeal, of security for costs and damages, and the amount of fees.

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Expert witnesses. 426. The Judge of the Court may at any time during a hearing permit or summon an expert witness to give an expert opinion based on his special knowledge, skill, experience or training in respect of construction or design or of a scientific difficulty or important principle.

PART XVIII

INQUIRIES AND INVESTIGATIONS INTO

MARINE CASUALTIES

Investigations of shipping casualties. 427. (1) Where any of the following casualties occur, that is to say -

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

and, at the time it occurs, the ship was a Guyana ship or the ship or ship's boat was in Guyana waters the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Minister and with the assistance of one or more assessors being masters of Guyana ships or persons with special skills and knowledge in maritime matters.

(2) Whether or not a preliminary inquiry into the casualty has been held under subsection (1), the Minister may cause a formal investigation to be held by a Board appointed for that purpose.

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Preliminary inquiry.

428. (1) For the purposes of a preliminary inquiry under section 427, the person holding the inquiry has all the following powers, namely -

- (a) he may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on boats, equipments or articles on board thereof to which this Act applies, without unnecessarily detaining or delaying it from proceeding on any voyage;
- (b) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make.

Formal investigation.

429. (1) A Board holding a formal investigation into a shipping casualty under section 427 shall consist of not more than three nor less than two members, of whom one shall be a Judge of the High Court or a Magistrate who shall be the Chairman of the Board and the others shall be assessors, being masters of Guyana ships or such other persons possessing nautical, engineering or other special skills and knowledge, as the Director may appoint:

Provided that where in any investigation any question as to the cancellation or suspension of the certificate issued to an officer in pursuance of any regulations made under section 105, is likely to arise, the Court shall include two assessors.

(2) For the purposes of this section a Board holding a formal investigation shall have all the powers of a Magistrate's Court.

(3) If as a result of a formal investigation the Board is satisfied that an officer -

- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
- (b) has been seriously negligent in the discharge of his duties; or
- (c) has failed to comply with section 229,

it may cancel or suspend any certificate issued to the officer in pursuance of any regulation made under section 105 or censure him.

(4) If the Board cancels or suspends any certificate of an officer referred to in subsection (3) the officer shall deliver such certificate forthwith to the Board or to the Director, and if he fails without reasonable cause to do so he shall be liable on conviction to a fine not exceeding twenty-five thousand dollars

(5) The Board may make such order with regard to the costs of the investigation as it thinks fit, and such order shall be enforced by the Board in the manner provided for levying a fine by a Magistrate's Court.

(6) The Board shall make a report on the case to the Director.

Rehearings and appeals.

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

- (a) if new and important evidence which could not have been produced at the inquiry or investigation has been discovered; or

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(b) if it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under sub section (1) may provide for the rehearing to be made by the persons who held the inquiry or investigation or by the High Court.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 431, and section 429, shall apply in relation to a rehearing of an investigation by a Board as it applies in relation to the holding of an investigation.

(4) Where the person or Board holding the inquiry or investigation has decided to cancel or suspend the certificate of any person issued pursuant to any regulations made under section 105 or has found any person at fault, then if no application for an order under subsection (1) has been made, or if such application has been refused, that person or any other person who, having an interest in the inquiry or investigation has appeared at the hearing and is affected by the decision or finding, may appeal to the High Court.

Rules relating to inquiries and investigations.

431. The Minister may make rules for the conduct of inquiries under section 427, for formal investigations under section 429 and for the conduct of any rehearing under section 430.

Power to restore certificate.

432. Where a certificate issued in pursuance of any regulations made under section 105 has been cancelled or suspended whether under this Part or under any regulations made under this Act, the Minister may, if he is of opinion that the justice of the case so requires -

(a) re-issue the certificate or, as the case may be, reduce the period of suspension and return the

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- certificate; or
- (b) grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

PART XIX

LEGAL PROCEEDINGS

Jurisdiction

Provision as to jurisdiction over offences.

433. For the purposes of determining jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either -

- (a) in the place in which such offence or cause of complaint was committed or arose; or
- (b) in any place in which the alleged offender or person complained against may be.

Jurisdiction over ships lying off the coast.

434. Where any area over which any court has jurisdiction under this Act or any other Act or law for any purpose whatsoever is situated on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such court shall have jurisdiction -

- (a) over any ship whether a Guyana or a foreign ship, being on or lying or passing off that coast or being in or near that bay, channel, lake, river or navigable water; and
- (b) over all persons on board such ship or for the time being belonging thereto,

in the same manner as if such ship or person were within the limits of the ordinary jurisdiction of the court.

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Jurisdiction in
case of offences on
board ship.

435. Where any person -

- (a) being a citizen of Guyana, is charged with having committed any offence -
 - (i) on board a Guyana ship on the high seas; or
 - (ii) on board a Guyana ship in a foreign port or harbour; or
 - (iii) on board any foreign ship to which he does not belong; or
- (b) not being a citizen of Guyana, is charged with having committed any offence on board any Guyana ship on the high seas,

and that person is found within the jurisdiction of any court in Guyana which would have had cognizance of the offence if it had been committed on board a Guyana ship within the limits of its ordinary jurisdiction, that court shall have power to try the offence as if it had been so committed.

Jurisdiction in
collision and
other cases.

436. (1) No Court in Guyana shall entertain an action in personam to enforce a claim to which this section applies unless -

- (a) the defendant has his habitual residence or a place of business within Guyana;
- (b) the cause of action arose within the waters of Guyana or within the limits of a harbour or port of Guyana; or
- (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.

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(2) No court in Guyana shall 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 Guyana against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.

(3) Subsections (1) to (3) inclusive shall apply to counterclaims, not being counterclaims 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 on the counterclaim and a reference to the defendant is a reference to the defendant to the counterclaim.

(4) Subsections (1) to (4) inclusive shall not apply to any action or counterclaim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.

(5) Subject to subsection (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 subsection (1) is satisfied; and the rules of the court relating to the service of process outside the jurisdiction shall make provision for such service having regard to this subsection.

(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; or
- (b) affect proceedings in respect of any cause of action arising before the coming into operation of this section.

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(7) The claims to which this section applies are claims for damage, loss of life or personal injury arising out of a collision between ships, or out of the carrying out of or omission to carry out a manoeuvre or 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.

437. In any case in which an action may be brought against any ship, other than actions arising from claims to the possession or ownership of a ship or to the ownership of any share therein, or any claim in respect of a mortgage or charge on a ship or any share therein, where the person who would be liable on the claim in an 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 it is beneficially owned as respect all the shares therein by that person; or
- (b) any other ship which, at the time when the action is brought, is beneficially owned as aforesaid,

but in determining whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within Guyana.

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Jurisdiction as to
unsatisfied
mortgages.

438. Where the registration of a ship is considered to be closed on account of a transfer to persons not qualified to own a Guyan^a ship, any unsatisfied mortgage may, where the ship comes within the jurisdiction of any court in Guyana which has such jurisdiction to enforce the mortgage, or would have had such jurisdiction if the transfer had not been made, be enforced by that court notwithstanding the transfer, without prejudice, in cases where the ship has been sold under a judgement of a court to the effect of that judgement.

Detention and Distress on Ship for Damage

Caused

Power to detain
foreign ship.

439. (1) Where -

- (a) any injury or damage has in any part of the world been caused to any property belonging to the Government, a citizen of Guyana or a body corporate resident in Guyana by any foreign ship; or
- (b) a claim is made for damages by or on behalf of any citizen of Guyana 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 Guyana, a Judge of the High 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 any person named in the order.

(2) An order under this section shall be addressed to any marine officer or such other officer as may be named by the Judge in such order, and shall require that officer to detain the ship named or identified therein,

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until such time as the owner, master or consignee thereof -

- (a) has made satisfaction in respect of the injury referred to in subsection (1); or
- (b) has given security to be approved by the Judge, to abide the event of any action, suit or other legal proceeding that may be instituted in respect of such injury and to pay all costs and damages that may be awarded,

and the officer to whom such order is addressed shall detain the ship accordingly.

(3) Where it appears that, before an application can be made under subsection (1), the ship in respect of which the application is made will depart from Guyana, such ship may be detained so as to allow the application to be made and the result thereof to be communicated to the officer detaining the ship; and that officer shall not be liable for any costs or damages in respect of the detention, unless the detention is proved to have been made without reasonable grounds.

(4) In any legal proceedings relating to any injury referred to in subsection (1), the person giving security shall be made defendant and shall be stated to be the owner of the ship that has caused the injury.

(5) The production of an order of a Judge, made in relation to any security referred to in this section, shall be conclusive evidence of the liability of the defendant to the proceedings.

Enforcing
detention of ship.

440. (1) Where under this Act or any other law in force in Guyana a ship is to be detained, an authorized officer as defined in **Subsection** (5) may detain the ship.

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(2) If, after the detention of a ship or after service on the master of a ship of any notice or order for the detention of the ship, such ship goes to sea before it is released by the competent authority -

- (a) the master of the ship; and
- (b) the owner and any person who sends the ship to sea, if that owner or person is party or privy to the offence,

shall each be guilty of an offence and on conviction thereof be liable to a fine not exceeding twenty-five thousand dollars.

(3) If a ship goes to sea when any authorized officer is on board thereof in the execution of his duties, the owner and master of the ship shall each be liable -

- (a) to pay all expenses arising out of such officer, being so taken to sea, and
- (b) on conviction, to a fine of ten thousand dollars for every day until such officer returns, or until such time in which he would be able after leaving the ship to return to the port from which he is taken,

and any expenses ordered to be paid are recoverable in like manner as the fine.

(4) Any person who opposes or in any way obstructs any authorized officer, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding twenty-five thousand dollars.

(5) In this section "authorized officer" means the Director, a marine officer, an officer of customs, or any person specially or generally authorized by the Director to detain a ship.

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Distress on ship. 441. Where any court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if -

- (a) the party directed to make such payment is the master or owner of a ship; and
- (b) such wages, fine or sum is not paid at the time in the manner prescribed in the order,

the court which made the order may, in addition to any other powers which it has for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Inquiries into deaths of crew members and others. 442. (1) Subject to subsection (4), where-

- (a) any person dies in a Guyana ship; or
- (b) the master or a seaman employed in such a ship dies in a country outside Guyana,

an inquiry into the cause of death shall be held by the marine officer or the proper officer at the next port where the ship calls after the death and where there is a marine officer or proper officer, or at such other port as the Director may direct.

(2) The marine officer or proper officer holding an inquiry under subsection (1) shall for the purposes of the inquiry have the powers of a person making a preliminary enquiry under section 428.

(3) The officer holding the inquiry under subsection (1) shall make a report of his findings to the Director, and the Director 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 to be interested.

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(4) No inquiry shall be held under subsection (1) in a case where an inquest or inquiry into death is to be held or made under any law for the time being in force relating to inquests or criminal procedure.

Seizure and sale.

443. (1) Where the owner of a ship has been convicted of an offence under this Act and a fine has been imposed, if the fine is not paid forthwith, the ship may be seized and after reasonable notice, sold by any customs officer or any person authorized for that purpose in writing by the Minister, and such officer or person may, by bill of sale, give to the purchaser a valid title to the ship, free from any mortgage or other claim thereon which at the time of sale may be in existence.

(2) Any surplus money remaining from the proceeds of sale after paying the amounts of fines payable under section 440 together with the costs of the seizure and sale shall be disposed of in accordance with rules of court.

Prosecutions and Compounding of Offences

Prosecution of offences and penalties.

444. (1) A person who commits an offence under this Act, for which no specific penalty is provided, is liable to a fine of twenty-five thousand dollars and to imprisonment for six months.

(2) Where an offence under this Act is a continuing one, and no penalty is provided in respect of the continuance thereof elsewhere than in this section, every person who commits that offence, in addition to any other liability, is liable to a fine of five thousand dollars for every day or part thereof during which the offence continues.

Compounding of offences.

445. (1) The Director may compound any offence under this Act which is prescribed to be an offence compoundable by the Director on

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payment by the person suspected of having committed such offence a sum of money not exceeding twenty thousand dollars.

(2) A marine officer may compound any offence, under this Act which is prescribed to be an offence compoundable by a marine officer on payment by the person suspected of having committed such offence, a sum of money not exceeding ten thousand dollars.

(3) On the payment of any sum of money under subsection (1) or subsection (2) -

- (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) any ship detained in respect of such offence shall be released; and
- (c) no further proceedings shall be taken against such person or ship in respect of such offence.

Evidence and Service of Documents

Deposition to be received in evidence where witness cannot be produced.

446. (1) Subject to subsection (2) where in the course of any legal proceedings instituted under this Act before any court or before any person authorized by law or by the consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of the proceedings, then, upon due proof that the witness cannot be found in Guyana, any deposition that the witness has previously made on oath or affirmation in relation to the same subject-matter before any Judge or Magistrate in any part of the Commonwealth other than Guyana in any place not within the Commonwealth, shall be admissible in evidence:

Provided that -

- (a) if the proceedings are criminal, a deposition so made shall not be admissible, unless it was made in the presence of the person accused, and the Judge, Magistrate or proper officer before whom it was made has certified that the accused was present at the time of making it; and
- (b) no deposition so made shall be admissible, unless it is authenticated by the signature of the Judge, Magistrate or proper officer before whom it was made.

(2) A deposition made in the manner referred to in subsection (1) shall be deemed to be duly authenticated if it purports to have been signed by the Judge, Magistrate or proper officer before whom it was made, and 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.

(3) In any criminal proceedings, a certificate purporting to have been signed by the Judge, Magistrate or proper officer before whom a deposition was made that the accused was present at the taking of the deposition shall, unless the contrary is proved, be sufficient evidence of the accused having been present in the manner thereby certified.

(4) 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.

447. Where any document is required by this Act to be executed in the presence of, or to be attested by, any witness or witnesses, such document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses.

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Admissibility of documents in evidence.

448. (1) Where any document is by this Act declared to be admissible in evidence, such document 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 evidence of the matters stated therein.

(2) A copy of any document referred to in subsection (1), or any extract therefrom, shall also be admissible in evidence -

- (a) if it is proved to be an examined copy or extract; or
- (b) if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer shall provide such a certified copy or extract to any person applying therefor at a reasonable time, upon payment of the prescribed fee.

(3) Any person having by law or consent of parties authority to receive evidence shall have the same powers as a court to impound any document referred to in this section which has a false or counterfeit seal, stamp or signature affixed thereto.

Notices, etc. to be in writing.

449. Where under this Act any notice authority, order, direction or other communication is required or authorized to be given or made by the Director to any person not being an officer appointed under this Act, the same shall be made or given in writing.

Service of documents.

450. (1) Where for the purposes of this Act any document is served on any person, that document may be served -

- (a) by delivering a copy thereof personally to the person to be served, or by leaving such copy at his last known place of abode or by transmitting or sending such copy by post;
- (b) if the document is to be served on the master of a ship where there is a master, or on a person belonging to a ship, by leaving such documents for him on board that ship with the person being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship, and there is no master and the ship is in Guyana, on the managing owner of the ship or, if there is no managing owner in Guyana, on some agent of the owner residing in Guyana or where no such agent is known or can be found, by affixing a copy thereof in some conspicuous place in the ship.

(2) Any person who obstructs the service on the master of a ship of any document under this Act relating to the detention of the ship which is unseaworthy shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand dollars.

(3) Any owner or master of a ship who is party or privy to any obstruction referred to in subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding twenty thousand dollars, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

PART XX

MISCELLANEOUS

Protection of public officers and other persons acting under this Act.

451. No suit shall be maintained against any public officer or any person appointed or authorized under this Act for any purpose of

this Act for or in respect of anything done or omitted to be done by him in good faith in the exercise or performance of any power, authority or duty conferred or imposed on him by or under this Act.

General power to make regulations.

452. Without prejudice to any other power to make regulations conferred upon him by this 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 services rendered or acts performed under this Act;
- (c) the offences under this Act which may be compounded and the officers by whom such offences may be compounded;
- (d) the admissibility in evidence and the exemption from stamp duty of documents and forms used under this Act;
- (e) the control of ships, the regulation of maritime traffic and the administration of maritime search and rescue within Guyana waters.

General power of exemption.

453. Without prejudice to any other powers conferred on him by this Act or by any regulations made thereunder, the Minister may, subject to such conditions if any as he thinks fit to impose, by order -

- (a) modify the provisions of this Act in their application to any ship or class or description of ships as may be specified in such order in such manner and to such extent as the Minister may specify in such order; and

- (b) exempt any ship or class or description of ships as may be specified in such order from any specific requirement contained in or prescribed under this Act, if he is satisfied that the requirement has been substantially complied with or that compliance is unnecessary in the circumstances of the case.

Application.

454. (1) Sections 455 and 456 apply in respect of international conventions, including amendments thereto and replacements thereof and other international instruments.

(2) The Minister shall from time to time by notice publish the international conventions including amendments thereto and replacements thereof and other international instruments which apply to Guyana, the reservations if any, entered thereon by Guyana as well as those international conventions, including amendments thereto and replacements thereof and other international instruments which cease to apply to Guyana.

(3) The Director shall keep in his office a copy of -

- (a) all the instruments referred to in subsection (2) that have application in Guyana;
- (b) all subsidiary legislation made pursuant to this Act,

and copies shall be made available for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public, seafarers or persons concerned with or having an interest in ships or shipping.

Conventions to prevail.

455. Where an international convention or other international instrument applies to Guyana and a provision of that convention or instrument and a provision of this Act conflict in any manner, the provision of the

convention or instrument shall prevail unless the Minister otherwise provides.

456. Where, in respect of any Guyana ship, there is any contravention of a requirement of any international convention or other international instrument which applies to Guyana, the Director may suspend the certificate of registration of the ship until the contravention is rectified.

PART XXI

FINAL AND TRANSITIONAL PROVISIONS

First

457. (1) The Acts specified in the/Schedule are, subject to the provisions of this Part, hereby repealed.

(2) Any instrument which was made, issued, served or granted under any law which is repealed or which ceases to have effect by virtue of this Act, to the extent to which they could be made, issued served or granted under this Act, shall, without prejudice to any power to amend or revoke such instrument, and subject to such modifications as may be necessary which the Minister may, by order, make to bring it into conformity with this Act, continue in force until superseded, revoked or otherwise terminated, and shall be deemed to have been made issued, served or granted under this Act, and this Act and any subsidiary legislation made thereunder shall apply to or in relation to such instrument accordingly:

Provided that no such instrument which is expressed to continue in force for a definite period shall 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 subsidiary legislation made or continued in force thereunder.

Contra-
ven-
tion of
international
conventions.

Repeal and
savings.
First Schedule.

(3) In this section "instrument" includes any subsidiary legislation, licence, certificate, validation, exemption, notice or other authority, or any instruction or other requirement, as the circumstances may require.

Second
Schedule

(4) The Acts specified in the first column of the Second Schedule are hereby amended to the extent specified in the second column of the said Schedule.

Regulations
for
resolving
transitional
difficulties.

The Minister may make regulations to provide -

- (a) for resolving any difficulties that may arise out of the repeal by this Act of any law;
- (b) for the amendment or revocation of any subsidiary legislation or any part thereof, made under any law repealed by this Act and remaining in force pursuant to this Part;
- (c) for the continuance in force, subject to such conditions as may be prescribed, of any exemptions, whether or not based upon reciprocity with any other country, from the operation of any enactment repealed
- (d) generally for giving effect to, and for effecting a due and orderly assimilation of the law relating to shipping throughout Guyana in conformity with, the purposes of this Act, and for the better carrying out of any of the provisions of this Act.

FIRST SCHEDULE
Laws repealed by section 457(1)

Acts

Cap. 49:01	Law of Merchant Shipping Act
Cap. 49:08	Wrecks Removal Act
Cap. 49:09	Distressed Seamen Repatriation Act.

SECOND SCHEDULE

Act	How amended
Passengers Act Cap. 49:03	
Section 2	Insert immediately before the definition of "regional voyage" the following definition - "Director" has the same meaning assigned to that word in section 2 of the Guyana Shipping Act 1997."
Section 3	Delete "57 & 58 Vict., c. 60" in the marginal note. For "applied Act entitled the Merchant Shipping Act 1894" substitute "Guyana Shipping Act 1997,"
Sections 4, 5 and 7	For "Comptroller of Customs" wherever occurring substitute "Director"

Transport and Harbours
Act, Cap. 49:04
Section 2

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Insert immediately after the definition of "conditions" the following definition -

"Director" has the same meaning assigned to that word in section 2 of the Guyana Shipping Act 1997;"

Insert immediately after the definition of "lightship" the following definition -

"Maritime Administration Department" means the Department established by section 4 of the Guyana Shipping Act 1997;"

Renumber section 2 as subsection ⁽¹⁾ thereof and insert immediately thereafter the following subsection as subsection (2) -

"(2) A reference in any provision of this Act or any subsidiary legislation made thereunder, to the "General Manager" and the "Transport & Harbours Department" in relation to any power, function or duty exercisable by such Manager or Department pursuant to the provisions of section 3 (1A), shall, unless the context otherwise requires, be construed as a reference to the "Director" and the "Maritime Administration Department", respectively."

Section 3

In subsection (1), insert a full stop after the words "Government vessels" and delete the remainder of the subsection.

Insert immediately after subsection 3 (1) the following subsection as subsection (1A)

"(1A) The Maritime Administration Department shall be charged with the control, improvement, lighting and regulation of the harbour of Georgetown and the other harbours of Guyana and the approaches thereto and shall carry on and maintain a pilotage service for Guyana."

Section 48

Delete "57 & 58 Vict., c.60" in the marginal note. For "the applied Act entitled the Merchant Shipping Act 1894" substitute "Guyana Shipping Act 1997".

Government Wharves Act,
Cap. 49:05

Insert immediately after section 4 the following section as section 4A -

"Enforcement 4A. (1) Notwithstanding any provision in this Act and in any subsidiary legislation made thereunder, it shall be the duty of the Director and the Maritime Administration Department to enforce /the provisions thereof and a reference therein to an officer or body shall accordingly be construed as a reference to the "Director" and the "Maritime Administration Department", respectively.

*for cause to
be enforced*

(2) In this Act, the words "Director" and "Maritime Administration Department" have the same meaning assigned to those words in sections 2 and 4, respectively, of Guyana Shipping Act 1997".

Shipping Casualties Investigation
and Prevention Act

Cap. 49:07

Section 2

Delete the definition of "the Merchant Shipping Act",

Insert immediately after the definition of "the court"
the following definition -

"Director" has the same meaning assigned to
that word in section 2 of the Guyana
Shipping Act 1997,"

Sections 5, 17, 22 and 28

Delete "57 & 58 Vict., c.60" in the marginal note ,

For "Merchant Shipping Act" wherever occurring
substitute "Guyana Shipping Act 1997,"

Sections 20, 25, 28, 29, 30 & 31

For Comptroller of Customs wherever occurring
substitute "Director"

Coasting and Passenger Trade
Regulations

For "Comptroller of Customs" wherever occurring
substitute "Director as defined in section 2 of the
Guyana Shipping Act 1997"

Cap. 49:07 (Subsidiary Legislation)

River Navigation Act,
Cap. 50:01

Insert immediately after section 13 the following
section as section 13A -

"Enforcement 13A (1) Notwithstanding any
provision in this Act and in any subsidiary
legislation made thereunder, it shall be the duty
of the Director and the Maritime
Administration Department to enforce or
cause to be enforced the provisions thereof
reference therein to an
officer or body shall be construed as a
reference to the "Director" and the "Maritime
Administration Department" respectively

- (2) In this Act the words "Director" and
"Maritime Administration
Department" have the same meaning
assigned to those words in sections 2
and 4, respectively, of the Guyana
Shipping Act, 1887."

EXPLANATORY MEMORANDUM

This Bill reflects modern trends in maritime law. It consolidates and incorporates the relevant law on the subject that obtains at the moment, and adds provisions which make the Bill all embracing on the subject.

The current maritime legislation is contained in several Acts, viz. —

- (a) Law of Merchant Shipping Act, Cap. 49:01,
- (b) Carriage of Goods by Sea Act, Cap. 49:02;
- (c) Passengers Act, Cap. 49:03,
- (d) Transport & Harbours Act, Cap. 49:04,
- (e) Government Wharves Act, Cap. 49:05,
- (f) Shipping Casualties (Investigation and Prevention) Act, Cap. 49:07,
- (g) Wrecks Removal Act, Cap. 49:08,
- (h) Distressed Seaman Repatriation Act, Cap. 49:09, and
- (i) River Navigation Act, Cap. 50:01,

and the administration of the regulatory provisions of the aforesaid Acts are spilt between:-

- (a) the Comptroller of Customs who is responsible for the registration and inspection of ships and for executing the functions of Receiver of Wrecks;
- (b) the General Manager of the Transport and Harbours Department who manages Government vessels and is responsible for the control, improvement, lighting and regulation of harbours and approaches thereto and the licensing of pilots and vessels using the harbours; and
- (c) the Commissioner of Lands and Surveys who is responsible for the administration of riverain navigation including the examination and certification of vessels engage in river navigation and licensing of operators of river crafts outside the harbours.

The dispersal of the aforesaid responsibilities between three officers each operating under a separate Ministry, namely, Ministry of Finance, Ministry of Public Works and Communications and the Ministry of Agriculture, respectively, appears to be an anomaly inconsistent with current practice elsewhere and leaves much to be desired for the effective administration of Guyana's maritime regime. The Bill seeks to curtail such dispersal by creating an up-to-date and comprehensive legal regime for shipping in Guyana and to facilitate the establishment of a single maritime administration conferred with the authority and responsibility of administering all matters relating to shipping and water transportation within Guyana, except matters relating to the management of Government vessels, which remain the responsibility of the Transport & Harbours Department.

Part I of the Bill deals with preliminary matters. It includes a short title and the manner of commencement of the Act, the general interpretation section and a provision on the extent of application of the Act to Guyana Government ships.

Part II deals with the administration of maritime affairs. It establishes a Maritime Administration Department and provides for the appointment of key public officers required to carry out effectively the objectives of the Act. The Director of Maritime Affairs is given authority to exercise general supervision over all matters relating to maritime affairs. Other public officers are the Registrar of Ships, Registrar of Seamen, Surveyors and the Receiver of Wrecks. All of them are designated marine officers. To reduce the cost of establishing the aforesaid Department, provision is made whereby the Director may be appointed the Registrar of Ships and the Registrar of Seamen.

Part III imposes certain restrictions on ships trading in Guyana waters. In particular, it reserves to Guyana ships the right to engage in local trade in Guyana waters. In this Part, there is also a requirement for all ships trading in Guyanese waters to carry in a prescribed form, evidence of financial responsibility against third party risks.

Part IV deals with registration and licensing of ships in Guyana and the related subject of proprietary interests in ships. It provides for qualifications required for owning a Guyana ship. Beside Guyanese citizens and persons domiciled or ordinarily resident in Guyana, Caricom nationals are eligible to register their ships in Guyana. In essence, the Bill provides, for a partially closed system of registration and to that extent, it is in harmony with the Trinidad and Tobago and Jamaica legislation.

All Guyana ships must be either registered or licensed unless they are exempt under the Act. There are certain other pre-requisites for registration, one being the measurement of a ship for tonnage by a surveyor. Based on the certificate of a survey, the Registrar of Ships may issue a certificate of registration, which represents the legal document by which the ship is identified.

This Part also deals with transfers and transmission of property in ships and with maritime liens and mortgages. No transfers are permissible other than by a bill of sale. The provisions relating to maritime liens and mortgages including their priority ranking reflect the convention law on the subject.

Part V sets out provisions relating to the national character and flag of Guyana ships.

Part VI deals with the manning of ships and certification of seafarers. The Minister is empowered to make detailed regulations respecting safe manning of Guyana ships and the qualifications, including certification and licensing of Guyanese seafarers.

Part VII is a comprehensive Part dealing with the engagement and welfare of seamen and related aspects. The Registrar of Seamen is responsible for the affairs of seamen, including their engagement and employment on a ship under a crew agreement, the settlement of their wages upon being discharged and the keeping of registers concerning the engagement service and discharged seamen. There are provisions dealing with the rights and responsibilities of a master in relation to the crew.

the health, welfare and occupational safety of seamen, ship board living conditions including provisions, water and accommodation, the disposition of a deceased seaman's wages and belonging, a seaman contractual and other rights and remedies while in the sea service including relief and repatriation of seamen and apprentices whether distressed or otherwise. There are also provisions relating to disciplinary offences and their penalties.

Much of this Part provides for the incorporation or taking into account of the International Labour Organisation Conventions dealing with minimum standards for seamen, including wages, hours of work, crew accommodation and the prevention of occupational accidents to seamen.

Part VIII provides for the keeping of official log books and ordinary ships' logs on board Guyana ships, and for their periodic delivery to the Maritime Administration Department. There are provisions specifying certain entries to be made in these log books, and also for the maintenance and delivery of crew returns and returns of births and deaths.

Part IX deals with prevention of collision and safety of navigation. The Minister is empowered to make collision regulations. There are provisions obliging ships to render assistance in case of collisions at sea and to vessels in distress. Ships are required to hold boat and fire drills and to record those events in the log books. There are provisions relating to the issuing of notices to mariners and navigational warnings and for the establishment and maintenance of aids to navigation. Offences relating to such aids and corresponding penalties are also provided for.

Part X deals with safety of life at sea and empowers the Minister to make regulations to provide generally for safety at sea. This Part also contains provisions dealing with the appointment of surveyors, their powers of inspection, the survey of passenger and cargo ships for safety, the issuance and validity of safety certificates, exemption certificates and qualified certificates, requirements for their display on board and penal consequences of contraventions.

Part XI provides for the marking of load lines and the issuance of load line certificates. The Minister is empowered to make regulations relating to deck cargoes. Penalties are provided for submersion of load lines and for alteration or defacement of the load line marks. Provision is made for the detention of ships in cases of contraventions or non-compliance with statutory requirements.

Part XII deals with the shipboard carriage of bulk cargoes and dangerous goods. The provisions incorporate or require taking account of international convention law on the subjects.

Part XIII addresses seaworthiness of ships and provides for the detention of unseaworthy ships. The provisions largely reflect the law on the subject contained in the shipping legislation of the United Kingdom appropriately modified to meet the Guyana situation.

Part XIV deals with wreck and salvage. It prescribes the power of the Receiver of Wrecks and provides for the removal or sale of wrecks in appropriate circumstances, and the manner of disposition of the proceeds of sale.

As regards salvage, there are provisions for the payment of salvage remuneration where salvage

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services are performed, determination of disputes over salvage, detention of salvaged property by the Receiver where salvage is due, and the releases of the same upon tendering of security.

Part XV deals with passenger ships and would operate concurrently with the Passengers Act, Cap. 49:03, which would continue to apply until adequate regulations are made by the Minister under the regulation making power contained in clause 398 of the Bill.

Part XVI addresses the subject of limitation and division of liability for maritime claims.

Part XVII provides for the establishment and constitution of a Court of Survey and related procedural matters.

Part XVIII deals with inquiries and investigations into marine casualties.

Part XIX deals with legal proceedings and contains provisions relating to jurisdiction, detention and distress of ships for damage caused, prosecution and compounding of offences and evidence and services of documents.

Part XX contains various miscellaneous provisions including a general power to make regulations and general power of exemption. Provision is made for international conventions applicable to Guyana to prevail over the Act in the event of a conflict unless the Minister otherwise provides.

Part XXI contains the final and transitional provisions.

C. A. Xavier,
Minister of Transport and Hydraulics.